OKLAHOMA STATUTES
TITLE 63. PUBLIC HEALTH AND SAFETY

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The Chief Medical Examiner shall appoint medical examiners for the state. Each medical examiner so appointed shall be a Doctor of Medicine or Osteopathic Medicine, shall hold a valid board certification to practice forensic pathology in Oklahoma, and shall hold office at the pleasure of the Chief Medical Examiner. The Chief Medical Examiner shall appoint a Deputy Chief Medical Examiner to serve in the capacity of the Chief Medical Examiner in the event the Chief Medical Examiner is absent, ill, or disqualified by personal interest. 1034
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Upon receipt of notice of death of any person which under Section 931 et seq. of this title is subject to investigation, a representative Death Investigator from the Office of the Chief Medical Examiner shall immediately initiate an investigation and shall document in detail, by the end of his or her assigned shift, all the known and available facts of the death scene in the electronic database of the Chief Medical Examiner. Decedent specimens, evidence, and photographs shall be sent to the Office of the Chief Medical Examiner. The investigating official of the Office of the Chief Medical Examiner may take charge of any object or writing found on or near the body which is deemed necessary for the purpose of establishing the cause and/or manner of death. 1036
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Upon completion of an investigation by the Office of the Chief Medical Examiner, the body of the deceased shall be released to the person legally entitled to the custody thereof, or his or her representative, unless: 1037
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When attending a patient at time of death, physicians shall take care that the remains of the deceased are left in such a state that will not hinder or unnecessarily complicate the preparation for burial or other disposition, provided that nothing herein shall interfere with or restrict a physician's sworn duty to do all things necessary to save the patient's life. 1037
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§63-1-101. Short title.

This act shall be known as the Oklahoma Public Health Code.

Laws 1963, c. 325, art. 1, § 101.

§63-1-102. Definitions of terms used in Code.

As used in this Code, unless the context requires otherwise:

(a) The term "Board" means the State Board of Health.

(b) The term "Department" means the State Department of Health.
(c) the term "Commissioner" means the State Commissioner of Health.
(d) The term "local health officer" means the County Superintendent of Health of a county, or the Medical Director of a County Department of Health, District Department of Health or Cooperative Department of Health.
(e) The term "person" means any individual, corporation, company, firm, partnership, association, trust, state agency, governmental instrumentality or agency, institution, county, city, town or municipal authority or trust.
Laws 1963, c. 325, art. 1, § 102.

§63-1-103. State Board of Health created.
A. 1. There is hereby created the State Board of Health, which shall be an advisory body to the State Commissioner of Health and shall consist of nine (9) members appointed by the Governor and confirmed by the Senate for regular terms of nine (9) years, except as hereinafter otherwise indicated. Effective January 14, 2019, all duties and powers of the Board shall be transferred to the Commissioner. Any provision in statute that provides to the Board authority that is not advisory in nature shall be deemed to grant the duty or power to the Commissioner.
2. Not less than four members shall hold a current license to practice medicine in this state pursuant to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act and the Oklahoma Osteopathic Medicine Act. At least one physician member shall be a person licensed to practice medicine in this state by the State Board of Osteopathic Examiners. Physician members licensed by the State Board of Medical Licensure and Supervision shall be members of the Oklahoma State Medical Association. One physician member shall be a diplomate of the American Board of Psychiatry and Neurology or be similarly qualified.
3. Not less than two members shall possess at least five (5) years of executive leadership experience in a health-related business or industry, and whose education and experience includes but is not limited to fiduciary, legal, business planning, or operational decision-making authority.
B. 1. The term of office of one member shall expire on June 30, 1964, and each nine (9) years thereafter, and such member shall be a resident of one of the following counties and shall have been a resident of one or more of such counties for not less than five (5) years immediately preceding such member's appointment: Creek, Lincoln, Okfuskee, Seminole, Pottawatomie, Pontotoc, Hughes, Johnston, and Coal.
2. The term of office of one member shall expire on June 30, 1965, and each nine (9) years thereafter, and such member shall be a

resident of one of the following counties and shall have been a resident of one or more of such counties for not less than five (5) years immediately preceding such member's appointment: Blaine, Kingfisher, Canadian, Caddo, Grady, Comanche, Stephens, Jefferson, and Cotton.

3. The term of office of one member shall expire on June 30, 1966, and each nine (9) years thereafter, and such member shall be a resident of one of the following counties and shall have been a resident of one or more of such counties for not less than five (5) years immediately preceding such member's appointment: Le Flore, Latimer, Pittsburg, Atoka, Pushmataha, McCurtain, Choctaw, Bryan, Marshall, Carter, and Love.

4. The term of office of one member shall expire on June 30, 1967, and each nine (9) years thereafter, and such member shall be a resident of one of the following counties and shall have been a resident of one or more of such counties for not less than five (5) years immediately preceding such member's appointment: Cimarron, Texas, Beaver, Harper, Woodward, Woods, Major, Alfalfa, Grant, Garfield, Kay, and Noble.

5. The term of office of one member shall expire on June 30, 1968, and each nine (9) years thereafter, and such member shall be a resident of one of the following counties and shall have been a resident of one or more of such counties for not less than five (5) years immediately preceding such member's appointment: Adair, Sequoyah, Cherokee, Wagoner, Muskogee, Haskell, McIntosh, and Okmulgee.

6. The term of office of one member shall expire on June 30, 1969, and each nine (9) years thereafter, and such member shall be a resident of one of the following counties and shall have been a resident of one or more of such counties for not less than five (5) years immediately preceding such member's appointment: Ottawa, Delaware, Craig, Mayes, Nowata, Rogers, Washington, Tulsa, Pawnee, and Osage.

7. The term of office of one member shall expire on June 30, 1970, and each nine (9) years thereafter, and such member shall be a resident of one of the following counties and shall have been a resident of one or more of such counties for not less than five (5) years immediately preceding such member's appointment: Logan, Oklahoma, Cleveland, McClain, Garvin, Murray, and Payne.

8. The term of office of one member shall expire on June 30, 1971, and each nine (9) years thereafter, and such member shall be a resident of one of the following counties and shall have been a resident of one or more of such counties for not less than five (5) years immediately preceding such member's appointment: Ellis, Dewey, Roger Mills, Custer, Beckham, Washita, Kiowa, Greer, Jackson, Harmon, and Tillman.

9. The term of office of one member shall expire on June 30, 1972, and each nine (9) years thereafter, and such member shall be appointed from the State of Oklahoma at large, and shall have been a resident of the state for not less than five (5) years immediately preceding such member's appointment.
Added by Laws 1963, c. 325, art. 1, § 103, operative July 1, 1963. Amended by Laws 1987, c. 118, § 51, operative July 1, 1987; Laws 1997, c. 238, § 1, eff. Nov. 1, 1997; Laws 2002, c. 230, § 1, eff. Nov. 1, 2002; Laws 2018, c. 12, § 1, eff. Nov. 1, 2018; Laws 2018, c. 183, § 1, eff. Jan. 14, 2019.

§63-1-103a. Short title - Oklahoma Public Health Advisory Council Modernization Act.

Section 44 of this act shall be known and may be cited as the "Oklahoma Public Health Advisory Council Modernization Act".
Added by Laws 2013, c. 229, § 43, eff. Nov. 1, 2013.

§63-1-103a.1. Public Health Advisory Councils.

A. To assist and advise the State Board of Health and the State Department of Health, there are hereby created:

1. The Consumer Protection Licensing Advisory Council;
2. The Trauma and Emergency Response Advisory Council;
3. The Infant and Children's Health Advisory Council;
4. The Advancement of Wellness Advisory Council; and
5. The Home Care, Hospice and Palliative Care Advisory Council.

B. 1. Except for the Home Care, Hospice and Palliative Care Advisory Council, each Public Health Advisory Council (Advisory Council) created pursuant to subsection A of this section shall consist of seven (7) members. Two members shall be appointed by the Governor, two members shall be appointed by the Speaker of the House of Representatives, two members shall be appointed by the President Pro Tempore of the Senate, and one member shall be appointed by the State Board of Health. Appointments shall be for three-year terms. Members of the Advisory Councils shall serve at the pleasure of and may be removed from office by the appointing authority. Members shall continue to serve until their successors are appointed. Any vacancy shall be filled in the same manner as the original appointments. Four members shall constitute a quorum.

2. The Home Care, Hospice and Palliative Care Advisory Council shall consist of nine (9) members. Two members shall be appointed by the Governor, three members shall be appointed by the Speaker of the House of Representatives, three members shall be appointed by the President Pro Tempore of the Senate and one member shall be appointed by the State Board of Health. Five members shall constitute a quorum.

3. Each Advisory Council shall meet at least twice a year, but no more than four times a year and shall elect a chair, a vice-chair

and a secretary from among its members. Each Advisory Council shall only meet as required for election of officers, establishment of meeting dates and times; rule development, review and recommendation; and adoption of nonbinding resolutions to the State Department of Health or the State Board of Health concerning matters brought before the Advisory Council. Special meetings may be called by the chair or by the concurrence of any three members.

C. 1. All members of the Consumer Protection Licensing Advisory Council shall be knowledgeable of certain consumer issues as specified below. The Consumer Protection Licensing Advisory Council shall be composed as follows:

a. the Governor shall appoint:
   (1) one member who is a licensed radiologist assistant, and
   (2) one member who is a licensed audiologist,

b. the President Pro Tempore of the Senate shall appoint:
   (1) one member who is a licensed radiologist, and
   (2) one member representing the hearing-aid-fitting industry,

c. the Speaker of the House of Representatives shall appoint:
   (1) one member representing the medical micropigmentation industry, and
   (2) one member representing the hearing-impaired public, and

d. the State Board of Health shall appoint one member representing a diagnostic x-ray facility.

2. The jurisdiction areas of the Consumer Protection Licensing Advisory Council shall include the hearing-aid-fitting industry, the medical micropigmentation industry, the radiation industry and such other areas as designated by the State Board of Health.

D. 1. All members of the Trauma and Emergency Response Advisory Council shall be knowledgeable of issues that arise in a hospital setting and issues that arise concerning emergency response. The Trauma and Emergency Response Advisory Council shall be composed as follows:

a. the Governor shall appoint:
   (1) one member who is an administrative director of a licensed ambulance service, and
   (2) one member who is a Board Certified Emergency Physician,

b. the President Pro Tempore of the Senate shall appoint:
   (1) one member who is a representative from a hospital with trauma and emergency services, and
   (2) one member who is a trauma surgeon with privileges at a hospital with trauma and emergency operative services,

c. the Speaker of the House of Representatives shall appoint:
(1) one member representing the trauma registrar of a licensed hospital that is classified as providing trauma and emergency operative services, and
(2) one member who is an Emergency Medical Technician, and
d. the State Board of Health shall appoint one member who is a critical care nurse.

2. The jurisdictional areas of the Trauma and Emergency Response Advisory Council shall include emergency response systems development, injury prevention, catastrophic health emergency, trauma systems improvement and development and such other areas designated by the State Board of Health.

E. 1. All members of the Infant and Children's Health Advisory Council shall be knowledgeable of issues that arise in the area of infant and children's health care. The Infant and Children's Health Advisory Council shall be composed as follows:

a. the Governor shall appoint:
(1) one member who works for the state or for a political subdivision on child abuse issues, and
(2) one member who is knowledgeable about childhood immunizations,
b. the President Pro Tempore of the Senate shall appoint:
(1) one member who is knowledgeable about newborn screening issues,
(2) one member licensed by the state as an optometrist who has knowledge of vision screening for children, and
(3) one member who is a licensed ophthalmologist in this state with the knowledge of treating visual deficiencies in children,
c. the Speaker of the House of Representatives shall appoint:
(1) one member who is licensed by the state as a physician and works as a pediatrician, and
(2) one member who is licensed by the state as a genetic counselor, and
d. the State Board of Health shall appoint one member who is a physician licensed by the state who specializes in the diagnosis and treatment of childhood injuries in a trauma setting.

2. The jurisdictional areas of the Infant and Children's Health Advisory Council shall include all issues that arise in the area of health care for infants and children and such other areas as designated by the State Board of Health.

F. 1. All members of the Advancement of Wellness Advisory Council shall be knowledgeable of issues that arise in the area of advancing the health of all Oklahomans. The Advancement of Wellness Advisory Council shall be composed as follows:

a. the Governor shall appoint:
   (1) one member who is knowledgeable about breast and cervical cancer issues, and
   (2) one member who is knowledgeable about organ donor issues,

b. the President Pro Tempore of the Senate shall appoint:
   (1) one member who is mayor of a city or town that has been designated a certified healthy community in an urban setting, and
   (2) one member who is the president or chief operating officer of a business that has been designated a certified healthy business,

c. the Speaker of the House of Representatives shall appoint:
   (1) one member who is the mayor of a city or town that has been designated a certified healthy community in a rural setting, and
   (2) one member who is the president or chief operating officer of a business that has been designated a certified healthy business in an urban setting, and

d. the State Board of Health shall appoint one member who is the Executive Director of the Tobacco Settlement Endowment Trust.

2. The jurisdictional areas of the Advancement of Wellness Advisory Council shall include all issues that arise in the areas of tobacco usage and cessation, organ and tissue donation, the requirements for a city or town in the state to be designated as a certified healthy community, the requirements for a business to be designated as a certified healthy business and such other areas as designated by the State Board of Health.

G. 1. All members of the Home Care, Hospice and Palliative Care Advisory Council shall be knowledgeable of issues that arise in the administration and practice of home care, hospice and palliative care services. The Home Care, Hospice and Palliative Care Advisory Council shall be composed as follows:

a. the Governor shall appoint:
   (1) one member who is the owner or administrator of an entity licensed in accordance with the Oklahoma Hospice Licensing Act, and
   (2) one member who is an owner or administrator of an entity licensed in accordance with the Oklahoma Home Care Act,

b. the President Pro Tempore of the Senate shall appoint:
(1) one member who is an owner or administrator of an entity licensed in accordance with the Oklahoma Hospice Licensing Act,
(2) one member who is an owner or administrator of an entity licensed in accordance with the Oklahoma Home Care Act, and
(3) one member who is a member of the palliative care patient advocacy community,

c. the Speaker of the House of Representatives shall appoint:
(1) one member representing the public who is or was a legal guardian of a recipient of hospice services,
(2) one member representing the public who is a recipient or legal guardian of a recipient of services from a home health agency, and
(3) one member who is an allopathic or osteopathic physician or nurse certified in palliative care delivery in this state, and

d. the State Board of Health shall appoint one member representing an association which advocates on behalf of home care or hospice issues.

2. The jurisdictional areas of the Home Care, Hospice and Palliative Care Advisory Council shall include all issues that arise in the areas of home care, hospice services and palliative care, including, but not limited to:

a. identifying methods that improve the quality and delivery of home care, hospice and palliative care,
b. reviewing best practices from home care, hospice and palliative care programs in the state,
c. developing information on home care, hospice and palliative care issues for the general public, and
d. such other areas as designated by the State Board of Health.

H. In addition to other powers and duties assigned to each Advisory Council pursuant to this section, each Advisory Council, within its jurisdictional area, shall:

1. Have authority to recommend to the State Board of Health rules on behalf of the State Department of Health. The State Department of Health shall not have standing to recommend to the State Board of Health permanent rules or changes to such rules within the jurisdiction of an Advisory Council which have not been submitted previously to the appropriate Advisory Council for action;

2. Before recommending any permanent rules to the State Board of Health, give public notice, offer an opportunity for public

comment and conduct a public rulemaking hearing when required by the Administrative Procedures Act;

3. Have the authority to make nonbinding written recommendations to the State Board of Health and/or to the State Department of Health which have been concurred upon by at least a majority of the membership of the Advisory Council;

4. Have the authority to provide a public forum for the discussion of issues it considers relevant to its area of jurisdiction, and to:

a. pass nonbinding resolutions expressing the sense of the Advisory Council, and

b. make recommendations to the State Board of Health or the State Department of Health concerning the need and the desirability of conducting meetings, workshops and seminars; and

5. Cooperate with each other Advisory Council, the public, the State Board of Health and the Commissioner of Health in order to coordinate the rules within their respective jurisdictional areas and to achieve maximum efficiency and effectiveness in furthering the objectives of the State Department of Health.

I. The Advisory Councils shall not recommend rules for promulgation by the State Board of Health unless all applicable requirements of the Administrative Procedures Act have been followed, including but not limited to notice, rule-impact statement and rulemaking hearings.

J. Members of the Advisory Councils shall serve without compensation. The Advisory Councils are authorized to utilize the conference rooms of the State Department of Health and obtain administrative assistance from the State Department of Health, as required.

Added by Laws 2013, c. 229, § 44, eff. Nov. 1, 2013. Amended by Laws 2014, c. 141, § 1, eff. Nov. 1, 2014; Laws 2015, c. 11, § 1, eff. Nov. 1, 2015.

§63-1-104. State Commissioner of Health – Powers and duties.

A. The State Commissioner of Health may adopt an official seal for the State Department of Health. The State Commissioner of Health shall hold such meetings as he or she deems necessary.

B. The Commissioner shall have the following powers and duties:

1. Adopt such rules and standards as he or she deems necessary to carry out any of the provisions of the Oklahoma Public Health Code;

2. Accept and disburse grants, allotments, gifts, devises, bequests, funds, appropriations, and other property made or offered to the Department; and

3. Establish such divisions, sections, bureaus, offices, and positions in the State Department of Health as the Commissioner deems necessary to carry out the provisions of this Code.

C. The State Commissioner of Health shall be appointed by the Governor, with the advice and consent of the Senate. The Commissioner shall serve at the pleasure of the Governor and may be removed or replaced without cause. Compensation for the Commissioner shall be determined pursuant to Section 3601.2 of Title 74 of the Oklahoma Statutes.

Added by Laws 1963, c. 325, art. 1, § 104, operative July 1, 1963. Amended by Laws 1976, c. 136, § 1, operative July 1, 1976; Laws 1985, c. 178, § 42, operative July 1, 1985; Laws 1997, c. 238, § 2, eff. Nov. 1, 1997; Laws 2018, c. 183, § 2, eff. Jan. 14, 2019.

§63-1-105. State Department of Health created.

There is hereby created a State Department of Health, which shall consist of the State Commissioner of Health, and such divisions, sections, bureaus, offices, and positions as may be established by the Commissioner, or by law.

Added by Laws 1963, c. 325, art. 1, § 105, operative July 1, 1963. Amended by Laws 2018, c. 183, § 3, eff. Jan. 14, 2019.

§63-1-105a. Liability insurance for certain employees.

The Department of Health is authorized to purchase or provide, from funds available for the operation of the Department, liability insurance for the State Board of Health, the Commissioner of Health, and such other employees of the Department as may be designated by the Board. The insurance coverage shall protect such persons from personal civil liability for errors and omissions resulting from the discharge of their official duties. This section shall in no way be construed as waiving the governmental immunity of the state.

Added by Laws 1982, c. 299, § 17, emerg. eff. May 28, 1982.

§63-1-105b. Soliciting residents for nursing care facilities.

Any employee of the State Department of Health who willfully or knowingly accepts anything of value from any person, firm, association, partnership or corporation for securing or soliciting residents for any facility subject to the Nursing Home Care Act, the Residential Care Act, the Continuum of Care and Assisted Living Act, or any other long-term care facility licensed by the Department, upon conviction thereof, shall be guilty of a felony.

Added by Laws 2000, c. 340, § 10, eff. July 1, 2000.

§63-1-105c. Conflicts of interest.

A. The State Department of Health shall:

1. Ensure that no employee of the Department whose responsibilities relate in any manner to long-term care is subject

to a conflict of interest which would impair the ability of the person to carry out his or her employment duties in an impartial manner including, but not limited to:

a. ownership or investment interest by the employee or a member of the employee's immediate family represented by equity, debt or other financial relationship in a long-term care facility or a long-term care service,

b. employment by, under contract to, or participation by the employee or a member of the employee's immediate family in the management of, a long-term care facility, except as provided in Section 1-1914.2 of Title 63 of the Oklahoma Statutes and with the approval of the State Commissioner of Health, or

c. the receipt or the right of the employee or a member of the employee's immediate family to receive directly or indirectly remuneration, in cash or in kind, under a compensation arrangement with an owner or operator of a long-term care facility; and

2. Establish and specify, in writing, mechanisms to identify and remove conflicts of interest referred to in this section including, but not limited to:

a. the methods by which the Department will examine individuals and members of the individuals' immediate family members to identify the conflicts, and

b. the actions that the Department will require the individuals and such family members to take to eliminate such conflicts.

B. For purposes of this section, the term "immediate family" means:

1. The spouse of the employee;
2. The parents of the spouse of the employee;
3. A child by birth or adoption;
4. A stepchild;
5. A parent;
6. A grandparent;
7. A grandchild;
8. A sibling of the employee;
9. The spouse of any immediate family member specified in this subsection; or
10. Such other relationship deemed necessary by the State Board of Health as determined by rule.

Added by Laws 2000, c. 340, § 11, eff. July 1, 2000.

§63-1-105d. Tobacco Prevention and Cessation Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the State Department of Health, to be designated the "Tobacco Prevention and Cessation Revolving Fund". The fund shall be a

continuing fund, not subject to fiscal year limitations, and shall consist of all monies deposited to the credit of the fund by law. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the State Department of Health for purposes of paragraph 2 of subsection C of Section 1, Chapter 340, O.S.L. 2000. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.
Added by Laws 2000, c. 340, § 20, eff. July 1, 2000. Amended by Laws 2012, c. 304, § 472.
NOTE: Editorially renumbered from § 105d of this title to provide consistency in numbering.

§63-1-105e. Duties of Department of Health.

A. The State Department of Health shall:

1. Perform duties and responsibilities as directed by the State Commissioner of Health to ensure compliance with relevant provisions of this act;

2. Fix and collect fees for the certification of compliance of health maintenance organizations pursuant to the provisions of Section 6907 of Title 36 of the Oklahoma Statutes; and

3. Perform any and all health-related services, within the scope of practice, as prescribed by state law, by the State Board of Health, or by standards of care for medical services. When the Department provides a health-related service to any person covered by an applicable health insurance plan, the Department may submit a claim for said service to the appropriate insurance company, health maintenance organization or preferred provider organization. Upon receipt of the claim, said insurance company, health maintenance organization or preferred provider organization shall reimburse the Department for the service provided in accordance with the standard and customary rate schedule established by the plan. All health insurance plans doing business in Oklahoma shall recognize the public health service delivery model utilized by the Department, as an appropriate provider of services for reimbursement.

B. All actions of the Department shall be subject to the provisions of the Administrative Procedures Act.

C. Fees and insurance reimbursement payments collected shall be deposited in the Public Health Special Fund in the State Treasury.
Added by Laws 2003, c. 197, § 54, eff. Nov. 1, 2003. Amended by Laws 2011, c. 105, § 1, eff. Nov. 1, 2011.

§63-1-105f. Office of Accountability Systems.

A. The Office of Accountability Systems of the State Department of Health (OAS) shall have the authority to:

1. Coordinate audits and investigations and make reports to the State Board of Health and State Commissioner of Health within the State Department of Health and State Health Officer relating to the administration of programs and operations of the State Department of Health;

2. Except as otherwise prohibited by current law, access all records, reports, audits, reviews, documents, papers, recommendations, or other material which relate to programs and operations with respect to which the Director of the Office of Accountability Systems has responsibilities;

3. Request assistance from other state, federal and local government agencies;

4. Issue administrative subpoenas for the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence;

5. Administer to or take from any current or former employee of the State Department of Health an oath, affirmation, or affidavit;

6. Receive and investigate complaints or information from an employee of the Department, service recipient or member of the public concerning the possible existence of an activity within the State Department of Health constituting a violation of law, rules or regulations, mismanagement, gross waste of funds, abuse of authority or a substantial and specific danger to the public health and safety;

7. Cause to be issued on behalf of OAS credentials, including an identification card with the State Seal; and

8. Keep confidential all actions and records relating to OAS complaints.

B. It shall be the duty and responsibility of the Director and staff of the Office of Accountability Systems to:

1. Keep the State Board of Health and the State Commissioner of Health fully informed of matters relating to fraud, abuses, deficiencies and other serious problems of which the Director is aware relating to the administration of programs and operations within the State Department of Health. Further, the Director shall recommend corrective action concerning such matters and report to the State Board of Health and the State Commissioner of Health on the progress of the corrective matters, except when such matters relate to the State Commissioner of Health or the performance of his or her duties in such capacity. Matters directly involving the Commissioner may be reported by the Director to the Board without providing notice to the Commissioner;

2. Report to and be under the direct supervision of the State Board of Health and shall not be subject to supervision or report to any other State Department of Health employee. Unless otherwise instructed by the State Board of Health, staff of the Office of Accountability Systems and independent contractors performing

internal investigative services for the Office of Accountability Systems shall be directly supervised by the Director of the Office of Accountability Systems and not subject to the supervision of or required to report to any other State Department of Health employee. Neither the State Commissioner of Health nor any other employee of the State Department of Health shall prevent, prohibit, or obstruct the Director from initiating, implementing or completing any investigation or from issuing any subpoena during the course of an investigation or audit regarding the State Department of Health; and

3. Report expeditiously to the appropriate law enforcement entity whenever the Director has reasonable grounds to believe that there has been a felonious violation of state or federal criminal law.

Added by Laws 2006, c. 101, § 1, eff. July 1, 2006. Amended by Laws 2008, c. 119, § 1, emerg. eff. May 5, 2008; Laws 2011, c. 105, § 2, eff. Nov. 1, 2011; Laws 2018, c. 29, § 1, eff. Nov. 1, 2018.

§63-1-106. State Commissioner of Health - Qualifications - Powers and duties.

A. The State Commissioner of Health shall serve at the pleasure of the State Board of Health, and shall have skill and experience in public health duties and sanitary sciences and shall meet at least one of the following qualifications:

1. Possession of a Doctor of Medicine Degree and a license to practice medicine in this state;

2. Possession of an Osteopathic Medicine Degree and a license to practice medicine in this state;

3. Possession of a Doctoral degree in Public Health or Public Health Administration; or

4. Possession of a Master of Science Degree and a minimum of five (5) years of supervisory experience in the administration of health services.

B. The Commissioner shall have the following powers and duties, unless otherwise directed by the State Board of Health:

1. Have general supervision of the health of the citizens of the state; make investigations, inquiries and studies concerning the causes of disease and injury, and especially of epidemics, and the causes of mortality, and the effects of localities, employment, conditions and circumstances on the public health; investigate conditions as to health, sanitation and safety of schools, prisons, public institutions, mines, public conveyances, camps, places of group abode, and all buildings and places of public resort, and recommend, prescribe and enforce such measures of health, sanitation and safety for them as the Commissioner deems advisable; take such measures as deemed necessary by the Commissioner to control or suppress, or to prevent the occurrence or spread of, any communicable, contagious or infectious disease, and provide for the

segregation and isolation of persons having or suspected of having any such disease; designate places of quarantine or isolation; advise state and local governments on matters pertaining to health, sanitation and safety; and abate any nuisance affecting injuriously the health of the public or any community. Any health information or data acquired by the Commissioner from any public agency, which information or data is otherwise confidential by state or federal law, shall remain confidential notwithstanding the acquisition of this information by the Commissioner.

2. Be the executive officer and supervise the activities of the State Department of Health, and act for the Department in all matters except as may be otherwise provided in this Code; administer oaths at any hearing or investigation conducted pursuant to this Code; and enforce rules and standards adopted by the State Board of Health. All rules adopted by the State Board of Health are subject to the terms and conditions of the Administrative Procedures Act.

3. Appoint an Assistant State Commissioner of Health and fix the qualifications, duties and compensation of the Assistant State Commissioner of Health; and employ, appoint and contract with, and fix the qualifications, duties and compensation of, such other assistants, doctors, engineers, attorneys, sanitarians, nurses, laboratory personnel, administrative, clerical and technical help, investigators, aides and other personnel and help, either on a full-time, part-time, fee or contractual basis, as shall be deemed by the Commissioner necessary, expedient, convenient or appropriate to the performance or carrying out of any of the purposes, objectives or provisions of this Code, or to assist the Commissioner in the performance of official duties and functions.

4. Cause investigations, inquiries and inspections to be made, and hold hearings and issue orders pursuant to the provisions of the Administrative Procedures Act, to enforce and make effective the provisions of this Code, and all rules and standards adopted by the State Board of Health pursuant to law and the Commissioner or the representative of the Commissioner shall have the right of access to any premises for such purpose at any reasonable time, upon presentation of identification.

5. Authorize persons in the State Department of Health to conduct investigations, inquiries and hearings, and to perform other acts that the Commissioner is authorized or required to conduct or perform personally.

6. Except as otherwise provided by law, all civil and criminal proceedings under this Code shall be initiated and prosecuted by the district attorney where the violation takes place.

7. Issue subpoenas for the attendance of witnesses and the production of books and records at any hearing to be conducted by the Commissioner or the State Board of Health; and if a person disobeys any such subpoena, or refuses to give evidence before, or

to allow books and records to be examined by, the Commissioner or the Board after such person is directed to do so, the Commissioner may file a contempt proceeding in the district court of the county in which the premises involved are situated, or, if no premises are involved, of the county in which such person resides or has a principal place of business, and a judge of such court, after a trial de novo, may punish the offending person for contempt.

8. Unless otherwise required by the terms of a federal grant, sell, exchange or otherwise dispose of personal property that has been acquired by the State Department of Health, or any of its components, when such property becomes obsolete or is no longer needed; any money derived therefrom shall be deposited in the Public Health Special Fund.

9. Sell films, educational materials, biological products and other items produced by the State Department of Health; and all proceeds therefrom shall be deposited in the Public Health Special Fund.

10. Revoke or cancel, or suspend for any period up to one (1) year, any license or permit issued under or pursuant to this Code, or by the Commissioner, when the Commissioner determines that ground therefor as prescribed by this Code exists, or that the holder of such license or permit has violated any law, or any of the provisions of this Code, or any rules or standards of the State Board of Health filed with the Secretary of State, but the Commissioner shall first afford the holder an opportunity to show cause why the license or permit should not be revoked, canceled or suspended, notice of such opportunity to be given by certified United States Mail to the holder of the license or permit at the last-known address of such holder.

11. Accept, use, disburse and administer grants, allotments, gifts, devises, bequests, appropriations and other monies and property offered or given to the State Department of Health, or any component or agency thereof, by any agency of the federal government, or any corporation or individual.

12. Be the official agency of the State of Oklahoma in all matters relating to public health which require or authorize cooperation of the State of Oklahoma with the federal government or any agency thereof; coordinate the activities of the State Department of Health with those of the federal government or any department or agency thereof, and with other states, on matters pertaining to public health, and enter into agreements for such purpose, and may accept, use, disburse and administer, for the office of the Commissioner or for the State Department of Health, for any purpose designated and on the terms and conditions thereof, grants of money, personnel and property from the federal government or any department or agency thereof, or from any state or state agency, or from any other source, to promote and carry on in this

state any program relating to the public health or the control of disease, and enter into agreements for such purposes.

13. The State Commissioner of Health may appoint commissioned peace officers, certified by the Council on Law Enforcement Education and Training, to investigate violations of the Public Health Code and to provide security to Department facilities.

Added by Laws 1963, c. 325, art. 1, § 106, operative July 1, 1963. Amended by Laws 1980, c. 159, § 17, emerg. eff. April 2, 1980; Laws 1986, c. 148, § 1, emerg. eff. April 29, 1986; Laws 1987, c. 118, § 52, operative July 1, 1987; Laws 1987, c. 225, § 42, eff. July 1, 1987; Laws 1991, c. 293, § 4, emerg. eff. May 30, 1991; Laws 1995, c. 230, § 20, eff. July 1, 1995; Laws 1997, c. 238, § 3, eff. Nov. 1, 1997; Laws 2004, c. 456, § 1, eff. Nov. 1, 2004.

§63-1-106.1. Fee schedule for licenses, permits and other health services.

A. The State Board of Health may establish a system of fees to be charged for health services and for services rendered to members of the public in the issuance and renewal of licenses and permits by the State Commissioner of Health and the State Department of Health. This provision is subject to the following limitations:

1. No schedule of fees may be established or amended by the Board except during such times as the Legislature is in session; provided, the Board may establish or amend a schedule of fees at a time when the Legislature is not in session if the fees or schedule of fees has been specifically authorized by the Legislature or has been approved by the Contingency Review Board. The State Board of Health must follow the procedures required by Article I of the Administrative Procedures Act for adoption of rules and regulations in establishing or amending any such schedule of fees; and

2. The Board shall charge fees only within the following ranges, except as may be otherwise provided for in this title.

For license or permit issuance: $50.00 to $2,000.00
For license or permit renewal: $10.00 to $500.00
For health services: $25.00 to $250.00

provided further, that any facility exempt from the requirement to obtain a permit based on date of construction or start-up may be assessed an annual permit renewal fee equivalent.

B. The Board's authority to establish such a fee schedule shall extend to all programs administered by the State Commissioner of Health and the State Department of Health, regardless of whether the statutes creating such programs are codified in the Oklahoma Public Health Code.

C. The Board shall base its schedule of licensing or permitting fees upon the reasonable costs of review and inspection services rendered in connection with each license and permit program, but shall be within the ranges specified in subsection A of this

section, except as may be otherwise specified in this section. The Department shall establish a system of training for all personnel who render review and inspection services in order to assure uniform statewide application of rules and regulations and the Board shall also base the fee on reasonable costs associated with the training of those personnel. Such fees shall not be used in the operation of local health departments whose personnel do not participate fully in applicable State Department of Health training and standardization programs.

D. The Board may exempt by rule any class of licensee or permittee or any class of facility or activity to be licensed or permitted from the requirements of the fee schedule if the Board determines that the creation of such a schedule for any such class would work an unreasonable economic hardship.

E. All statutory fees now in effect for health services and for the issuance and renewal of any license or permit administered by the State Commissioner of Health and the State Department of Health within the jurisdiction of the Department shall remain in effect until such time as the Board acts to implement new fee schedules pursuant to the provisions of this Code.

F. Unless a longer duration is specified for certain permits by the rules and regulations of the Board, licenses and permits issued by the Commissioner of Health shall be for a one-year period.

Added by Laws 1984, c. 162, § 2, emerg. eff. May 1, 1984. Amended by Laws 1987, c. 206, § 16, operative July 1, 1987; Laws 1987, c. 236, § 2, emerg. eff. July 20, 1987; Laws 1991, c. 293, § 1, emerg. eff. May 30, 1991; Laws 1991, c. 335, § 22, emerg. eff. June 15, 1991; Laws 1992, c. 215, § 20, emerg. eff. May 15, 1992; Laws 1992, c. 373, § 12, eff. July 1, 1992; Laws 1993, c. 145, § 308, eff. July 1, 1993; Laws 2005, c. 282, § 1, emerg. eff. June 6, 2005.

NOTE: Laws 1991, c. 287, § 10 repealed by Laws 1991, c. 335, § 37, emerg. eff. June 15, 1991. Laws 1992, c. 183, § 1 repealed by Laws 1992, c. 373, § 22, eff. July 1, 1992. Laws 1993, c. 163, § 1 repealed by Laws 1993, c. 324, § 58, eff. July 1, 1993.

§63-1-106.2. Uniform application to be used in credentialing process.

A. By January 1, 1999, the State Board of Health shall promulgate rules necessary to develop a uniform application which shall be used in the credentialing process of health care providers. The State Department of Health shall develop such application form for:

1. Initial privileges or membership in a hospital, managed care organization, or other entity requiring credentials verification; and

2. Recredentialing or reappointment in a hospital, managed care organization, or other entity requiring credentials verification.

B. Any entity requiring credentials verification may require supplemental information.
Added by Laws 1998, c. 210, § 1, eff. July 1, 1998.

§63-1-106.3. Oklahoma Food Service Advisory Council

A. There is hereby created within the State Department of Health the Oklahoma Food Service Advisory Council. The purpose of the Advisory Council shall be to:

1. Advise the State Board of Health, the State Commissioner of Health, and the Department regarding food service establishments; and

2. Recommend actions to improve sanitation and consumer protection.

B. The Advisory Council shall have the duty and authority to:

1. Review and approve in an advisory capacity only rules and standards for food service establishments operating in this state;

2. Evaluate, review and make recommendations regarding Department inspection activities; and

3. Recommend and approve quality indicators and data submission requirements for food service establishments which shall be used by the Department to monitor compliance with licensure requirements and to publish an annual report of food service establishment performance.

C. The Oklahoma Food Service Advisory Council shall be composed of fourteen (14) members as follows:

1. Nine members shall be appointed by the Commissioner, with the advice and consent of the Board, from a list of three names for each position provided by an association representing the majority of restaurant owners in this state. Such appointments shall be as follows:

a. one member shall represent the Oklahoma Restaurant Association,
b. one member shall represent the Oklahoma Hotel and Motel Association,
c. one member shall represent the Oklahoma Grocers Association,
d. one member shall represent food service education,
e. one member shall represent food processing education,
f. one member shall be an independent food service operator,
g. one member shall be a food processor,
h. one member shall represent the School Nutrition Association of Oklahoma, and
i. one member shall be a citizen representing the public and shall not be a food service establishment operator or employee and shall not be a member of a food service governing board; and

2. The remaining appointments shall consist of:
   a. the Director of the Oklahoma City-County Health Department, or a designee,
   b. the Director of the Tulsa City-County Health Department, or a designee,
   c. two directors from other county health departments in this state or designees, appointed by the Commissioner, and
   d. the Director of the Oklahoma Department of Agriculture, Food, and Forestry or a designee.

D. The appointments made by the Commissioner shall be for three-year terms, except that after the effective date of this act, the initial term of the representative of the public shall be for one (1) year, and the initial terms of the independent food service operator, the food processor, the representatives of food service education, and food processing education shall be for two (2) years. The initial terms of all other members appointed by the Commissioner shall be for three (3) years. After initial appointments to the Advisory Council, the Commissioner shall appoint members to three-year terms.

E. The Advisory Council shall meet on a quarterly basis. Members of the Advisory Council shall serve without compensation but shall be reimbursed for travel expenses by the Department pursuant to the provisions of the State Travel Reimbursement Act.
Added by Laws 1999, c. 290, § 1, eff. Nov. 1, 1999. Amended by Laws 2016, c. 319, § 1, eff. Nov. 1, 2016.

§63-1-107. Public Health Special Fund.

There is hereby created in the State Treasury a revolving fund to be known as the Public Health Special Fund. All monies, fees and revenues collected, authorized or received from any source by the State Commissioner of Health or the State Department of Health under the provisions of this Code or any other law or any agreement shall, unless otherwise expressly provided in this Code or other law, be placed in said fund. Said fund shall be a continuing fund not subject to fiscal year limitations. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Commissioner for the purpose of maintaining and operating the State Department of Health, and in administering and executing the laws pertaining to the duties and functions of the State Department of Health. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.
Added by Laws 1963, c. 325, art. 1, § 107, operative July 1, 1963. Amended by Laws 1986, c. 312, § 13, operative July 1, 1986; Laws 2012, c. 304, § 473.

§63-1-107.1. Repealed by Laws 2002, c. 3, § 25, emerg. eff. Feb. 15, 2002.

§63-1-107.1A. Eldercare Revolving Fund.

A. There is hereby created in the State Treasury a Revolving Fund for the State Department of Health to be designated the "Eldercare Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies deposited to the credit of the fund by law.

B. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the State Department of Health for operation of local Eldercare case management programs. A full accounting of the expenditures of the program shall be sent to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor by January 15 of each year. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

C. The Eldercare Revolving Fund shall not be used for the costs the State Department of Health incurs in administering the local programs.

D. The State Department of Health shall recognize and reimburse indirect costs for Eldercare programs, administered by contractors, if the costs are charged in accordance with an indirect cost allocation plan developed in accordance with federal guidelines established by the United States Office of Management and Budget Circular A-87. In no case shall the State Department of Health reimburse indirect costs in excess of twenty percent (20%) of total direct salaries for Eldercare and Advantage program personnel. Added by Laws 2002, c. 3, § 8, emerg. eff. Feb. 15, 2002. Amended by Laws 2012, c. 304, § 474.

§63-1-107.2. Vaccine Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the State Department of Health, to be designated the "Vaccine Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies deposited to the credit of the fund by law. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the State Department of Health for the purchase of vaccines. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1992, c. 336, § 7, eff. July 1, 1992. Amended by Laws 2012, c. 304, § 475.

§63-1-107.3. Health Department Media Campaign Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the State Department of Health, to be designated as the "Health Department Media Campaign Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies deposited to the credit of the fund by law. All monies accruing to the credit of said fund shall be budgeted and expended by the State Department of Health for media campaigns. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1993, c. 269, § 9, eff. Sept. 1, 1993. Amended by Laws 2012, c. 304, § 476.

§63-1-107.4. Oklahoma Department of Health Civil Monetary Penalty Revolving Fund.

A. There is hereby created in the State Treasury a fund for the State Department of Health to be designated the "Oklahoma Department of Health Civil Monetary Penalty Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations. It shall consist of monies received by the State Department of Health which emanate from fines and assessments against Oklahoma nursing homes and other long-term and non-long-term care facilities found to be noncompliant with federal conditions of participation.

B. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the State Department of Health at the discretion of the Commissioner of Health for the protection of the health or property of residents of nursing facilities.

C. All expenditures shall be in compliance with requirements of the Centers for Medicare and Medicaid Services. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

D. The Commissioner of Health may request the Director of the Office of Management and Enterprise Services to transfer monies between the Oklahoma Department of Health Civil Monetary Penalty Revolving Fund and any other fund of the Department, as needed for the proper expenditure of funds.

Added by Laws 2013, c. 258, § 1, eff. Nov. 1, 2013.

§63-1-108. Federal funds - Grants and donations.

The State Treasurer shall act as custodian of funds received by and allotted to the State Department of Health and to the State Commissioner of Health by federal agencies, when requested to do so by such federal agencies; and the State Budget Director shall maintain a system of accounts for such funds, and each allotment of funds shall be kept and accounted for as a separate fund. Such funds shall be disbursed in the same manner as state appropriated funds, except as may otherwise be requested by the federal agency allotting the funds disbursed. Grants and donations from other sources for public health purposes shall be similarly kept, accounted for or disbursed if believed by the State Commissioner of Health to be necessary or convenient to accomplish the purposes for which the grants or donations were made.
Laws 1963, c. 325, art. 1, § 108.

§63-1-109. Right to choose practitioner.

Nothing in this Code shall prevent citizens of this state from the free choice of any practitioner of the healing arts who is licensed to practice his profession in the State of Oklahoma, nor from the free choice of a duly-accredited religious practitioner of any nationally recognized church or denomination who practices healing by prayer or spiritual means alone in accordance with the tenets and practices of such church or denomination, nor shall this Code be construed to permit one legalized profession of the healing arts to discriminate in any manner against any other profession of the healing arts so licensed to practice its profession by the State of Oklahoma.
Laws 1963, c. 325, art. 1, § 109.

§63-1-110.1. Children First Fund.

A. There is hereby created in the State Treasury a revolving fund for the State Department of Health to be designated the "Children First Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies deposited to the credit of the fund by law. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the State Department of Health for operation of Children First family resource programs. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

B. The State Department of Health shall submit to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor by January 15 of each year, an annual report, including a full accounting of administrative expenditures from the fund for the prior fiscal year, and a summary detailing the

demographic characteristics of families served including, but not limited to, the following:

1. Age and marital status of parent(s);

2. Household composition of families served;

3. Number of families accepted into the program, by location, and average length of time enrolled;

4. Referrals made on behalf of families not accepted into the program; and

5. Average actual expenditures per child during the most recent state fiscal year.

C. Projects shall comply with the uniform components of the State Plan for the Prevention of Child Abuse.

D. The Department shall forward to the Oklahoma Health Care Authority a report of the total number of hours of nursing services provided to families under Children First family resource programs. The Oklahoma Health Care Authority shall submit such information to the Centers for Medicaid and Medicare Services for purposes of applying for federal matching funds and shall submit any necessary applications for waivers to accomplish the provisions of this subsection.

E. The State Department of Health shall contract with a university-related program for a performance-based evaluation of programs. Program sites shall fully cooperate and comply with the evaluation process, and sites shall provide weekly caseload and referral information to the State Department of Health.

Added by Laws 1997, c. 375, § 1, eff. Sept. 1, 1997. Amended by Laws 1998, c. 392, § 5, eff. Sept. 1, 1998; Laws 2001, c. 356, § 5, emerg. eff. June 4, 2001; Laws 2003, c. 103, § 1, eff. Nov. 1, 2003; Laws 2012, c. 304, § 477.

§63-1-111.1. Repealed by Laws 2004, c. 29, § 1.

§63-1-114.1. Comprehensive Childhood Lead Poisoning Prevention Program.

A. There is hereby established the Comprehensive Childhood Lead Poisoning Prevention Program to be administered by the State Department of Health.

B. The State Board of Health, giving consideration to the recommendations of the Infant and Children's Health Advisory Council created in Section 44 of this act, shall promulgate rules for:

1. Lead toxicity screening of children ages six (6) months to seventy-two (72) months;

2. The performance of verbal risk assessments on children ages six (6) months to seventy-two (72) months;

3. The performance of blood lead tests when screening eligible children for lead poisoning, provided that screening and testing for

Medicaid-eligible children shall be conducted in accordance with existing federal law;

4. Setting standards for any developmental assessments for a child identified as being lead poisoned;

5. Identifying as statewide screening requirements the minimum laboratory tests or analysis for childhood lead poisoning to be performed by medical providers for particular age or population groups;

6. The determination of risk for each child tested;

7. Detailing the diagnosis, treatment and follow-up services needed pursuant to the provisions of this act;

8. Providing for health education and counseling related to childhood lead poisoning to parents and children; and

9. Assessments and lead hazard control as part of the treatment and follow-up for a child identified as being lead poisoned.

Added by Laws 1994, c. 158, § 1, eff. Sept. 1, 1994. Amended by Laws 2013, c. 229, § 45, eff. Nov. 1, 2013.

§63-1-114.2. Dental Health Service.

A. The Dental Health Service is hereby created within the State Department of Health.

B. The Dental Health Service shall:

1. Plan, direct and coordinate all dental public health programs with local, state, and national health programs;

2. Advise the Department on matters involving oral health; and

3. Plan, implement, and evaluate all oral health programs within the Department.

C. The director of the Dental Health Service shall be an experienced public health dentist licensed to practice under the State Dental Act of Oklahoma.

Added by Laws 2007, c. 122, § 1, eff. Nov. 1, 2007.

§63-1-115. Short title.

This act shall be known and may be cited as the "Oklahoma Health Care Information System Act".

Added by Laws 1992, c. 347, § 1, eff. Sept. 1, 1992.

§63-1-116. Definitions.

When used in the Oklahoma Health Care Information System Act:

1. "Board" means the State Board of Health;

2. "Commissioner" means the State Commissioner of Health;

3. "Department" means the State Department of Health;

4. "Health care providers" means a hospital or related institution licensed pursuant to Section 1-702 of this title, nursing facilities licensed pursuant to Section 1-1903 of this title, physicians as specified in paragraphs 1 through 7 of subsection A of Section 725.2 of Title 59 of the Oklahoma Statutes,

physical therapists, physician assistants, pharmacists, nurses and home health care providers licensed pursuant to the laws of this state;

5. "Third-party payor" means any entity, other than a purchaser, which is responsible for payment either to the purchaser or the health care provider for health care services rendered by the health care provider;

6. "Public-supported provider" means any public or private entity supported in whole or in part by federal or state funds, or any health care provider contracting with the state for providing health care services including, but not limited to, Medicaid;

7. "Identifying information" means a program identifying number assigned for purposes of statistical and data analysis, which protects and maintains patient and physician anonymity. Identifying information shall remain confidential as provided in Section 1-120 of this title;

8. "Information providers" means and includes health care providers, third-party payors or public-supported providers required to report or submit information to the Division of Health Care Information pursuant to the Oklahoma Health Care Information System Act;

9. "Division" means the Division of Health Care Information; and

10. "Health care information system" means the system for receipt, collection, analysis, evaluation, processing, utilization and dissemination of health care data established and maintained by the Division of Health Care Information pursuant to the Oklahoma Health Care Information System Act.

Added by Laws 1992, c. 347, § 2, eff. Sept. 1, 1992. Amended by Laws 1993, c. 332, § 15; Laws 1994, c. 350, § 1, eff. Sept. 1, 1994; Laws 1998, c. 389, § 3, eff. July 1, 1998; Laws 2000, c. 52, § 5, emerg. eff. April 14, 2000.

§63-1-117. Legislative findings - Intent.

A. As a result of rising health care costs and concerns expressed by health care providers, health care consumers, third-party payors and the general public, and as a result of public health information showing that Oklahoma has a higher death rate than the national average, the Oklahoma Legislature finds that there is an urgent need to establish and maintain, for the purposes of accurately assessing the health of the public, health care planning and cost containment, an information base for the State of Oklahoma that will facilitate ongoing analysis and evaluation of patterns and trends in the health status of Oklahomans, the utilization and costs of health care services, and the capability of the various components of the health care industry to provide needed services.

B. The Oklahoma Health Care Information System shall be responsible for the development and operation of a method for collecting, processing and disseminating health care data including, but not limited to, quality, expenditure and utilization data. It is the intent of the Legislature that a uniform set of data be periodically and routinely compiled that will make possible the ongoing analysis, comparison and evaluation of trends in the quality and delivery of health care services in this state for the purpose of effective health care planning by public and private entities, cost containment, health facility development, and improving access to and quality of care.
Added by Laws 1992, c. 347, § 3, eff. Sept. 1, 1992. Amended by Laws 1998, c. 389, § 4, eff. July 1, 1998; Laws 2000, c. 332, § 1, eff. July 1, 2000.

§63-1-118. Division of Health Care Information - Powers and duties.

A. The Division of Health Care Information is hereby created within the State Department of Health.

B. The Division shall:

1. Collect from providers health care information for which the Division has established a defined purpose and a demonstrated utility that is consistent with the intent of the provisions of Section 1-117 et seq. of this title;

2. Establish and maintain a uniform health care information system;

3. Analyze health care data submitted including, but not limited to, geographic mapping of disease entities;

4. Provide for dissemination of health care data to users and consumers;

5. Provide for the training and education of information providers regarding processing and maintenance and methods of reporting required information;

6. Be authorized to access all state agency health-related data sets and shall develop mechanisms for the receipt of health care data to the Division or its agent; provided, however, all provisions for confidentiality shall remain in place;

7. Provide for the exchange of information with other agencies or political subdivisions of this state, the federal government or other states, or agencies thereof. The Division shall collaborate with county health departments, including the Oklahoma City-County Health Department and the Tulsa City-County Health Department, in developing city-county based health data sets;

8. Contract with other public or private entities for the purpose of collecting, processing or disseminating health care data; and

9. Build and maintain the data base.

C. 1. The State Board of Health shall adopt rules governing the acquisition, compilation and dissemination of all data collected pursuant to the Oklahoma Health Care Information System Act.

2. The rules shall include, but not be limited to:

a. adequate measures to provide system security for all data and information acquired pursuant to the Oklahoma Health Care Information System Act,

b. adequate procedures to ensure confidentiality of patient records,

c. charges for users for the cost of data preparation for information that is beyond the routine data disseminated by the office, and

d. time limits for the submission of data by information providers.

D. The Division shall adopt standard nationally recognized coding systems to ensure quality in receiving and processing data.

E. The Division shall implement mechanisms to encrypt all personal identifiers contained in any health care data upon transmission to the State Department of Health, and all such data shall remain encrypted while maintained in the Department's database or while used by a contractor.

F. The Division may contract with an organization for the purpose of data analysis. Any contract or renewal thereof shall be based on the need for, and the feasibility, cost and performance of, services provided by the organization. The Division shall require any data analyzer at a minimum to:

1. Analyze the information;

2. Prepare policy-related and other analytical reports as determined necessary for purposes of this act; and

3. Protect the encryption and confidentiality of the data.

G. The Board shall have the authority to set fees and charges with regard to the collection and compilation of data requested for special reports, and for the dissemination of data. These funds shall be deposited in the Oklahoma Health Care Information System Revolving Fund account.

H. The Division may accept grants or charitable contributions for use in carrying out the functions set forth in the Oklahoma Health Care Information System Act from any source. These funds shall be deposited in the Oklahoma Health Care Information System Revolving Fund.

Added by Laws 1992, c. 347, § 4, eff. Sept. 1, 1992. Amended by Laws 1993, c. 332, § 16; Laws 1998, c. 389, § 5, eff. July 1, 1998; Laws 2000, c. 332, § 2, eff. July 1, 2000; Laws 2001, c. 353, § 1, eff. Nov. 1, 2001.

§63-1-119. Collection of health care data.

A. 1. The Division of Health Care Information within the State Department of Health shall, with the advice of the Health Care Information Advisory Committee and in accordance with the rules of the State Board of Health, collect health care information from information providers.

2. The information to be collected about information providers may include, but shall not be limited to:

a. financial information including, but not limited to, consumption of resources to provide services, reimbursement, costs of operation, revenues, assets, liabilities, fund balances, other income, rates, charges, units of service, wage and salary data,

b. service information including, but not limited to, occupancy, capacity, and special and ancillary services,

c. physician profiles in the aggregate by clinical specialties and nursing services,

d. discharge data including, but not limited to, completed discharge data sets or comparable information for each patient discharged from the facility after the effective date of this act, and

e. ambulatory care data including, but not limited to, provider-specific and encounter data.

3. The Division shall implement a demonstration project for the voluntary submission of ambulatory care data, including, but not limited to, submissions from federally qualified health centers, migrant health programs and rural health clinics as defined in Title 3 of the Federal Public Health Service Act (PL 104-299), and the Oklahoma Health Care Authority. The Division shall complete the demonstration project by January 1, 2002.

4. The Division shall establish a phase-in schedule for the collection of health care data. The phase-in schedule shall provide that prior to January 1, 1994, only data currently collected shall be required to be submitted to the Division. Thereafter, in the collection of health care data, the Division shall whenever possible utilize existing health data resources and avoid duplication in the collection of health care data.

5. Except as provided by Section 1-120 of this title and as otherwise authorized by the provisions of the Oklahoma Health Care Information System Act, the provisions of the Oklahoma Health Care Information System Act shall not be construed to lessen or reduce the responsibility of the information provider with regard to:

a. the accuracy of the data or information submitted,

b. liability for release of the data or information to the Division, data processor or as otherwise authorized by this section, or

c. the preservation of confidentiality of such data or information until submitted to the Division.

B. Upon the request of the State Department of Health, every state agency, board or commission shall provide the Division of Health Care Information with the health care data and other health care information requested at no charge to the Department or the Division. Except as otherwise provided by the Health Care Information System Act for the purpose of statistical and similar reports, information which is required by state or federal law to be confidential shall not be transferred to any entity by the Division unless a separate written agreement for such transfer has been executed with the state agency, board or commission providing the information to the Division.

Added by Laws 1992, c. 347, § 5, eff. Sept. 1, 1992. Amended by Laws 1993, c. 332, § 17; Laws 1994, c. 350, § 2, eff. Sept. 1, 1994; Laws 1996, c. 221, § 5, eff. Nov. 1, 1996; Laws 1998, c. 389, § 6, eff. July 1, 1998; Laws 2000, c. 332, § 3, eff. July 1, 2000.

§63-1-120. Confidentiality of data - Disclosure upon court order - Immunity from liability.

A. Except as otherwise provided by Section 1-119 of this title, the individual forms, computer tapes, or other forms of data collected by and furnished to the Division of Health Care Information or to a data processor pursuant to the Oklahoma Health Care Information System Act shall be confidential and shall not be public records as defined in the Open Records Act.

B. After approval by the State Department of Health, the compilations prepared for release or dissemination from the data collected, except for a report prepared at the request of an individual data provider containing information concerning only its transactions, shall be public records. The Division shall establish a Health Care Information Advisory Committee as provided in Section 1-122 of this title, to assist with determinations related to data collection, and information to be released and disseminated to the public.

C. The confidentiality of identifying information is to be protected and the pertinent statutes, rules and regulations of the State of Oklahoma and of the federal government relative to confidentiality shall apply.

D. Identifying information shall not be disclosed, and shall not be used for any purpose except for the creation and maintenance of anonymous medical case histories for statistical reporting and data analysis.

E. The Division or other state agency receiving information pursuant to the Oklahoma Health Care Information System Act shall be subject to the same confidentiality restrictions imposed by state or federal law as the public or private agency providing the

information and is prohibited from taking any administrative, investigative or other action with respect to any individual on the basis of the identifying information. The Division data analyzer or other state agency receiving information pursuant to the Oklahoma Health Care Information System Act is further prohibited from identifying, directly or indirectly, any individual in any report of scientific research or long-term evaluation, or otherwise disclosing identities in any manner.

F. Except as otherwise authorized by the Oklahoma Health Care Information System Act, identifying information submitted to the Division which would directly or indirectly identify any person shall not be disclosed by the Division either voluntarily or in response to any legal process, unless directed to by a court of competent jurisdiction, granted after application showing good cause therefor with notice of the hearing to the Division. In assessing good cause the court shall only grant such application if it seeks to challenge the statistical efficacy of a finding made by the Division or alleges a violation of confidentiality by the Division. Such application shall then be granted only when the public interest and the need for disclosure outweighs the injury to the person, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

G. Any person who submits or receives data as required or authorized by the Oklahoma Health Care Information System Act shall be immune from liability in any civil action for any action taken as required by the provisions of the Oklahoma Health Care Information System Act. This immunity is in addition to any other immunity for the same or similar acts to which the person is otherwise entitled.

H. Any person who violates the confidentiality provisions of this section shall be punishable by a fine of Five Thousand Dollars ($5,000.00).

Added by Laws 1992, c. 347, § 6, eff. Sept. 1, 1992. Amended by Laws 1993, c. 332, § 18; Laws 1994, c. 350, § 3, eff. Sept. 1, 1994; Laws 1998, c. 389, § 7, eff. July 1, 1998; Laws 2001, c. 353, § 2, eff. Nov. 1, 2001.

§63-1-121. Reports.

The State Department of Health shall issue reports no less than annually which may include recommendations to the Oklahoma Legislature for any change in the statutes needed to further the purposes of the Oklahoma Health Care Information System Act. The initial report shall be submitted by January 1, 1993. The initial report shall include but not be limited to an implementation schedule for the development and completion of the health care

information system and the status of compliance with the health care information and data submission requirements of the Division. The system shall be fully functional and operative by January 1, 1995. Subsequent reports may include plans for expanding the uniform data base to other medical providers including, but not limited to, all licensed health care professionals or entities providing health care services.
Added by Laws 1992, c. 347, § 7, eff. Sept. 1, 1992. Amended by Laws 1993, c. 332, § 19; Laws 1998, c. 389, § 8, eff. July 1, 1998.

§63-1-122. Health Care Information Advisory Committee.

A. The State Commissioner of Health shall appoint a Health Care Information Advisory Committee to advise and assist the Division of Health Care Information with determinations related to data elements to be collected, reporting requirements, and the release and dissemination of information to the public.

B. The membership of the Health Care Information Advisory Committee shall include, but not be limited to, the Administrator of the Oklahoma Health Care Authority, or a designee and the presidents of the following organizations, or their designees:

1. The Oklahoma State Chamber of Commerce;
2. The Oklahoma Hospital Association;
3. The Oklahoma State Medical Association;
4. The Oklahoma Osteopathic Association;
5. The Oklahoma AFL-CIO;
6. A statewide health care consumer coalition;
7. The Association of Oklahoma Life Insurance Companies;
8. The Oklahoma Health Care Association;
9. The Oklahoma Pharmaceutical Association;
10. The Oklahoma Dental Association;
11. The Oklahoma State Chiropractic Association;
12. The Oklahoma Optometric Association;
13. The Oklahoma Physical Therapy Association;
14. The Oklahoma Podiatric Medical Association;
15. The Oklahoma Psychological Association; and
16. The Oklahoma Association of Home Care.

C. For voting purposes, a majority of the members in attendance at a meeting shall be able to take action on behalf of the Advisory Committee.

D. The Division, with the approval of the Commissioner, may appoint health care data technical advisory committees as needed and appropriate to assist in the development of implementation methods and in the interpretation and evaluation of the data received pursuant to the Oklahoma Health Care Information System Act.

The Health Care Information Advisory Committee and any technical advisory committees established pursuant to this section shall

provide information and assistance to any legislative committee or task force requesting such information or assistance.
Added by Laws 1992, c. 347, § 8, eff. Sept. 1, 1992. Amended by Laws 1993, c. 332, § 20; Laws 1994, c. 350, § 4, eff. Sept. 1, 1994; Laws 1997, c. 238, § 4, eff. Nov. 1, 1997; Laws 1998, c. 389, § 9, eff. July 1, 1998; Laws 2001, c. 353, § 3, eff. Nov. 1, 2001.

§63-1-123. Repealed by Laws 1994, c. 283, § 23, eff. Sept. 1, 1994.

§63-1-123.1. Transfer of powers, duties, etc. from Oklahoma Health Care Authority to State Department of Health.

Effective July 1, 1998, all powers, duties, functions, personnel and responsibilities vested in the Oklahoma Health Care Authority for operation of the Oklahoma Health Care Information Systems Act shall be transferred to the State Department of Health.
Added by Laws 1998, c. 389, § 10, eff. July 1, 1998.

§63-1-131. Health and medical information – Definitions - Advisory board.

A. As used in this section:

1. "Electronic medical record" or "EMR" means an electronic record of health-related information on an individual that can be created, gathered, managed, and consulted by authorized clinicians and staff within one health care organization;

2. "Health data exchange" means record-level health data exchanged for the purpose of statistical data analysis, including, but not limited to, quality, expenditure, and utilization data, for the purpose of developing a uniform and routinely compiled dataset that will make possible the ongoing analysis, comparison, and evaluation of trends in the quality and delivery of health care services for the purpose of effective health care planning by public and private entities, cost containment, health facility development, and improving access to, and quality of care;

3. "Health information exchange" or "HIE" means the electronic movement of health-related information among organizations according to nationally recognized standards for treatment purposes;

4. "Health information technology" or "HIT" means technology that allows comprehensive management of medical information and its secure exchange between health care consumers and providers for treatment purposes; and

5. "Hub" means a registry, a data repository, or a patient identity manager.

B. 1. There is hereby created the "Health Information Infrastructure Advisory Board".

2. The purpose of the advisory board shall be to advise and assist the Oklahoma Health Care Authority in:

a. developing a strategy for the adoption and use of electronic medical records and health information technologies that is consistent with emerging national standards and promotes interoperability of health information systems. The strategy shall:
   (1) be researched and contain the best practices in electronic medical records systems and health information technologies,
   (2) be designed to reduce medical errors and enable patients to make better decisions about their own health care by promoting secure access to medical records online, and
   (3) assist in the design of the health information infrastructure roadmap, which shall contain the state plan for the exchange of health information,
b. the determinations related to data elements to be collected, and
c. the governance structure and policies and procedures for the health information exchange, ensuring that the strategy and plan preserve the privacy and security of health information as required by state and federal law.

3. Duties of the advisory board shall not include the development of a health data exchange; however, key features of a health information exchange shall be designed to integrate with a state health data exchange.

4. The Authority shall operate as a hub for health information exchange between health related state agencies and other health information organizations. Information exchange shall be implemented through interagency agreements among all health related agencies. The agreement shall ensure, but shall not be limited to:
a. confidentiality of information,
b. funding and implementation of the plan, which may include phased-in implementation, and
c. procedures for coordinating, monitoring, and improving data exchange that is compatible with current adopters of electronic medical record systems and health information technologies.

5. The advisory board shall consist of ten (10) members who shall be appointed by the directors of the following agencies and shall include, but not be limited to, individuals from:
a. the Oklahoma Health Care Authority,
b. the State Department of Health,
c. the Department of Mental Health and Substance Abuse Services,
d. the Department of Human Services,

e. the State and Education Employees Group Insurance Board,
f. the Insurance Department,
g. the Department of Corrections,
h. the State Department of Rehabilitative Services, and
i. the City-County Health Departments.

6. Vacancies occurring in the advisory board shall be filled by appointment of the director of the represented agency.

7. The member from the Oklahoma Health Care Authority shall chair the advisory board, and the Authority shall staff the advisory board.

8. Each agency shall receive one vote and a majority of the members in attendance at a meeting shall be able to take action on behalf of the advisory board.

9. Members of the advisory board shall serve without compensation, but shall be reimbursed their actual and necessary travel expenses in accordance with the State Travel Reimbursement Act.

Added by Laws 2009, c. 276, § 1, eff. Nov. 1, 2009.

§63-1-132. Oklahoma Health Information Exchange Trust.

A. The state expressly approves the creation of a public trust to be named the "Oklahoma Health Information Exchange Trust", also known as "OHIET", of which the state shall be the beneficiary; provided, however, such approval shall be contingent upon satisfaction of the following conditions:

1. Finalizing the declaration of trust;

2. Adoption of the declaration of trust by an official action of the trustees of OHIET; and

3. Submission of OHIET for acceptance of the beneficial interest and approval as required by Section 177 of Title 60 of the Oklahoma Statutes.

B. The approved declaration of trust shall:

1. Specify that OHIET shall be created as a public trust pursuant to Section 176 et seq. of Title 60 of the Oklahoma Statutes and shall have the same rights, responsibilities, and attributes as any public trust created under such laws;

2. Specify that the primary purpose of OHIET shall be to:
a. serve as Oklahoma's "Qualified State-Designated Entity" for purposes of any grants awarded pursuant to 42 U.S.C., Section 300jj-33 for purposes of facilitating and expanding the electronic movement and use of health information among organizations according to nationally recognized standards, and
b. promote, develop, and sustain electronic health information exchanges at the state level; and

3. To the extent required by law, specify the adoption of bylaws and rules for the due and orderly administration and regulation of affairs of OHIET, which shall require approval in accordance with the provisions of the Administrative Procedures Act.

C. The approved declaration of trust shall also require the trustees of OHIET to establish an advisory board which shall make recommendations to the trustees. The advisory board shall include in its membership representatives of:

1. Health care providers, including providers that provide services to low income and underserved populations;

2. Health plans;

3. Patient or consumer organizations that represent the population to be served;

4. Health information technology vendors;

5. Health care purchasers and employers;

6. Public health agencies;

7. Health professions schools, universities, and colleges;

8. Clinical researchers;

9. Other users of health information technology, such as the support and clerical staff of providers and others involved in the care and care coordination of patients; and

10. Such other entities as may be determined appropriate by the Secretary of Health and Human Services pursuant to 42 U.S.C., Section 300jj-33.

D. OHIET shall have seven (7) trustees, three of which shall be appointed by the Governor, two of which shall be appointed by the President Pro Tempore of the Senate, and two of which shall be appointed by the Speaker of the House of Representatives.

E. The terms of the trustees shall be as follows:

1. Of the trustees first appointed, one member appointed by the Governor shall be appointed for a term of one (1) year, one member appointed by the President Pro Tempore of the Senate shall be appointed for a term of two (2) years, one member appointed by the Speaker of the House of Representatives shall be appointed for a term of three (3) years, one member appointed by the Governor shall be appointed for a term of four (4) years, one member appointed by the President Pro Tempore of the Senate shall be appointed for a term of five (5) years, one member appointed by the Speaker of the House of Representatives shall be appointed for a term of (5) years, and one member appointed by the Governor shall be appointed for a term of five (5) years; and

2. At the expiration of the term of each member and of each succeeding member, the entity who originally appointed such member shall appoint a successor who shall serve for a term of five (5) years. Whenever a vacancy on the trust occurs, the entity who originally appointed such member shall fill the same by appointment and the appointee shall hold office during the unexpired term. Each

member shall hold office until the member's successor has been appointed and qualified.

F. The provisions of the Governmental Tort Claims Act shall apply to OHIET as a state-beneficiary public trust created pursuant to state law. OHIET shall also be immune from liability relating to the accuracy or completeness of any information submitted by a third party to any health information exchange operated by OHIET.

G. The provisions of this section shall cease to be in effect on January 1, 2016. As of such date, the Oklahoma Health Care Authority shall fulfill the purpose set forth in subparagraph a of paragraph 2 of subsection B of this section with respect to grants awarded prior to the effective date of this act.

Added by Laws 2010, c. 388, § 2, emerg. eff. June 7, 2010. Amended by Laws 2015, c. 157, § 1, eff. Nov. 1, 2015.

§63-1-201. County board of health - Membership.

There is hereby created in each county of the state a county board of health, which shall consist of five (5) members, who shall serve without compensation, and who shall be residents of the county, appointed as follows:

(a) The State Commissioner of Health shall appoint one member, whose term shall expire on June 30, 1964, and each four (4) years thereafter.

(b) The State Commissioner of Health shall appoint another member, whose term shall expire on June 30, 1965, and each four (4) years thereafter.

(c) The judge of the district court shall appoint one member, who shall be the holder of a school administrator's certificate issued by the State Board of Education, and whose term of office shall expire on June 30, 1966, and each four (4) years thereafter.

(d) The Board of County Commissioners shall appoint one member, who shall be a doctor of medicine, doctor of osteopathy, or, if no doctor of medicine or doctor of osteopathy is available, the board of county commissioners may appoint a dentist, optometrist, or registered nurse. The term of office of such member shall expire on June 30, 1967, and each four (4) years thereafter.

(e) The board of county commissioners shall appoint another member who may be a member of the board of county commissioners, and who shall serve at the pleasure of the board of county commissioners.

Laws 1963, c. 325, art. 2, § 201.

§63-1-202. County board of health - Powers and duties.

The county board of health shall have the following powers and duties:

1. Organize by electing a chair and other necessary officers annually and meet at such times, in such manner and upon such notice

as the board shall prescribe. Provided, that the board shall meet at least two times each year;

2. Establish and maintain a county department of health, if the same, in the opinion of the board, will be to the best interest of the county;

3. Enter into agreements with county boards of health of other counties, and with the governing boards or boards of health of cities, towns and school districts lying wholly or partly in the county, for the establishment and operation of district or cooperative departments of health;

4. Prepare and submit to the county excise board, annually, an estimate of its needs, and needs for the operation of the county department of health, if any, or for its proportionate part of the costs of operation of a district or cooperative department of health, if it has entered into an agreement therefor;

5. Advise with the State Commissioner of Health on matters pertaining to public health in the county, and as to the appointment of the county superintendent of health or the medical director of the county, district or cooperative department of health; and

6. Adopt regulations, which shall be subject to the approval of the State Commissioner of Health and shall not be more stringent than state law and rules and regulations of the State Board of Health, to protect the public health in the county in emergencies. Added by Laws 1963, c. 325, art. 2, § 202. Amended by Laws 2009, c. 132, § 1, eff. Nov. 1, 2009.

§63-1-203. County superintendent of health - Appointment - Compensation.

(a) There is hereby created the office of county superintendent of health for each county that does not maintain a county department of health and that does not participate in the maintenance of a district department of health.

(b) The county superintendent of health shall be a regularly practicing physician, of good standing and of good moral character, and shall be a resident of the county for which he is appointed. He shall be appointed by, and shall serve at the pleasure of, the State Commissioner of Health. He shall be compensated for his services at a rate to be fixed by the board of county commissioners, subject to the following limitations: In counties having a population of not more than ten thousand (10,000), as shown by the last preceding Federal Decennial Census, he shall be paid not less than Two Hundred Dollars ($200.00) per annum; in counties having such a population of more than ten thousand (10,000) and not more than twenty thousand (20,000), he shall be paid not less than Three Hundred Dollars ($300.00) per annum; in counties having such a population of more than twenty thousand (20,000) and not more than forty thousand (40,000), he shall be paid not less than Five Hundred Dollars

($500.00) per annum; in counties having such a population of more than forty thousand (40,000) and not more than fifty thousand (50,000), he shall be paid not less than Seven Hundred Dollars ($700.00) per annum; and in counties having such a population in excess of fifty thousand (50,000), he shall be paid not less than One Thousand Five Hundred Dollars ($1,500.00) per annum.
Laws 1963, c. 325, art. 2, § 203.

§63-1-204. County superintendent of health - Powers and Duties.

The county superintendent of health, under the supervision of the State Commissioner of Health, shall have the following powers and duties: Abolish nuisance that are inimical to public health; isolate persons infected with dangerous, communicable infectious or contagious diseases, and take appropriate action to control or suppress, or to prevent the occurrence or spread of such diseases; enforce emergency health regulations the County Board of Health; enforce the provisions of this Code, and rules and regulations of the state board of health, that are applicable to his county; and perform such other duties and functions as may be required of him by the Commissioner.
Laws 1963, c. 325, art. 2, § 204.

§63-1-205. County, district and cooperative departments of health - Medical director - contracts for public health services.

(a) The county board of health may, with the approval of the State Commissioner of Health, establish and maintain a county department of health, the maintenance and operation of which is hereby declared to be a function of county government for which appropriations may be made from the general fund of the county and the proceeds of a levy made in accordance with Section 9a, Article X, Oklahoma Constitution.

(b) The county boards of health of two or more counties may, with the approval of the Commissioner, form a health district composed of such counties for public health purposes. The health district shall have a district department of health which shall be operated, in such counties, in the same manner as county departments of health.

(c) Cooperative departments of health may be formed by agreement between the county board of health of any county maintaining a county department of health, or the county boards of health of counties in a health district, and the governing boards of cities, towns, and school districts lying wholly or partly in such county or health district. Any such agreement shall stipulate what health services will be provided to the cities, towns and school districts, which may be all or any of the services that may be provided by a county department of health, and shall also fix the amounts of funds to be paid by the cities, towns, and school

districts for the services. All agreements made under the provisions of this section shall be subject to the approval of the State Commissioner of Health.

(d) A county department of health, a district department of health and a cooperative department of health shall be under the direction of a medical director, who shall perform his duties under the supervision of the Commissioner, and who shall, in addition to his other duties, perform the same powers, duties and functions in the county, in the health district, or in the cooperative department, as is provided by law for county superintendents of health. The Commissioner shall appoint and fix the duties and compensation of the medical director, who shall be a physician licensed under the laws of this state, and shall employ and fix the duties and compensation of such other personnel as he deems necessary for the operation of the county department of health, the district department of health, or the cooperative department of health, all such personnel to be employed under provisions of the Oklahoma Personnel Act and paid by state warrant. Reimbursements to the State Department of Health shall be paid by the county from the Section 9a of Article X of the Oklahoma Constitution, mill levy revenues, payable for the benefit of such county health department, district department of health, or the cooperative department of health and payable within thirty (30) days of receipt of an invoice therefor. Provided that, in any such local health department operating under the direction of a medical director who serves less than full time, the Commissioner may delegate nonmedical administrative duties to another employee of the county, district, or cooperative health department.

(e) The board of health of any county may contract with the department of health of any neighboring county or the State Department of Health to provide the county any or all public health services. The county receiving the services shall pay the department rendering the services according to a schedule of fees and payments mutually agreed upon by the State Board of Health and the county or counties affected. Such schedule of fees and payments shall be equal to the cost of the services provided.

Laws 1971, c. 119, § 2-205. Amended by Laws 1990, c. 265, § 36, operative July 1, 1990.

§63-1-206. Functions of health departments.

A. A county department of health, a district department of health, a cooperative department of health, and a city-county department of health shall, in their respective jurisdictions:

1. Maintain programs for disease prevention and control, health education, guidance, maternal and child health, including school

health services, health in the working environment, nutrition and other matters affecting the public health;

2. Provide preventive services to the chronically ill and aged;

3. Maintain vital records and statistics;

4. Assist the State Commissioner of Health in the performance of official duties, and perform such other acts as may be required by the Commissioner; and

5. Enter into written agreements with the governing body of any municipality or county for the performance of services within the respective jurisdictions and authorities that are necessary and proper pursuant to the authority granted to municipalities and counties by the Constitution and the laws of this state.

B. A county department of health, a district department of health, a cooperative department of health, and a city-county department of health may maintain programs for mental health and day care for children.

C. Nothing contained herein relating to pollution shall be in conflict with the existing jurisdiction of any other state environmental agency.

D. Except as otherwise provided by law, responsibility for the licensing and inspection of nursing facilities and specialized facilities, as defined in the Nursing Home Care Act and for the enforcement of state health and safety standards applicable to such facilities, shall be reserved to the State Department of Health and shall be exercised pursuant to the provisions of the Nursing Home Care Act.

E. Except as otherwise provided by law, responsibility for the licensing and inspection of any establishment where food or drink is offered for sale or sold, in accordance with the provisions of Section 1-1118 of this title, and for the enforcement of state health and safety standards applicable to such establishments, shall be reserved to the State Department of Health.

Added by Laws 1963, c. 325, art. 2, § 206, operative July 1, 1963. Amended by Laws 1967, c. 260, § 2, emerg. eff. May 8, 1967; Laws 1993, c. 145, § 303, eff. July 1, 1993; Laws 1995, c. 230, § 1, eff. July 1, 1995; Laws 1998, c. 314, § 9, eff. July 1, 1998.

§63-1-206.1. Nonphysician services - Fees - Agreements to provide services - Disposition of funds.

A. County, district, cooperative and city-county health departments, with the approval of the State Commissioner of Health, may collect fees for health services such as nursing, chronic disease screening, immunizations, maternal and child health services, genetic services, physical therapy, occupational therapy, dietetic, social work and home health aid given to patients in their homes, for mental health and guidance services and for dental care rendered in facilities operated by said departments, and may collect

fees for such services as shall be authorized by the State Board of Health. Such fees shall be collected from persons financially able to pay for such services, and from insurers, governmental agencies or other persons obligated to reimburse for such services, and shall be collected in accordance with a schedule of fees approved by the State Commissioner of Health.

B. Fees for environmental services may be collected with the approval of the Executive Director of the Department of Environmental Quality as authorized by the Environmental Quality Board.

C. County, district, cooperative, and city-county health departments may enter into agreements with individuals and with public and private agencies to provide health services enumerated in subsection (a) of this section to said health departments and also to supply these services to organizations or agencies. Such agreements shall be subject to approval of the State Commissioner of Health, and shall specify services to be performed and amounts to be paid.

D. Money received by a county, district, or city-county health department pursuant to a contractual arrangement, as fees for services, or from some other source, shall be deposited with the county treasurer in the county where earned as provided for in Section 681 of Title 19 of the Oklahoma Statutes.

E. With the approval of the State Commissioner of Health, such funds shall be transferred, in accordance with provisions of Sections 683 and 684 of Title 19 of the Oklahoma Statutes, and added to specified items of the Health Department's appropriations, and no further action or appropriation by the county excise board shall be required to make such available for expenditure. The county board of health, the city-county board of health, or a person designated to act on behalf of either board is authorized to effect transfer of these funds, and to specify the item or items of appropriation to which they are to be added, in accordance with the State Health Commissioner's approval.

Added by Laws 1968, c. 266, § 1, emerg. eff. April 29, 1968.
Amended by Laws 1979, c. 117, § 1; Laws 1984, c. 162, § 1, emerg. eff. May 1, 1984; Laws 1993, c. 145, § 304, eff. July 1, 1993.

§63-1-207. Cooperative departments of health - Agreements for.

Cooperative departments of health may be formed by agreement between the county board of health of any county maintaining a county department of health, or the county boards of health of counties in a health district, and the governing boards of cities, towns, and school districts lying wholly or partly in such county or health district. Any such agreement shall stipulate what health services will be provided to the cities, towns, and school districts, which may be all or any of the services that may be

provided by a county department of health, and shall also fix the amount of funds to be paid by the cities, towns, and school districts for the services. All agreements made under the provisions of this section shall be subject to the approval of the State Commissioner of Health.
Laws 1963, c. 325, art. 2, § 207.

§63-1-208. Funds for operation of health departments.

(a) It shall be the duty of the county excise board of each county if funds are available to make necessary appropriations to provide sufficient funds to pay the amounts due under any agreement entered into by the county board of health, or by any city, town, or school district of the county, for or in connection with a district department of health or a cooperative department of health; and such funds shall be accounted for, obligated, expended and disbursed as directed by the State Commissioner of Health, who may require any or all such funds to be combined with others to be used for similar or related purposes.

(b) The Commissioner may enter into agreements with county boards of health, and with city-county boards of health, whereby state funds will be used in conjunction with county funds for the operation of county, district, cooperative and city-county departments of health. The Commissioner may pay such funds on a reimbursement or percentage of budgetary expenditures basis, or other basis; and if directed to do so by the Commissioner, the county clerk shall add the amount of any such funds to specified items of appropriation, and no further action or appropriation by the county excise board shall be required to make such funds available for expenditure.
Laws 1963, c. 325, art. 2, § 208; Laws 1967, c. 260, § 3, emerg. eff. May 8, 1967.

§63-1-208.1. Regional guidance centers and services.

(a) The State Board of Health may establish regional guidance centers for regions designated by the Board, such regions to be selected by the Board on the basis of area, geographical location, population, and other factors deemed essential to indicate a need for guidance services. The center for a region shall be in a county having a county department of health or participating in a cooperative, district, or city-county department of health, and shall be under the administrative direction of the medical director of the county, cooperative, district, or city-county department of health, and under the supervision of the State Commissioner of Health. The county board of health or the city-county board of health of a county served by a regional guidance center and the State Commissioner of Health may enter into agreements for payment of operating expenses of the center, and the county board of health,

or city-county board of health, may include an amount for its part of the costs in its budget or annual estimate of needs.

(b) The State Board of Health shall adopt rules, regulations, and standards for the operation of regional guidance centers, and to carry out the purposes of this section; and may formulate a schedule of fees to be charged for guidance services furnished to persons who are financially able to pay for the services. The State Board of Health may enter into agreements with individuals and with public or private agencies for services to be furnished to a guidance center and may also enter into agreements to furnish guidance services to public or private agencies. All fees collected shall be remitted to the State Commissioner of Health, who shall deposit the same in a special account in the State Treasury. Such fees shall be accounted for by region of source and shall be used by the State Commissioner of Health to provide guidance services in the regions from which the fees are derived. County funds payable under agreements entered into under provisions of the preceding paragraph shall be accounted for, obligated, expended and disbursed as directed by the State Commissioner of Health. Provided, however, that by agreement between a county or city-county board of health and the Commissioner of Health, such county funds may be remitted to the State Commissioner of health who shall deposit such funds in the same special account in the State Treasury created for fees collected and shall be disbursed as is provided for fees.

(c) Guidance services furnished in a region under the provisions of this section shall, subject to existing laws, include evaluation, counseling, and referral for treatment, when indicated, of individuals with emotional or behavioral problems, and other persons in need of guidance services; consultant services to law enforcement agencies, schools, courts, other state or local agencies, and other persons or agencies concerned with persons or families with mental health and/or child development problems; and other guidance services that are now or may be in the future authorized to be performed by the State Department of Health or local departments of health.

Laws 1963, c. 370, § 10; Laws 1967, c. 260, § 4, emerg. eff. May 8, 1967.

§63-1-209. Cities and towns - Health authorities - Licensing and Inspection - Ordinances.

A. 1. Except as may be otherwise provided by city charter, the governing board of each city or incorporated town shall serve, ex officio, as the board of health for such city or town, and shall appoint, and fix the duties and compensation of, a health officer and other personnel to enforce the ordinances of such city or town relating to public health.

2. Except as otherwise provided by this subsection, the governing board may adopt such ordinances and rules as it deems necessary for the protection of the public health, provided such ordinances and rules are not inconsistent with state laws or rules of the State Board of Health. The governing board shall enforce such laws and rules as may be required by the State Commissioner of Health and may, by agreement with the medical director of the county or district department of health, delegate to such department the authority to enforce ordinances of the city or town relating to public health. Except as otherwise provided by law, responsibility for licensing, regulation and inspection of nursing facilities and specialized facilities, as defined in the Nursing Home Care Act and for enforcement of state health and safety standards applicable to such facilities, shall be reserved to the State Department of Health and shall be exercised pursuant to the provisions of the Nursing Home Care Act.

3. Except as otherwise provided by law, responsibility for the licensing and inspection of any establishment where food or drink is offered for sale or sold, in accordance with the provisions of Section 1-1118 of this title, and for the enforcement of state health and safety standards applicable to such establishments, shall be reserved to the State Department of Health. Any such rules adopted by a governing body of a city or town relating to an establishment where food or drink is offered for sale or sold shall not be more stringent than the rules for such establishments adopted by the State Board of Health; provided, that rules adopted prior to May 31, 2008, which directly relate to training and permit requirements for food managers and food handlers and fees related to such establishments shall, in addition to the license fee required by the State Board of Health, be exempt from the provisions of this subsection.

B. The governing board of each city or incorporated town may adopt and enforce such ordinances as it deems necessary for the protection of the environment, provided such ordinances are not inconsistent with state laws or rules of the Environmental Quality Board. The governing board may, by agreement with the Department of Environmental Quality, delegate to the local representative of the Department of Environmental Quality the authority to investigate ordinances of the city or town relating to the environment and submit such investigative results to the clerk of the city or town. Added by Laws 1963, c. 325, art. 2, § 209, operative July 1, 1963. Amended by Laws 1993, c. 145, § 305, eff. July 1, 1993; Laws 1995, c. 230, § 2, eff. July 1, 1995; Laws 1998, c. 314, § 10, eff. July 1, 1998; Laws 2009, c. 132, § 2, eff. Nov. 1, 2009.

§63-1-209.1. County boards of health as sponsoring agency for National Health Service Corps assignees.

There is hereby created authority for county boards of health as established under Title 63, Chapter 1, Public Health Code, Section 1-202, to be the sponsoring agency for our National Health Service Corps assignees as established by Public Law 91-623, known as the Emergency Health Personnel Act of 1970. This authority with the concurrence of the Commissioner of Health shall extend to include the sponsoring agency establishing rules of collection of fees for such personnel and disbursement of the fees in accordance with agreements reached by the U.S. Public Health Service in the assignment of Corps personnel under the sponsorship of the county health board.
Laws 1972, c. 184, § 13, emerg. eff. April 7, 1972.

§63-1-210. City-county board of health in certain counties - Membership.

Prior to November 1, 2018, there is hereby created in any county of the State of Oklahoma with a population of more than two hundred twenty-five thousand (225,000), according to the latest Federal Decennial Census, and containing within its boundaries a city with a population of more than one hundred fifty thousand (150,000), according to the latest Federal Decennial Census, a city-county board of health composed of nine (9) members. Beginning on and after November 1, 2018, a county board of health may create in any county of the State of Oklahoma with a population of more than two hundred twenty-five thousand (225,000), according to the latest Federal Decennial Census, and containing within its boundaries a city with a population of more than one hundred fifty thousand (150,000), according to the latest Federal Decennial Census, a city-county board of health composed of nine (9) members. The membership of the Board shall be composed of five (5) members appointed by the city council of such city, or city commission, whichever applies, and four members appointed by the board of county commissioners of such county. Each member shall serve a term of six (6) years, except, that of the members initially appointed by the city council, or city commission, whichever applies, one member initially appointed shall serve a term of two (2) years, one member initially appointed shall serve a term of three (3) years, one member initially appointed shall serve a term of four (4) years, one member initially appointed shall serve a term of five (5) years, and one member initially appointed shall serve a term of six (6) years; provided, however, that in any such city having a city board of health created under its charter provisions, the members of such city board of health and the tenure of the city board of health members of the city-county board of health shall be coterminous with the city board of health. Of the members initially appointed by the board of county commissioners, one member initially appointed shall serve a term of two (2) years, one member initially appointed shall

serve a term of three (3) years, one member initially appointed shall serve a term of five (5) years, and one member initially appointed shall serve a term of six (6) years. The appointing authority shall appoint new members as the terms of office of its initial appointees expire. Wherever a city-county board of health is now in existence, the current board members shall be retained, until the termination of their present appointment, by the appointing authorities.
Added by Laws 1963, c. 325, art. 2, § 210, operative July 1, 1963.
Amended by Laws 2018, c. 143, § 1, eff. Nov. 1, 2018.

§63-1-211. Organization - Meetings - Compensation.
Such city-county board of health shall organize by electing a chairman and other necessary officers and shall meet at such times, in such manner, and upon such notice as the board shall prescribe; provided, that at least one meeting shall be held annually. The members of such board shall serve without compensation.
Laws 1963, c. 325, art. 2, § 211.

§63-1-212. Powers and duties of city - county board of health.
It shall be the duty of the city-county board of health to recommend ordinances, rules and regulations to the governing body of any city or town within its jurisdiction and to the board of county commissioners of the county within which such board exists in matters pertaining to the preservation and promotion of public health, and to assist in the formulation and adoption of uniform health ordinances, rules and regulations within the jurisdiction of such board. Such board, in addition to the powers and duties set forth in Sections 210 to 218 of this article, shall have all the powers, rights and duties which are now or may hereafter be conferred by the statutes of this state upon city or county boards of health, except the making of rules and regulations.
Laws 1963, c. 325, art. 2, § 212.

§63-1-212.1. Peace officer certificates for certain employees.
Any employee of a city-county health department who is serving as a peace officer shall obtain a certificate as provided in Section 3311 of Title 70 of the Oklahoma Statutes.
Added by Laws 1987, c. 206, § 38, operative July 1, 1987; Laws 1987, c. 236, § 24, emerg. eff. July 20, 1987.

§63-1-213. Board of county commissioners - Rules and regulations - Fees.
A. The board of county commissioners in any county that qualifies under Section 210 of this article is hereby authorized and empowered to make and enforce all reasonable rules and regulations with regard to the preservation and promotion of public health;

provided, that any such rules or regulations shall have first been recommended or approved by the city-county board of health, and further provided that such rules and regulations shall not be inconsistent with state laws or rules and regulations of the State Board of Health. Such rules and regulations shall be operative throughout the county, except within the limits of incorporated cities and towns. Any such rules adopted by county commissioners relating to an establishment where food or drink is offered for sale or sold shall not be more stringent than the rules for such establishments adopted by the State Board of Health; provided, that rules adopted prior to May 31, 2008, which directly relate to training and permit requirements for food managers and food handlers and fees related to such establishments shall, in addition to the license fee required by the State Board of Health, be exempt from the provisions of this subsection.

B. The board of county commissioners is also authorized to provide for the levying and collection of fees for services performed by such city-county health department outside the boundaries of incorporated cities and towns within such county. Any person who violates any rule or regulation made by such board of county commissioners under the authority of this section shall be guilty of a misdemeanor.

Added by Laws 1963, c. 325, art. 2, § 213. Amended by Laws 2009, c. 132, § 3, eff. Nov. 1, 2009.

§63-1-214. City-county health departments - Agreement for creation - Powers - Medical director and other employees.

A. The board of county commissioners of any county and the governing body of any city which qualify under Section 1-210 of this title shall enter into an agreement providing for the creation of a city-county health department, and such contracting bodies shall by agreement provide for the method of operation thereof, the selection of a director of such department, and the proportionate share of personnel and/or money that each shall contribute for the operation and support of such department.

B. Unless an agreement made pursuant to subsection A of this section specifically provides otherwise, any judgment against the city-county health department or the city-county board of health shall be treated as a judgment against the county and may be paid from a sinking fund established pursuant to Section 28 of Article X of the Oklahoma Constitution in the manner that other judgments against the county are paid.

C. Unless an agreement made pursuant to subsection A of this section specifically provides otherwise, a city-county health department shall have the power to own, acquire, lease, or dispose of real property in the performance of local public health functions, duties, and responsibilities.

D. The qualifications of the director shall be determined by the city-county board of health, with the advice of the State Commissioner of Health, and subject to approval by the governing body of the city and the board of county commissioners of the county. The director, with the approval of the city-county board of health, the board of county commissioners of the county, and the governing body of the city, or the city manager in cities having a managerial form of government, shall appoint other personnel of the department.

E. The employees of a city-county health department shall possess minimum qualifications as set forth in a system of personnel administration delineating job specifications and a compensation plan adopted by the city-county board of health, and approved by the State Commissioner of Health, the board of county commissioners and the governing body of the city. By March 1, 1991, the city-county health department shall establish a personnel, merit and promotion system which shall be approved by the Commissioner of Public Health. The employees shall also be eligible for membership in any life or health insurance plan of the county and the county retirement program, subject to the same conditions or restrictions that apply to county employees. Any state employees officed or located at or assigned to a city-county health department shall be subject to the state system of personnel administration and shall be eligible for membership in the state employees insurance and retirement programs.

F. Such city-county health department shall, under the supervision of the director, enforce and administer all municipal and county ordinances, rules and regulations, and all state laws, and rules and regulations of the State Board of Health pertaining to public health matters in the jurisdiction where it is created, or in any area where it has jurisdiction to operate by agreement.

G. A city-county health department may perform any and all health-related services, within the scope of practice, as prescribed by law, by the city-county board of health, or by standards of care for medical services. When a city-county health department provides a health-related service to any person covered by an applicable health insurance plan, the city-county health department may submit a claim for said service to the appropriate insurance company, health maintenance organization or preferred provider organization. Upon receipt of the claim, said insurance company, health maintenance organization or preferred provider organization shall reimburse the city-county health department for the service provided in accordance with the standard and customary rate schedule established by the plan. All health insurance plans, doing business in Oklahoma, shall recognize the public health service delivery model utilized by the city-county health department, as an appropriate provider of services for reimbursement. All insurance

reimbursement payments collected shall become a part of the general revenue of the unit of government levying the same.
Added by Laws 1963, c. 325, art. 2, § 214, operative July 1, 1963. Amended by Laws 1990, c. 239, § 1, eff. Sept. 1, 1990; Laws 2006, c. 279, § 2, eff. Nov. 1, 2006; Laws 2010, c. 198, § 1, eff. Nov. 1, 2010; Laws 2011, c. 105, § 3, eff. Nov. 1, 2011.

§63-1-215. Duties of director of city-county health department.

The director of the city-county health department shall direct and supervise all public health activities in the county, except in incorporated cities and towns which are not governed by the provisions of Sections 210 to 218 of this article, and which have not entered into any agreement for the operation of the health department of such city or town. Such director shall administer and enforce all municipal and county ordinances and rules relating to public health matters, and he shall also administer state laws, and rules of the State Board of Health pertaining to public health, subject to administrative supervision of the State Commissioner of Health. Any other powers, authority, duties or functions which are now or may hereafter be conferred by law on county or city superintendents of public health are hereby conferred on such director of the city-county health department.
Added by Laws 1963, c. 325, art. 2, § 215, operative July 1, 1963. Amended by Laws 1993, c. 145, § 306, eff. July 1, 1993; Laws 1995, c. 285, § 21, eff. July 1, 1995; Laws 1998, c. 314, § 7, eff. July 1, 1998.

§63-1-216. Agreements with other municipalities, agencies and organizations.

The city-county board of health in any county wherein a city-county health department has been created as hereinbefore provided shall, subject to the approval of the board of county commissioners of the county and the governing body of the city which created and operates such city-county health department, have authority to enter into agreements with other counties, cities, towns, school districts, the State Health Department, the Department of Environmental Quality, or any state agency or institution, or philanthropic, voluntary or charitable organization, for the operation of the health department and the administering of health or environmental, as appropriate, services of such county, city, town, school district, agency or institution by such city-county health department, and may provide in the agreement for contribution by such participating body to the financial support of the city-county health department.
Added by Laws 1963, c. 325, art. 2, § 216, operative July 1, 1963. Amended by Laws 1993, c. 145, § 307, eff. July 1, 1993.

§63-1-217. Fees - Disposition.

All fees authorized by municipal or county ordinances, rules or regulations shall be collected as such ordinances, rules or regulations may provide and such fees shall become a part of the general revenue of the unit of government levying the same.

Laws 1963, c. 325, art. 2, § 217.

§63-1-218. Annual budget.

The city-county board of health, in cooperation with the Director of the city-county health department, shall prepare an annual budget for the operation of the city-county health department and submit the same, together with recommendations as to the respective contributions, to the board of county commissioners and to each city, town, school district or other agency or organization participating in the operation of such city-county health department as hereinabove provided. Such budget and recommendations shall act as a guide to such participants in providing for the operating and financing of such city-county health department for the current or ensuing fiscal year.

Laws 1963, c. 325, art. 2, § 218.

§63-1-218.1. Travel expenses - Reimbursement - Payment by credit card.

A. Upon direction of the director of a city-county health department, with approval of the board of county commissioners of the county, employees of such city-county health department may be reimbursed for use of their personally owned automobiles while performing their duties on official business for the Department at a rate not to exceed that allowed for mileage to state employees. Travel claims for reimbursement on a mileage basis shall be accompanied by a detailed statement showing an adequate basis for computing the miles of travel and the purpose for the travel, and may be paid from any funds available for that purpose.

B. Subject to the limitations and procedures provided by this section, approved employees of a city-county health department may purchase materials, supplies, or services necessary for travel out of the county in which the city-county health department operates by use of one or more credit cards issued to the city-county health department. Purchases made with the credit cards shall be limited to actual expenses for travel out of the county by employees in the performance of their official duties. For purposes of this section, "actual expenses for travel" shall mean expenses for travel by public or private railroads, airplanes, buses, rental cars, or other public or private conveyances, fuel, oil, meals, lodging, parking fees, or telephone expenses.

C. The city-county health department shall encumber sufficient funds each month to pay for the estimated charges made with the

cards including any annual or other fee owed for use of the cards. Payment for charges incurred on any card shall be made in a timely manner so that no interest charges or penalties accrue and so that the total payment amount corresponds to the balance of charges for purchases in addition to any applicable annual fee or service charge.

D. All receipts for charges made by use of any card issued to a city-county health department shall be maintained to facilitate accurate records of total monthly expenditures for which the city-county health department shall be obligated.

E. Employees who make credit purchases with credit cards issued to a city-county health department shall immediately and accurately document the expenditures on a form prepared by the State Auditor and Inspector, attaching receipts and a written explanation of each expenditure as to the date, case number, or other identification number, area or location, reason for expenditure and amount expended. A copy of the form shall be submitted to the director of the city-county health department for approval and the original form shall be attached to the purchase order and shall be submitted for payment. A copy of the form shall be retained for the records of the city-county health department.

F. An employee of the city-county health department shall not receive any reimbursement pursuant to the provisions of subsection A of this section for any expenses for which a credit card issued pursuant to the provisions of this section has been used.

Added by Laws 1969, c. 146, § 1, emerg. eff. April 10, 1969. Amended by Laws 1974, c. 273, § 1, emerg. eff. May 29, 1974; Laws 2008, c. 149, § 3, emerg. eff. May 12, 2008.

§63-1-219. Child guidance programs, community mental health services and community facilities for mentally retarded authorized.

The board of county commissioners of any county, or the board of county commissioners of two or more counties jointly, is hereby authorized, at the option and approval of said board or boards, to conduct a child guidance program, and/or community health center and/or community facility for the mentally retarded, separate and apart from or in conjunction with the county department of health, and to request as a part of the county budget an appropriation of not to exceed an amount equal to the net proceeds of a levy of three-fourths (3/4) mill on the dollar valuation of taxable property in the county for such purpose or purposes; and to employ personnel, within the limits of such funds, to conduct such program or programs. Provided, that any center or facility for mental health services established or maintained hereunder shall first be approved by the State Director of Mental Health on advice of the Board of Mental Health and shall operate under the guidelines of the Oklahoma Mental Health Services Act; and any center or facility for mental

retardation services established or maintained hereunder shall first be approved by the Director of the Department of Institutions, Social and Rehabilitative Services on the advice of the Oklahoma Welfare Commission and shall operate under regulations prescribed by the Oklahoma Public Welfare Commission.
Laws 1963, c. 325, art. 2, § 219; Laws 1974, c. 265, § 1.

§63-1-222.1. Governing boards - Membership - Tenure.

A. Every county or combination of counties desirous of establishing a mental health center and/or facilities for the mentally retarded shall establish a community mental health board and/or mental retardation governing board each of which shall be composed of not less than seven (7) members. The members of such governing boards shall be appointed by the board of county commissioners of said county. The term of office of members of the governing board shall be three (3) years, except that of the members first appointed the term of three members shall be for one (1) year, and the term of two members shall be for two (2) years. All members shall serve without pay.

B. When any combination of counties desires to establish a mental health center and/or facilities for the mentally retarded, the chairman of the board of county commissioners of each participating county shall appoint two (2) members of a selection committee, which committee shall select the governing board.
Laws 1974, c. 265, § 2.

§63-1-222.2. Duties of governing boards.

The duties of each of the governing boards shall be:

1. For the community mental health board, the duties prescribed by the Community Mental Health Services Act, Sections 601 through 609, Title 43A, Oklahoma Statutes; and

2. For the mental retardation board, the duties prescribed for the Oklahoma Welfare Commission by Sections 301 through 335, Title 43A, Oklahoma Statutes.
Laws 1974, c. 265, § 3.

§63-1-222.3. Support of programs.

The board of county commissioners may allocate part or all of the proceeds of the three-fourths-mill levy provided for by Section 1-219, as amended by Section 1 of this act, Title 63, Oklahoma Statutes, to the county health department for establishment or support of child guidance centers as part of the county health department. The county board of health shall continue in responsibility for child guidance centers receiving funds in accordance with the provisions of Section 1-202, Title 63, Oklahoma Statutes.
Laws 1974, c. 265, § 4.

§63-1-222.4. Screening of minors to avoid duplication of services.

In order to avoid duplication of services between the community mental health centers funded by the Department of Mental Health and Substance Abuse Services and the child guidance centers funded by the State Department of Health, minors shall be screened by the child guidance centers and referred to the most appropriate service provider.

Added by Laws 1987, c. 206, § 40, operative July 1, 1987; Laws 1987, c. 236, § 26, emerg. eff. July 20, 1987; Amended by Laws 1990, c. 51, § 129, emerg. eff. April 9, 1990.

§63-1-223. Constitutional levy for health department.

A levy of not to exceed two and one-half (2 1/2) mills on the dollar of assessed valuation of a county may be levied annually in accordance with the provisions of Section 9A, Article 10, Oklahoma Constitution, for the purpose of providing funds to maintain or aid in maintaining a county, district or cooperative department of health, where such levy is approved by a majority of the qualified ad valorem taxpaying voters of the county, voting on the question at an election called for such purpose; and the amount of the levy so approved may continue to be made annually until repealed by a majority of the qualified ad valorem taxpaying voters of the county, voting on the question at an election called for such purpose.

Laws 1963, c. 325, art. 2, § 223.

§63-1-224. Election on constitutional levy.

An election to authorize a levy under the provisions of the preceding section may be called by the board of county commissioners, in its official discretion. Such election may also be called by initiative petition filed with the county clerk, signed by sixteen percent (16%) of the legal voters of the county, such percent to be based upon the total number of votes cast at the last general election in the county for the state office receiving the highest number of votes at such election in the county. Whenever the election is called by either method, the board of county commissioners shall fix the date for the election and shall cause to be published in at least one issue each week, for four (4) weeks, of a newspaper having general circulation in the county, a notice stating that the election has been called, the date and purpose of the election, and the number of mills on the dollar of assessed valuation of the county to be voted upon; and the notice may contain any other information believed appropriate by the board. The election shall be conducted by the county election board, in the same manner as elections to select county officers, and the cost of holding the election shall be paid from county funds. The secretary of the county election board shall certify the results of the

election to the board of county commissioners, and after receiving such certification the board of county commissioners shall notify the county excise board if the levy shall have been approved.
Laws 1963, c. 325, art. 2, § 224.

§63-1-225. Repeal of constitutional levy.

An election on a proposed repeal of a levy previously approved pursuant to the two preceding sections shall be called and held in the same manner as required for an election on approval of a levy; and the county excise board shall be notified if the levy is repealed.
Laws 1963, c. 325, art. 2, § 225.

§63-1-226. Annual budget for health department.

The county board of health shall annually file with the county excise board an estimate of needs for the operation or maintenance of the county, district or cooperative department of health to the extent that county funds are required for such purpose, and it shall be the mandatory duty of the county excise board to approve the same to the extent that such estimate of needs can be financed with proceeds of a levy authorized in accordance with the provisions of Section 9A, Article 10, Oklahoma Constitution; and so much of the levy as may be needed shall thereupon be ordered made. The estimate of needs may include, in addition to items for current operating expenses, items for anticipated capital outlay in the future which may accumulate from year to year until the total required amounts will be available for expenditure. Provided, that nothing herein shall prohibit the appropriation or use of other county funds for such purposes, or for other public health purposes.
Laws 1963, c. 325, art. 2, § 226.

§63-1-227. Short title - Intent of Legislature - Office of Child Abuse Prevention created.

A. Sections 1-227 through 1-227.9 of this title shall be known and may be cited as the "Child Abuse Prevention Act".

B. The Legislature hereby declares that the increasing incidence of child abuse and its attendant human and financial cost to the citizens of Oklahoma requires that the prevention of child abuse and neglect be identified as a priority within the children, youth and family service system of this state. It is the intent of the Legislature that:

1. A comprehensive approach for the prevention of child abuse and neglect be developed for the state, and that this planned, comprehensive approach be used as a basis for funding of programs and services for the prevention of child abuse and neglect statewide; and

2. Multidisciplinary and discipline-specific training on child abuse and neglect and domestic violence be made available to professionals in Oklahoma with responsibilities affecting children, youth, and families, including but not limited to: district attorneys, judges, lawyers, public defenders, medical personnel, law enforcement officers, school personnel, child welfare workers, youth service agencies, mental health workers, and Court Appointed Special Advocates (CASA). Said training shall be ongoing and shall accommodate professionals who require extensive knowledge and those who require only general knowledge.

C. For the purpose of establishing a comprehensive statewide approach towards the prevention of child abuse and neglect there is hereby created the Office of Child Abuse Prevention within the State Department of Health.

Added by Laws 1984, c. 216, § 1, operative July 1, 1984. Amended by Laws 1990, c. 154, § 1, eff. Sept. 1, 1990; Laws 2007, c. 147, § 1, eff. July 1, 2007.

§63-1-227.1. Definitions.

As used in the Child Abuse Prevention Act:

1. "Child abuse prevention" means services and programs designed to prevent the occurrence or recurrence of child abuse and neglect as defined in Section 1-1-105 of Title 10A of the Oklahoma Statutes but as limited by Section 844 of Title 21 of the Oklahoma Statutes. Except for the purpose of planning and coordination pursuant to the provisions of the Child Abuse Prevention Act, the services and programs of the Department of Human Services which are mandated by state law or which are a requirement for the receipt of federal funds with regard to deprived, destitute or homeless children shall not be subject to the provisions of the Child Abuse Prevention Act;

2. "Primary prevention" means programs and services designed to promote the general welfare of children and families;

3. "Secondary prevention" means the identification of children who are in circumstances where there is a high risk that abuse will occur and assistance, as necessary and appropriate, to prevent abuse or neglect from occurring;

4. "Tertiary prevention" means those services provided after abuse or neglect has occurred which are designed to prevent the recurrence of abuse or neglect;

5. "Department" means the State Department of Health;

6. "Director" means the Director of the Office of Child Abuse Prevention;

7. "Office" means the Office of Child Abuse Prevention;

8. "Commission" means the Oklahoma Commission on Children and Youth; and

9. "Child Abuse Prevention Fund" means the revolving fund established pursuant to Section 1-227.8 of this title.
Added by Laws 1984, c. 216, § 2, operative July 1, 1984. Amended by Laws 1985, c. 299, § 1, eff. Nov. 1, 1985; Laws 1990, c. 154, § 2, eff. Sept. 1, 1990; Laws 2007, c. 147, § 2, eff. July 1, 2007; Laws 2013, c. 229, § 46, eff. Nov. 1, 2013.

§63-1-227.2. Power and duties of Office of Child Abuse Prevention.

A. The Office of Child Abuse Prevention, giving consideration to the recommendations of the Infant and Children's Health Advisory Council created in Section 44 of this act, is hereby authorized and directed to:

1. Prepare and implement a comprehensive state plan for the planning and coordination of child abuse prevention programs and services and for the establishment, development and funding of such programs and services, and to revise and update said plan pursuant to the provisions of Section 1-227.3 of this title;

2. Monitor, evaluate and review the development and quality of services and programs for the prevention of child abuse and neglect, publish and distribute an annual report of its findings on or before January 1 of each year to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate and to the chief administrative officer of each agency affected by the report. The report shall include:

a. activities of the Office,

b. a summary detailing the demographic characteristics of families served including, but not limited to, the following:

(1) age and marital status of parent(s),

(2) number and age of children living in the household,

(3) household composition of families served,

(4) number of families accepted into the program by grantee site and average length of time enrolled,

(5) number of families not accepted into the program and the reason therefor, and

(6) average actual expenditures per family during the most recent state fiscal year,

c. recommendations for the further development and improvement of services and programs for the prevention of child abuse and neglect, and

d. budget and program needs; and

3. Conduct or otherwise provide for or make available continuing professional education and training in the area of child abuse prevention.

B. For the purpose of implementing the provisions of the Child Abuse Prevention Act, the State Department of Health is authorized to:

1. Accept appropriations, gifts, loans and grants from the state and federal government and from other sources, public or private;

2. Enter into agreements or contracts for the establishment and development of:

a. programs and services for the prevention of child abuse and neglect,

b. training programs for the prevention of child abuse and neglect, and

c. multidisciplinary and discipline specific training programs for professionals with responsibilities affecting children, youth and families; and

3. Secure necessary statistical, technical, administrative and operational services by interagency agreement or contract.

C. For the purpose of implementing the provisions of the Child Abuse Prevention Act, the State Board of Health, giving consideration to the recommendations of the Infant and Children's Health Advisory Council created in Section 44 of this act, is authorized to promulgate rules and regulations as necessary to implement the duties and responsibilities assigned to the Office of Child Abuse Prevention.

Added by Laws 1984, c. 216, § 3, operative July 1, 1984. Amended by Laws 1990, c. 154, § 3, eff. Sept. 1, 1990; Laws 2001, c. 356, § 2, emerg. eff. June 4, 2001; Laws 2007, c. 147, § 3, eff. July 1, 2007; Laws 2013, c. 229, § 47, eff. Nov. 1, 2013.

§63-1-227.3. Comprehensive state plan for prevention of child abuse and neglect.

A. The Oklahoma Commission on Children and Youth shall review and approve the comprehensive state plan and any subsequent revisions of said plan, prior to the submission of the plan as provided in this section.

B. On or before July 1, 2007, the Oklahoma Commission on Children and Youth shall deliver the comprehensive state plan for the prevention of child abuse and neglect to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The plan shall include but not be limited to:

1. Specific proposals for the implementation of the comprehensive state plan which would promote the efficient use of staff, funds and other resources on the state level and improve the coordination and integration of state goals, activities and funds for the prevention of child abuse and neglect, particularly with regard to primary and secondary prevention of child abuse and neglect; and

2. Specific proposals detailing the interagency provision of services to all populations at risk of committing child abuse. Services, especially those directed at high-risk populations including, but not limited to, those populations in which parental drug and/or alcohol abuse, mental illness and domestic abuse are an issue, shall be specifically addressed.

C. The Office of Child Abuse Prevention and the Oklahoma Commission on Children and Youth shall at least annually review the state plan and make any necessary revisions based on changing needs and program evaluation results not less than every five (5) years. Any such revisions shall be delivered to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate no later than July 1 of each year.

D. The Office of Child Abuse Prevention shall provide adequate opportunity for appropriate private and public agencies and organizations and private citizens and consumers to participate at the local level in the development of the state plan.

Added by Laws 1984, c. 216, § 4, operative July 1, 1984. Amended by Laws 2001, c. 356, § 3, emerg. eff. June 4, 2001; Laws 2007, c. 147, § 4, eff. July 1, 2007.

§63-1-227.4. Development and preparation of comprehensive state plan - Proposal for grants for child abuse prevention programs and services.

A. The State Department of Health shall prepare the comprehensive state plan for prevention of child abuse and neglect for the approval of the Oklahoma Commission on Children and Youth. The development and preparation of the plan shall include, but not be limited to, adequate opportunity for appropriate local private and public agencies and organizations and private citizens to participate in the development of the state plan at the local level.

B. 1. The Office of Child Abuse Prevention shall review and evaluate all proposals submitted for grants or contracts for child abuse prevention programs and services. Upon completion of such review and evaluation, the Office of Child Abuse Prevention shall make the final recommendations as to which proposals should be funded pursuant to the provisions of the Child Abuse Prevention Act and shall submit its findings to the Oklahoma Commission on Children and Youth. The Commission shall review the findings of the interagency child abuse prevention task force and the Office of Child Abuse Prevention for compliance of such approved proposals with the comprehensive state plan prepared pursuant to the provisions of the Child Abuse Prevention Act.

2. Upon ascertaining compliance with the plans, the Commission shall deliver the findings of the Office of Child Abuse Prevention to the State Commissioner of Health.

3. The Commissioner shall authorize the Office of Child Abuse Prevention to use the Child Abuse Prevention Fund to fund such grants or contracts for child abuse prevention programs and services which are approved by the Commissioner.

4. Once the grants or contracts have been awarded by the Commissioner, the Office of Child Abuse Prevention shall annually review the performance of the awardees and determine if funding should be continued.

Added by Laws 1984, c. 216, § 5, operative July 1, 1984. Amended by Laws 1985, c. 299, § 2, eff. Nov. 1, 1985; Laws 1986, c. 58, § 1, eff. Nov. 1, 1986; Laws 1987, c. 84, § 1, emerg. eff. May 13, 1987; Laws 1990, c. 51, § 130, emerg. eff. April 9, 1990; Laws 2001, c. 356, § 4, emerg. eff. June 4, 2001; Laws 2005, c. 348, § 18, eff. July 1, 2005; Laws 2007, c. 147, § 5, eff. July 1, 2007; Laws 2009, c. 234, § 150, emerg. eff. May 21, 2009; Laws 2010, c. 324, § 5, emerg. eff. June 5, 2010; Laws 2013, c. 229, § 48, eff. Nov. 1, 2013.

§63-1-227.5. Repealed by Laws 2007, c. 147, § 9, eff. July 1, 2007.

§63-1-227.6. Funding of child abuse prevention programs.

A. The State Department of Health, in its annual budget requests, shall identify the amount of funds requested for the implementation of the Child Abuse Prevention Act.

B. From monies appropriated or otherwise available to the Office of Child Abuse Prevention through state, federal or private resources the State Commissioner of Health shall implement the provisions of the Child Abuse Prevention Act and shall disburse such monies in the following manner:

1. The Commissioner shall establish a formula for the distribution of funds for the establishment, development or improvement of both public and private programs and services for the prevention of child abuse and neglect which shall provide for the allocation of funds across the state based upon the percentage of the total state reported cases of abuse and neglect reported in the district and the percentage of the total state population under the age of eighteen (18) and upon the child abuse prevention service and program needs of the comprehensive state plan; and

2. For the continuing development and establishment of child abuse prevention training programs and multidisciplinary and discipline-specific training programs for professionals with responsibilities affecting children, youth and families.

C. Appropriations made for distribution by the Office for grants or contracts for child abuse prevention programs and services shall be deposited in the Child Abuse Prevention Fund.

D. The Office shall develop and publish requests for proposals for grants or contracts for child abuse prevention programs and

services which shall require no less than a ten percent (10%) cash or in-kind match by an agency or organization receiving a grant or contract and which are designed to meet identified priority needs.

A priority ranking shall be made based upon the extent to which a proposal meets identified needs, criteria for cost effectiveness, provision for an evaluation component providing outcome data and a determination that the proposal provides a mechanism for coordinating and integrating these preventive services with other services deemed necessary for working effectively with families who are at risk of child abuse or neglect.

E. On and after January 1, 1986, all budget requests submitted by any public agency to the Legislature for the funding of programs related to child abuse and neglect prevention shall conform to the comprehensive state plan and any subsequent updates or revisions of said plan developed pursuant to the provisions of the Child Abuse Prevention Act. Except for the purposes of planning and coordination pursuant to the provisions of the Child Abuse Prevention Act, the services and programs of the Department of Human Services which are mandated by state law or which are a requirement for the receipt of federal funds with regard to deprived, destitute or homeless children shall not be subject to the provisions of this subsection.

Added by Laws 1984, c. 216, § 7, operative July 1, 1984. Amended by Laws 1985, c. 299, § 3, eff. Nov. 1, 1985; Laws 1990, c. 154, § 4, eff. Sept. 1, 1990; Laws 2007, c. 147, § 6, eff. July 1, 2007.

§63-1-227.7. Director of Office of Child Abuse Prevention - Power and duties.

The State Board of Health shall direct the State Commissioner of Health to employ, appoint or otherwise designate a Director for the Office of Child Abuse Prevention. The Director shall:

1. Assure that the annual report is prepared as required by Section 1-227.2 of this title;

2. Formulate and recommend rules and regulations pertaining to the implementation of the provisions of the Child Abuse Prevention Act for approval or rejection by the Board; and

3. As authorized, act as agent for the Board in the performance of its duties pertaining to the implementation of the provisions of the Child Abuse Prevention Act.

Added by Laws 1984, c. 216, § 8, operative July 1, 1984. Amended by Laws 1990, c. 154, § 5, eff. Sept. 1, 1990; Laws 1990, c. 337, § 14; Laws 2007, c. 147, § 7, eff. July 1, 2007.

§63-1-227.8. Child Abuse Prevention Fund.

A. There is hereby created in the State Treasury a revolving fund for the State Board of Health to be designated the "Child Abuse Prevention Fund". The fund shall be a continuing fund, not subject

to fiscal year limitations, and shall consist of all monies received pursuant to the provisions of Section 1-227.6 of Title 63 of the Oklahoma Statutes, Section 5 of this act, and such other sources as the Legislature may provide.

B. The Child Abuse Prevention Fund shall be used by the Office of Child Abuse Prevention for funding grants and contracts for child abuse and neglect prevention programs and services as provided for in Section 1-227.6 of Title 63 of the Oklahoma Statutes. The Office shall use the Child Abuse Prevention Fund to fund only those grants and contracts approved by the State Board of Health, pursuant to the provisions of subsection C of Section 1-227.4 of Title 63 of the Oklahoma Statutes, and which comply with the comprehensive state plan and district plans prepared pursuant to the provisions of the Child Abuse Prevention Act, and for no other purpose. The Child Abuse Prevention Fund shall not be used for the costs of the Office incurred in administering such grants and contracts.

C. All projects funded through the Child Abuse Prevention Fund shall provide quarterly caseload and programmatic information to the Office of Child Abuse Prevention.

Added by Laws 1985, c. 299, § 4, eff. Nov. 1, 1985. Amended by Laws 1998, c. 392, § 6, eff. Sept. 1, 1998.

§63-1-227.9. Child Abuse Training and Coordination Council.

A. There is hereby created the Child Abuse Training and Coordination Council.

B. The Oklahoma Commission on Children and Youth shall appoint a Child Abuse Training and Coordination Council which shall be composed of twenty-two (22) members, as follows:

1. One member shall be a representative of child welfare services within the Department of Human Services;

2. One member shall be a representative of juvenile services within the Office of Juvenile Affairs;

3. One member shall be a representative of maternal and child health services within the State Department of Health;

4. One member shall be a representative of the State Department of Health;

5. One member shall be a representative of the State Department of Education;

6. One member shall be a representative of the Department of Mental Health and Substance Abuse Services;

7. One member shall be a representative of a statewide medical association and shall be a member of a state chapter of a national academy of pediatrics;

8. One member shall be a representative of the judiciary;

9. One member shall be a representative of a statewide association of osteopathic physicians and shall be a pediatric osteopathic physician;

10. One member shall be a representative of a statewide coalition on domestic violence and sexual assault;

11. One member shall be a representative of the District Attorneys Council;

12. One member shall be a representative of the Council on Law Enforcement Education and Training;

13. One member shall be a representative of the Department of Corrections;

14. One member shall be a representative of Court Appointed Special Advocates;

15. One member shall be a representative of the Oklahoma Bar Association;

16. One member shall be a representative of a statewide association of psychologists;

17. One member shall be a representative of a local chapter of a national association of social workers;

18. One member shall be a representative of a statewide association of youth services agencies;

19. One member shall be a representative of an Indian child welfare association;

20. One member shall be a representative of an advisory task force on child abuse and neglect;

21. One member shall be a representative of a postadjudication review board program; and

22. One member shall be a representative of nationally accredited child advocacy centers nominated to the Oklahoma Commission for Children and Youth. Eligible nominees may be anyone selected by a majority of the members of the nationally accredited child advocacy centers located in Oklahoma.

C. Each member of the Child Abuse Training and Coordination Council is authorized to have one designee.

D. The appointed members shall be persons having expertise in the dynamics, identification and treatment of child abuse and neglect and child sexual abuse.

E. The Child Abuse Training and Coordination Council shall:

1. Establish objective criteria and guidelines for multidisciplinary and, as appropriate for each discipline, discipline-specific training on child abuse and neglect for professionals with responsibilities affecting children, youth and families;

2. Review curricula and make recommendations to state agencies and professional organizations and associations regarding available curricula and curricula having high standards of professional merit;

3. Review curricula regarding child abuse and neglect used in law enforcement officer training by the Oklahoma Council on Law Enforcement Education and Training (CLEET) and make recommendations regarding the curricula to CLEET;

4. Cooperate with and assist professional organizations and associations in the development and implementation of ongoing training programs and strategies to encourage professionals to participate in such training programs;

5. Make reports and recommendations regarding the continued development and improvement of such training programs to the State Commissioner of Health, the Oklahoma Commission on Children and Youth, and each affected agency, organization and association;

6. Prepare and issue a model protocol for multidisciplinary teams regarding the investigation and prosecution of child sexual abuse, child physical abuse and neglect cases;

7. Review and approve protocols prepared by the local multidisciplinary teams;

8. Advise multidisciplinary teams on team development;

9. Collect data on the operation and cases reviewed by the multidisciplinary teams;

10. Issue annual reports; and

11. Annually approve the list of functioning multidisciplinary teams in the state.

Added by Laws 1990, c. 154, § 6, eff. Sept. 1, 1990. Amended by Laws 1994, c. 101, § 1, eff. Sept. 1, 1994; Laws 1996, c. 200, § 17, eff. Nov. 1, 1996; Laws 1997, c. 389, § 22, eff. Nov. 1, 1997; Laws 2000, c. 374, § 37, eff. July 1, 2000; Laws 2004, c. 250, § 1, emerg. eff. May 5, 2004; Laws 2006, c. 258, § 8, emerg. eff. June 7, 2006; Laws 2007, c. 147, § 8, eff. July 1, 2007.

§63-1-229.1. Short title.

This act shall be known and may be cited as the "Oklahoma Tobacco Use Prevention and Cessation Act".

Added by Laws 2001, c. 275, § 1, emerg. eff. May 31, 2001.

§63-1-229.2. Definitions.

As used in the Oklahoma Tobacco Use Prevention and Cessation Act:

1. "Contractor" means any public entity, private entity, or private nonprofit entity to which the State Department of Health, after recommendation by the Advancement of Wellness Advisory Council created in Section 44 of this act, has awarded monies from the Fund for qualified tobacco use prevention or cessation programs;

2. "Department" means the State Department of Health;

3. "Fund" means the Tobacco Use Reduction Fund established pursuant to Section 1-229.3 of this title;

4. "Qualified tobacco use prevention or cessation program" means a program for the prevention or cessation of tobacco use that meets the criteria set forth in the State Plan for Tobacco Use Prevention and Cessation;

5. "State Plan" means the State Plan for Tobacco Use Prevention and Cessation adopted pursuant to Section 1-229.5 of this title; and

6. "Tobacco use" means the consumption of tobacco products by burning, chewing, inhalation or other forms of ingestion.

Added by Laws 2001, c. 275, § 2, emerg. eff. May 31, 2001.
Amended by Laws 2013, c. 229, § 49, eff. Nov. 1, 2013.

§63-1-229.3. Tobacco Use Reduction Fund.

A. There is hereby created in the State Treasury a revolving fund for the State Department of Health to be designated the "Tobacco Use Reduction Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies appropriated thereto by the Legislature, any other funds that may be directed thereto by the Board of Directors of the Tobacco Settlement Endowment Trust Fund, and all other monies including gifts, grants and other funds that may be directed thereto. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department for the purpose of the State Plan for Tobacco Use Prevention and Cessation and for other purposes specifically authorized by this act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

B. The fund shall be administered by the State Department of Health.

C. Monies from the fund shall not be used to engage in any political activities or lobbying, including, but not limited to, support of or opposition to candidates, ballot initiatives, referenda or other similar activities.

Added by Laws 2001, c. 275, § 3, emerg. eff. May 31, 2001. Amended by Laws 2012, c. 304, § 478.

§63-1-229.4. Repealed by Laws 2013, c. 229, § 99, eff. Nov. 1, 2013.

§63-1-229.5. Review and recommendation of State Plan for Tobacco Use Prevention and Cessation – Invitations to bid for program contract proposals – Evaluations – Youth Tobacco Survey.

A. On or before January 1, 2002, the Department, giving consideration to the recommendations of the Advancement of Wellness Advisory Council created in Section 44 of this act, shall review and recommend a State Plan for Tobacco Use Prevention and Cessation that is in compliance with nationally recognized guidelines or scientific evidence of effectiveness. On or before January 1 of each year, the State Department of Health may propose amendments to the plan. The Department shall submit its proposed State Plan or any proposed

amendments thereto to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Attorney General. The Governor, members of the Legislature, and the Attorney General may submit comments to the Department on its proposed amendments to the State Plan on or before March 1 of each year. On or before May 1 of each year, the Department shall make such amended State Plan public.

B. The State Plan shall set out the criteria by which Invitations To Bid and applications for contract proposals are considered. Such plan shall also describe the types of tobacco use prevention or cessation programs that shall be eligible for consideration for contracts from the Fund utilizing only those programs that are in compliance with nationally recognized guidelines, or scientific evidence of effectiveness. Such eligible programs shall include, but not be limited to:

1. Media campaigns directed to youth to prevent underage tobacco use;

2. School-based education programs to prevent youth tobacco use;

3. Community-based youth programs involving tobacco use prevention through general youth development;

4. Enforcement and administration of the Prevention of Youth Access to Tobacco Act, and related retailer education and compliance efforts;

5. Cessation programs for youth; and

6. Prevention or cessation programs for adults.

C. The State Plan shall provide that no less than seventy percent (70%) of the dollar value of the contracts awarded in each year shall be dedicated to programs described in paragraphs 1 through 5 of subsection B of this section.

D. The State Plan shall provide for the evaluation of all funded programs to determine their overall effectiveness in preventing or reducing tobacco use according to the program's stated goals.

An annual evaluation shall be provided by an independent contractor to determine the effectiveness of the programs by measuring the following:

1. Tobacco consumption;

2. Smoking rates among the population targeted by the programs; and

3. The specific effectiveness of any other program funded.

Such evaluation shall also be compared with initial baseline data collected prior to the creation of this act, and data from previous years if it is a multiyear program.

E. The State Plan further shall provide for administration of the Oklahoma Youth Tobacco Survey to measure tobacco use and

behaviors towards tobacco use by individuals in grades six through twelve. Such survey shall:

1. Involve a statistically valid sample of the individuals in each of grades six through twelve;

2. Be made available to the public, along with the resulting data, excluding respondent identities and respondent-identifiable data, within sixty (60) days of completion of the survey; and

3. Be compared with data from previous years, including initial baseline data collected prior to the creation of this act.

Added by Laws 2001, c. 275, § 5, emerg. eff. May 31, 2001. Amended by Laws 2013, c. 229, § 50, eff. Nov. 1, 2013.

§63-1-229.6. Review and approval of Invitations To Bid - Considerations in developing State Plan and reviewing intergovernmental contracts.

A. The State Department of Health shall review Invitations To Bid and applications for contracts and evaluate the progress and outcomes of tobacco use prevention and cessation programs. The Department shall make final approval for the issuance of Invitations To Bid for contracts for tobacco use prevention and cessation programs.

B. An applicant or a bidder that requests funding to initiate, continue or expand a tobacco use prevention or cessation program shall demonstrate, by means of application, letters of recommendation, and such other means as the Department may designate, that the proposed tobacco use prevention or cessation program for which it seeks funds meets the criteria set forth in the State Plan. Previous contractors shall include recent evaluations of their programs with their bids or applications. The Department may not award a contract unless it makes a specific finding, as to each applicant or bidder, that the program proposed to be funded meets the criteria set forth in the State Plan.

C. In developing the State Plan and approving Invitations To Bid and reviewing intergovernmental contracts the Department shall consider:

1. In the case of applications or Invitations To Bid to fund media campaigns directed to youth to prevent underage tobacco use, whether the campaign provides for sound management and periodic evaluation of the campaign's relevance to the intended audience, including audience awareness of the campaign and recollection of the main message;

2. In the case of applications or Invitations To Bid to fund school-based education programs to prevent youth tobacco use, whether there is credible evidence that the program is effective in reducing youth tobacco use;

3. In the case of applications or Invitations To Bid to fund community-based youth programs involving youth tobacco use prevention through general youth development, whether the program:

a. has a comprehensive strategy with a clear mission and goals,
b. has professional leadership,
c. offers a diverse array of youth-centered activities in youth-accessible facilities,
d. is culturally sensitive, inclusive and diverse,
e. involves youth in the planning, delivery, and evaluation of services that affect them, and
f. offers a positive focus including all youth;

4. In the case of applications or Invitations To Bid to fund enforcement and administration of the Prevention of Youth Access to Tobacco Act and related retailer education and compliance efforts, whether such activities and efforts can reasonably be expected to reduce the extent to which tobacco products are available to individuals under eighteen (18) years of age;

5. In the case of applications or Invitations To Bid to fund youth cessation, whether there is credible evidence that the program is effective in long-term tobacco use cessation; and

6. In the case of applications or Invitations To Bid to fund adult programs, whether there is credible evidence that the program is effective in decreasing tobacco use.

D. State and local government departments and agencies shall be eligible for contracts provided pursuant to this act.

Added by Laws 2001, c. 275, § 6, emerg. eff. May 31, 2001. Amended by Laws 2013, c. 229, § 51, eff. Nov. 1, 2013.

§63-1-229.7. Retention of unexpended appropriated funds.

Any funds appropriated for qualified tobacco use prevention or cessation programs not expended in any fiscal year shall be retained in the Tobacco Use Reduction Fund and available for qualified tobacco use prevention or cessation programs in any following year.

Added by Laws 2001, c. 275, § 7, emerg. eff. May 31, 2001.

§63-1-229.8. Contractor reports – Report to Governor and Legislature.

A. As a condition to the receipt of funds under this act, a contractor shall agree to file a report with the State Department of Health on or before ninety (90) days after the end of the agreement period as to the following:

1. Amount received as a contract and the expenditures made with the proceeds of the contract;

2. A description of the program offered and the number of individuals who initially participated in and completed the program; and

3. Specific elements of the program meeting the criteria set forth in the State Plan.

B. Any contractor failing to timely file the report required pursuant to this section shall be subject to the jurisdiction of the Attorney General for repayment of the full amount of the contract expended.

C. The State Department of Health shall review and evaluate the reports of contractors required pursuant to this section and shall file a written report with the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor on or before February 1 of each year on the status of the Tobacco Use Reduction Fund and the activities of the Fund for the fiscal year most recently ended. The report shall include the beginning and ending balance of the Fund for each fiscal year, payments or gifts received by the Fund, income earned and expenditures made, the name of each contractor and the amount of each contract made, the criteria used to award each contract, and whether the program implemented by each contractor met the criteria. The report shall be publicly available immediately upon its filing.
Added by Laws 2001, c. 275, § 8, emerg. eff. May 31, 2001.

§63-1-229.11. Short title - Prevention of Youth Access to Tobacco Act.

This act shall be known and may be cited as the "Prevention of Youth Access to Tobacco Act".
Added by Laws 1994, c. 137, § 2, eff. July 1, 1994. Renumbered from § 600.1 of Title 37 by Laws 2016, c. 366, § 170, eff. Oct. 1, 2018.

§63-1-229.12. Definitions.

As used in the Prevention of Youth Access to Tobacco Act:

1. "Person" means any individual, firm, fiduciary, partnership, corporation, trust, or association, however formed;

2. "Proof of age" means a driver license, license for identification only, or other generally accepted means of identification that describes the individual as eighteen (18) years of age or older and contains a photograph or other likeness of the individual and appears on its face to be valid;

3. "Sample" means a tobacco product or vapor product distributed to members of the public at no cost for the purpose of promoting the product;

4. "Sampling" means the distribution of samples to members of the public in a public place;

5. "Tobacco product" means any product that contains tobacco and is intended for human consumption;

6. "Transaction scan" means the process by which a seller checks, by means of a transaction scan device, the validity of a driver license or other government-issued photo identification;

7. "Transaction scan device" means any commercial device or combination of devices used at a point of sale or entry that is capable of deciphering in an electronically readable format the information encoded on the magnetic strip or bar code of a driver license or other government-issued photo identification; and

8. "Vapor product" shall mean noncombustible products, that may or may not contain nicotine, that employ a mechanical heating element, battery, electronic circuit, or other mechanism, regardless of shape or size, that can be used to produce a vapor in a solution or other form. "Vapor products" shall include any vapor cartridge or other container with or without nicotine or other form that is intended to be used with an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of a solution, that may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo or electronic device. "Vapor products" do not include any products regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.

Added by Laws 1994, c. 137, § 3, eff. July 1, 1994. Amended by Laws 1996, c. 144, § 1, eff. Nov. 1, 1996; Laws 2000, c. 277, § 1, eff. Nov. 1, 2000 and Laws 2000, c. 342, § 9, eff. July 1, 2000; Laws 2014, c. 162, § 3, eff. Nov. 1, 2014. Renumbered from § 600.2 of Title 37 by Laws 2016, c. 366, § 171, eff. Oct. 1, 2018.

NOTE: Laws 2000, c. 277, § 1 and Laws 2000, c. 342, § 9 contain duplicate amendments.

§63-1-229.13. Furnishing of tobacco or vapor products to minors prohibited – Proof of age – Fines – Employee and employer liability – Notification of storeowners – Failure to pay administrative fine – Municipal ordinances.

A. It is unlawful for any person to sell, give or furnish in any manner any tobacco product or vapor product to another person who is under eighteen (18) years of age, or to purchase in any manner a tobacco product or vapor product on behalf of any such person. It shall not be unlawful for an employee under eighteen (18) years of age to handle tobacco products or vapor products when required in the performance of the employee's duties.

B. A person engaged in the sale or distribution of tobacco products or vapor products shall demand proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that the prospective purchaser may be under eighteen (18) years of age.

If an individual engaged in the sale or distribution of tobacco products or vapor products has demanded proof of age from a prospective purchaser or recipient who is not under eighteen (18)

years of age, the failure to subsequently require proof of age shall not constitute a violation of this subsection.

C. 1. When a person violates subsection A or B of this section, the Alcoholic Beverage Laws Enforcement (ABLE) Commission shall impose an administrative fine of:

a. not more than One Hundred Dollars ($100.00) for the first offense,

b. not more than Two Hundred Dollars ($200.00) for the second offense within a two-year period following the first offense,

c. not more than Three Hundred Dollars ($300.00) for a third offense within a two-year period following the first offense. In addition to any other penalty, the store's license to sell tobacco products or the store's sales tax permit for a store that is predominantly engaged in the sale of vapor products in which the sale of other products is merely incidental may be suspended for a period not exceeding thirty (30) days, or

d. not more than Three Hundred Dollars ($300.00) for a fourth or subsequent offense within a two-year period following the first offense. In addition to any other penalty, the store's license to sell tobacco products or the store's sales tax permit for a store that is predominantly engaged in the sale of vapor products in which the sale of other products is merely incidental may be suspended for a period not exceeding sixty (60) days.

2. When it has been determined that a penalty shall include a license or permit suspension, the ABLE Commission shall notify the Oklahoma Tax Commission, and the Tax Commission shall suspend the store's license to sell tobacco products or the store's sales tax permit for a store that is predominantly engaged in the sale of vapor products in which the sale of other products is merely incidental at the location where the offense occurred for the period of time prescribed by the ABLE Commission.

3. Proof that the defendant demanded, was shown, and reasonably relied upon proof of age shall be a defense to any action brought pursuant to this section. A person cited for violating this section shall be deemed to have reasonably relied upon proof of age, and such person shall not be found guilty of the violation if such person proves that:

a. the individual who purchased or received the tobacco product or vapor product presented a driver license or other government-issued photo identification purporting to establish that such individual was eighteen (18) years of age or older, or

b. the person cited for the violation confirmed the validity of the driver license or other government-issued photo identification presented by such individual by performing a transaction scan by means of a transaction scan device.

Provided, that this defense shall not relieve from liability any person cited for a violation of this section if the person failed to exercise reasonable diligence to determine whether the physical description and picture appearing on the driver license or other government-issued photo identification was that of the individual who presented it. The availability of the defense described in this subsection does not affect the availability of any other defense under any other provision of law.

D. If the sale is made by an employee of the owner of a store at which tobacco products or vapor products are sold at retail, the employee shall be guilty of the violation and shall be subject to the fine. Each violation by any employee of an owner of a store licensed to sell tobacco products or permitted to sell vapor products shall be deemed a violation against the owner for purposes of a license suspension pursuant to subsection C of this section. Each violation by an employee of a store predominantly engaged in the sale of vapor products in which the sale of other products is merely incidental shall be deemed a violation against the owner for purposes of a sales tax permit suspension pursuant to the provisions of subsection C of this section. An owner of a store licensed to sell tobacco products or permitted to sell vapor products shall not be deemed in violation of the provisions of the Prevention of Youth Access to Tobacco Act for any acts constituting a violation by any person, when the violation occurs prior to actual employment of the person by the store owner or the violation occurs at a location other than the owner's retail store. For purposes of determining the liability of a person controlling franchises or business operations in multiple locations, for any violations of subsection A or B of this section, each individual franchise or business location shall be deemed a separate entity.

E. On or before December 15, 1997, the ABLE Commission shall adopt rules establishing a method of notification of storeowners when one of their employees has been determined to be in violation of this section by the ABLE Commission or convicted of a violation by a municipality.

F. 1. Upon failure of the employee to pay the administrative fine within ninety (90) days of the day of the assessment of such fine, the ABLE Commission shall notify the Department of Public Safety, and the Department shall suspend or not issue a driver license to the employee until proof of payment has been furnished to the Department of Public Safety.

2. Upon failure of a storeowner to pay the administrative fine within ninety (90) days of the assessment of the fine, the ABLE Commission shall notify the Tax Commission, and the Tax Commission shall suspend the store's license to sell tobacco products or the store's sales tax permit for a store that is predominantly engaged in the sale of vapor products in which the sale of other products is merely incidental until proof of payment has been furnished to the Oklahoma Tax Commission.

G. Cities and towns may enact and municipal police officers may enforce ordinances prohibiting and penalizing conduct under provisions of this section, but the provisions of municipal ordinances shall be the same as provided for in this section, and the penalty provisions under such ordinances shall not be more stringent than those of this section.

H. County sheriffs may enforce the provisions of the Prevention of Youth Access to Tobacco Act.

Added by Laws 1994, c. 137, § 4, eff. July 1, 1994. Amended by Laws 1996, c. 144, § 2, eff. Nov. 1, 1996; Laws 1997, c. 171, § 1, eff. Nov. 1, 1997; Laws 2000, c. 342, § 10, eff. July 1, 2000; Laws 2001, c. 5, § 12, emerg. eff. March 21, 2001; Laws 2004, c. 253, § 1, eff. July 1, 2004; Laws 2014, c. 162, § 4, eff. Nov. 1, 2014. Renumbered from § 600.3 of Title 37 by Laws 2016, c. 366, § 172, eff. Oct. 1, 2018.

NOTE: Laws 2000, c. 277, § 2 repealed by Laws 2001, c. 5, § 13, emerg. eff. March 21, 2001.

§63-1-229.15. Signs in retail establishments required - Fines.

A. Every person who sells or displays tobacco products or vapor products at retail shall post conspicuously and keep so posted at the place of business a sign, as specified by the Alcoholic Beverage Laws Enforcement (ABLE) Commission, stating the following: "IT'S THE LAW. WE DO NOT SELL TOBACCO PRODUCTS OR VAPOR PRODUCTS TO PERSONS UNDER 18 YEARS OF AGE". The sign shall also provide the toll-free number operated by the Alcoholic Beverage Laws Enforcement (ABLE) Commission for the purpose of reporting violations of the Prevention of Youth Access to Tobacco Act.

B. When a person violates subsection A of this section, the Alcoholic Beverage Laws Enforcement (ABLE) Commission shall impose an administrative fine of not more than Fifty Dollars ($50.00) for each day a violation occurs. Each day a violation is continuing shall constitute a separate offense. The notice required by subsection A of this section shall be the only notice required to be posted or maintained in any store that sells tobacco products or vapor products at retail.

Added by Laws 1994, c. 137, § 6, eff. July 1, 1994. Amended by Laws 1997, c. 171, § 3, eff. Nov. 1, 1997; Laws 2004, c. 253, § 2, eff. July 1, 2004; Laws 2014, c. 162, § 6, eff. Nov. 1, 2014. Renumbered

from § 600.5 of Title 37 by Laws 2016, c. 366, § 173, eff. Oct. 1, 2018.

§63-1-229.16. Notice to retail employees - Signed acknowledgement.

A. Every person engaged in the business of selling tobacco products or vapor products at retail shall notify each individual employed by that person as a retail sales clerk that state law:

1. Prohibits the sale or distribution of tobacco products or vapor products to any person under eighteen (18) years of age and the purchase or receipt of tobacco products or vapor products by any person under eighteen (18) years of age; and

2. Requires that proof of age be demanded from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that the prospective purchaser or recipient may be under eighteen (18) years of age.

B. This notice shall be provided before the individual commences work as a retail sales clerk. The individual shall signify that he or she has received the notice required by this section by signing a form stating as follows:

"I understand that state law prohibits the sale or distribution of tobacco products or vapor products to persons under eighteen (18) years of age and out-of-package sales, and requires proof of age of purchaser or recipient if an ordinary person would conclude on the basis of appearance that the prospective purchaser or recipient may be under eighteen (18) years of age. I promise, as a condition of my employment, to obey the law. I understand that violations by me may be punishable by fines, suspension or nonissuance of my driver license. In addition, I understand that violations by me may subject the storeowner to fines or license or permit suspension."

Added by Laws 1994, c. 137, § 7, eff. July 1, 1994. Amended by Laws 1997, c. 171, § 4, eff. Nov. 1, 1997; Laws 2014, c. 162, § 7, eff. Nov. 1, 2014. Renumbered from § 600.6 of Title 37 by Laws 2016, c. 366, § 174, eff. Oct. 1, 2018.

§63-1-229.17. Vending machine sales restricted.

It shall be unlawful for any person to sell tobacco products or vapor products through a vending machine unless the vending machine is located:

1. In areas of factories, businesses, offices or other places that are not open to the public; and

2. In places that are open to the public, but to which persons under eighteen (18) years of age are not admitted.

Added by Laws 1994, c. 137, § 8, eff. July 1, 1994. Amended by Laws 2004, c. 253, § 3, eff. July 1, 2004; Laws 2014, c. 162, § 8, eff. Nov. 1, 2014. Renumbered from § 600.7 of Title 37 by Laws 2016, c. 366, § 175, eff. Oct. 1, 2018.

§63-1-229.18. Distribution of tobacco or vapor products and product samples restricted – Fines – Municipal ordinances.

A. It shall be unlawful for any person or retailer to distribute tobacco products, vapor products or product samples to any person under eighteen (18) years of age.

B. No person shall distribute tobacco products, vapor products or product samples in or on any public street, sidewalk, or park that is within three hundred (300) feet of any playground, school, or other facility when the facility is being used primarily by persons under eighteen (18) years of age.

C. When a person violates any provision of subsection A or B of this section, the Alcoholic Beverage Laws Enforcement (ABLE) Commission shall impose an administrative fine of:

1. Not more than One Hundred Dollars ($100.00) for the first offense;

2. Not more than Two Hundred Dollars ($200.00) for the second offense; and

3. Not more than Three Hundred Dollars ($300.00) for a third or subsequent offense.

D. Upon failure of any person to pay an administrative fine within ninety (90) days of the assessment of the fine, the ABLE Commission shall notify the Department of Public Safety, and the Department shall suspend or not issue a driver license to the person until proof of payment has been furnished to the Department of Public Safety.

E. Cities and towns may enact and municipal police officers may enforce ordinances prohibiting and penalizing conduct under provisions of this section, but the provisions of municipal ordinances shall be the same as provided for in this section, and the penalty provisions under such ordinances shall not be more stringent than those of this section.

Added by Laws 1994, c. 137, § 9, eff. July 1, 1994. Amended by Laws 1996, c. 144, § 4, eff. Nov. 1, 1996; Laws 1997, c. 171, § 5, eff. Nov. 1, 1997; Laws 2004, c. 253, § 4, eff. July 1, 2004; Laws 2014, c. 162, § 9, eff. Nov. 1, 2014. Renumbered from § 600.8 of Title 37 by Laws 2016, c. 366, § 176, eff. Oct. 1, 2018.

§63-1-229.19. Sale of tobacco products except in original, sealed packaging prohibited – Fine – Municipal ordinances.

A. It is unlawful for any person to sell cigarettes except in the original, sealed package in which they were placed by the manufacturer.

B. When a person violates subsection A of this section, the Alcoholic Beverage Laws Enforcement (ABLE) Commission shall impose an administrative fine of not more than Two Hundred Dollars ($200.00) for each offense.

C. Cities and towns may enact and municipal police officers may enforce ordinances prohibiting and penalizing conduct under provisions of this section, but the provisions of such ordinances shall be the same as provided for in this section, and the enforcement provisions under such ordinances shall not be more stringent than those of this section.
Added by Laws 1994, c. 137, § 10, eff. July 1, 1994. Amended by Laws 1996, c. 144, § 5, eff. Nov. 1, 1996; Laws 1997, c. 171, § 6, eff. Nov. 1, 1997. Renumbered from § 600.9 of Title 37 by Laws 2016, c. 366, § 177, eff. Oct. 1, 2018.

§63-1-229.20. Regulation by agencies or political subdivisions restricted.

No agency or other political subdivision of the state, including, but not limited to, municipalities, counties or any agency thereof, may adopt any order, ordinance, rule or regulation concerning the sale, purchase, distribution, advertising, sampling, promotion, display, possession, licensing or taxation of tobacco products or vapor products, except as provided in Section 1511 of Title 68 of the Oklahoma Statutes, Section 1-1521 et seq. of Title 63 of the Oklahoma Statutes and Section 1247 of Title 21 of the Oklahoma Statutes. Provided, however, nothing in this section shall preclude or preempt any agency or political subdivision from exercising its lawful authority to regulate zoning or land use or to enforce a fire code regulation regulating smoking or tobacco products to the extent that such regulation is substantially similar to nationally recognized standard fire codes.
Added by Laws 1994, c. 137, § 11, eff. July 1, 1994. Amended by Laws 2014, c. 162, § 10, eff. Nov. 1, 2014. Renumbered from § 600.10 of Title 37 by Laws 2016, c. 366, § 178, eff. Oct. 1, 2018.

§63-1-229.21. Display or sale of tobacco or vapor products – Public access – Fines – Municipal ordinances.

A. It is unlawful for any person or retail store to display or offer for sale tobacco products or vapor products in any manner that allows public access to the tobacco products or vapor products without assistance from the person displaying the tobacco products or vapor products or an employee or the owner of the store. The provisions of this subsection shall not apply to retail stores which do not admit into the store persons under eighteen (18) years of age.

B. When a person violates subsection A of this section, the Alcoholic Beverage Laws Enforcement (ABLE) Commission shall impose an administrative fine of not more than Two Hundred Dollars ($200.00) for each offense.

C. Cities and towns may enact and municipal police officers may enforce ordinances prohibiting and penalizing conduct under

provisions of this section, but the provisions of municipal ordinances shall be the same as provided for in this section, and the penalty provisions under such ordinances shall not be more stringent than those of this section.
Added by Laws 2004, c. 253, § 5, eff. July 1, 2004. Amended by Laws 2014, c. 162, § 11, eff. Nov. 1, 2014. Renumbered from § 600.10A of Title 37 by Laws 2016, c. 366, § 179, eff. Oct. 1, 2018.

§63-1-229.22. Enforcement of Act by ABLE Commission.

A. The Alcoholic Beverage Laws Enforcement (ABLE) Commission is authorized and empowered to enforce the provisions of Sections 600.1 et seq. of this title. The ABLE Commission shall enforce those provisions in a manner that can reasonably be expected to reduce the extent to which tobacco products or vapor products are sold or distributed to persons under eighteen (18) years of age.

B. The ABLE Commission may consider mitigating or aggravating circumstances involved with the violation of the Prevention of Youth Access to Tobacco Act when assessing penalties.

C. Any conviction for a violation of a municipal ordinance authorized by the Prevention of Youth Access to Tobacco Act and any compliance checks by a municipal police officer or a county sheriff pursuant to subsection E of this section shall be reported in writing to the ABLE Commission within thirty (30) days of such conviction or compliance check. Such reports shall be compiled in the manner prescribed by the ABLE Commission.

D. For the purpose of determining second or subsequent violations, both the offenses penalized by the ABLE Commission as administrative fines and the offenses penalized by municipalities and towns and reported to the ABLE Commission, shall be considered together in such determination.

E. Persons under eighteen (18) years of age may be enlisted by the ABLE Commission, a municipality or town, or a county to assist in compliance checks and enforcement; provided, such persons may be used to test compliance only if written parental consent has been provided and the testing is conducted under the direct supervision of the ABLE Commission or conducted by another law enforcement agency if such agency has given written notice to the ABLE Commission in the manner prescribed by the ABLE Commission. Municipalities which have enacted municipal ordinances in accordance with the Prevention of Youth Access to Tobacco Act may conduct, pursuant to rules of the ABLE Commission, compliance checks without prior notification to the ABLE Commission and shall be exempt from the written notice requirement in this subsection. This subsection shall not apply to the use of persons under eighteen (18) years of age to test compliance if the compliance test is being conducted by or on behalf of a retailer of cigarettes, as defined in Section 301 of Title 68 of the Oklahoma Statutes, at any location the retailer

of cigarettes is authorized to sell cigarettes. Any other use of persons under eighteen (18) years of age to test compliance shall be unlawful and punishable by the ABLE Commission by assessment of an administrative fine of One Hundred Dollars ($100.00).

F. At the beginning of each month, the Oklahoma Tax Commission, pursuant to Section 205 of Title 68 of the Oklahoma Statutes, shall provide to the ABLE Commission and to each municipality which has ordinances concerning the Prevention of Youth Access to Tobacco Act, the location, name, and address of each licensee licensed to sell tobacco products or vapor products at retail or otherwise furnish tobacco products or vapor products. Upon violation of an employee at a location, the ABLE Commission shall notify the storeowner for that location of the latest and all previous violations when one of their employees has been determined to be in violation of the Prevention of Youth Access to Tobacco Act by the ABLE Commission or convicted of a violation by a municipality. If the ABLE Commission fails to notify the licensee of a violation by an employee, that violation shall not apply against the licensee for the purpose of determining a license suspension pursuant to Section 600.3 of this title. For purposes of this subsection, notification shall be deemed given if the ABLE Commission mails, by mail with delivery confirmation, the notification to the address which is on file with the Oklahoma Tax Commission of the licensee or sales tax permit holder of the location at which the violation occurred and the ABLE Commission receives delivery confirmation from the U.S. Postal Service.

G. Upon request of a storeowner or a municipality which has enacted ordinances in accordance with the Prevention of Youth Access to Tobacco Act, the ABLE Commission is hereby authorized to provide information on any Prevention of Youth Access to Tobacco Act offense of any applicant for employment or employee of the storeowner.

H. The ABLE Commission shall prepare for submission annually to the Secretary of the United States Department of Health and Human Services, the report required by Section 1926 of the federal Public Health Service Act (42 U.S.C. 300-26), and otherwise shall be responsible for ensuring the state's compliance with that provision of federal law and any implementing of regulations promulgated by the United States Department of Health and Human Services.

Added by Laws 1994, c. 137, § 12, eff. July 1, 1994. Amended by Laws 1996, c. 144, § 6, eff. Nov. 1, 1996; Laws 1997, c. 171, § 7, eff. Nov. 1, 1997; Laws 2004, c. 253, § 6, eff. July 1, 2004; Laws 2014, c. 162, § 12, eff. Nov. 1, 2014. Renumbered from § 600.11 of Title 37 by Laws 2016, c. 366, § 180, eff. Oct. 1, 2018.

§63-1-229.23. Municipalities to furnish information to ABLE Commission.

Any city or town that enacts and enforces ordinances prohibiting and penalizing conduct under provisions of Section 600.3, 600.4, 600.8 or 600.9 of this title shall furnish information requested by the ABLE Commission in the form, manner and time as may be determined by the ABLE Commission which will allow the ABLE Commission to comply with subsection C of Section 600.11 of this title.
Added by Laws 1996, c. 144, § 7, eff. Nov. 1, 1996. Renumbered from § 600.11a of Title 37 by Laws 2016, c. 366, § 181, eff. Oct. 1, 2018.

§63-1-229.24. Distribution of administrative fines to municipalities.

For violations of the Prevention of Youth Access to Tobacco Act which occur in a municipality that has adopted ordinances prohibiting and penalizing conduct under provisions of the Prevention of Youth Access to Tobacco Act, thirty-five percent (35%) of each administrative fine imposed by the Alcoholic Beverage Laws Enforcement (ABLE) Commission pursuant to the Prevention of Youth Access to Tobacco Act shall be remitted to such municipality.
Added by Laws 1997, c. 171, § 8, eff. Nov. 1, 1997. Renumbered from § 600.11b of Title 37 by Laws 2016, c. 366, § 182, eff. Oct. 1, 2018.

§63-1-229.25. Certain other penalties authorized by law not excluded.

Nothing in the Prevention of Youth Access to Tobacco Act shall be construed to prevent the imposition of any penalty as specified in Section 1241 of Title 21 of the Oklahoma Statutes.
Added by Laws 1994, c. 137, § 13, eff. July 1, 1994. Renumbered from § 600.12 of Title 37 by Laws 2016, c. 366, § 183, eff. Oct. 1, 2018.

§63-1-229.26. Transfer of any material or device used in smoking, chewing or consumption of tobacco or vapor products to minors prohibited – Administrative fine for violation.

A. It is unlawful for any person to sell, give or furnish in any manner to another person who is under eighteen (18) years of age any material or device used in the smoking, chewing, or other method of consumption of tobacco products or vapor products, including cigarette papers, pipes, holders of smoking materials of all types, and other items designed primarily for the smoking or ingestion of tobacco products or vapor products.

B. When a person violates subsection A of this section, the Alcoholic Beverage Laws Enforcement (ABLE) Commission shall impose an administrative fine of not more than One Hundred Dollars ($100.00) for each offense.

Added by Laws 2004, c. 375, § 1, eff. July 1, 2004. Amended by Laws 2014, c. 162, § 13, eff. Nov. 1, 2014. Renumbered from § 600.13 of Title 37 by Laws 2016, c. 366, § 184, eff. Oct. 1, 2018.

§63-1-229.27. Short title - Prevention of Youth Access to Alocholic Beverages and Low-Point Beer Act.

Sections 59 through 64 of this act shall be known and may be cited as the "Prevention of Youth Access to Alcoholic Beverages and Low-Point Beer Act".

Added by Laws 1995, c. 274, § 59, eff. Nov. 1, 1995. Renumbered from § 601 of Title 37 by Laws 2016, c. 366, § 188, eff. Oct. 1, 2018.

§63-1-229.28. Definitions.

As used in Sections 59 through 64 of this act:

1. "Alcoholic beverage" means any beverage so defined pursuant to Section 506 of Title 37 of the Oklahoma Statutes;

2. "Low-point beer" means any beverage so defined pursuant to Section 163.2 of Title 37 of the Oklahoma Statutes;

3. "Person" means any individual, firm, fiduciary, partnership, corporation, trust, or association, however formed; and

4. "Proof of age" means a driver license or a card issued for identification only pursuant to Section 6-105 of Title 47 of the Oklahoma Statutes, or other generally accepted means of identification that describes the individual as twenty-one (21) years of age or older and contains a photograph or other likeness of the individual and appears on its face to be valid.

Added by Laws 1995, c. 274, § 60, eff. Nov. 1, 1995. Renumbered from § 602 of Title 37 by Laws 2016, c. 366, § 189, eff. Oct. 1, 2018.

§63-1-229.29. Retail sale of alcoholic beverages or low-point beer – Posting of signs – Penalty.

A. Every person who sells alcoholic beverages at retail shall post conspicuously and keep so posted at the place of business a sign stating the following: "IT'S THE LAW. WE DO NOT SELL ALCOHOLIC BEVERAGES TO PERSONS UNDER 21 YEARS OF AGE". Every person who sells low-point beer at retail shall post conspicuously and keep so posted at the place of business a sign stating the following: "IT'S THE LAW. WE DO NOT SELL LOW-POINT BEER TO PERSONS UNDER 21 YEARS OF AGE".

B. A violation of subsection A of this section constitutes a misdemeanor and upon conviction thereof a violator shall be assessed a fine not to exceed Fifty Dollars ($50.00) for each day such offense occurred. The notices required by subsection A of this section shall be the only notices required to be posted or

maintained in any store that sells alcoholic beverages or low-point beer at retail.
Added by Laws 1995, c. 274, § 61, eff. Nov. 1, 1995. Renumbered from § 603 of Title 37 by Laws 2016, c. 366, § 190, eff. Oct. 1, 2018.

§63-1-229.30. Sale of alcoholic beverages or low-point beer - Notice to employees - Signed acknowledgement.

A. Every person engaged in the business of selling alcoholic beverages or low-point beer at retail shall notify each individual employed by that person as a retail sales clerk or server that state law:

1. Prohibits the sale or distribution of alcoholic beverages and low-point beer to any person under twenty-one (21) years of age and the purchase or receipt of alcoholic beverages and low-point beer by any person under twenty-one (21) years of age; and

2. Requires that proof of age be demanded from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that the prospective purchaser or recipient may be under twenty-one (21) years of age.

B. This notice shall be provided before the individual commences work as a retail sales clerk or server, or, in the case of an individual employed as a retail sales clerk or server on the date when this section becomes effective, within thirty (30) days of that date. The individual shall signify that he or she has received the notice required by this section by signing a form stating as follows:

"I understand that state law prohibits the sale or distribution of alcoholic beverages and low-point beer to persons under twenty-one (21) years of age, and requires proof of age of purchaser or recipient if an ordinary person would conclude on the basis of appearance that the prospective purchaser or recipient may be under twenty-one (21) years of age. I have been advised on the law and I understand the penalty for violating it."
Added by Laws 1995, c. 274, § 62, eff. Nov. 1, 1995. Renumbered from § 604 of Title 37 by Laws 2016, c. 366, § 191, eff. Oct. 1, 2018.

§63-1-229.31. Enforcement of act - Enlistment of persons under 21 years of age.

A. All law enforcement agencies are authorized and empowered to enforce the provisions of this act. The provisions shall be enforced in a manner that can reasonably be expected to reduce the extent to which alcoholic beverages and low-point beer are sold or distributed to persons under twenty-one (21) years of age.

B. Persons under twenty-one (21) years of age may be enlisted by law enforcement agencies to assist in enforcement. Provided,

however, that such persons may be used to test compliance only if the testing is conducted under the direct supervision of the law enforcement agency; provided, written parental consent shall be obtained prior to the use of any person under the age of eighteen (18) years. Any other use of persons under twenty-one (21) years of age to test compliance shall be unlawful and punishable by assessment of an administrative fine of One Hundred Dollars ($100.00).
Added by Laws 1995, c. 274, § 63, eff. Nov. 1, 1995. Renumbered from § 605 of Title 37 by Laws 2016, c. 366, § 192, eff. Oct. 1, 2018.

§63-1-229.32. Other penalties authorized by law not excluded.
Nothing in the Prevention of Youth Access to Alcoholic Beverages and Low-Point Beer Act shall be construed to prevent the imposition of any penalty as otherwise specified in the Oklahoma Statutes.
Added by Laws 1995, c. 274, § 64, eff. Nov. 1, 1995. Renumbered from § 606 of Title 37 by Laws 2016, c. 366, § 193, eff. Oct. 1, 2018.

§63-1-229.33. Prevention of Youth Access to Alcohol Revolving Fund.
There is hereby created in the State Treasury a revolving fund for the Department of Mental Health and Substance Abuse Services to be designated the "Prevention of Youth Access to Alcohol Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Department of Mental Health and Substance Abuse Services from fines collected pursuant to Section 241 of this title. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department of Mental Health and Substance Abuse Services for the purpose of programs and campaigns to educate the public and law enforcement about the dangers and consequences of providing alcohol to minors. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.
Added by Laws 2006, c. 61, § 13, eff. July 1, 2006. Renumbered from 6-107.7 of Title 47 by Laws 2007, c. 62, § 23, emerg. eff. April 30, 2007. Amended by Laws 2012, c. 304, § 129. Renumbered from § 608 of Title 37 by Laws 2016, c. 366, § 194, eff. Oct. 1, 2018.

§63-1-229.34. Hired bus or limousine service.
A. It shall be unlawful for any person owning or operating a hired bus or limousine service vehicle licensed as a "motor carrier of persons or property", as defined in the Motor Carrier Act of 1995, Section 230.23 et seq. of Title 47 of the Oklahoma Statutes,

to knowingly transport a minor or minors, under the age of twenty-one (21) years, who are in possession of or consuming alcoholic beverages, including low-point beer as defined by Section 163.19 of Title 37 of the Oklahoma Statutes.

B. The operator of any vehicle found in violation of this act shall upon conviction be subject to a misdemeanor offense punishable by a fine of not more than Five Hundred Dollars ($500.00) and upon a second or subsequent conviction such operator shall be subject to the fine and mandatory revocation of his or her driving privileges pursuant to Section 6-205 of Title 47 of the Oklahoma Statutes.

C. The owner of any vehicle found in violation of this section shall upon conviction be subject to a misdemeanor offense punishable by a fine of not more than Five Hundred Dollars ($500.00) and upon a second or subsequent conviction such owner shall be subject to the fine and forfeiture of his or her Interstate Registration Certificate and/or other license issued pursuant to Section 230.21 et seq. of Title 47 of the Oklahoma Statutes, in addition to any other government-issued license authorizing the owner to operate such vehicle for a period of one (1) year.

D. Any law enforcement agency issuing a citation for a violation of this section shall, upon the violator's conviction, report the violation to the Corporation Commission. The Corporation Commission shall, upon an administrative hearing, proceed with revocation proceedings pursuant to the provisions of this act.

E. Any person found in violation of this section and subject to the license or permit revocations herein may apply for reinstatement of such license or permit following the conclusion of the two-year period with the appropriate state agency pursuant to law.

F. The Corporation Commission, the Department of Public Safety and any other state agency affected by the provisions of this section are authorized to promulgate rules as necessary to implement the provisions of this act.

Added by Laws 2010, c. 333, § 1, eff. Nov. 1, 2010. Renumbered from § 609 of Title 37 by Laws 2016, c. 366, § 195, eff. Oct. 1, 2018.

§63-1-230. Repealed by Laws 2005, c. 211, § 5, eff. Nov. 1, 2005.

§63-1-231. Short title - Purpose.

This act shall be known and may be cited as the "Maternal and Infant Care Improvement Act" which shall have as its purpose, the coordination, development and enhancement of a system of maternal and infant health services in the state in order to decrease infant mortality by providing prenatal care to pregnant women.

Added by Laws 1991, c. 250, § 1, eff. Sept. 1, 1991. Amended by Laws 2005, c. 211, § 1, eff. Nov. 1, 2005.

§63-1-232. Statewide program to promote health care.

The State Department of Health shall establish a statewide program directed toward the health needs of pregnant women and infants. This program shall promote the importance of prenatal and postnatal maternal and infant health care and shall provide free information regarding the types, location and availability of maternal and infant health care services.
Added by Laws 1991, c. 250, § 2, eff. Sept. 1, 1991. Amended by Laws 2005, c. 211, § 2, eff. Nov. 1, 2005.

§63-1-232.1. Prenatal classes - Risks of drug or alcohol use- Treatment – Education and prevention materials.

A. All prenatal classes offered shall include in their education curriculum the following:

1. The risks of drug or alcohol use during pregnancy to the unborn child and to the mother;

2. The risks of underage drinking, including information to assist new parents in preventing underage drinking in their own children; and

3. Information on screening, assessment, intervention, and referral for treatment of substance dependency.

B. All persons licensed to practice medicine and surgery or who are licensed osteopathic physicians and surgeons or who are certified nurse-midwives, advanced nurse practitioners and who provide prenatal, delivery, infant care services and other child or adult health services related to maternal and infant care shall provide access to screening, assessment, intervention, and referral for treatment of substance dependency.

C. Education and prevention materials regarding the risks of alcohol or drug use during pregnancy and the risks of underage drinking shall be made readily available by those governed by this section and shall be distributed to individuals who report to their health care provider they are pregnant or are planning to become pregnant.
Added by Laws 2008, c. 261, § 1, eff. July 1, 2008.

§63-1-232.2. Repealed by Laws 2013, c. 229, § 99, eff. Nov. 1, 2013.

§63-1-233. Providers as state employees - Protection from liability - Employment contracts.

A. Persons licensed to practice medicine and surgery or who are licensed osteopathic physicians and surgeons or who are certified nurse-midwives, advanced nurse practitioners and who provide prenatal, delivery, infant care services and other child or adult health services to State Department of Health clients pursuant to and in strict compliance with all terms of a contract with the State Department of Health authorized by paragraph 3 of subsection B of

Section 1-106 of this title, shall be considered employees of the state for purposes of The Governmental Tort Claims Act only, but only insofar as actions within the employee's scope of employment as specified by the terms of the contract.

B. Such contracts shall provide that any prenatal, delivery and infant care services rendered by the provider shall fully comply with the Standards for Ambulatory Obstetrical Care of the American College of Obstetrics and Gynecology and the Perinatal Care Guidelines of the American College of Obstetrics and Gynecology and the American Academy of Pediatrics as adopted and incorporated into the Standards and Guidelines for Public Providers of Maternity Services of the State Department of Health in order to entitle the provider to the limited liability provided by subsection A of this section.

C. Any contract executed pursuant to this section shall state with specificity, the exact services to be provided and the particular services which shall entitle the provider to the limited liability provided by subsection A of this section.

D. Any services provided or contracts entered into pursuant to this act shall include only those activities designed to promote the healthiest possible outcomes for mother and child. The prenatal and postnatal services provided with these funds shall be used solely to provide health care services for pregnant women, decrease infant mortality and facilitate the birth of a live child. For purposes of this act, "health care services" does not include abortion, abortion referral, or abortion counseling. This subsection shall be inseverable from this section.

Added by Laws 1991, c. 250, § 3, eff. Sept. 1, 1991. Amended by Laws 2005, c. 211, § 3, eff. Nov. 1, 2005.

§63-1-234. Repealed by Laws 2005, c. 211, § 5, eff. Nov. 1, 2005.

§63-1-234.1. Breast-feeding – Declaration as right.

The Legislature hereby declares that breast-feeding a baby constitutes a basic act of nurturing to which every baby has a right and which should be encouraged in the interests of maternal and child health. In furtherance of this right, a mother may breast-feed her baby in any location where the mother is otherwise authorized to be. Breast-feeding shall not constitute a violation of any provision of Title 21 of the Oklahoma Statutes.

Added by Laws 2004, c. 332, § 1, emerg. eff. May 25, 2004.

§63-1-235. Short title.

This act shall be known and may be cited as the "Act for Coordination of Efforts for Prevention of Adolescent Pregnancy and Sexually Transmitted Diseases".

Added by Laws 1994, c. 170, § 1, eff. July 1, 1994.

§63-1-236. Definitions.

A. As used in this act:

1. "Committee" means the Joint Legislative Committee for Review of Coordination of Efforts for Prevention of Adolescent Pregnancy and Sexually Transmitted Diseases;

2. "Coordinating Council" means the Interagency Coordinating Council for Coordination of Efforts for Prevention of Adolescent Pregnancy and Sexually Transmitted Diseases; and

3. "State Plan" means the State Plan for Coordination of Efforts for Prevention of Adolescent Pregnancy and Sexually Transmitted Diseases.

B. The purpose of this act is to provide for a comprehensive, coordinated, multidisciplinary and interagency effort to reduce the rate of adolescent pregnancy and sexually transmitted diseases within the State of Oklahoma.

Added by Laws 1994, c. 170, § 2, eff. July 1, 1994.

§63-1-237. Interagency Coordinating Council for Coordination of Efforts for Prevention of Adolescent Pregnancy and Sexually Transmitted Diseases.

1. The Governor shall appoint an Interagency Coordinating Council for Coordination of Efforts for Prevention of Adolescent Pregnancy and Sexually Transmitted Diseases which shall be composed of thirty-one (31) members as follows:

a. the chief executive officers or their designees of the:
   (1) Commission on Children and Youth,
   (2) State Department of Education,
   (3) Oklahoma Department of Career and Technology Education,
   (4) Department of Human Services,
   (5) Department of Mental Health and Substance Abuse Services,
   (6) Office of Volunteerism,
   (7) State Department of Health, and
   (8) College of Public Health,

b. the Executive Director of the Office of Juvenile Affairs or designee,

c. two representatives from the Maternal and Infant Health Division, two representatives from the HIV/STD Division, two representatives from the Child Health and Guidance Division of the State Department of Health,

d. a superintendent of an independent school district,

e. a representative of a statewide association of medical doctors,

f. a representative of a statewide association of osteopathic physicians,
g. a representative of a statewide association of parents and teachers,
h. a representative of a statewide association of classroom teachers,
i. a representative of a statewide association of school counselors,
j. a principal of an alternative education program,
k. a representative of business or industry,
l. a representative of a statewide association formed for the purpose of developing leadership skills,
m. a representative of an ecumenical association,
n. two parents of ten- to twenty-year-old children,
o. a teenage girl,
p. a representative of a nonprofit statewide child advocacy organization,
q. the Governor or the Governor's designee, who shall chair the Coordinating Council.

Legal assistance shall be provided by the Office of the Attorney General. Staff support and assistance shall be provided by the State Department of Health as the legal agency.

2. The Coordinating Council shall:
a. on or before December 1, 1994, complete the State Plan pursuant to the provisions of Section 1-238 of this title and present it to the Committee for approval, and
b. after approval of the State Plan, monitor implementation of the plan, evaluate the plan, meet with the Committee concerning revisions whenever requested to do so, and on or before November 1, 1995, and November 1 of each subsequent year, submit a report on the implementation and evaluation of the State Plan to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

Added by Laws 1994, c. 170, § 3, eff. July 1, 1994. Amended by Laws 2000, c. 177, § 14, eff. July 1, 2000; Laws 2001, c. 33, § 58, eff. July 1, 2001; Laws 2007, c. 93, § 1, eff. Nov. 1, 2007.

§63-1-237.1. Postponing Sexual Involvement for Young Teens program.

A. On or before January 1, 2011, the State Department of Health shall contract with community or faith-based organizations in order to expand the Postponing Sexual Involvement (PSI) for Young Teens program. The purpose of the program shall be to reduce the incidence of teen pregnancies in this state by encouraging teenagers to abstain from sexual activities.

B. The Postponing Sexual Involvement (PSI) for Young Teens program shall be directed to geographic areas in the state where the teen birth rate is higher than the state average and where the children and their families are in greatest need because of an unfavorable combination of economic, social, environmental, and health factors, including, without limitation, extensive poverty, high crime rate, great incidence of low birth weight babies, high incidence of alcohol and drug abuse, and high rates of teen pregnancy. The selection of a geographic site shall also consider the incidence of young children within these at-risk geographic areas who are cocaine babies, children of teenage parents, low birth weight babies, and very young foster children.

C. Funding for this program shall be provided from the unused funds from the Oklahoma Employer/Employee Partnership for Insurance Coverage pursuant to Section 1010.1 of Title 56 of the Oklahoma Statutes, not to exceed Five Hundred Thousand Dollars ($500,000.00). Added by Laws 2007, c. 318, § 4, emerg. eff. June 4, 2007.

§63-1-238. State Plan.

A. The State Plan for Coordination of Efforts for Prevention of Adolescent Pregnancy and Sexually Transmitted Diseases shall include but not necessarily be limited to:

1. A statewide public awareness campaign which extols the virtue of abstaining from premarital sexual activity. Said public awareness campaign shall not directly or indirectly condone premarital or promiscuous sexual activity;

2. Identification of effective prevention strategies;

3. Identification of resources, both within the agencies subject to the provisions of this act and within the communities;

4. Identification of sources of revenue for programs and efforts from private as well as federal and state sources;

5. Development and replication of effective model programs;

6. Empowerment of communities in developing local prevention strategies;

7. Development of recommendations for local prevention efforts and technical assistance to communities;

8. Delineation of service responsibilities and coordination of delivery of services by the agencies subject to the provisions of this act;

9. Coordination and collaboration among related efforts and programs;

10. Evaluation of prevention strategies and programs;

11. Distribution of information on prevention programs and strategies; and

12. A funding and implementation plan which shall provide for utilization of identifiable financial resources from federal, state,

local and private resources and coordination of those resources to fund related services.

B. On or before July 1, 1995, the agencies subject to the provisions of this act shall enter into interagency agreements for the purpose of implementing the State Plan.

C. On or before September 1, 1995, and each September 1 thereafter, a joint funding plan shall be submitted to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives by the agencies subject to the provisions of this act. The individual components of the plan as they relate to individual agencies shall be incorporated annually into each affected agency's budget request in accordance with the provisions of Section 41.29 of Title 62 of the Oklahoma Statutes.

Added by Laws 1994, c. 170, § 4, eff. July 1, 1994.

§63-1-239. Repealed by Laws 1998, c. 22, § 2, emerg. eff. April 1, 1998.

§63-1-240. Renumbered as Title 10, § 440 by Laws 2012, c. 253, § 6, eff. Nov. 1, 2012.

§63-1-241. Renumbered as Title 10, § 441 by Laws 2012, c. 253, § 6.

§63-1-250. Repealed by Laws 2009, c. 178, § 15.

§63-1-260.1. Short title.

This act shall be known and may be cited as the "Osteoporosis Prevention and Treatment Education Act".

Added by Laws 1999, c. 198, § 1, eff. Nov. 1, 1999.

§63-1-260.2. Purposes of act – Duties of Board of Health and Department of Health.

A. The purposes of this act are:

1. To design and implement a multigenerational, statewide program of public awareness and knowledge about:

a. the causes of osteoporosis,

b. personal risk factors,

c. the value of prevention and early detection, and

d. the options available for treatment;

2. To facilitate and enhance knowledge and understanding of osteoporosis by disseminating educational materials, information about research results, services, and strategies for prevention and treatment to patients, health professionals, and the public;

3. To utilize educational and training resources and services that have been developed by organizations with appropriate expertise and knowledge of osteoporosis, and to use available technical assistance;

4. To evaluate existing osteoporosis services in the community and assess the need for improving the quality and accessibility of community-based services;

5. To provide easy access to clear, complete, and accurate osteoporosis information and referral services;

6. To educate and train service providers, health professionals, and physicians;

7. To heighten awareness about the prevention, detection, and treatment of osteoporosis among state and local health and human service officials, health educators, and policymakers;

8. To coordinate state programs and services to address the issue of osteoporosis;

9. To promote the development of support groups for osteoporosis patients and their families and caregivers;

10. To adequately fund these programs; and

11. To provide lasting improvements in the delivery of osteoporosis health care that affect the quality of life of osteoporosis patients and that contain health care costs.

B. 1. The State Board of Health, giving consideration to the recommendations of the Advancement of Wellness Advisory Council created in Section 44 of this act, shall promulgate rules necessary to enact the provisions of the Osteoporosis Prevention and Treatment Education Act.

2. The State Department of Health, as funds are available, shall:

a. provide sufficient staff to implement the Osteoporosis Prevention and Treatment Education Program,

b. provide appropriate training for staff of the Osteoporosis Prevention and Treatment Education Program,

c. identify the appropriate entities to carry out the program,

d. base the program on the most up-to-date scientific information and findings,

e. work to improve the capacity of community-based services available to osteoporosis patients,

f. work with governmental offices, community and business leaders, community organizations, health care and human service providers, and national osteoporosis organizations to coordinate efforts and maximize state resources in the areas of prevention, education, and treatment of osteoporosis, and

g. identify and, when appropriate, replicate or use successful osteoporosis programs and procure related materials and services from organizations with appropriate expertise and knowledge of osteoporosis.

Added by Laws 1999, c. 198, § 2, eff. Nov. 1, 1999. Amended by Laws 2013, c. 229, § 53, eff. Nov. 1, 2013.

§63-1-260.3. Establishment, promotion, and maintenance of osteoporosis prevention and treatment education program - Needs assessment.

The State Department of Health shall establish, promote, and maintain an osteoporosis prevention and treatment education program in order to effectuate the purposes of this act as follows:

1. The Department shall use, but is not limited to, the following strategies for:

a. raising public awareness on the causes and nature of osteoporosis, personal risk factors, value of prevention and early detection, and options for diagnosing and treating the disease:
   (1) an outreach campaign utilizing print, radio, and television public service announcements, advertisements, posters, and other materials,
   (2) community forums,
   (3) health information and risk factor assessment at public events,
   (4) targeting at-risk populations,
   (5) providing reliable information to policymakers, and
   (6) distributing information through county health departments, schools, area agencies on aging, employer wellness programs, physicians, hospitals and health maintenance organizations, women's groups, nonprofit organizations, community-based organizations, and departmental regional offices,

b. educating consumers about risk factors, diet and exercise, diagnostic procedures and their indications for use, risks and benefits of drug therapies currently approved by the U.S Food and Drug Administration, environmental safety and injury prevention, and the availability of diagnostic, treatment, and rehabilitation services:
   (1) identify and obtain educational materials, including brochures and videotapes, which accurately translate the latest scientific information on osteoporosis in easy-to-understand terms,
   (2) build a statewide system of resources to provide information and referral on all aspects of osteoporosis, including educational materials and counseling,

(3) establish state linkage with an existing toll-free hotline for consumers,
(4) facilitate the development and maintenance of osteoporosis support groups, and
(5) conduct workshops and seminars for lay audiences, and

c. educating physicians and health professionals and training community service providers on the most up-to-date, accurate scientific and medical information on osteoporosis prevention, diagnosis, and treatment, therapeutic decision-making, including guidelines for detecting and treating the disease in special populations, risks and benefits of medications, and research advances:
(1) identify and obtain education materials for the health care provider which translates the latest scientific and medical information into clinical applications,
(2) raise awareness among physicians and health and human services professionals as to the importance of osteoporosis prevention, early detection, treatment, and rehabilitation,
(3) identify and use available curricula for training health and human service providers and community leaders on osteoporosis prevention, detection, and treatment,
(4) provide workshops and seminars for in-depth professional development in the field of the care and management of the patient with osteoporosis, and
(5) conduct a statewide conference on osteoporosis at appropriate intervals;

2. a. The Department shall conduct a needs assessment to identify:
(1) research being conducted within the state,
(2) available technical assistance and educational materials and programs nationwide,
(3) the level of public and professional awareness about osteoporosis,
(4) the needs of osteoporosis patients, their families, and caregivers,
(5) needs of health care providers, including physicians, nurses, managed care organizations, and other health care providers,
(6) the service available to the osteoporosis patient,
(7) existence of osteoporosis treatment programs,

(8) existence of osteoporosis support groups,
(9) existence of rehabilitation services, and
(10) number and location of bone density testing equipment.

b. Based on the needs assessment, the Department shall develop and maintain a list of osteoporosis-related services and osteoporosis health care providers with specialization in services to prevent, diagnose, and treat osteoporosis. This list shall be disseminated with a description of diagnostic testing procedures, appropriate indications for their use, drug therapies currently approved by the U.S. Food and Drug Administration, and a cautionary statement about the current status of osteoporosis research, prevention, and treatment. Such cautionary statement shall also indicate that the Department does not license, certify, or in any way approve osteoporosis programs or centers in the state.

Added by Laws 1999, c. 198, § 3, eff. Nov. 1, 1999.

§63-1-260.4. Repealed by Laws 2013, c. 229, § 99, eff. Nov. 1, 2013, without reference to the amendment in Laws 2013, c. 229, § 54 which read as follows:

§63-1-260.4. Osteoporosis prevention and awareness.

A. The State Department of Health, giving consideration to the recommendations of the Advancement of Wellness Advisory Council created in Section 44 of this act, shall:

1. Advise regarding coordination of osteoporosis programs conducted by or through the Department;

2. Establish a mechanism for sharing information on osteoporosis among all officials and employees involved in carrying out osteoporosis-related programs;

3. Preview and coordinate the most promising areas of education, prevention, and treatment concerning osteoporosis;

4. Assist other offices in developing plans for education and health promotion on osteoporosis;

5. Establish mechanisms to use the results of research concerning osteoporosis in the development of relevant policies and programs; and

6. Prepare a report that describes educational initiatives on osteoporosis sponsored by the state and makes recommendations for new educational initiatives on osteoporosis. The Council shall transmit the report to the State Board of Health for review and forwarding with any necessary comments or recommendations to the Legislature. The report shall also be available to the public.

B. The Department, giving consideration to the recommendations of the Advancement of Wellness Advisory

Council created in Section 44 of this act, shall establish and coordinate an Advisory Panel on Osteoporosis which will provide nongovernmental input regarding the Osteoporosis Prevention and Treatment Education Program. Membership on the advisory panel shall be voluntary and shall include, but not be limited to, persons with osteoporosis, representatives of women's health organizations, public health education, osteoporosis experts, providers of osteoporosis health care, persons knowledgeable in health promotion and education, and representatives of national osteoporosis organizations or their state or regional affiliates.

§63-1-260.5. Replication and use of successful osteoporosis programs – Contracts with national organizations – Acceptance of grants, services, and property – Federal waivers.

A. The State Department of Health may replicate and use successful osteoporosis programs and enter into contracts and purchase materials or services from organizations with appropriate expertise and knowledge of osteoporosis for such services and materials as, but not limited to, the following:

1. Educational information and materials on the causes, prevention, detection, treatment, and management of osteoporosis;
2. Training of staff;
3. Physicians and health care professional education and training and clinical conferences;
4. Conference organization and staffing;
5. Regional office development and staffing;
6. Nominations for advisory panels;
7. Support group development;
8. Consultation;
9. Resource library facilities;
10. Training home health aides and nursing home personnel; and
11. Training teachers.

B. The Department may contract with a national organization with expertise in osteoporosis to establish and staff an office of such organization in the state to implement parts of the osteoporosis education program.

C. The State Commissioner of Health:

1. May accept grants, services, and property from the federal government, foundations, organizations, medical schools, and other entities as may be available for the purposes of fulfilling the Department’s duties under this program; and
2. Shall seek any federal waiver or waivers that may be necessary to maximize funds from the federal government to implement this program.

Added by Laws 1999, c. 198, § 5, eff. Nov. 1, 1999.

§63-1-270. Plan for statewide coordinated system of care for stroke.

A. As funding permits, the State Department of Health shall foster and coordinate implementation of a plan for a statewide coordinated system of care for stroke, which shall include special focus and attention on evidence-based treatment for stroke. Such system shall include, but shall not be limited to:

1. Recommendations from the Oklahoma Hospital Advisory Council and medical experts in stroke care;

2. Collaboration and partnerships with relevant professional organizations and associations advocating for evidence-based treatment for stroke patients;

3. Measures to raise awareness and promote preventative medical care regarding risk factors for stroke;

4. Utilization of state-recognized stroke hospital classifications; and

5. Protocols for evidence-based pre-hospital and interfacility assessment, treatment, and transport of stroke patients by emergency medical responders and agencies licensed pursuant to the Oklahoma Emergency Response Systems Development Act.

B. The State Board of Health may promulgate rules as necessary to implement the provisions of this section.

Added by Laws 2008, c. 305, § 8, emerg. eff. June 2, 2008. Amended by Laws 2015, c. 257, § 1, eff. Nov. 1, 2015.

§63-1-270.1. Short title.

This act shall be known and may be cited as the "Advancement in Stem Cell Cures and Therapies Act".

Added by Laws 2008, c. 48, § 1, eff. Nov. 1, 2008.

§63-1-270.2. Human embryo – Stem cell research – Reporting system.

A. For the purposes of the Advancement in Stem Cell Cures and Therapies Act, "human embryo" means a living organism of the species Homo sapiens at the earliest stage of development, including the single-cell stage, that is not located in the body of a woman.

B. Research on human tissue regeneration and human diseases using adult stem cells and stem cells obtained from umbilical cord blood and amniotic fluid may be conducted in this state, provided that the research is performed:

1. Safely and ethically;

2. Only on embryonic stem cell lines created prior to August 1, 2001, and in accordance with federal law as it existed on November 1, 2007; and

3. Without the use of a human embryo, including a human embryo produced using cloning technology.

C. When research is performed in accordance with the Advancement in Stem Cell Cures and Therapies Act, a person or governmental body shall not:

1. Restrict public funds designated for the stem cell research; or

2. Obstruct or provide disincentives for the stem cell research.

D. The State Department of Health shall establish a reporting system that collects information regarding all activities carried out in accordance with this section.

E. The Department shall submit a report with all information collected pursuant to subsection D of this section to the Governor, the Speaker of the Oklahoma House of Representatives, and the President Pro Tempore of the State Senate no later than December 31 of each year.

Added by Laws 2008, c. 48, § 2, eff. Nov. 1, 2008.

§63-1-280.1. Sooner Start program treatment of autism spectrum disorders - Funding - Contracts.

A. Funds shall be used by the State Department of Education for specialized training for direct service providers in the Sooner Start program to acquire skills necessary to treat children with autism spectrum disorders.

B. The State Department of Health is authorized to contract with independent third-party providers for services offered by the Sooner Start program.

Added by Laws 2009, c. 127, § 2, eff. Nov. 1, 2009.

§63-1-280.2. Primary care provider evaluation training - Applied behavior analysis treatment pilot project.

A. Funds shall be used by the University Hospitals Authority for primary care provider evaluation training for providers in the Sooner SUCCESS program to acquire skills necessary to evaluate children with autism spectrum disorders.

B. 1. The Developmental Disabilities Services Division of the Department of Human Services shall establish an applied behavior analysis treatment pilot project. The Division shall secure federal matching dollars to implement and maintain the project.

2. The project shall:

a. provide three Board-Certified Behavior Analysts to measure functional outcomes of children with autism, who are approved by the Division to participate in the project, and study the effects of applied behavior analysis in a consultative model that includes a parental training component, and

b. require the participating analysts to provide the necessary supervision to assist supervisees in this

state to learn and provide applied behavior analysis and achieve certification by the nationally accredited Behavior Analyst Certification Board.

3. The project shall commence no later than January 1, 2011, and end no later than three (3) years from the date of commencement.

4. The Division shall submit a report to the Legislature and the Governor no later than January 1, 2014, concerning:

a. the effectiveness of the project,

b. the results found when using applied behavior analysis in a consultative model that includes a parental training component to measure functional outcomes of children with autism,

c. the most effective approach and systems to provide applied behavior analysis, and

d. any other findings and recommendations resulting from the project.

5. The Department shall promulgate rules to implement the provisions of this subsection.

Added by Laws 2009, c. 127, § 3, eff. Nov. 1, 2009.

§63-1-280.3. Outreach program providing intensive behavioral intervention for children with autism.

The University Hospitals Authority shall establish a program modeled after Early Foundations, an outreach program that provides early intensive behavioral intervention for children with autism. The program shall be established in a county selected by the University Hospitals Authority where an Early Foundations program does not exist.

Added by Laws 2009, c. 127, § 4, eff. Nov. 1, 2009.

§63-1-290. Short title.

This act shall be known as the "Public Health Delivery Act".

Added by Laws 2012, c. 169, § 1, emerg. eff. May 1, 2012.

§63-1-290.1. Definitions.

As used in the Public Health Delivery Act:

1. "Public health services" means services provided by city-county health departments, county health departments, and the State Department of Health pertaining to chronic disease screening, immunizations, maternal and child health services, prevention and control of communicable, contagious or infectious diseases, and services in cooperation with the federal government or any department or agency thereof, and with other states, on matters pertaining to public health; and

2. "Physician-approved protocol" means a protocol such as standing orders that describe the parameters of specified situations under which a registered nurse may act to deliver public health

services for a client who is presenting with symptoms or needs addressed in the protocol.
Added by Laws 2012, c. 169, § 2, emerg. eff. May 1, 2012.

§63-1-290.2. Registered nurses - Physician-approved protocols.

A. Registered nurses are authorized to use physician-approved protocols to provide public health services when performing duties as an employee or as a contractor, as defined in Section 803 of Title 18 of the Oklahoma Statutes, on behalf of the city-county health departments, county health departments, and the State Department of Health.

B. The Department shall have a designated Medical Director responsible for maintaining the protocols to reflect the current standard of care. Protocols shall be consistent with published clinical practice guidelines established or endorsed by nationally recognized professional medical organizations, societies, associations and federal agencies. The physician-approved protocols shall be reviewed annually and updated as needed. Physician-approved protocols shall be approved through Department policy.

C. The establishment of a physician-patient relationship is not necessary for the physician-approved protocol to be implemented by the registered nurse when providing public health services on behalf of a city-county health department, county health department or the Department.

D. The State Department of Health shall promulgate and implement policies and procedures to ensure the registered nurse has proper training, education and supervision prior to and during the provision of public health services.

E. Medical algorithms may be utilized or referenced in the physician-approved protocols to assist in providing the public health services.

F. The registered nurse may dispense prepackaged nonprescription medications and recommend nonprescription medications pursuant to the physician-approved protocols.

G. A registered nurse may orally submit a prescription prescribed by an advanced practice registered nurse with prescriptive authority to a pharmacy of the patient’s choosing.
Added by Laws 2012, c. 169, § 3, emerg. eff. May 1, 2012.

§63-1-290.3. Construction of act - Severability.

Nothing in the Public Health Delivery Act shall be construed as changing the requirements of Sections 1-729a, 1-731 or 1-740.2 of Title 63 of the Oklahoma Statutes. The section is inseverable from Sections 1, 2 and 3 of this act.
Added by Laws 2012, c. 169, § 4, emerg. eff. May 1, 2012.

§63-1-291.1. Short title-Oklahoma Veterans Brain Injury Treatment and Recovery Act of 2014.

This act shall be known as the "Oklahoma Veterans Traumatic Brain Injury Treatment and Recovery Act of 2014".

Added by Laws 2014, c. 233, § 1, eff. Nov. 1, 2014.

§63-1-291.2. Hyperbaric oxygen treatment defined.

For the purposes of this act, "hyperbaric oxygen treatment" (HBOT) shall mean treatment with a valid prescription from a medical doctor or doctor of osteopathy in either a hyperbaric chamber cleared by the United States Food and Drug Administration (FDA) or a device with an appropriate FDA-approved investigational device exemption, located at a facility in compliance with applicable state fire codes and supervised in accordance with requirements in the Oklahoma Veterans Traumatic Brain Injury Treatment and Recovery Act of 2014. The treatment shall be delivered solely by authorized, licensed or nationally certified health care providers in accordance with federal and state law.

Added by Laws 2014, c. 233, § 2, eff. Nov. 1, 2014.

§63-1-291.3. Veterans Traumatic Brain Injury Treatment and Recovery Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Department of Veterans Affairs to be designated the "Veterans Traumatic Brain Injury Treatment and Recovery Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all the monies received by the Department of Veterans Affairs in the form of donations, appropriations or other monies for such fund. All monies accruing to the credit of the fund are appropriated and may be budgeted and expended by the Department for the purpose of veterans' treatment as provided by law. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 2014, c. 233, § 3, eff. Nov. 1, 2014.

§63-1-291.4. Oklahoma State University Center for Aerospace and Hyperbaric Medicine - Jurisdiction over treatment and costs.

For the purposes of this act, the Oklahoma State University Center for Aerospace and Hyperbaric Medicine (OSUCAHM) shall have full statewide jurisdiction over all medical treatments provided and costs allowed to providers who request reimbursement from the Veterans Traumatic Brain Injury Treatment and Recovery Revolving Fund created in Section 3 of this act.

Prior to the treatment of any veteran for traumatic brain injury (TBI), the OSUCAHM shall develop and publish a standard approved

treatment plan for veterans being treated using HBOT for Traumatic Brain Injury (TBI). In the event a medical professional prescribes a treatment under Section 2 of this act that does not comport and comply with the provisions of the standard plan, OSUCAHM shall have the authority to approve or disapprove the treatment plan for reimbursement under this act.
Added by Laws 2014, c. 233, § 4, eff. Nov. 1, 2014.

§63-1-291.5. Approval of treatment plan and funding - Time limit for treatment and submission of bills.

Any Oklahoma veteran who has been diagnosed with a traumatic brain injury (TBI) and prescribed hyperbaric oxygen treatment (HBOT) by a medical professional authorized under Section 2 of this act may receive HBOT at any facility in the state that has a hyperbaric chamber and provides treatment in accordance with Section 2 of this act.

Prior to receiving treatment, a treatment plan for the TBI by HBOT shall be reviewed and conform to a plan approved by the Oklahoma State University Center for Aerospace and Hyperbaric Medicine. The facility seeking reimbursement from the fund shall request approval for funding from the Director of the Office of Management and Enterprise Services. Upon receipt of an approved request for treatment, the funds for treatment shall be set aside and used to ensure payment in full for the veteran's treatment. If there is not enough money in the fund to set aside for treatment reimbursement, the Director of Office of Management and Enterprise Services shall deny approval of the request.

At the conclusion of six (6) months of no treatment and/or the lack of submission of any bills, the Director of the Office of Management and Enterprise Services shall advise the veteran and the participating facility that the funding reserved for the HBOT shall expire within ninety (90) days if no contact is made by the facility that treatment is scheduled and/or continued. Should the facility fail to contact the Office of Management and Enterprise Services with the information that treatment is scheduled and/or continued, then the monies reserved for treatment of that veteran shall be released and made available to another veteran meeting the requirements of this act.
Added by Laws 2014, c. 233, § 5, eff. Nov. 1, 2014.

§63-1-291.6. Payment of treatment costs.

Subject to the availability of funding, participating facilities who provide HBOT to veterans suffering from TBI shall provide treatment at no cost to the veteran and shall submit a bill for any treatment to the Director of the Office of Management and Enterprise Services. The bill shall be paid from the Veterans Traumatic Brain Injury Treatment and Recovery Revolving Fund to the extent funds are

available. Should the costs of the treatment exceed the availability of funds, the veteran treated shall be held harmless from any costs of treatment by the facility and the state shall be under no obligation to make payments beyond the approved amount in the fund created in Section 3 of this act and set aside for that purpose by the Director of the Office of Management and Enterprise Services.
Added by Laws 2014, c. 233, § 6, eff. Nov. 1, 2014.

§63-1-292. Definitions.
As used in this act:
1. "Administer" means the direct application of an epinephrine auto-injector to an individual;
2. "Authorized entity" means any entity or organization at or in connection with which allergens capable of causing anaphylaxis may be present, including, but not limited to, restaurants, recreation camps, youth sports leagues, amusement parks, and sports arenas;
3. "Authorized individual" means an individual operating or participating in any entity or organization at or in connection with which allergens capable of causing anaphylaxis may be present, including, but not limited to, restaurants, recreation camps, youth sports leagues, amusement parks and sports arenas;
4. "Epinephrine auto-injector" means a single-use device used for the automatic injection of a premeasured dose of epinephrine into the human body;
5. "Licensed practitioner" means an allopathic physician, osteopathic physician, physician assistant or advanced practice registered nurse licensed in this state;
6. "Provide" means the supply of one or more epinephrine auto-injectors to an individual; and
7. "Self-administration" means an individual's discretionary use of an epinephrine auto-injector.
Added by Laws 2015, c. 277, § 2, eff. Nov. 1, 2015. Amended by Laws 2018, c. 24, § 1, eff. Nov. 1, 2018.
NOTE: Editorially renumbered from § 1-291 of this title to avoid duplication in numbering.

§63-1-293. See the following versions:
OS 63-1-293v1 (HB 3037, Laws 2018, c. 24, § 2).
OS 63-1-293v2 (SB 956, Laws 2018, c. 106, § 12).

§63-1-293v1. Epinephrine auto-injector prescriptions – Training – Providing and administering auto-injectors – Immunity from liability.
A. A licensed practitioner may prescribe epinephrine auto-injectors in the name of an authorized entity or an authorized

individual for use in accordance with this section, and pharmacists and physicians may dispense epinephrine auto-injectors pursuant to a prescription issued in the name of an authorized entity or an authorized individual; provided, however, such prescriptions shall only be filled by pharmacists licensed in this state by the State Board of Pharmacy.

B. An authorized entity or an authorized individual may acquire and stock a supply of epinephrine auto-injectors pursuant to a prescription issued in accordance with this section. Such epinephrine auto-injectors shall be stored in a location readily accessible in an emergency and in accordance with the epinephrine auto-injector's instructions for use and any additional requirements that may be established by the Board of Pharmacy. An authorized entity shall designate employees or agents who have completed the training required by this act to be responsible for the storage, maintenance, and general oversight of epinephrine auto-injectors acquired by the authorized entity.

C. An employee or agent of an authorized entity, an authorized individual, or other individual, who has completed the training required by this act may, on the premises of or in connection with the authorized entity or authorized individual, use epinephrine auto-injectors prescribed pursuant to this act to:

1. Provide an epinephrine auto-injector to any individual who the employee, agent or individual believes in good faith is experiencing anaphylaxis for immediate self-administration, regardless of whether the individual has a prescription for an epinephrine auto-injector or has previously been diagnosed with an allergy; and

2. Administer an epinephrine auto-injector to any individual who the employee, agent or individual believes in good faith is experiencing anaphylaxis, regardless of whether the individual has a prescription for an epinephrine auto-injector or has previously been diagnosed with an allergy.

D. An employee, agent or individual described in subsection C of this section must complete an anaphylaxis training program prior to providing or administering an epinephrine auto-injector pursuant to this act. Such training shall be conducted by a nationally recognized organization experienced in training laypersons in emergency health treatment or other entity or an individual approved by the Board of Pharmacy. The entity conducting training shall issue a certificate, on a form developed and approved by the Board, to each person who successfully completes the anaphylaxis training program. Training may be conducted online or in person and, at a minimum, shall cover:

1. Techniques on how to recognize symptoms of severe allergic reactions, including anaphylaxis;

2. Standards and procedures for the storage and administration of an epinephrine auto-injector; and

3. Emergency follow-up procedures.

E. An authorized entity or authorized individual that possesses and makes available epinephrine auto-injectors and employees, agents, authorized individuals, and other trained individuals; an individual who uses an epinephrine auto-injector made available pursuant to the provisions of this act; a licensed practitioner that prescribes epinephrine auto-injectors to an authorized entity or authorized individual; and an individual or entity that conducts the training described in subsection D of this section shall not be liable for any injuries or related damages that result from the administration of, self-administration of or failure to administer an epinephrine auto-injector in accordance with this section that may constitute ordinary negligence.

1. This immunity shall not apply to acts or omissions constituting gross, willful or wanton negligence. The administration of an epinephrine auto-injector in accordance with this act is not the practice of medicine. The immunity from liability provided under this subsection is in addition to and not in lieu of that provided under the Good Samaritan Act.

2. An entity located in this state shall not be liable for any injuries or related damages that result from the provision or administration of an epinephrine auto-injector by its employees or agents outside of this state if the entity or its employee or agent would not have been liable for such injuries or related damages had the provision or administration occurred within this state.

F. The Board of Pharmacy, the State Board of Medical Licensure and Supervision, and the State Board of Osteopathic Examiners shall promulgate any rules necessary to implement the provisions of this act.

Added by Laws 2015, c. 277, § 3, eff. Nov. 1, 2015. Amended by Laws 2018, c. 24, § 2, eff. Nov. 1, 2018.

NOTE: Editorially renumbered from § 1-292 of this title to avoid duplication in numbering.

§63-1-293v2. Epinephrine auto-injector prescriptions – Training – Providing and administering auto-injectors – Immunity from liability.

A. A licensed practitioner may prescribe epinephrine auto-injectors in the name of an authorized entity for use in accordance with this section, and pharmacists and physicians may dispense epinephrine auto-injectors pursuant to a prescription issued in the name of an authorized entity; provided, however, such prescriptions shall only be filled by pharmacists licensed in this state by the State Board of Pharmacy.

B. An authorized entity may acquire and stock a supply of epinephrine auto-injectors pursuant to a prescription issued in accordance with this section. Such epinephrine auto-injectors shall be stored in a location readily accessible in an emergency and in accordance with the epinephrine auto-injector's instructions for use and any additional requirements that may be established by the Board of Pharmacy. An authorized entity shall designate employees or agents who have completed the training required by this act to be responsible for the storage, maintenance, and general oversight of epinephrine auto-injectors acquired by the authorized entity.

C. An employee or agent of an authorized entity, or other individual, who has completed the training required by this act may, on the premises of or in connection with the authorized entity, use epinephrine auto-injectors prescribed pursuant to this act to:

1. Provide an epinephrine auto-injector to any individual who the employee, agent or other individual believes in good faith is experiencing anaphylaxis for immediate self-administration, regardless of whether the individual has a prescription for an epinephrine auto-injector or has previously been diagnosed with an allergy; and

2. Administer an epinephrine auto-injector to any individual who the employee, agent or other individual believes in good faith is experiencing anaphylaxis, regardless of whether the individual has a prescription for an epinephrine auto-injector or has previously been diagnosed with an allergy.

D. An employee, agent or other individual described in subsection C of this section must complete an anaphylaxis training program prior to providing or administering an epinephrine auto-injector made available by an authorized entity. Such training shall be conducted by a nationally recognized organization experienced in training laypersons in emergency health treatment or other entity or an individual approved by the Board of Pharmacy. The entity conducting training shall issue a certificate to each person who successfully completes the anaphylaxis training program. Training may be conducted online or in person and, at a minimum, shall cover:

1. Techniques on how to recognize symptoms of severe allergic reactions, including anaphylaxis;

2. Standards and procedures for the storage and administration of an epinephrine auto-injector; and

3. Emergency follow-up procedures.

E. An authorized entity that possesses and makes available epinephrine auto-injectors and its employees, agents, and other trained individuals; an individual who uses an epinephrine auto-injector made available pursuant to the provisions of this act; a licensed practitioner that prescribes epinephrine auto-injectors to an authorized entity; and an individual or entity that conducts the

training described in subsection D of this section shall not be liable for any injuries or related damages that result from the administration of, self-administration of or failure to administer an epinephrine auto-injector in accordance with this section that may constitute ordinary negligence.

1. This immunity shall not apply to acts or omissions constituting gross, willful or wanton negligence. The administration of an epinephrine auto-injector in accordance with this section is not the practice of medicine. The immunity from liability provided under this subsection is in addition to and not in lieu of that provided under the Good Samaritan Act.

2. An entity located in this state shall not be liable for any injuries or related damages that result from the provision or administration of an epinephrine auto-injector by its employees or agents outside of this state if the entity or its employee or agent would not have been liable for such injuries or related damages had the provision or administration occurred within this state.

F. The Board of Pharmacy, the State Board of Medical Licensure and Supervision, and the State Board of Osteopathic Examiners shall promulgate any rules necessary to implement the provisions of this act.

Added by Laws 2015, c. 277, § 3, eff. Nov. 1, 2015. Amended by Laws 2018, c. 106, § 12, eff. Nov. 1, 2018.

NOTE: Editorially renumbered from § 1-292 of this title to avoid duplication in numbering.

§63-1-301. Definitions.

As used in this article:

1. "Vital statistics" means records of birth, death, fetal death and data related thereto;

2. "System of vital statistics" means the registration, collection, preservation, amendment and certification of vital statistics records, and activities related thereto, including the tabulation, analysis and publication of statistical data derived from such records;

3. "Filing" means the presentation of a certificate, report or other record provided for in this article, of a birth, death, fetal death or adoption, for registration by the State Commissioner of Health;

4. "Registration" means the acceptance by the State Commissioner of Health and the incorporation in his official records of certificates, reports or other records provided for in this article, of births, deaths, fetal deaths or adoptions;

5. "Live birth" means the complete expulsion or extraction from the mother of a product of human conception, irrespective of the duration of pregnancy, which, after such expulsion or extraction, breathes or shows any other evidence of life such as beating of the

heart, pulsation of the umbilical cord or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached;

6. "Stillbirth" or "stillborn child" means a fetal death;

7. "Certificate of birth resulting in stillbirth" means a certificate issued to memorialize a stillborn child;

8. "Fetal death" means death prior to the complete expulsion or extraction from its mother of a product of human conception after the fetus has advanced to or beyond the twelfth week of uterogestation. The death is indicated by the fact that, after such expulsion or extraction, the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord or definite movement of voluntary muscles;

9. "Dead body" means an individual who is determined to be dead pursuant to the provisions of the Uniform Determination of Death Act;

10. "Final disposition" means the burial, interment, cremation, or other disposition of a dead body or fetus;

11. "Physician" means a person who is a member of the class of persons authorized to use the term "physician" pursuant to Section 725.2 of Title 59 of the Oklahoma Statutes;

12. "Institution" means any establishment, public or private, which provides inpatient medical, surgical or diagnostic care or treatment, or nursing, custodial or domiciliary care, to two or more unrelated individuals, or to which persons are committed by law; and

13. "Disinterment" means the recovery of human remains by exhumation or disentombment. "Disinterment" does not include the raising and lowering of remains to accommodate two interments within a single grave and does not include the repositioning of an outside burial container that encroaches on adjoining burial space.

Added by Laws 1963, c. 325, art. 3, § 301, operative July 1, 1963. Amended by Laws 1975, c. 91, § 1, emerg. eff. April 28, 1975; Laws 1986, c. 262, § 4; Laws 2000, c. 52, § 6, emerg. eff. April 14, 2000; Laws 2008, c. 187, § 1, eff. Nov. 1, 2008; Laws 2011, c. 105, § 4, eff. Nov. 1, 2011; Laws 2015, c. 37, § 2, eff. Nov. 1, 2015.

§63-1-302. Rules and regulations.

The State Board of Health is authorized to adopt, amend and repeal rules and regulations for the purpose of carrying out the provisions of this article.

Laws 1963, c. 325, art. 3, § 302.

§63-1-303. System of vital statistics.

The State Commissioner of Health shall install, maintain and operate a system of vital statistics throughout this state.

Laws 1963, c. 325, art. 3, § 303.

§63-1-304. State Commissioner of Health - Duties.

(a) The State Commissioner of Health shall:

(1) administer and enforce this article and the rules and regulations issued hereunder, and issue instructions for the efficient administration of the statewide system of vital statistics.

(2) direct and supervise the statewide system of vital statistics and be custodian of its records.

(3) prescribe and distribute such forms as are required by this article and the rules and regulations issued hereunder.

(4) prepare and publish reports of vital statistics of this state, and such other reports as may be required by law.

(b) The Commissioner may delegate such functions and duties vested in the Commissioner to employees of the State Department of Health and to the local registrars as the Commissioner deems necessary or expedient.

Added by Laws 1963, c. 325, art. 3, § 304, operative July 1, 1963.
Amended by Laws 2011, c. 105, § 5, eff. Nov. 1, 2011.

§63-1-305. Repealed by Laws 2011, c. 105, § 38, eff. Nov. 1, 2011.

§63-1-306. Repealed by Laws 2011, c. 105, § 38, eff. Nov. 1, 2011.

§63-1-307. Repealed by Laws 2011, c. 105, § 38, eff. Nov. 1, 2011.

§63-1-308. Repealed by Laws 2011, c. 105, § 38, eff. Nov. 1, 2011.

§63-1-309. Repealed by Laws 2011, c. 105, § 38, eff. Nov. 1, 2011.

§63-1-310. Forms of records.

(a) In order to promote and maintain uniformity in the system of vital statistics, the forms of certificates, reports and other returns required by this article, or by regulations adopted hereunder, shall include as a minimum the items recommended by the federal agency responsible for national vital statistics, subject to approval of and modification by the State Commissioner of Health.

(b) Each certificate, report and form required to be filed under this article shall have entered upon its face the date of registration duly attested.

Laws 1963, c. 325, art. 3, § 310.

§63-1-311. Birth certificates - Filing - Contents - Surrogates.

A. A certificate of birth for each live birth which occurs in this state shall be filed with the State Registrar, within seven (7) days after the birth.

B. When a birth occurs in an institution, the person in charge of the institution or a designated representative shall obtain the

personal data, prepare the certificate, and secure the signatures required by the certificate. The physician in attendance shall certify to the facts of birth and provide the medical information required by the certificate within five (5) days after the birth.

C. When a birth occurs outside an institution, the certificate shall be prepared and filed by one of the following in the indicated order of priority:

1. The physician in attendance at or immediately after the birth;

2. Any other person in attendance at or immediately after the birth; or

3. The father, the mother, or, in the absence or inability of the father or mother, the person in charge of the premises where the birth occurred and present at the birth.

D. 1. If the mother was married at the time of conception and birth, the name of the husband shall be entered on the certificate as the father of the child unless paternity has been determined otherwise by a court of competent jurisdiction or a husband's denial of paternity form has been filed along with an affidavit acknowledging paternity, in which case the name of the father as determined by the court or affidavit acknowledging paternity shall be entered.

2. If the mother was not married at the time of conception and birth, the name of the father shall be entered on the certificate of birth only if:

a. a determination of paternity has been made by an administrative action through the Department of Human Services or a court of competent jurisdiction, in which case the name of the father shall be entered, or

b. the mother and father have signed an affidavit acknowledging paternity pursuant to Section 1-311.3 of this title, or substantially similar affidavit from another state and filed it with the State Registrar of Vital Statistics.

E. Either of the parents of the child shall sign the certificate of live birth worksheet to attest to the accuracy of the personal data entered thereon, in time to permit its filing within the seven (7) days prescribed in this section.

F. If the live birth results from a process in which the delivering mother was carrying the child of another woman by way of a prearranged legal contract, the original birth certificate shall be filed with the personal information of the woman who delivered the child. A new birth certificate will be placed on file once the State Registrar receives both a court order and a completed form prescribed by the State Registrar which identifies the various parties and documents the personal information of the intended parents necessary to complete the new birth certificate.

Added by Laws 1963, c. 325, art. 3, § 311, operative July 1, 1963. Amended by Laws 1994, c. 356, § 7, eff. Sept. 1, 1994; Laws 1995, c. 273, § 3, emerg. eff. May 25, 1995; Laws 1996, c. 297, § 25, emerg. eff. June 10, 1996; Laws 1997, c. 402, § 35, eff. July 1, 1997; Laws 1998, c. 323, § 21, eff. Oct. 1, 1998; Laws 2011, c. 105, § 6, eff. Nov. 1, 2011.

§63-1-311.1. Obtaining social security numbers for live births and deaths.

A. The Vital Records Section of the State Department of Health shall obtain and record all social security numbers of the parents for each live birth in this state. The social security numbers are not required to be recorded on the birth certificate of the child.

B. The Vital Records Section of the State Department of Health shall obtain and record the social security number, if any, of any person who has died in this state. The social security number shall be recorded on the death certificate of the deceased.

Added by Laws 1990, c. 309, § 19, eff. Sept. 1, 1990. Amended by Laws 1997, c. 402, § 36, eff. July 1, 1997.

§63-1-311.2. Providing documentation to the Department of Human Services.

The State Registrar of Vital Statistics shall provide to the Department of Human Services the verifications of birth certificates, affidavits acknowledging paternity and such other documents or information necessary to comply with this act.

Added by Laws 1994, c. 356, § 8, eff. Sept. 1, 1994.

§63-1-311.3. Information regarding acknowledgment of paternity to be provided to unmarried mother – Availability of forms – Supplementary birth certificate.

A. Unless an adoption decree has been presented, and consent to adoption has been given as otherwise provided by law, upon the birth of a child to an unmarried woman, the person required by Section 1-311 of this title to prepare and file a birth certificate shall:

1. Provide written materials and an oral, audio, or video presentation to the child's mother and/or natural father including an acknowledgment of paternity on a form prescribed by the Department of Human Services. The completed acknowledgment of paternity shall be filed with the State Department of Health, Division of Vital Records;

2. Provide written information, furnished by the Department of Human Services, along with an oral, audio, or video presentation, to the mother and acknowledging father:

a. explaining that the completed acknowledgment of paternity shall be filed with the State Department of Health, Division of Vital Records,

b. regarding the benefits of having her child's paternity established and of the availability of paternity establishment services, including a request for support enforcement services,
c. explaining the implications of signing, including parental rights and responsibilities, and
d. explaining the time limitations to rescind and/or challenge the acknowledgment of paternity pursuant to the Uniform Parentage Act; and

3. Provide the original acknowledgment of paternity to the State Department of Health, Division of Vital Records. Failure to provide the original acknowledgment of paternity to the State Department of Health, Division of Vital Records shall not affect the validity of the executed acknowledgment of paternity as provided by the Uniform Parentage Act. Copies of the original acknowledgment of paternity shall be provided to the Department of Human Services, Child Support Enforcement Division, and to the mother and acknowledged father of the child. The Department of Human Services shall provide access to the acknowledgment of paternity via electronic means to the paternity registry created pursuant to Section 7506-1.1 of Title 10 of the Oklahoma Statutes.

B. The Department of Human Services shall make the acknowledgment of paternity, rescission of acknowledgment of paternity, and denial of paternity forms available at each county office of the Department of Human Services and at the State Department of Health, Division of Vital Records.

C. Upon receipt by the State Department of Health, Division of Vital Records of a certified copy of an order or decree of adoption, the State Department of Health, Division of Vital Records shall prepare a supplementary birth certificate as directed by Section 7505-6.6 of Title 10 of the Oklahoma Statutes regardless of whether an acknowledgment of paternity has been prepared or filed with the State Department of Health, Division of Vital Records pursuant to this section.

Added by Laws 1994, c. 356, § 9, eff. Sept. 1, 1994. Amended by Laws 1995, c. 273, § 4, emerg. eff. May 25, 1995; Laws 1996, c. 297, § 26, emerg. eff. June 10, 1996; Laws 1997, c. 402, § 37, eff. July 1, 1997; Laws 1998, c. 415, § 43, emerg. eff. June 11, 1998; Laws 1999, c. 1, § 19, emerg. eff. Feb. 24, 1999; Laws 2006, c. 116, § 60, eff. Nov. 1, 2006.

NOTE: Laws 1998, c. 323, § 22 repealed by Laws 1999, c. 1, § 45, emerg. eff. Feb. 24, 1999.

§63-1-312. Infant of unknown parentage.

(a) Whoever assumes the custody of a living infant of unknown parentage shall report, on a form and in the manner prescribed by

the State Commissioner of Health within seven (7) days to the State Registrar, the following information:

(1) the date and place of finding.

(2) sex, color or race, and approximate age of child.

(3) name and address of the persons or institution with whom the child has been placed for care.

(4) and other data required by the Commissioner.

(b) The place where the child was found shall be entered as the place of birth and the date of birth shall be determined by approximation.

(c) A report registered under this section shall constitute the certificate of birth for the infant.

(d) If the child is identified and a certificate of birth is found or obtained, any report registered under this section shall be sealed and filed and may be opened only by order of a court of competent jurisdiction.

Added by Laws 1963, c. 325, art. 3, § 312, operative July 1, 1963.
Amended by Laws 2011, c. 105, § 7, eff. Nov. 1, 2011.

§63-1-313. Delayed birth certificate.

(a) When the birth of a person born in this state has not been registered, a certificate may be filed in accordance with regulations of the State Board of Health. Such certificate shall be registered subject to such evidentiary requirements as the Board shall by regulation prescribe, to substantiate the alleged facts of birth.

(b) Certificates of birth registered one year or more after the date of occurrence shall be marked "delayed" and show on their face the date of the delayed registration.

(c) A summary statement of the evidence submitted in support of the delayed registration shall be endorsed on the certificate.

(d) When an applicant does not submit the minimum documentation required in the regulations for delayed registration, or when the State Commissioner of Health finds reason to question the validity or adequacy of the documentary evidence, the Commissioner shall not register the delayed certificate and shall advise the applicant of the reasons for his action.

Laws 1963, c. 325, art. 3, § 313.

§63-1-314. Delayed death certificate.

(a) When a death occurring in this state has not been registered, a certificate may be filed in accordance with regulations of the State Board of Health. Such certificate shall be registered subject to such evidentiary requirements as the Board shall by regulation prescribe, to substantiate the alleged facts of death.

(b) Certificates of death registered one year or more after the date of occurrence shall be marked "delayed" and shall show on their face the date of the delayed registration.
Laws 1963, c. 325, art. 3, § 314.

§63-1-315. Judicial proceeding for record of birth.

(a) Any citizen of the United States who has resided in this state for not less than ten (10) years, the last three (3) of which must have been continuous within this state and the last one (1) of which must have been continuous within the county of his application, the birth of whom has not been recorded by the State Commissioner of Health, or his predecessor, may petition the district court of the county in which he resides or was born for an order establishing a public record of the time and place of his birth and his parentage. He may have the record of such information entered in the following manner: Such applicant may appear before a judge of the district court in the county of which he is a resident and file his verified petition in writing, which petition shall state the time and place of his birth and his parentage and such other facts as he deems pertinent; the petition shall be filed in the office of the court clerk and given a number in the probate files thereof; thereupon the applicant shall produce all the evidence he has in his possession, which may consist of personal testimony, affidavits or records, and shall include a statement from the State Commissioner of Health, or similar official in the state of applicant's birth, to the effect that a birth certificate is not recorded in his office; and if the judge of the district court shall be satisfied with the proof offered, he shall make and enter an order establishing the time and place of birth, the age and the parentage of the applicant, which order shall be final and conclusive of all the facts therein adjudged.

(b) A certified copy of the order shall be filed in the office of the State Commissioner of Health, and a certified copy thereof shall be issued by the Commissioner in the same manner as certificates of birth.
Laws 1963, c. 325, art. 3, § 315.

§63-1-316. New certificate of birth.

A. The State Commissioner of Health shall establish a new certificate of birth for a person born in this state, when the Commissioner receives the following:

1. An adoption certificate as provided in the Oklahoma Adoption Act, or a certified copy of the decree of adoption together with the information necessary to identify the original certificate of birth and to establish a new certificate of birth; except that a new certificate of birth shall not be established if so requested by the

court decreeing the adoption, the adoptive parents, or the adopted person; and

2. A request that a new certificate be established and such evidence as required by regulation proving that such person has been legitimated, or that a court of competent jurisdiction has determined the paternity of such a person.

B. When a new certificate of birth is established, the actual place and date of birth shall be shown. It shall be substituted for the original certificate of birth:

1. Thereafter, the original certificate and the evidence of adoption, paternity, or legitimation shall not be amended, nor shall it be subject to inspection except upon order of a court of competent jurisdiction or as otherwise specifically provided by law; and

2. Upon receipt of notice of annulment of adoption, the original certificate of birth shall be restored to its place in the files and the new certificate and evidence shall not be subject to inspection except upon order of a court of competent jurisdiction. The original certificate shall be restored and may be amended in accordance with Section 1-321 of this title.

Added by Laws 1963, c. 325, art. 3, § 316, operative July 1, 1963. Amended by Laws 1996, c. 297, § 27, emerg. eff. June 10, 1996; Laws 2011, c. 105, § 8, eff. Nov. 1, 2011.

§63-1-316a. Heirloom birth certificates.

A. The State Department of Health shall provide for the issuance of an heirloom birth certificate. The Department shall design the form of the heirloom birth certificate with the advice and assistance of the Oklahoma Arts Council and may promote and sell copies of the certificate. An heirloom birth certificate shall not be used as evidence of live birth nor identification purposes.

B. The Department shall prescribe a fee for the issuance of an heirloom birth certificate in an amount that does not exceed Thirty-five Dollars ($35.00).

C. Proceeds from the sale of heirloom birth certificates shall be used by the State Department of Health.

Added by Laws 2001, c. 142, § 1, emerg. eff. April 30, 2001. Amended by Laws 2011, c. 105, § 9, eff. Nov. 1, 2011; Laws 2015, c. 276, § 1, eff. Nov. 1, 2015.

§63-1-317. Death certificate - Filing - Contents.

A. A death certificate for each death which occurs in this state shall be filed with the State Department of Health, within three (3) days after such death.

B. The funeral director shall personally sign the death certificate and shall be responsible for filing the death certificate. If the funeral director is not available, the person

acting as such who first assumes custody of a dead body in accordance with Section 1158 of Title 21 of the Oklahoma Statutes shall personally sign and file the death certificate. The personal data shall be obtained from the next of kin or the best qualified person or source available. The certificate shall be completed as to personal data and delivered to the attending physician or the medical examiner responsible for completing the medical certification portion of the certificate of death within twenty-four (24) hours after the death. No later than July 1, 2012, the personal data, and no later than July 1, 2017, the medical certificate portion, shall be entered into the prescribed electronic system provided by the State Registrar of Vital Statistics and the information submitted to the State Registrar of Vital Statistics. The resultant certificate produced by the electronic system shall be provided to the physician or medical examiner for medical certification within twenty-four (24) hours after the death.

C. The medical certification shall be completed and signed within forty-eight (48) hours after death by the physician in charge of the patient's care for the illness or condition which resulted in death, except when inquiry as to the cause of death is required by Section 938 of this title. No later than July 1, 2017, the medical certification portion of certificate data shall be entered into the prescribed electronic system provided by the State Registrar of Vital Statistics and the information submitted to the State Registrar of Vital Statistics.

D. In the event that the physician in charge of the patient's care for the illness or condition which resulted in death is not in attendance at the time of death, the medical certification shall be completed and signed within forty-eight (48) hours after death by the physician in attendance at the time of death, except:

1. When the patient is under hospice care at the time of death, the medical certification may be signed by the hospice's medical director; and

2. When inquiry as to the cause of death is required by Section 938 of this title.

Provided, that such certification, if signed by other than the attending physician, shall note on the face the name of the attending physician and that the information shown is only as reported.

Added by Laws 1963, c. 325, art. 3, § 317, operative July 1, 1963. Amended by Laws 1978, c. 110, § 2, operative Oct. 1, 1978; Laws 1979, c. 110, § 1, emerg. eff. April 25, 1979; Laws 2010, c. 374, § 1, eff. Nov. 1, 2010; Laws 2016, c. 70, § 1, eff. Nov. 1, 2016; Laws 2016, c. 20, § 1, eff. Nov. 1, 2016; Laws 2017, c. 42, § 25.

§63-1-317a. Electronic capture of death certificate.

A. The State Registrar of Vital Statistics shall make available to all funeral directors and physicians licensed in this state a system to electronically capture the required information and file the prescribed death certificate with the State Department of Health. Access to the prescribed electronic system shall be provided to registered users at no cost.

B. Funeral directors and physicians shall be registered with the State Registrar of Vital Statistics prior to using the prescribed electronic system. The State Registrar of Vital Statistics shall provide such registration at no cost.

C. Registration shall be updated at least annually to maintain access to the prescribed system and shall include training on any changes or updates to the prescribed system or associated forms. Funeral directors licensed in this state shall be trained on the use of the prescribed electronic system to file personal data on the prescribed death certificate. Physicians licensed in this state shall be trained on the use of the prescribed electronic system to complete, sign, and file the medical certification on the prescribed death certificate. The State Registrar of Vital Statistics shall provide the required training at no cost.

D. No later than July 1, 2012, funeral directors licensed in this state shall be required to sign and file death certificates using the prescribed electronic system.

E. No later than July 1, 2017, physicians licensed in this state shall be required to sign and file death certificates using the prescribed electronic system.

Added by Laws 2010, c. 374, § 2, eff. Nov. 1, 2010. Amended by Laws 2016, c. 70, § 2, eff. Nov. 1, 2016.

§63-1-318. Fetal death certificate - Filing - Contents.

(a) A fetal death certificate for each fetal death which occurs in this state shall be filed with the State Registrar, within three (3) days after such delivery.

(b) The funeral director or person acting as such who first assumes custody of a fetus shall file the fetal death certificate. In the absence of such a person, the physician or other person in attendance at or after the delivery shall file the certificate of fetal death. He shall obtain the personal data from the next of kin or the best qualified person or source available. He shall complete the certificate as to personal data and deliver the certificate to that person responsible for completing the medical certification of cause of death within twenty-four (24) hours after delivery.

(c) The medical certification shall be completed and signed within forty-eight (48) hours after delivery by the physician in attendance at or after delivery, except when inquiry into the cause of death is required by Section 938 of this title.

Added by Laws 1963, c. 325, art. 3, § 318, operative July 1, 1963. Amended by Laws 1978, c. 110, § 3, operative Oct. 1, 1978; Laws 2011, c. 105, § 10, eff. Nov. 1, 2011.

§63-1-318.1. MISSing Angels Act – Christopher and Kendall's Law.

This act shall be known and may be cited as the "MISSing Angels Act – Christopher and Kendall's Law".

Added by Laws 2008, c. 187, § 2, eff. Nov. 1, 2008.

§63-1-318.2. Certificate of birth for stillborn child.

The State Registrar of Vital Statistics shall establish a certificate of birth resulting in stillbirth to be offered to the parent or parents of a stillborn child. The medical staff treating the stillbirth shall notify the parent of the ability to request the certificate. The certificate shall be available to any parent of a stillborn child upon proper application. This certificate shall not be used as evidence of live birth or for identification purposes.

Added by Laws 2008, c. 187, § 3, eff. Nov. 1, 2008.

§63-1-319. Disinterment Permit - Notice of Disinterment and Reinterment.

A. A burial transit permit issued under the laws of another state which accompanies a dead body or fetus brought into this state shall be authority for final disposition of the body or fetus in this state.

B. A disinterment permit shall be required prior to disinterment of a dead body or fetus except as authorized by regulation or otherwise provided by law. Such permit shall be issued by the State Registrar of Vital Records to a licensed funeral director, embalmer, or other person acting as such, upon proper application.

C. Application for a disinterment shall include the consent of the next of kin. The consent of the next of kin shall be completed by the next of kin in order of priority as established in Section 1158 of Title 21 of the Oklahoma Statutes.

D. If the dead body or fetus is to be disinterred and reinterred in the same cemetery, a disinterment permit is not required.

E. If the dead body or fetus is to be disinterred and reinterred in the same cemetery, a notice of disinterment and reinterment shall be completed, signed by the funeral director and the next of kin, and then submitted to the State Registrar of Vital Records at the State Department of Health within five (5) days of such action.

F. The forms for the Disinterment Permit and Notice of Disinterment and Reinterment shall be obtained from the State Registrar of Vital Records.

Added by Laws 1963, c. 325, art. 3, § 319, operative July 1, 1963. Amended by Laws 1988, c. 36, § 2, emerg. eff. March 21, 1988; Laws 2011, c. 105, § 11, eff. Nov. 1, 2011; Laws 2013, c. 63, § 1, eff. Nov. 1, 2013; Laws 2017, c. 179, § 1, eff. Nov. 1, 2017.

§63-1-320. Extension of time to file certificate.

The State Commissioner of Health may extend the periods prescribed in Sections 1-317 and 1-318 for the filing of death certificates, fetal death certificates, and medical certifications of cause of death in cases in which compliance with the applicable prescribed period would result in undue hardship.

Amended by Laws 1988, c. 36, § 3, emerg. eff. March 21, 1988.

§63-1-321. Amendment of certificate or record.

(a) A certificate or record registered under this article may be amended only in accordance with this article and regulations thereunder adopted by the State Board of Health to protect the integrity and accuracy of vital statistics records.

(b) A certificate that is amended under this section shall be marked "amended", except as provided in subsection (d) of this section. The date of amendment and a summary description of the evidence submitted in support of the amendment shall be endorsed on or made a part of the record. The Board shall prescribe by regulation the conditions under which additions or minor corrections shall be made to birth certificates within one (1) year after the date of birth without the certificate being considered as amended.

(c) Upon receipt of a certified copy of a court order, from a court of competent jurisdiction, changing the name of a person born in this state and upon request of such person or his parent, guardian, or legal representative, the State Commissioner of Health shall amend the certificate of birth to reflect the new name.

(d) When a child is born out of wedlock, the Commissioner shall amend a certificate of birth to show paternity, if paternity is not currently shown on the birth certificate, in the following situations:

(1) Upon request and receipt of a sworn acknowledgment of paternity of a child born out of wedlock signed by both parents; or

(2) Upon receipt of a certified copy of a court order establishing paternity.

(e) For a child born out of wedlock, the Commissioner shall also change the surname of the child on the certificate:

(1) To the specified surname upon receipt of acknowledgment of paternity signed by both parents or upon receipt of a certified copy of a court order directing such name be changed. Such certificate amended pursuant to this subsection shall not be marked "amended"; or

(2) To the surname of the mother on the birth certificate in the event the acknowledgment of paternity is rescinded.

(f) The State Board of Health shall have the power and duty to promulgate rules for situations in which the State Registrar of Vital Statistics receives false information regarding the identity of a parent.

Added by Laws 1963, c. 325, art. 3, § 321, operative July 1, 1963. Amended by Laws 1986, c. 82, § 3, emerg. eff. April 3, 1986; Laws 2006, c. 116, § 61, eff. Nov. 1, 2006; Laws 2011, c. 105, § 12, eff. Nov. 1, 2011.

§63-1-322. Copies of records - Certification.

To preserve original documents, the State Commissioner of Health is authorized to prepare typewritten, photographic, or other reproductions of original records and files in his office. Such reproductions when certified by him shall be accepted as the original record.

Laws 1963, c. 325, art. 3, § 322, operative July 1, 1963.

§63-1-323. Vital statistics records confidential – Exceptions – Online public index.

A. To protect the integrity of vital statistics records, to ensure their proper use, and to ensure the efficient and proper administration of the vital statistics system, it shall be unlawful for any person to permit inspection of, or to disclose information contained in, vital statistics records, or to copy or issue a copy of all or part of any such record except to:

1. The person who is the subject of the record;

2. A parent named on the record or a person acting with the parent's permission;

3. Someone acting with permission of the person who is the subject of the record;

4. Someone acting as a legal representative of the estate of the person who is the subject of the record;

5. Someone acting as a legal representative of a person involved in a probate of the estate of the person who is the subject of the record, as demonstrated by affidavit;

6. An attorney licensed to practice in the United States who demonstrates by affidavit that the record is necessary in order to administer a client's estate;

7. Someone in receipt of a court order from a court of competent jurisdiction ordering access to the record;

8. The Attorney General or to any district attorney upon request in the course of a criminal investigation;

9. Only in the case of a death certificate, a funeral director;

10. A representative of the Department of Corrections, when the subject of the record is under supervision of the Department of Corrections; or

11. Any other person working in the best interest of the subject of the record, as determined by regulations of the State Board of Health.

Provided, that death certificates shall be considered publicly available records fifty (50) years after the death and birth certificates shall be considered publicly available records one hundred twenty-five (125) years after the birth.

B. The State Department of Health shall, by July 1, 2017, make available an online public index that includes, as is applicable, the name, gender, date of birth, date of death, county of birth, and county of death of all persons in its records. Birth data shall not be added to the index until twenty (20) years after the birth. Death data shall not be added to the index until five (5) years after the death. The index shall be made available online at no cost to users.

Private entities may request assistance from the Department in receiving digital files including all or part of the index described in this subsection. Such private entities may be assessed a fee that shall not exceed the cost of creating and transmitting the digital file. The Board may promulgate rules regarding access to such digital files and applicable fees.

C. The Department may grant applications for electronic verification of the existence of birth and death certificates for legal and administrative purposes at any time following the birth or death when such applications are made by:

1. A government agency in conduct of its official business;

2. A benefit-paying party, including but not limited to an annuity company, pension plan or life insurance company in order to determine benefit status;

3. A physician licensed to practice in the United States to determine if a patient has been lost to care; or

4. Other entities for fraud protection, subject to verification of the entity's purpose by the Department.

The recipient of a record verification as provided for in this subsection may not disclose to a party not involved in the issue for which the verification was sought.

The Department of Health may charge up to Four Dollars ($4.00) for each electronic birth or death verification, although such fee may be waived when such request is received by an Oklahoma state or local government agency. The recipient of a record verification as provided for in this subsection may also be subject to fees levied by a contractor retained by the Board to provide such service.

The Board may promulgate rules necessary to implement the provisions of this subsection.

D. The State Commissioner of Health may authorize the disclosure of data contained in vital statistics records for public health surveillance or research purposes.

E. The State Department of Health shall transmit to the Department of Public Safety:

1. At the end of each quarter year, a list of all registered deaths which have occurred during such period of time. Upon receipt of such list the Department of Public Safety shall use such list solely to update Department of Public Safety records and to cancel the driver license for those deceased individuals with a valid Oklahoma driver license at the time of death;

2. At the end of each month, a report of all registered deaths that resulted from a motor vehicle collision which have occurred during such period of time. The report shall be used by the Department solely for the purpose of statistical analysis and reporting; and

3. Upon written request from the Department, a death certificate. The certificate shall be used solely by the Fatality Analysis Reporting System (FARS) Analyst of the Oklahoma Highway Safety Office to populate the federal FARS database.

F. Each month, the Commissioner shall authorize the transmission to the Oklahoma Health Care Authority of a certified list of all registered deaths of residents of this state that have occurred within the state for the immediately preceding month. The Oklahoma Health Care Authority shall use the transmitted list to ascertain the names of those individuals participating in the state Medicaid program who are deceased, and shall thereafter terminate such deceased person's enrollment in the state Medicaid program.

G. For the purpose of assisting in the location and recovery of missing children, information pertaining to birth certificates and requests for copies of birth certificates shall be provided to the Oklahoma State Bureau of Investigation pursuant to the provisions of Section 1-323.1 of this title and Section 150.12A of Title 74 of the Oklahoma Statutes.

H. The Commissioner shall authorize the transmission of death certificates to the Department of Labor for the purpose of the Department of Labor conducting a census of total occupational injuries and illnesses. The Department shall transmit to the Department of Labor statistics of fatal occupational injuries that shall include the following:

1. Name of the deceased;
2. Date of death;
3. Sex;
4. Race;
5. Age;
6. Birth date;
7. Social Security number;

8. Whether an autopsy was conducted;
9. Month of the accident; and
10. Whether decedent was of Hispanic origin.

I. The Department of Labor shall be required to protect the integrity of the vital statistics records to the same extent required of the Department pursuant to this section.

Added by Laws 1963, c. 325, art. 3, § 323, operative July 1, 1963. Amended by Laws 1968, c. 44, § 1, emerg. eff. March 7, 1968; Laws 1975, c. 35, § 1; Laws 1985, c. 86, § 1, operative July 1, 1985; Laws 1992, c. 305, § 8, emerg. eff. May 27, 1992; Laws 1995, c. 330, § 3, emerg. eff. June 8, 1995; Laws 2003, c. 392, § 19, eff. July 1, 2003; Laws 2010, c. 226, § 8, eff. Nov. 1, 2010; Laws 2011, c. 105, § 13, eff. Nov. 1, 2011; Laws 2014, c. 211, § 1, eff. Nov. 1, 2014; Laws 2016, c. 352, § 1, eff. Nov. 1, 2016.

§63-1-323.1. Notification system for identifying missing children.

A. The State Commissioner of Health shall establish a system for receiving notification from the Oklahoma State Bureau of Investigation that a person born in the State of Oklahoma and under eighteen (18) years of age has been reported missing, for identifying the birth certificate of such person, and for immediately notifying the Oklahoma State Bureau of Investigation whenever a request for a copy of the birth certificate of such person is made. The notification to the Oklahoma State Bureau of Investigation required by this section shall include but not be limited to the name and address of the person requesting a copy of the birth certificate and the name and address of the person to whom the copy is to be mailed if that person is someone other than the requester.

B. The State Commissioner of Health and the Director of the Oklahoma State Bureau of Investigation shall jointly establish the procedures and forms necessary for the transmittal of information between the State Department of Health and the Oklahoma State Bureau of Investigation required pursuant to the provisions of this act.

Added by Laws 1985, c. 86, § 2, operative July 1, 1985.

§63-1-324. Certified copies of records - Evidentiary value.

Unless otherwise provided in this article:

(a) The State Commissioner of Health shall, upon request, issue a certified copy of any certificate or record in his custody or of a part thereof. Each copy issued from records marked "delayed," "amended," or "court order" shall be similarly marked and show the effective date.

(b) A copy of a certificate or any part thereof issued in accordance with subsection (a) of this section, certified to by the State Commissioner of Health or by a person designated by him for such purpose, shall be considered for all purposes the same as the

original, and shall be prima facie evidence of the facts therein stated, provided that the evidentiary value of a certificate or record filed more than one (1) year after the event or a record which has been amended shall be determined by the judicial or administrative body or official before whom the certificate is offered as evidence. Such certification by the Commissioner or his designee, and seal accompanying the same, may be accomplished by facsimile process.

(c) The National Vital Statistics Division may be furnished such copies or data as it may require for national statistics; provided, that the State Department of Health shall be reimbursed for the cost of furnishing such data; and provided, further, that such data shall not be used for other than statistical purposes by the National Vital Statistics Division unless so authorized by the State Commissioner of Health.

(d) Federal, state, local, and other public or private agencies may, upon request, be furnished copies or data for statistical purposes, upon such terms or conditions as may be prescribed by the Commissioner.

(e) No person shall prepare or issue any certificate which purports to be an original, certified copy, or copy of a certificate of birth, death, or fetal death, except as authorized in this article, or regulations adopted hereunder.

Laws 1963, c. 325, art. 3, § 324.

§63-1-324.1. Birth, death or stillbirth certificates - Prohibited acts - Penalties.

A. It shall be unlawful for any person to commit any of the following specified acts in relation to birth, death or stillbirth certificates issued by this state:

1. Create, issue, present or possess a fictitious birth, death or stillbirth certificate;

2. Apply for a birth, death or stillbirth certificate under false pretenses;

3. Alter information contained on a birth, death or stillbirth certificate;

4. Obtain, display or represent a birth certificate of any person as one’s own by any person, other than the person named on the birth certificate;

5. Obtain, display or represent a fictitious death or stillbirth certificate for the purpose of fraud;

6. Make a false statement or knowingly conceal a material fact or otherwise commit fraud in an application for a birth, death or stillbirth certificate; or

7. Knowingly presenting a false or forged certificate for filing.

B. Except as otherwise provided in subsection C of this section, it is a felony for any employee or person authorized to issue or create a birth, death or stillbirth certificate or related record under this title to knowingly issue such certificate or related record to a person not entitled thereto, or to knowingly create or record such certificate bearing erroneous information thereon.

C. A violation of any of the provisions of this section shall constitute a felony.

D. Notwithstanding any provision of this section, the State Commissioner of Health or a designated agent, upon the request of a chief administrator of a health or law enforcement agency, may authorize the issuance, display or possession of a birth, death or stillbirth certificate, which would otherwise be in violation of this section, for the sole purpose of education with regard to public health or safety; provided, however, any materials used for such purposes shall be marked "void".

Added by Laws 2003, c. 384, § 1, eff. Nov. 1, 2003. Amended by Laws 2011, c. 105, § 14, eff. Nov. 1, 2011.

§63-1-324.2. Unlawful acts - Penalties.

A. It shall be unlawful for any person to commit any of the following specified acts in relation to disinterment permits issued by this state:

1. Create, issue, or present a fictitious disinterment permit;
2. Apply for a disinterment permit under false pretenses;
3. Alter information contained on a disinterment permit;
4. Obtain, display or represent a disinterment permit for the purpose of fraud;
5. Make a false statement or knowingly conceal a material fact or otherwise commit fraud in an application for a disinterment permit; or
6. Reinter the remains in a location other than that specified on the permit.

B. A violation of any of the provisions of this section shall constitute a misdemeanor for a first offense and, upon conviction, shall be punishable by a fine not exceeding Ten Thousand Dollars ($10,000.00). Any second or subsequent offense shall constitute a felony and, upon conviction, shall be punishable by a fine of up to Ten Thousand Dollars ($10,000.00) or imprisonment in the custody of the Department of Corrections for a term of not more than two (2) years, or both.

Added by Laws 2011, c. 105, § 15, eff. Nov. 1, 2011.

§63-1-325. Fees for certified copies of records - Noncollectible drafts - Enlistees.

The State Board of Health shall prescribe the fees to be paid for certified copies of certificates or records, or for a search of the files or records when no copy is made.

The collection of such fees may be accomplished by acceptance of cash, money orders, credit cards, organization or personal checks; in the event money orders or checks are proved to be noncollectible, neither the Board of Health, the Commissioner of Health, nor any of the employees of the Department of Health will be held responsible and personally liable; it is further required that no additional certified copies of records may be delivered to persons on whom noncollectible drafts remain outstanding.

A search and a verification of birth facts shall be furnished free of charge to any person volunteering for enlistment into a branch of the Armed Forces of the United States, upon written request therefor by an officer of the Armed Forces representing the interests of such person who shall be volunteering for service. Added by Laws 1963, c. 325, art. 3, § 325, operative July 1, 1963. Amended by Laws 1968, c. 184, § 1; Laws 1970, c. 67, § 1, emerg. eff. March 17, 1970; Laws 2011, c. 105, § 16, eff. Nov. 1, 2011.

§63-1-326. Inmates of institutions - Records - Deaths.

(a) Every person in charge of an institution as defined in this article shall keep a record of personal particulars and data concerning each person admitted or confined to such institution. The record shall include such information as required by the standard certificate of birth, death, and fetal death forms issued under the provisions of this article. The record shall be made at the time of admission from information provided by such person, but when it cannot be so obtained, the same shall be obtained from relatives or other persons acquainted with the facts. The name and address of the person providing the information shall be a part of the record.

(b) When a dead human body is released or disposed of by an institution, the person in charge of the institution shall keep a record showing the name of the deceased, date of death, name and address of the person to whom the body is released, date of removal from the institution, or, if finally disposed of by the institution, the date, place, and manner of disposition shall be recorded.

(c) A funeral director, embalmer, or other person who removes from the place of death or transports or finally disposes of a dead body or fetus, in addition to filing any certificate or other form required by this article, shall keep a record which shall identify the body, and such information pertaining to his receipt, removal, and delivery of such body as may be prescribed in regulations adopted by the State Board of Health.

(d) Records maintained under this section shall be retained for a period of not less than two (2) years, and thereafter may be kept in a form authorized by 12 O.S.1961, Sec. 522, and shall be made

available for inspection by the State Commissioner of Health or his representative upon demand.
Laws 1963, c. 325, art. 3, § 326, operative July 1, 1963.

§63-1-327. Information concerning birth or death.
Any person having knowledge of the facts may furnish such information as he shall possess regarding any birth, death, or fetal death, upon request of the State Commissioner of Health.
Laws 1963, c. 325, art. 3, § 327, operative July 1, 1963.

§63-1-328. Renumbered as § 396.29 of Title 59 by Laws 2003, c. 57, § 31, emerg. eff. April 10, 2003.

§63-1-329.1. Cremation - Burial at sea - Bodies for pathologic study - Disposal permits.
Until a permit for disposal has been issued in accordance with this section, no dead human body whose death occurred within the State of Oklahoma shall be cremated, buried at sea, or made unavailable for further pathologic study by other recognized means of destruction or dissolution of such remains.
When the person legally responsible for disposition of a dead human body, whose death occurred or was pronounced within this state, desires that the body be cremated, buried at sea, or made unavailable for further pathologic study by other recognized means of destruction or dissolution of such remains, that person shall complete an application-permit form for such procedure provided by the Office of the Chief Medical Examiner. The Office of the Chief Medical Examiner, in accordance with Section 948.1 of this title, shall charge a fee for each cremation permit issued. The Medical Examiner shall be notified, as required in Section 938 of this title. He or she shall perform the required investigation and shall issue a valid death certificate as required by Section 947 of this title and execute the permit in accordance with rules established by the Office of the Chief Medical Examiner. In order to be valid, each permit must contain an individual number assigned to the particular permit by the Office of the Chief Medical Examiner. A copy of the application-permit form and the original death certificate shall be filed with the State Registrar. The original application-permit form shall be filed by the funeral director with the Office of the Chief Medical Examiner. Such filing shall occur or be postmarked within forty-eight (48) hours of the death.
If death occurred or was pronounced outside the geographic limits of the State of Oklahoma and the body is brought into this state for such disposal, a transit permit or a permit for removal, issued in accordance with the laws and regulations in force where the death occurred shall authorize the transportation of the body into or through this state and shall be accepted in lieu of a

certificate of death as required above. A valid permit issued for disposal of such body in accordance with the laws in the jurisdiction where the body died or death was pronounced shall be authority for cremation or burial at sea or to make the body otherwise unavailable for further pathologic study by other recognized means of destruction or dissolution of such remains.
Added by Laws 1978, c. 114, § 2, eff. Jan. 1, 1979. Amended by Laws 1993, c. 269, § 18, eff. Sept. 1, 1993; Laws 2011, c. 105, § 17, eff. Nov. 1, 2011; Laws 2017, c. 385, § 2, eff. Nov. 1, 2017.

§63-1-330. Repealed by Laws 2003, c. 57, § 30, emerg. eff. April 10, 2003.

§63-1-331. Renumbered as § 396.30 of Title 59 by Laws 2003, c. 57, § 31, emerg. eff. April 10, 2003.

§63-1-331.1. Renumbered as § 396.31 of Title 59 by Laws 2003, c. 57, § 31, emerg. eff. April 10, 2003.

§63-1-332. Renumbered as § 396.32 of Title 59 by Laws 2003, c. 57, § 31, emerg. eff. April 10, 2003.

§63-1-333. Renumbered as § 396.33 of Title 59 by Laws 2003, c. 57, § 31, emerg. eff. April 10, 2003.

§63-1-334. Marriage and divorce – Nonidentifiable aggregate data.
Not later than November 1, 2002, the State Department of Health and the Administrative Office of the Courts shall begin discussions regarding the identification, collection and analysis of nonidentifiable aggregate data related to marriage and divorce in this state and shall make recommendations regarding alternatives to the establishment of such statistical reports to the Governor and the Legislature on or before February 1, 2003.
Added by Laws 2002, c. 377, § 1, eff. July 1, 2002.

§63-1-401. Definitions.
As used in this article:
1. "Tuberculosis disease" means disease caused by Mycobacterium tuberculosis complex;
2. "Active tuberculosis disease" means a stage of tuberculosis in which compatible pathologic changes are present as demonstrated by clinical, bacteriologic, or radiographic evidence, and/or other diagnostic procedures. Persons diagnosed with tuberculosis are considered to have active tuberculosis disease until they have completed a full course of antituberculosis treatment as prescribed or approved by the State Commissioner of Health; and

3. “Tuberculosis infection” means a stage of tuberculosis characterized by having a positive or a history of a positive response to a tuberculin skin test or other laboratory test for tuberculosis infection, but not having clinical, radiographic or other evidence of disease.
Added by Laws 1963, c. 325, art. 4, § 401, operative July 1, 1963.
Amended by Laws 2008, c. 393, § 1, eff. Nov. 1, 2008.

§63-1-402. Examinations for tuberculosis.

When any local health officer shall have reasonable grounds to believe that any person has active tuberculosis disease, but will not voluntarily seek a medical examination, then it shall be the duty of the local health officer to order such person in writing to undergo an examination by a physician approved by the State Commissioner of Health for such examinations. It shall be the duty of the suspected person to submit to examination at such time and place as ordered by the local health officer. The examination shall include an X-ray of the chest, examinations of sputum, and such other forms and types of examinations as shall be approved by the Commissioner. If, upon examination, it is determined that the person has active or suspected active tuberculosis disease, then it shall be the duty of such person to comply with the orders of the Commissioner.
Added by Laws 1963, c. 325, art. 4, § 402, operative July 1, 1963.
Amended by Laws 2008, c. 393, § 2, eff. Nov. 1, 2008.

§63-1-403. Exposure to tuberculosis.

Whenever it has been determined that any person has active tuberculosis disease, it shall be the duty of the local health officer to instruct such person as to the precautions necessary to protect the members of the person's household or the community from becoming infected with tuberculosis communicated by such person. It shall be the duty of such person to live in such a manner as not to expose members of the person’s family or household, or any other person with whom the person may be associated, to danger of infection. The local health officer shall investigate periodically for the purpose of determining if the instructions are being carried out in a reasonable and acceptable manner.
Added by Laws 1963, c. 325, art. 4, § 403, operative July 1, 1963.
Amended by Laws 2008, c. 393, § 3, eff. Nov. 1, 2008.

§63-1-405. Freedom to choose treatment.

Nothing in this article shall be construed or operate to empower or authorize the State Commissioner of Health, or any local health officer, or his representative, to restrict in any manner the individual's right to select the mode of treatment of his choice nor

to require any physical examination of a patient who in good faith relies upon spiritual means or prayer for healing.
Laws 1963, c. 325, art. 4, § 405.

§63-1-409. Reciprocal agreements.

The State Commissioner of Health may, on behalf of the State of Oklahoma, enter into a reciprocal agreement with another state providing for care and treatment of persons having active tuberculosis disease who are residents of the other state, or for the transportation or return of any such nonresident person from one of the states to the other state of which such person is a resident.
Added by Laws 1963, c. 325, art. 4, § 409, operative July 1, 1963.
Amended by Laws 2008, c. 393, § 4, eff. Nov. 1, 2008.

§63-1-410. Hospitalization and treatment.

When the State Commissioner of Health shall have reasonable grounds to believe that any person has active tuberculosis disease, the Commissioner may require isolation, hospitalization or other confinement for treatment of such person. The State Commissioner of Health is hereby authorized to contract with any hospital and/or physician to provide such hospitalization or treatment as required and shall be exempt from the provisions of the Oklahoma Central Purchasing Act in contracting for such hospitalization and treatment, as specified in Section 85.4 of Title 74 of the Oklahoma Statutes. If any person shall be convicted for a violation of any of the provisions of Sections 1-402 and 1-403 of this title, then such person shall be committed by the judge of the district court for isolation or confinement and treatment in such institution or at such location or facility as designated by the State Commissioner of Health.
Added by Laws 1975, c. 351, § 19, emerg. eff. June 12, 1975.
Amended by Laws 2008, c. 393, § 5, eff. Nov. 1, 2008.

§63-1-450. Oklahoma Plan for Comprehensive Treatment of Chronic Obstructive Pulmonary Disease Act.

A. This act shall be known and may be cited as the "Oklahoma Plan for Comprehensive Treatment of Chronic Obstructive Pulmonary Disease Act".

B. The State Department of Health shall create a comprehensive chronic obstructive pulmonary disease (COPD) state plan that outlines sustainable solutions for reducing the burden of COPD in Oklahoma through the coordinated implementation of multiple strategies. The Department may utilize existing plans developed by advocacy organizations as a cost-saving means of developing such strategies. These strategies shall include, without limitation, recommendations for:

1. The prevention and early detection of COPD to reduce the incidence of disease;

2. The treatment and management of COPD to ensure that health care providers offer state-of-the-art care;

3. Increasing public awareness, patient education and proper medical management of COPD among the general public and those living with COPD; and

4. Improving COPD outcomes in Oklahoma through increases in COPD funding and resources as well as ongoing effective advocacy by government leaders and people with COPD.

Added by Laws 2010, c. 388, § 1, emerg. eff. June 7, 2010.

§63-1-501. Definitions.

For the purposes of this article:

(a) The term "disease" means the disturbances of the normal functions or alterations of the state of the human body resulting in physical or mental ill health and/or disability.

(b) The term "prevention" means any and all conditions that may preclude or reduce the possibility of the onset or beginning of disease.

(c) The term "control" means any and all procedures which modify, or may modify, favorably the course of disease.

(d) The term "communicable disease" means an illness due to a specific infectious agent or its toxic products, arising through transmission of that agent or its products from reservoir to susceptible host, either directly as from an infected person or animal, or indirectly through the agent of an intermediate plant or animal host, a vector, or the inanimate environment. It also means an infestation by an ectoparasite and similar species.

Laws 1963, c. 325, art. 5, § 501, operative July 1, 1963.

§63-1-502. Rules and regulations.

(a) The State Board of Health shall have authority to adopt such rules and regulations, not inconsistent with law, as it deems necessary to aid in the prevention and control of communicable disease, which may be on the following matters: Recommended immunization procedures; quarantine measures; exclusion of children from school; regulation of public meetings and gatherings in epidemic situations; regulation of vectors; control of vehicles capable of transmitting a communicable disease; detection and diagnosis of communicable disease; carriers of disease; disposal of infected body wastes and other materials; fumigation, cleaning and sterilization, and disinfection; and other necessary measures to prevent and control communicable disease.

(b) The State Board of Health is authorized to establish preventive programs for noncommunicable diseases and to promulgate

rules and regulations for the control of causative or toxic substances which can or may cause disease.
Added by Laws 1963, c. 325, art. 5, § 502, operative July 1, 1963.

§63-1-502.1. Communicable diseases - Universal precautions - Rules and regulations - Risk exposure.

A. All agencies and organizations that regularly employ emergency medical technicians, paramedics, firefighters, peace officers, as defined in Section 648 of Title 21 of the Oklahoma Statutes, correctional officers and employees, or health care workers, all mental health or mentally retarded treatment or evaluation programs that employ persons involved with providing care for patients, the J.D. McCarty Center for Children with Developmental Disabilities, and all juvenile institutions of the Department of Human Services shall implement the universal precautions for the prevention of the transmission of communicable diseases published by the Centers for Disease Control, U.S. Public Health Service, in the Morbidity and Mortality Weekly Report, Volume 36, Number 2S or as subsequently amended.

B. The State Board of Health shall promulgate rules and guidelines that will implement a system of notification of emergency medical technicians, paramedics, firefighters, health care workers, funeral directors, peace officers, and any person who in good faith renders aid in accordance with the Good Samaritan Act relating to risk exposures during health care activities, emergency response activities or funeral preparations. Risk exposure shall be defined by the State Board of Health to be exposure that is epidemiologically demonstrated to have the potential for transmitting a communicable disease.

C. The Board of Mental Health and Substance Abuse Services, Department of Human Services, Oklahoma Cerebral Palsy Commission, and State Board of Corrections shall each promulgate rules, guidelines or policies to provide for such notification of risk exposures to persons employed by such agencies.
Added by Laws 1988, c. 153, § 1, eff. Jan. 1, 1989. Amended by Laws 1992, c. 307, § 14, eff. July 1, 1992; Laws 2013, c. 246, § 1, eff. Nov. 1, 2013.

§63-1-502.2. Certain information to be confidential - Circumstances under which release permissible - Written consent defined - Multidisciplinary advisory committee on HIV/HBV-infected health care workers - Wrongful disclosure of certain information.

A. Unless otherwise provided by law, all information and records concerning any person who has participated in a public health investigation or who may have any communicable or noncommunicable disease which is required to be reported pursuant to Sections 1-501 through 1-532.1 of this title or information and

records of any disease which are held or maintained by any state agency, health care provider or facility, physician, health professional, laboratory, clinic, blood bank, funeral director, third party payor, or any other agency, person, or organization in the state shall be confidential. Any information obtained pursuant to the requirements of Sections 1-501 through 1-532.1 of this title shall not be required to be produced pursuant to the Oklahoma Open Records Act. Any information authorized to be released pursuant to paragraphs 1 through 8 of this subsection shall be released in such a way that no person can be identified unless otherwise provided for in such paragraph or by law. Such information shall not be released except under the following circumstances:

1. Release is made upon court order;

2. Release is made in writing, by or with the written consent of the person whose information is being kept confidential or with the written consent of the legal guardian or legal custodian of such person, or if such person is a minor, with the written consent of the parent or legal guardian of such minor;

3. Release is necessary as determined by the State Department of Health to protect the health and well-being of the general public. Any such order for release by the Department and any review of such order shall be in accordance with the procedures specified in Sections 309 through 323 of Title 75 of the Oklahoma Statutes. Only the initials of the person whose information is being kept confidential shall be on public record for such proceedings unless the order by the Department specifies the release of the name of such person and such order is not appealed by such person or such order is upheld by the reviewing court;

4. Release is made of medical or epidemiological information to those persons who have had risk exposures pursuant to Section 1-502.1 of this title;

5. Release is made of medical or epidemiological information to health professionals, appropriate state agencies, or district courts to enforce the provisions of Sections 1-501 through 1-532.1 of this title and related rules and regulations concerning the control and treatment of communicable or noncommunicable diseases;

6. Release is made of specific medical or epidemiological information for statistical purposes whether within the State of Oklahoma or throughout the United States, in such a way that no person can be identified;

7. Release is made of medical information among health care providers, their agents or employees, within the continuum of care for the purpose of diagnosis and treatment of the person whose information is released whether within the State of Oklahoma or throughout the United States; or

8. When the patient is an inmate in the custody of the Department of Corrections or a private prison or facility under

contract with the Department of Corrections, and the release of the information is necessary:

a. to prevent or lessen a serious and imminent threat to the health or safety of a person or the public, and it is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat, or

b. for law enforcement authorities to identify or apprehend an individual where it appears from all the circumstances that the individual has escaped from a correctional institution or from lawful custody.

B. For the purposes of this section only, "written consent" means that the person whose information is required to be kept confidential by this section or the person legally authorized to consent to release by this section has been informed of all persons or organizations to whom such information may be released or disclosed by the specific release granted. Consent obtained for release of information, pursuant to paragraph 2 of subsection A of this section, shall not be considered valid unless, prior to consent, the person consenting to the release was given notice of the provisions for release of confidential information pursuant to this section. The provisions of this subsection shall not apply to written authorizations to disclose information to the Social Security Administration.

C. 1. The State Department of Health may convene a confidential meeting of a multidisciplinary team for recommendation on school placement of a student who is infected with the human immunodeficiency virus. The multidisciplinary team shall include, but not be limited to, the following:

a. the parent, parents, legal representative, or legal guardian or legal custodian of the student;

b. the physician of the student;

c. a representative from the superintendent's office of the affected school district;

d. a representative from the State Department of Education; and

e. a representative from the State Department of Health.

Each member of the team shall be responsible for protecting the confidentiality of the student and any information made available to such person as a member of the team. The multidisciplinary team shall be exempt from the requirements of Sections 301 through 314 of Title 25 of the Oklahoma Statutes and Sections 24A.1 through 24A.19 of Title 51 of the Oklahoma Statutes.

2. Each member of the local school board having jurisdiction over the student shall also be responsible for protecting the confidentiality of the student and any information made available to such person as a school board member.

D. The State Department of Health may convene a confidential meeting of a multidisciplinary advisory committee to make recommendations regarding the practice of health care workers who are infected with the human immunodeficiency virus (HIV) or hepatitis B (HBV), who may be performing exposure-prone procedures. The membership of the multidisciplinary advisory committee shall include, but not be limited to, the following:

1. The State Commissioner of Health or designee;
2. Legal counsel to the State Commissioner of Health;
3. The state epidemiologist or designee;
4. An infectious disease specialist with expertise in HIV/HBV infection; and
5. Two practicing health care workers from the same discipline as the HIV/HBV-infected health care worker.

In addition, the health care worker being discussed, and/or an advocate, and the personal physician of the health care worker being discussed shall be invited to the multidisciplinary advisory committee meeting. Discussion of the case shall be made without using the actual name of the health care worker. Each member of the multidisciplinary advisory committee shall be responsible for protecting the confidentiality of the HIV/HBV-infected health care worker and the confidentiality of any information made available to such person as a member of the multidisciplinary advisory committee. The multidisciplinary advisory committee shall be exempt from the requirements of the Oklahoma Open Meeting Act and the Oklahoma Open Records Act.

E. Upon advice of the multidisciplinary advisory committee, the State Commissioner of Health or designee may notify an appropriate official at the health care facility where the HIV/HBV-infected health care worker practices that the health care worker is seropositive for HIV and/or HBV. Notification shall be made only when necessary to monitor the ability of the HIV/HBV-infected health care worker to comply with universal precautions and appropriate infection control practices, and/or to monitor the ongoing functional capacity of the health care worker to perform his or her duties. Notification shall occur through one of the following officials:

1. The facility administrator;
2. The hospital epidemiologist;
3. The chair of the infection control committee of the facility; or
4. The medical chief of staff of the facility.

F. If the HIV/HBV-infected health care worker fails or refuses to comply with the recommendations of the multidisciplinary advisory committee, the State Commissioner of Health or designee may take such actions as may be required to perform the duties imposed by the

laws of the State of Oklahoma, and may advise the appropriate licensing board.

G. Any person who negligently, knowingly or intentionally discloses or fails to protect medical or epidemiological information classified as confidential pursuant to this section, upon conviction, shall be guilty of a misdemeanor punishable by the imposition of a fine of not less than One Thousand Dollars ($1,000.00) or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

H. Any person who negligently, knowingly or intentionally discloses or fails to protect medical or epidemiological information classified as confidential pursuant to this section shall be civilly liable to the person who is the subject of the disclosure for court costs, attorney fees, exemplary damages and all actual damages, including damages for economic, bodily or psychological harm which is proximately caused by the disclosure.

Added by Laws 1988, c. 153, § 2, eff. July 1, 1988. Amended by Laws 1990, c. 27, § 3, emerg. eff. April 3, 1990; Laws 1991, c. 200, § 4, eff. Sept. 1, 1991; Laws 1992, c. 144, § 1, eff. Sept. 1, 1992; Laws 2004, c. 168, § 15, emerg. eff. April 27, 2004; Laws 2007, c. 153, § 1, eff. Nov. 1, 2007; Laws 2008, c. 393, § 6, eff. Nov. 1, 2008; Laws 2011, c. 105, § 18, eff. Nov. 1, 2011.

§63-1-502.3. Person withdrawing or testing blood for human immunodeficiency virus (HIV) - Civil and criminal liability - Definitions.

A. No person who withdraws or tests blood for human immunodeficiency virus or employer of such person nor any hospital or health care facility where blood is withdrawn or tested for human immunodeficiency virus shall incur any civil or criminal liability as a result of the proper withdrawal of blood or testing for human immunodeficiency virus when acting in compliance with the provisions of this section. The withdrawal or testing shall be performed in a reasonable manner, according to generally accepted clinical practice. The person, employer or facility shall be presented with:

1. A written statement by the person whose blood is to be withdrawn and tested; or

2. A written statement from a health care or emergency care worker verifying that the health care or emergency care worker in an occupational setting has been exposed to the bodily fluids of the person whose blood is to be withdrawn and tested, which exposure placed the health care or emergency care worker at risk for transfer of the bodily fluids; or

3. An order from a court of competent jurisdiction that blood be withdrawn and tested.

When presented with such a statement or court order, the person authorized to withdraw the blood, the employer and the hospital or

other health care facility where the withdrawal or testing occurs may rely on such statement or order as evidence that the person has consented to or has been required to submit to the clinical procedure and shall not be required to obtain any additional consent, acknowledgement or waiver form. In such case, the person authorized to perform the procedure, the employer of such person, and the hospital or other health care facility shall not be liable in any action alleging lack of consent or lack of informed consent.

B. No person specified in this section shall incur any civil or criminal liability for:

1. Providing results of the testing to:

a. the person whose blood was tested,

b. the person incurring the exposure, or

c. the State Department of Health or such agency it may designate;

2. Not providing the results of the testing to any other person; or

3. Failing to diagnose or falsely diagnosing the presence of the human immunodeficiency virus where the procedure was performed in a reasonable manner according to generally accepted clinical practice.

C. For the purposes of this section:

1. "Bodily fluids" means fluids which have been medically proven and medically accepted as transmitters or conductors of human immunodeficiency virus; and

2. "Health care worker" or "emergency care worker" means one of the persons specified in subsection A of Section 1-502.1 of this title.

Added by Laws 1991, c. 200, § 6, eff. Sept. 1, 1991. Amended by Laws 1992, c. 144, § 2, eff. Sept. 1, 1992.

§63-1-503. Reports of disease.

(A) The State Board of Health shall promulgate rules and regulations establishing a system of reporting of cases of diseases diagnosed or detected by practicing physicians and/or clinical laboratories which come within the purview of this article. A reporting system established by the Board shall be applicable to penal and eleemosynary institutions. Failure or refusal to report diseases as required by the Board shall constitute a misdemeanor.

(b) It shall be the duty of each local health officer to report the existence of disease in his jurisdiction, as may be required by rules and regulations of the State Board of Health.

Laws 1963, c. 325, art. 5, § 503.

§63-1-504. Quarantine - Violation of quarantine unlawful - Injunctive relief.

A. Whenever a local health officer determines or suspects that a person has been exposed to and may be incubating a communicable disease of public health concern, the local health officer may impose a quarantine upon such person and require such person to remain out of public contact and in the place or premises where such person usually stays. Notice thereof shall be given in accordance with the rules and regulations of the State Board of Health. It shall be unlawful for such person, or any other person, to violate the terms or conditions of the quarantine.

B. Whenever a local health officer determines or suspects that a person has a communicable disease of public health concern, the local health officer may impose isolation upon such person and require such person to remain out of public contact and in an adequate treatment facility or in the place or premises where such person usually stays. Notice thereof shall be given in accordance with the rules and regulations of the State Board of Health. It shall be unlawful for such person, or any other person, to violate the terms or conditions of the isolation.

C. District courts shall be authorized to grant injunctive relief, including temporary injunctions and temporary restraining orders, to compel compliance with a quarantine or isolation order issued by a local health officer pursuant to this section.

Added by Laws 1963, c. 325, art. 5, § 504, operative July 1, 1963.
Amended by Laws 2008, c. 393, § 7, eff. Nov. 1, 2008.

§63-1-505. Removal of diseased persons authorized.

A local health officer may cause any person in his jurisdiction, found to be infected with a communicable disease, to be removed to a hospital or other place for the reception of infected persons, unless such person be sick in his own place of residence or cannot be moved without danger to his life.

Laws 1963, c. 325, art. 5, § 505, operative July 1, 1963.

§63-1-506. Permission for removal of diseased persons.

No person having a communicable disease shall be removed from the place where he is sick, to any other place, except in accordance with rules and regulations of the State Board of Health.

Laws 1963, c. 325, art. 5, § 506, operative July 1, 1963.

§63-1-507. Schools - Attendance of diseased pupils

No person having a communicable disease shall be permitted to attend a private or public school, and it shall be the duty of the parent or guardian of any such person, and the teacher of such person, to exclude from the school such person until the expiration of the period of isolation or quarantine ordered for the case, or until permission to do so shall have been given by the local health officer.

Laws 1963, c. 325, art. 5, § 507, operative July 1, 1963.

§63-1-508. Animals - Quarantine.

A. 1. The State Board of Health may adopt such rules as it deems necessary for the quarantine, isolation, impounding, immunization and disposal of an animal to prevent and control any zoonotic disease. Rules of the Board shall consider, but not be limited to:

a. prior rabies vaccinations,

b. the degree of exposure to rabies,

c. the history and prior behavior of the animal prior to exposure, and

d. the willingness of the individual so exposed to submit to post-exposure antirabies immunization.

2. The President of the State Board of Agriculture and the Director of Wildlife Conservation shall be requested to make recommendations on pertinent phases affecting their official duties before such rules are promulgated by the State Board of Health.

B. 1. Whenever the State Commissioner of Health or a designee determines that any zoonotic disease exists in any area or that a person has suffered an exposure to any such disease, the Commissioner shall have authority to issue an order declaring a quarantine, isolation, impounding, immunization or disposal of any animal determined to be the source of such disease or exposure according to rules promulgated by the State Board of Health. The Commissioner shall, assisted by the State Board of Agriculture and the Director of Wildlife Conservation, cause such quarantine, isolation, impounding, immunization or disposal to be enforced.

2. Public officers and employees acting within the scope of their authority in implementing or enforcing any such order, or rules promulgated for the control of zoonotic disease, shall not be held liable for damages resulting from their official acts.

C. It shall be unlawful for any person to willfully fail or refuse to comply with a lawful order of the State Commissioner of Health declaring a quarantine, isolation, impounding, immunization or disposal. Any person convicted of violating the provisions of this subsection shall be guilty of a misdemeanor and may be punished by a fine of not more than One Hundred Dollars ($100.00), by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

D. District courts shall be authorized to grant injunctive relief, including temporary injunctions and temporary restraining orders, to compel compliance with a quarantine, isolation, impounding, immunization or disposal order issued by the Commissioner pursuant to this section.

Added by Laws 1963, c. 325, art. 5, § 508. Amended by Laws 1991, c. 12, § 1, emerg. eff. March 25, 1991; Laws 1996, c. 124, § 1, eff. Nov. 1, 1996.

§63-1-509. Inflammation of eyes of newborn infants.

Any inflammation, swelling or unusual redness in either one or both eyes of any infant, together with any unnatural discharge from the eye or eyes of such infant, independent of the nature of the infection, if any, occurring at any time within four (4) weeks after the birth of such infant, shall be known as "inflammation of the eyes of the newborn" (ophthalmia neonatorum).

Laws 1963, c. 325, art. 5, § 509.

§63-1-510. Required eye treatment of infant - Exemption.

A. It shall be the duty of any physician, midwife, or other person attendant upon the birth of a newborn infant to ensure treatment of the eyes of the infant with a prophylactic ophthalmic agent as recommended by the Centers for Disease Control and Prevention as prophylaxis against ophthalmia neonatorum.

B. Nothing in this section shall be construed to prohibit a parent or legal guardian of a newborn infant from refusing prophylactic treatment on religious grounds or when such person deems that it is in the best interest of the child. If the parent or legal guardian of the newborn infant refuses the prophylactic treatment, the health care provider shall document the refusal in the medical file of the newborn infant.

C. The State Board of Health shall promulgate rules as necessary to implement the provisions of this section.

Added by Laws 1963, c. 325, Art. 5, § 510. Amended by Laws 2010, c. 196, § 1, eff. Nov. 1, 2010.

§63-1-511. Repealed by Laws 2010, c. 196, § 2, eff. Nov. 1, 2010.

§63-1-512. Repealed by Laws 2010, c. 196, § 2, eff. Nov. 1, 2010.

§63-1-513. Repealed by Laws 2010, c. 196, § 2, eff. Nov. 1, 2010.

§63-1-514. Repealed by Laws 2010, c. 196, § 2, eff. Nov. 1, 2010.

§63-1-515. Pregnant women - Tests for syphilis.

Every physician attending a pregnant woman in Oklahoma during gestation shall, in the case of each woman so attended, take or cause to be taken a sample of blood of such woman at the time of first examination, and submit such sample to an approved laboratory for a standard serological test for syphilis. Every other person permitted by law to attend upon pregnant women in the state but not permitted by law to take blood tests shall cause a sample of the

blood of such pregnant woman to be taken by a duly licensed physician, licensed to practice in the State of Oklahoma, and submitted to an approved laboratory for a standard serological test for syphilis. The term "approved laboratory" shall mean a laboratory approved for the purposes of this section by the State Commissioner of Health. A standard serological test for syphilis shall be one recognized as such by the Commissioner. Such laboratory tests shall be made, on request, without charge by the State Department of Health.
Laws 1963, c. 325, art. 5, § 515, operative July 1, 1963.

§63-1-515.1. Physicians attending upon pregnant females – Blood sample.

A. Every physician or any other person permitted by law to attend upon pregnant females in this state, at the time of delivery and only if the pregnant female has had no prenatal care, shall:

1. Take, or cause to be taken under the order of a physician licensed to practice in this state, a sample of blood from the pregnant female; and

2. Submit the sample to an approved laboratory for a standard serological test for the human immunodeficiency virus.

B. The term "approved laboratory" shall mean a laboratory approved for the purposes of this section by the State Commissioner of Health. A standard serological test for the human immunodeficiency virus shall be one recognized as such by the Commissioner. Such laboratory tests shall be made, on request, without charge by the State Department of Health.
Added by Laws 2011, c. 88, § 2, emerg. eff. April 20, 2011.

§63-1-516. Reports - Blood tests for syphilis.

In reporting every birth and stillbirth, physicians, and others permitted to attend pregnancy cases and required to report births and stillbirths, shall state on the birth certificate or stillbirth certificate, as the case may be, whether a blood test for syphilis has been made during such pregnancy upon a specimen of blood taken from the woman who bore the child for which a birth or stillbirth certificate is filed and, if made, the date when such test was made, and, if not made, the reason why such test was not made. In no event shall the birth certificate state the result of the test.
Laws 1963, c. 325, art. 5, § 516, operative July 1, 1963.

§63-1-516.1. Exemption.

None of the provisions of this act shall apply to any person who, as an exercise of religious freedom, administers to or treats the sick or suffering by spiritual means or prayer, nor to any person who, because of religious belief, in good faith selects and

depends upon such spiritual means or prayer for the treatment or cure of disease.
Laws 1963, c. 325, art. 5, § 516.1, operative July 1, 1963.

§63-1-517. Definitions.

For the purposes of the following sections of this article:

(a) The term "sexually transmitted infection (STI)" means syphilis, gonorrhea, chlamydia, human immunodeficiency virus (HIV)/acquired immune deficiency syndrome (AIDS), and any other disease which may be transmitted from any person to any other person through or by means of any form of sexual contact.

(b) The term "infected person" means any individual, either sex, who may be carrying the organism or is afflicted with any STI.

(c) The term "dealer" means any person who may handle, for sale, any medicinal remedies or supposed remedies for an STI, and the agents, clerks and employees of any such person; and any person who may profess or claim to treat or cure, by the use of medicine or otherwise, any sexually transmitted infection (STI), and the agents, clerks and employees.

(d) The term "physician" shall include reputable physicians who have complied with all the requirements of law regulating the practice of their respective schools of medicine, and duly licensed by such law to practice medicine in their respective schools, or surgery, or both, and no other person.
Added by Laws 1963, c. 325, art. 5, § 517, operative July 1, 1963.
Amended by Laws 2011, c. 105, § 19, eff. Nov. 1, 2011.

§63-1-518. Report and treatment of disease.

It shall be unlawful for any person, being an infected person, to refuse, fail or neglect to report such fact to, and submit to examination and treatment by, a physician.
Added by Laws 1963, c. 325, art. 5, § 518, operative July 1, 1963.

§63-1-519. Repealed by Laws 2011, c. 105, § 38, eff. Nov. 1, 2011.

§63-1-520. False discharge from treatment - Penalty.

Any physician who shall, after having knowledge or information that any person is or may be an infected person, sell, give or furnish to such infected person, or to any other person for such infected person, a discharge from treatment, or written instrument or statement pronouncing such infected person cured, before such infected person is actually cured of such sexually transmitted infection (STI), shall be guilty of a misdemeanor. Provided, however, that no person who is infected with an STI but who has received treatment adequate to render the person noninfectious shall be denied a permit to work, because of the infection, in those

categories of employment where permits to work are required by state law or local ordinance.
Added by Laws 1963, c. 325, art. 5, § 520, operative July 1, 1963.
Amended by Laws 2011, c. 105, § 20, eff. Nov. 1, 2011.

§63-1-521. Treatment by person not a physician.

It shall be unlawful for any person who is not a physician to undertake to treat or cure any infected person for pay, whether in money, property or obligation of any kind, unless acting under the direction and control of a physician.
Laws 1963, c. 325, art. 5, § 521, operative July 1, 1963.

§63-1-522. Treatment without prescription.

It shall be unlawful for any dealer to treat or offer to treat any infected person, or to sell, furnish or give to any infected person, or to any other person whomsoever, any medicines of any kind that may be advertised or used for treatment of (STI), before requiring such person to produce and file with such dealer a proper prescription for such medicine, issued and signed by a physician, which prescription shall be by the dealer kept on file for a period of one (1) year from the date of the person receiving the same, and subject, at all reasonable hours, to the inspection of the State Commissioner of Health or local health officer.
Added by Laws 1963, c. 325, art. 5, § 522, operative July 1, 1963.
Amended by Laws 2011, c. 105, § 21, eff. Nov. 1, 2011.

§63-1-523. Institutions - Treatment of infected inmates - Notice to persons in contact with infected inmates - Testing of inmates.

A. 1. Any and all institutions in this state, whether penal or eleemosynary, public or private, and free or for pay, shall make, and preserve for a period of at least one (1) year, a record showing the name, age, sex, race, nationality and place of residence of any infected inmate of such institution who may come to their knowledge.

2. The institution shall make available such record at all reasonable hours for inspection by the State Commissioner of Health or the local health officer.

3. Such institutions shall further furnish a physician and all proper medicines, instruments and apparatus for the proper treatment of such infected inmate.

B. Each institution and each Department of Corrections district office, and each county or municipal jail shall notify their correctional officers, probation and parole officers, and any jailor, or other employee or any employee of the Pardon and Parole Board, who has or will have direct contact with an inmate, when such inmate is infected with the human immunodeficiency virus (HIV) or has the Acquired Immune Deficiency Syndrome (AIDS) disease.

C. 1. If an officer or employee of the State of Oklahoma, or any other person comes into contact with the bodily fluids of an inmate in a state correctional facility, the Director of the Department of Corrections or designee, under such rules as the Director shall promulgate to carry out the provisions of this section, shall cause such inmate to be tested for such disease, if no prior record of the existence of such disease exists. If an officer or employee of a county jail, or any other person, comes into contact with the bodily fluids of an inmate in a county jail, the sheriff or designee, under policies the sheriff shall promulgate to carry out the provisions of this section, shall cause the inmate to be tested for such disease, if no prior record of the existence of such disease exists.

2. The Director or designee shall promptly communicate in writing the results of the test to the person so exposed and refer the employee to the Department of Correction's Employee Assistance Program for appropriate referrals for counseling, health care, and support services for the person so exposed. If the exposure occurs within a county jail, the sheriff or designee shall promptly communicate in writing the results of the test to the person so exposed and refer the employee to the employee assistance program of the county for appropriate referrals for counseling, health care, and support services for the person so exposed.

3. As used in this section, the term "serious transmissible disease" means the Human Immunodeficiency Virus (HIV) and hepatitis. Added by Laws 1963, c. 325, art. 5, § 523, operative July 1, 1963. Amended by Laws 1992, c. 45, § 1, emerg. eff. April 3, 1992; Laws 1994, c. 58, § 1, emerg. eff. April 15, 1994; Laws 1998, c. 148, § 1, emerg. eff. April 22, 1998; Laws 2008, c. 366, § 9, emerg. eff. June 3, 2008.

§63-1-524. Prisoners - Examinations - Testing certain persons for sexually transmitted infection (STI) or human immunodeficiency virus (HIV) - Treatment - Quarantine.

A. The keeper of any prison or penal institution in this state shall cause to be examined every person confined in such prison or penal institution, to determine whether such person is an infected person.

B. Any licensed physician may examine persons who are arrested by lawful warrant for prostitution, or other sex crimes not specified in Section 1-524.1 of this title, for the purpose of determining if they are infected with a sexually transmitted infection (STI) or a communicable disease including, but not limited to, the human immunodeficiency virus (HIV). For purposes of expediting such examination, in counties with a population of greater than four hundred thousand (400,000), the county sheriff or the chief of police of any municipality with a population of greater

than two hundred thousand (200,000) that is located within such county and that has a municipal court of record shall notify the city-county health department serving the county of any person who has been arrested by county or city officers for prostitution. Any such examination shall be made subsequent to arrest and if the examination is for the human immunodeficiency virus, upon order of the court issued at the initial appearance of the arrested person. Every person shall submit to the examination and shall permit specimens to be taken for laboratory examinations. Such person may be detained until the results of the examination are known. The examination shall be made by a licensed physician. A determination as to whether or not the person is infected shall not be based on any prior examination. Any person found to be infected with a sexually transmitted infection (STI) shall be treated by the State Commissioner of Health or local health officer, or a physician of such person's own choice, until such person is noninfectious or dismissed by the Commissioner or local health officer or physician. In the event a person infected with a sexually transmitted infection (STI) refuses or fails to submit to treatment, then such person may be quarantined for the purpose of treatment, and a report thereof shall be made to the Commissioner.

C. For purposes of this section, the term "initial appearance" shall refer to the first court appearance of an individual, in person or by closed circuit television, before a magistrate on a presentment, indictment or preliminary information on a felony offense.

Added by Laws 1963, c. 325, art. 5, § 524, operative July 1, 1963. Amended by Laws 1991, c. 200, § 5, eff. Sept. 1, 1991; Laws 1998, c. 117, § 1, eff. July 1, 1998; Laws 2002, c. 348, § 4, emerg. eff. May 30, 2002; Laws 2003, c. 346, § 1, emerg. eff. May 29, 2003; Laws 2011, c. 105, § 22, eff. Nov. 1, 2011.

§63-1-524.1. Examination of certain arrested persons for a sexually transmitted infection (STI) including human immunodeficiency virus (HIV) - Court order - Required provisions - Notification concerning results to victim's designated professional - Treatment - Responsibility for costs.

A. A licensed physician shall examine persons who are arrested by lawful warrant for the offense of first or second degree rape, forcible sodomy or the intentional infection or attempt to intentionally infect a person with the human immunodeficiency virus for the purpose of determining if the person is infected with a sexually transmitted infection (STI), including, but not limited to, the human immunodeficiency virus (HIV). For purposes of expediting such examination, in counties with a population of greater than four hundred thousand (400,000), the county sheriff or the chief of police of any municipality with a population of greater than two

hundred thousand (200,000) that is located within such county and that has a municipal court of record shall notify the city-county health department serving the county of any person who has been arrested by county or city officers for such offense. Any such examination shall be made subsequent to arrest as provided in this section. Every person shall submit to the examination and shall permit specimens to be taken for laboratory examinations. Such person may be detained until the results of the examination are known. A determination as to whether or not the person is infected shall not be based on any prior examination. Any person found to be infected with a sexually transmitted infection (STI) shall be treated by a physician of such person's own choice, until such person is noninfectious or dismissed by the Commissioner or local health officer or physician. The costs of such treatment shall be the responsibility of the person who is examined and tested and the court shall order the person to pay such costs. In the event a person infected with a sexually transmitted infection (STI) refuses or fails to submit to treatment, then such person may be quarantined for the purpose of treatment, and a report thereof shall be made to the Commissioner.

B. The district attorney shall file a motion for a court-ordered examination and testing of the person arrested for the offenses specified in subsection A of this section at the time the criminal charges are filed or the court may provide a standing order for such examination and testing which shall issue automatically at the time of arrest for the offenses specified in subsection A of this section.

C. Any peace officer in this state upon the arrest of a person within six (6) hours or less of the actual offense of first or second degree rape, forcible sodomy or intentional infection or attempt to intentionally infect a person with the human immunodeficiency virus shall immediately deliver and submit the person for a rapid test for human immunodeficiency virus (HIV) without a court order, if a rapid test site is available. If the rapid HIV test results are positive the physician examining the victim of such offense shall be immediately notified and the physician shall immediately provide the victim with preventive treatment, if the victim can be treated within the medically proscribed period for preventive measures.

D. The examination and testing required by this section shall not be for evidentiary purposes and shall be expedited and conducted solely to screen for and identify the need for the victim’s treatment due to potential exposure to sexually transmitted infections (STIs). A confirmation examination and test may be conducted following any examination or test yielding a positive result that is not conclusive of the presence of the human

immunodeficiency virus (HIV) or other sexually transmitted infection (STI).

E. The court shall include the following provisions in its order and shall not include the name or address of the alleged victim:

1. A list of specific examinations and tests, including, but not limited to: blood tests for human immunodeficiency virus (HIV), hepatitis B, hepatitis C, syphilis, gonorrhea, chlamydia, and visual examinations for evidence of genital herpes and genital warts for which examinations and tests are available;

2. A provision requiring the physician, clinic or hospital which provides the examination and testing to immediately notify the district attorney's office, through the Victim Witness Coordinator, when the test and examination results have been completed;

3. A provision requiring copies of the examination report and test results be forwarded by the physician, clinic or hospital that conducted such examination and tests to the designated physician or counseling site as made known to the Victim Witness Coordinator by the victim, or if not specified by the victim then copies of the reports and results shall be forwarded to the Victim Witness Coordinator. Results of examinations and tests shall be forwarded within three (3) days of completion of the examination or testing;

4. A provision that the victim be notified within three (3) days of the receipt of the examination report and test results by the designated physician or counseling site as designated by the victim or the Victim Witness Coordinator, if no designation has been made by the victim;

5. A provision directing the offender and victim to be treated for infection as indicated in any positive examination and test result; and

6. A provision directing the facility having custody of the arrested person to be responsible for the costs of examination and tests; provided, however, that the court may order reimbursement of such costs at the time of sentencing.

F. Upon notification that the results of the examination and tests are completed, the Victim Witness Coordinator shall instruct the physician, clinical laboratory or hospital that completed such results to forward copies of the results according to the victim's designation or, if no designation has been made, forward copies to the Victim Witness Coordinator's office. The Victim Witness Coordinator shall notify the victim's designated professional that the results are being forwarded and instruct the victim to set a time to receive the results in person.

G. When the examination and test results indicate infection of any sexually transmitted infection (STI), the victim shall be treated by the State Commissioner of Health or local health officer, or a physician of the victim's own choice, until noninfectious or dismissed by the Commissioner, local health officer or physician.

H. All examinations and testing shall be performed by a licensed physician and/or clinical laboratory or hospital. The test forms shall include the words “Sex Crime” to expedite handling and shall include a criminal case number, if known.

I. If the arrested person refuses to be examined and tested upon arrest, the court shall issue an order for such examination and test at the initial appearance of the person arrested.

J. The cost of examination and testing authorized by this section shall be the responsibility of the facility having custody of the person at the time of arrest. The court shall order the defendant to reimburse such facility at the time of sentencing for all actual costs associated with examination and testing required by this section. No cost of any kind shall be incurred by any victim of such crimes for testing, obtaining the results of tests, or for treatment required by a victim due to a positive result for a test for a sexually transmitted infection (STI) resulting from an offense specified in this section.

K. For purposes of this section, the term "initial appearance" shall refer to the first court appearance of an individual, in person or by closed circuit television, before a magistrate on a presentment, indictment or preliminary information on a felony offense.

Added by Laws 2003, c. 346, § 2, emerg. eff. May 29, 2003. Amended by Laws 2011, c. 105, § 23, eff. Nov. 1, 2011.

§63-1-525. Exposure of prescriptions and records - Disclosure of results of examinations of persons arrested for certain sex offenses and offenses involving human immunodeficiency virus (HIV) - Testing and counseling services - Rules and regulations.

A. Except as otherwise provided by law, the prescription and records required by the foregoing provisions to be filed and kept shall not be exposed to any person other than the State Commissioner of Health or local health officer, or when properly ordered by a court of competent jurisdiction to be used as evidence in such court, and no information whatever shall be given to any person concerning any infected person except to appropriate persons for use in the proper courts of this state. Provided, that records of diagnosis and treatment may be transmitted to physicians and to health authorities in this and other states upon written request of the person affected. Provided further, results of examinations conducted on persons arrested by lawful warrant for the offense of first or second degree rape, forcible sodomy, or intentional infection or attempted infection of a person with the human immunodeficiency virus, shall be provided to the alleged victim of the crime upon the request of the victim, the parent of the victim if the victim is a minor, or upon request of the legal guardian or custodian of the victim. The name of the arrested and examined

person shall not be disclosed on the transmitted record. The State Department of Health shall provide to the victims the positive test results. The Department shall provide free testing to the alleged victim for any sexually transmitted infection (STI) or communicable disease for which the arrestee tests positive, as indicated in the transmitted record of diagnosis. Such testing shall be accompanied with pretest and post-test counseling. Such counseling shall include the provision of information to the victim or the parent, legal guardian or custodian of the victim concerning the venereal or communicable disease indicated in the transmitted record and the location of public and private facilities in the vicinity offering tests and counseling for persons who have the sexually transmitted infection (STI) or communicable disease.

B. The State Board of Health shall promulgate rules and regulations for the examination authorized or required by Section 1-524 of this title and for the release of records containing results of examinations authorized by subsection A of this section. The rules and regulations shall establish procedural guidelines which respect the rights of the person arrested for the alleged offense and the victim of the alleged offense.

Added by Laws 1963, c. 325, art. 5, § 525, operative July 1, 1963. Amended by Laws 1991, c. 200, § 7, eff. Sept. 1, 1991; Laws 1991, c. 307, § 6, eff. Sept. 1, 1991; Laws 2011, c. 105, § 24, eff. Nov. 1, 2011.

§63-1-526. Rules and regulations.

The State Board of Health shall make all rules and regulations for the prevention and cure, and to prevent the spread, of sexually transmitted infections (STIs), which it deems necessary for the control of STIs.

Added by Laws 1963, c. 325, art. 5, § 526, operative July 1, 1963. Amended by Laws 2011, c. 105, § 25, eff. Nov. 1, 2011.

§63-1-527. Reports of a sexually transmitted infection.

Any physician who makes a diagnosis or treats a case of a sexually transmitted infection (STI), and every superintendent or manager of a hospital, dispensary or charitable or penal institution in which there is a case of an STI, shall report such case immediately, in writing, to the State Commissioner of Health, or the local health officer, in the same manner as other communicable diseases are reported, in forms to be prescribed and furnished by the Commissioner.

Added by Laws 1963, c. 325, art. 5, § 527, operative July 1, 1963. Amended by Laws 2011, c. 105, § 26, eff. Nov. 1, 2011.

§63-1-528. Sexually transmitted infection cases - Instructions - Notification.

(a) It shall be the duty of every physician who examines or treats a person having a sexually transmitted infection (STI) to instruct that person in measures preventing the spread of such disease and of the necessity for treatment until cured.

(b) If an attending physician or other person knows or has good reason to suspect that a person having a sexually transmitted infection (STI) is so conducting as to expose other persons to infection, or is about to so conduct, the person shall notify the local health officer of the name and address of the diseased person and the essential facts in the case.

Added by Laws 1963, c. 325, art. 5, § 528, operative July 1, 1963.
Amended by Laws 2011, c. 105, § 27, eff. Nov. 1, 2011.

§63-1-529. Investigations by health officers.

All local health officers shall use every available means to ascertain the existence of, and to investigate all cases of, sexually transmitted infection (STI) within their respective jurisdictions, and to ascertain the sources of such infections; and shall make examination of any person reported two or more times as a suspected source of an STI.

Added by Laws 1963, c. 325, art. 5, § 529, operative July 1, 1963.
Amended by Laws 2011, c. 105, § 28, eff. Nov. 1, 2011.

§63-1-530. Protection against spread of infection.

(a) Upon receipt of a report of a case of sexually transmitted infection (STI), the local health officer shall institute measures, which may include quarantine, for protection of other persons from infection by a person infected with an STI.

(b) The State Board of Health shall adopt rules and regulations for the quarantine of persons infected with a sexually transmitted infection (STI), to prevent the spread of sexually transmitted infection (STI).

(c) Boards of county commissioners and governing boards of all incorporated towns and cities may provide suitable places for the detention of persons who may be subject to quarantine and who should be segregated.

Added by Laws 1963, c. 325, art. 5, § 530, operative July 1, 1963.
Amended by Laws 2011, c. 105, § 29, eff. Nov. 1, 2011.

§63-1-531. Certificates of freedom from infection.

It shall be unlawful for physicians, health officers, and other persons to issue certificates of freedom from sexually transmitted infection (STI), except as authorized by law and the rules and regulations of the State Board of Health.

Added by Laws 1963, c. 325, art. 5, § 531, operative July 1, 1963.
Amended by Laws 2011, c. 105, § 30, eff. Nov. 1, 2011.

§63-1-532. Publicity of information and reports.

All information and reports concerning persons infected with sexually transmitted infections (STIs) shall be inaccessible to the public, except insofar as publicity may attend the performance of duties imposed by the laws of the state.

Added by Laws 1963, c. 325, art. 5, § 532, operative July 1, 1963. Amended by Laws 2011, c. 105, § 31, eff. Nov. 1, 2011.

§63-1-532.1. Minor's consent to examination and treatment for sexually transmitted infections.

Any person, regardless of age, has the capacity to consent to examination and treatment by a licensed physician for any sexually transmitted infection (STI).

Added by Laws 1971, c. 18, § 1, emerg. eff. March 16, 1971. Amended by Laws 2011, c. 105, § 32, eff. Nov. 1, 2011.

§63-1-533. Phenylketonuria, related inborn metabolic disorders and other genetic or biochemical disorders - Educational and newborn screening programs.

A. The State Board of Health shall provide, pursuant to the provisions of Section 1-534 of this title as technologies and funds become available, an intensive educational and newborn screening program among physicians, hospitals, public health nurses, and the public concerning phenylketonuria, related inborn metabolic disorders, and other genetic or biochemical disorders for which:

1. Newborn screening will provide early treatment and management opportunities that might not be available without screening; and

2. Treatment and management will prevent mental retardation and/or reduce infant morbidity and mortality.

B. This educational and newborn screening program shall include information about:

1. The nature of the diseases;

2. Examinations for the detection of the diseases in infancy; and

3. Follow-up measures to prevent the morbidity and mortality resulting from these diseases.

C. For purposes of this section, “phenylketonuria” means an inborn error of metabolism attributable to a deficiency of or a defect in phenylalanine hydroxylase, the enzyme that catalyzes the conversion of phenylalanine to tyrosine. The deficiency permits the accumulation of phenylalanine and its metabolic products in the body fluids. The deficiency can result in mental retardation (phenylpyruvic oligophrenia), neurologic manifestations (including hyperkinesia, epilepsy, and microcephaly), light pigmentation, and eczema. The disorder is transmitted as an autosomal recessive trait and can be treated by administration of a diet low in phenylalanine.

D. The State Board of Health shall promulgate any rules necessary to effectuate the provision of this section.
Added by Laws 1965, c. 252, § 1. Amended by Laws 2002, c. 463, § 1, eff. Nov. 1, 2002; Laws 2005, c. 452, § 1, eff. Nov. 1, 2005.

§63-1-534. Tests.

The State Board of Health shall make such rules and regulations pertaining to such tests as accepted medical practice shall indicate, and is authorized to make such testing mandatory if sufficient evidence exists that the public has been negligent in accepting such practice and if the Board considers it in the public interest to do so. The State Board of Health is hereby authorized to set up laboratory facilities and use existing facilities for the performance of examinations and tests for the detection of these diseases and make a reasonable charge therefor; provided, however, that no child shall be denied such laboratory work or tests because of the inability of its parents or guardian to pay therefor. Provided, further, that the State Board of Health may approve other laboratories for the performance of such tests; provided that the provisions of this section shall not apply to any infant whose parents object thereto on the grounds that such examination conflicts with their religious tenets and practices.
Laws 1965, c. 252, § 2.

§63-1-534.1. State Plan for the Prevention and Treatment of AIDS - Lead agency - Submission to Legislature - Preparation.

A. The State Department of Health shall be the lead agency for the coordination of programs and services related to the Human Immunodeficiency Virus (HIV).

B. On or before January 1, 1994, the State Department of Health shall submit a State Plan for the Prevention and Treatment of Acquired Immune Deficiency Syndrome (AIDS) to the Governor, the President Pro Tempore of the Oklahoma State Senate, the Speaker of the Oklahoma House of Representatives, the chairmen of the appropriate committees of the Senate and the House of Representatives, and the chief executive officer and members of the governing bodies of each agency affected by the State Plan. Copies of the State Plan for the Prevention and Treatment of AIDS shall be available to members of the Oklahoma Legislature and the general public upon request.

C. The State Plan for the Prevention and Treatment of AIDS shall be prepared jointly by the State Department of Health, the Department of Human Services, the State Department of Education, and the Department of Mental Health and Substance Abuse Services in collaboration with other appropriate public and private agencies and organizations.

Added by Laws 1993, c. 201, § 1, eff. Sept. 1, 1993. Amended by Laws 2011, c. 105, § 33, eff. Nov. 1, 2011.

§63-1-534.2. State Plan for the Prevention and Treatment of AIDS - Contents.

The State Plan for the Prevention and Treatment of AIDS shall include, but not be limited to:

1. Coordinated or joint recommendations for funding, legislation and other appropriate action for the prevention and control of the spread of the Human Immunodeficiency Virus and AIDS, the provision of necessary treatment and other services to persons infected with the virus, and the protection of human and civil rights and the health of the citizens of this state;

2. Education and information programs about the Human Immunodeficiency Virus and AIDS which are intended for the general public, health care professionals and other professionals, and specialized education and information efforts, as appropriate, for the effective prevention and control of the spread of the Human Immunodeficiency Virus and AIDS. The programs shall include, but not be limited to, instruction indicating that:

a. engaging in any promiscuous homosexual, bisexual or heterosexual activity or intravenous chemical substance use, or contact with contaminated blood products is now known to be the primary method of transmission of the Human Immunodeficiency Virus and AIDS,

b. avoiding the activities specified in subparagraph a of this paragraph is the only known method of preventing the spread of the Human Immunodeficiency Virus and AIDS,

c. sexual intercourse, with or without condoms, with any person testing positive for Human Immunodeficiency Virus (HIV) antibodies, or any other person infected with HIV, places an individual in a high-risk category for contracting AIDS,

d. abstinence from sexual activity is the only certain means of preventing the spread or contraction of the Human Immunodeficiency Virus or AIDS through sexual contact, and

e. the use of artificial means of birth control is not a guaranteed method of preventing the spread of the Human Immunodeficiency Virus or AIDS, and reliance on such a method places a person at risk for exposure to the disease;

3. An appropriate array of Human Immunodeficiency Virus testing and counseling programs and services, and Human Immunodeficiency Virus prevalence surveillance and monitoring activities, including

reporting and notification of contacts, as prudent and necessary for the protection of the public health and safety;

4. Testing and education programs and services designed to prevent and control the spread of the Human Immunodeficiency Virus and AIDS among intravenous chemical substance users; and

5. Case management and other programs that ensure access to needed health care and that reduce the cost of treatment for persons with AIDS.

Added by Laws 1993, c. 201, § 2, eff. Sept. 1, 1993.

§63-1-539.1. Short title - Definitions.

A. This act shall be known and may be cited as the "Needlestick Injury Prevention Act".

B. For purposes of the Needlestick Injury Prevention Act:

1. “Ambulance” means any ground, air or water vehicle approved by the State Commissioner of Health pursuant to the Oklahoma Emergency Response Systems Development Act and rules promulgated by the State Board of Health pursuant thereto when used to provide appropriate on-scene and enroute stabilization and emergency medical care;

2. "Bloodborne pathogens" means pathogenic microorganisms that are present in human blood and that can cause disease in humans including, but not limited to, hepatitis B virus (HBV), hepatitis C virus (HCV), and human immunodeficiency virus (HIV);

3. "Committee" means the Needlestick Injury Prevention Committee;

4. “Department” means the State Department of Health;

5. "Engineered sharps injury protection" means:

a. a physical attribute built into a needle device used for withdrawing body fluids, accessing a vein or artery, or administering medications or other fluids, which effectively reduces the risk of an exposure incident through the use of mechanisms such as barrier creation, blunting, encapsulation, withdrawal, retraction, or other effective mechanisms, or

b. a physical attribute built into any other type of needle device, or into a nonneedle sharp, which effectively reduces the risk of an exposure incident;

6. “First responder” means an individual who performs emergency medical services on scene in accordance with the Oklahoma Emergency Response Systems Development Act and rules of the State Board of Health promulgated thereto;

7. “High exposure area” means an operating room, an ambulatory surgical center, an emergency room, an intensive care unit, an ambulance or an area or scene at which a first responder performs or provides emergency medical services;

8. "Needleless systems" means devices that do not utilize needles for:

a. the withdrawal of body fluids after initial venous or arterial access is established,

b. the administration of medication or fluids, and

c. any other procedure involving the potential for an exposure incident;

9. "Needlestick injury" means the parenteral introduction into the body of a health care worker of blood or other potentially infectious material by a hollow-bore needle or sharp instrument, including, but not limited to, needles, lancets, scalpels, or contaminated broken glass, during the performance of duties of such worker; and

10. "Sharps" means any objects used or encountered in a health care setting that can be reasonably anticipated to penetrate the skin or any other part of the body, and to result in an exposure incident, including, but not limited to, needle devices, scalpels, lancets, broken glass, broken capillary tubes, exposed ends of dental wires and dental knives, drills, and burs.

Added by Laws 2000, c. 297, § 1, emerg. eff. June 5, 2000.

§63-1-539.2. Needlestick Injury Prevention Committee – Appointments – Powers and duties.

A. By August 1, 2000, each of the following agencies and associations shall appoint a member to the Needlestick Injury Prevention Committee:

1. The State Department of Health;
2. The State Department of Labor;
3. The Oklahoma Board of Nursing;
4. The Oklahoma State Medical Association;
5. The Oklahoma Osteopathic Association;
6. The Oklahoma Hospital Association;
7. The Oklahoma Nurses Association;
8. The Pharmaceutical Research and Manufacturers of America;
9. The Professional Firefighters of Oklahoma Association;
10. The Oklahoma Emergency Medical Technicians Association; and
11. The Oklahoma Municipal League.

B. Upon appointment of a member, each agency and entity specified by subsection A of this section shall submit the name, address and telephone number of the member so appointed to the State Commissioner of Health.

C. The State Commissioner of Health shall convene the first meeting of the Committee on or before October 1, 2000.

D. 1. The Committee shall elect a chair and vice-chair from among its members. The Committee shall meet as often as necessary to develop guidelines for the use of needleless systems and engineered sharps injury protection and to comply with the

provisions of the Needlestick Injury Prevention Act. A majority of the members shall constitute a quorum for the transaction of business.

2. The Committee is authorized to utilize the conference rooms of the State Department of Health and to obtain staff assistance from the Department as needed.

3. The members of the Committee shall be reimbursed expenses incurred in the performance of their duties as provided in the State Travel Reimbursement Act. Members appointed by any state agency shall be reimbursed for any authorized expense incurred in the performance of such members' duties for the Committee, as provided in the State Travel Reimbursement Act. For members who are not state employees, the State Department of Health shall be responsible for the processing and payment of any authorized expense incurred in the performance of such members' duties for the Committee, as provided in the State Travel Reimbursement Act.

E. Before developing any guidelines for the development of uniform rules, the Committee shall give public notice, offer opportunity for public comment and conduct statewide public meetings.

F. The Committee shall have the power and duty to:

1. Evaluate needleless systems and sharps with engineered sharps injury protection in high exposure areas;

2. Compile a list of existing needleless systems and sharps with engineered sharps injury protection to assist employers;

3. Develop guidelines for uniform administrative rules related to the use of needleless systems and engineered sharps injury protection in high exposure areas;

4. Develop compliance thresholds for needleless systems in high exposure areas;

5. Assess the rate of use of needleless systems in high exposure areas;

6. Utilize the latest version of a directive published by the Occupational Safety and Health Administration, United States Department of Labor entitled "Enforcement Procedures for the Occupational Exposure to Bloodborne Pathogens" for the reporting mechanism for needlestick injuries in high exposure areas;

7. Prior to March 1, 2004, and annually thereafter determine whether there is sufficient utilization of sharps prevention technology in the state in high risk areas. If the Committee determines that there is a sufficient use of sharps prevention technology in the state, prior to the promulgation of rules pursuant to Section 3 of this act, the Committee shall recommend to the rule-making agencies that the proposed rules not be promulgated. If such determination is made after the rules have been promulgated pursuant to Section 3 of this act, the Committee shall recommend to the rule-making agencies that such promulgated rules be rescinded; and

8. Evaluate and consider such other data and information necessary to perform its duties and responsibilities pursuant to the provisions of the Needlestick Injury Prevention Act.

G. In exercising such powers and duties the Committee shall:

1. Consider training and education requirements and increased use of personal protective equipment in high exposure areas;

2. Consider the cost, cost benefit analysis and the availability of a needleless system; and

3. Consider information contained in the Center for Disease Prevention and Control's publication on universal precautions.

H. 1. On or before May 1, 2003, the Committee shall establish guidelines for the development of uniform administrative rules by the agencies specified in Section 3 of this act related to the use of needleless systems and engineered sharps injury protection. Guidelines established by the Needlestick Injury Prevention Committee and rules promulgated by the state agencies specified in Section 3 of this act shall in no way prohibit or otherwise limit the use of:

a. a prefilled syringe that is approved by the federal Food and Drug Administration; provided, however, this exemption shall expire on June 1, 2004, and

b. prefilled syringes purchased or in stock prior to June 1, 2004.

2. Before developing such guidelines the Committee shall provide an opportunity for public comment through a series of statewide public hearings. The Committee shall give advance public notice of such hearings.

3. On or before August 1, 2003, the agencies listed in Section 3 of this act shall submit copies of proposed rules to the Committee for review.

4. On or before September 1, 2003, the Committee shall review the proposed rules prepared by such agencies for uniformity and compliance with the guidelines established by the Committee. The Committee shall forward copies of the proposed rules to the Hospital Advisory Council for review.

5. Beginning November 1, 2003, the Hospital Advisory Council shall forward to the Committee for review copies of any proposed amendments to the rules promulgated pursuant to the Needlestick Injury Prevention Act. The Committee shall consider such comments and recommendations in making its recommendations to such agencies for modifications to the proposed rules, as necessary to ensure uniformity and compliance with the established guidelines.

6. On or before July 1, 2003, the Committee shall develop and maintain a list of existing needleless systems and engineered sharps injury protections. This list shall be available to assist employers in complying with the requirement of the standards, adopted in accordance with the Needlestick Injury Prevention Act.

7. Beginning March 1, 2004, the Committee shall meet not less than annually and more often as necessary, as determined by the chair of the Committee, for the purpose of reviewing proposed or necessary amendments to the rules promulgated pursuant to the Needlestick Injury Prevention Act, in order to ensure the continuing consistency and uniformity of the rules to provide for necessary revisions of the list.

I. Each state agency listed in Section 3 of this act shall provide information and staff assistance as necessary to prepare the rules, procedures, forms and lists required by the Needlestick Injury Prevention Act.

J. The Committee shall terminate on July 1, 2006.

Added by Laws 2000, c. 297, § 2, emerg. eff. June 5, 2000.

§63-1-539.3. Uniform rules to be promulgated by certain state agencies.

A. By March 1, 2004, each of the state agencies specified in subsection C of this section shall have promulgated uniform emergency rules and shall have submitted proposed permanent uniform rules to the Governor and Legislature pursuant to the Administrative Procedures Act for the use of needleless systems and engineered sharps injury protection in this state. Specifically the uniform rules shall require:

1. That each public or private health care facility or location have a written exposure control plan for risk exposure to bloodborne pathogens;

2. That sharps prevention technology be included as engineering or work practice controls in high exposure areas, except in cases where the employer or other appropriate party can demonstrate circumstances in which the technology does not promote employee or patient safety or interferes with a medical procedure. Those circumstances shall be specified in the control plan, and shall include, but not be limited to, circumstances where the technology is medically contraindicated or not more effective than alternative measures used by the employer to prevent exposure incidents in high exposure areas;

3. That the written exposure control plans include an effective procedure for identifying and selecting existing sharps prevention technology in high exposure areas;

4. That a written exposure control plan be updated when necessary to reflect progress in implementing the sharps prevention technology specified by the Committee and promulgated by rule of the regulating agency;

5. That information concerning exposure incidents be recorded in a sharps injury log, including, but not limited to, the type and brand of device involved in the incident; and

6. Such other requirements deemed necessary by the Needlestick Injury Prevention Committee.

B. The failure of any agency to promulgate rules consistent with the provisions of the Needlestick Injury Prevention Act shall be reported by the Committee in writing to the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

C. Each of the following agencies shall promulgate uniform rules and procedures for the use of needleless systems and engineered sharps injury protection in compliance with the provisions of the Needlestick Injury Prevention Act:

1. The State Department of Health; and

2. The State Department of Labor.

D. Upon notification by the Committee that the use of sharps prevention technology is adequate, the rule-making agency shall rescind rules promulgated pursuant to the provisions of the Needlestick Injury Prevention Act.

Added by Laws 2000, c. 297, § 3, emerg. eff. June 5, 2000.

§63-1-540. Information campaign on DES.

The State Commissioner of Health shall establish special programs with regard todiethylstilbestrol, hereinafter referred to as DES, which shall:

1. Inform the public as to the potential hazards and afflictions which may be related to exposure to DES and the symptoms and prevention of associated malignancies, through the establishment of a public information campaign on DES to identify and encourage persons exposed to the drug to seek medical care for the prevention or treatment of any malignant condition; and

2. Include programs for DES-exposed persons in existing comprehensive screening units.

Laws 1980, c. 73, § 1, emerg. eff. April 14, 1980.

§63-1-541. Registry of persons who took DES.

The State Commissioner of Health shall maintain a confidential registry of women who took DES during pregnancy and their offspring who were exposed to DES prenatally, for the purpose of follow-up care and treatment of long-term problems associated with DES exposure. Enrollment in the registry shall be upon a voluntary basis.

Laws 1980, c. 73, § 2, emerg. eff. April 14, 1980.

§63-1-542. Report of findings and recommendations.

The State Commissioner of Health shall make an annual report to the Legislature of findings and recommendations concerning the effectiveness, impact and benefits derived from the special programs created herein, and any recommendations for legislative changes deemed necessary.

Laws 1980, c. 73, § 3, emerg. eff. April 14, 1980.

§63-1-543. Short title - Screening for detection of congenital or acquired hearing loss.

A. This act shall be known and may be cited as the "Newborn Infant Hearing Screening Act".

B. Every infant born in this state shall be screened for the detection of congenital or acquired hearing loss prior to discharge from the facility where the infant was born. A physician, audiologist or other qualified person shall administer such screening procedure in accordance with accepted medical practices and in the manner prescribed by the State Board of Health. If an infant requires emergency transfer to another facility for neonatal care, such screening procedure shall be administered by the receiving facility prior to discharge of the infant.

C. The State Board of Health shall promulgate rules necessary to enact the provisions of this act. The State Commissioner of Health shall develop procedures and guidelines for screening for the detection of congenital or acquired hearing loss.

D. Any durable medical equipment purchased or supplied by the State Department of Health for the purpose of being permanently or temporarily fitted for use by a specific child shall not be deemed or considered to be a "tangible asset" as that term is defined in Section 110.1 of Title 74 of the Oklahoma Statutes and, once fitted to a specific child, shall be deemed thereafter to have minimal or no value to the Department for purposes of further disposition pursuant to the Oklahoma Central Purchasing Act.

Added by Laws 1982, c. 141, § 1, emerg. eff. April 9, 1982. Amended by Laws 2000, c. 204, § 1, eff. Nov. 1, 2000; Laws 2006, c. 273, § 1, emerg. eff. June 7, 2006.

§63-1-543.3. Grand funding for sickle cell disease.

A. The Secretary of Health and Human Services shall, pursuant to the Public Health Service Act, P.L. 78-410, apply for grant funding from the United States Department of Health and Human Services for the purposes of:

1. Identifying health disparities related to sickle cell disease;

2. Assessing the utilization of therapies and strategies to prevent complications related to sickle cell disease; and

3. Other purposes permitted by federal laws and regulations.

B. The State Board of Health shall promulgate rules to implement the provisions of this section.

Added by Laws 2017, c. 207, § 1, eff. Nov. 1, 2017.

§63-1-544. Report of results.

The results of the screening procedures, conducted pursuant to Section 1 of this act, shall be reported to the State Department of Health in accordance with procedures adopted by the State Board of Health.
Added by Laws 1982, c. 141, § 2, emerg. eff. April 9, 1982.

§63-1-545. Publication of results - Release of information.
The State Commissioner of Health shall compile and publish annually the results of the infant screening procedures using the information reported to the Department. The Commissioner may authorize the release of information concerning children who are found to have hearing impairments to the appropriate agencies and departments so that such children may receive the necessary care and education.
Added by Laws 1982, c. 141, § 3, emerg. eff. April 9, 1982.

§63-1-546.1. Short title – Legislative findings.
A. Sections 1 through 5 of this act shall be known and may be cited as the "Oklahoma Prenatal Addiction Act."
B. It is the finding of the Oklahoma Legislature that the state has a substantial interest in protecting children from the harm that results from the abuse of drugs or alcohol by their mothers during pregnancy, both for the sake of the child and because of the potential cost to the state in providing medical and other care to such children. The Legislature recognizes that the preferable and most effective means of preventing birth defects and health problems due to substance abuse by pregnant women is to provide readily available and accessible prenatal care and appropriate substance abuse treatment services, but further recognizes that in some instances it may be necessary to use the authority of the state to intervene for the purpose of preserving and protecting the health and well-being of the child.
Added by Laws 2000, c. 301, § 1, emerg. eff. June 5, 2000.

§63-1-546.2. Repealed by Laws 2004, c. 92, § 5, eff. July 1, 2004.

§63-1-546.3. Repealed by Laws 2004, c. 92, § 5, eff. July 1, 2004.

§63-1-546.4. Duties of Department of Health and Department of Mental Health and Substance Abuse Services.
A. The Department of Mental Health and Substance Abuse Services shall:
1. Prohibit all substance abuse treatment services administered by or contracted for by the Department from refusing to treat pregnant women if space and staff expertise is available;

2. Require all such programs and services to give priority to accepting pregnant women for treatment and services if space and staff expertise is available; and

3. Assist such programs to develop and implement treatment modalities and services appropriate for pregnant women.

B. The Department of Mental Health and Substance Abuse Services and the State Department of Health may implement, with available funds, a pilot project recommended by the Joint Legislative Task Force on Prenatal Addiction and Treatment. With the consent of the court having jurisdiction and the district attorney, the program may include a program similar to the program established by the Drug Court Act.

Added by Laws 2000, c. 301, § 4, emerg. eff. June 5, 2000. Amended by Laws 2001, c. 434, § 15, emerg. eff. June 8, 2001.

§63-1-546.5. District attorney multidisciplinary teams - Appropriate dispositions.

A district attorney may convene a multidisciplinary team to assist in making a determination of the appropriate disposition of a case of a pregnant woman who is abusing or is addicted to drugs or alcohol to the extent that the unborn child is at risk of harm. The multidisciplinary team shall include at least one person with training and experience in the treatment of addiction. As used in this section, an appropriate disposition may include but shall not be limited to filing a petition for involuntary commitment as provided by Section 5-410 et seq. of Title 43A of the Oklahoma Statutes to a public facility or a private facility willing to accept the pregnant woman for treatment.

Added by Laws 2000, c. 301, § 5, emerg. eff. June 5, 2000.

§63-1-550.1. Definitions.

As used in this act:

1. "Birth defect" means any physical or chemical abnormality present at birth;

2. "Commissioner" means the Commissioner of Health;

3. "Department" means the Oklahoma State Department of Health;4. "ICD-9 and

5. "Poor reproductive outcomes" includes but is not limited to stillbirths and miscarriages.

Added by Laws 1987, c. 199, § 1, eff. Nov. 1, 1987.

§63-1-550.2. Birth defects surveillance program.

A. It is hereby found that the occurrence of a birth defect is a tragedy for the child, the family and the community, and a matter of vital concern to the public health. A system to obtain more information about these conditions could result in their prevention,

treatment and management. Therefore, it is the intent of the Oklahoma State Legislature, in enacting this section, to:

1. Obtain information on the incidence and trends of birth defects and poor reproductive outcomes;

2. Obtain information to determine whether environmental hazards are associated with birth defects and poor reproductive outcomes;

3. Obtain information as to other possible causes of birth defects and poor reproductive outcomes; and

4. Develop prevention strategies for reducing the incidence of birth defects, and poor reproductive outcomes.

B. The Commissioner of Health may establish a system for the collection and verification of information concerning birth defects and other poor reproductive outcomes. In establishing the system, the Commissioner may require general acute care hospitals to maintain a list of patients up to six (6) years of age who have been diagnosed with birth defects incorporated within the ICD-9-CM diagnostic code categories 740 through 759.9 or such other information as the Commissioner deems appropriate, and all women discharged with a diagnosis of stillbirth or miscarriage. The list shall be made available to the Commissioner upon request and shall be used solely for purposes provided in this section.

C. The Commissioner may require general acute care hospitals, and other sources as deemed necessary, to make available to the State Department of Health the medical records of those patients who have been diagnosed with birth defects or poor reproductive outcomes as required in this section.

D. The system shall be implemented statewide.

E. The Commissioner may use the information collected pursuant to subsection B of this section and information available from other reporting systems and health providers to conduct studies to:

1. Investigate the causes of birth defects and poor reproductive outcomes;

2. Determine and evaluate measures designed to prevent their occurrences; and

3. Where possible ensure delivery of services for children identified with birth defects. The Department's investigation of poor reproductive outcomes shall include geographic, time-related or occupational associations, as well as investigations of past exposure to potentially harmful substances.

F. The Commissioner may appoint an advisory committee of health professionals who shall advise on the implementation of this section. Advisory committee members shall serve without compensation.

G. If the Commissioner finds it is necessary to collect information from sources other than general acute care hospitals,

the Commissioner shall first submit for approval to the advisory committee a proposal stating the need for such information.

H. All information collected and analyzed pursuant to this section shall be confidential insofar as the identity of the individual patient is concerned and shall be used solely for the purpose provided in this section. Access to such information shall be limited to the State Department of Health, provided that the Commissioner may provide access to those scientists approved by the advisory committee who are engaged in demographic, epidemiological or other similar studies related to health, and who agree, in writing as nonstate employees, to be identified and coded while maintaining confidentiality as described herein.

I. The Department shall maintain an accurate record of all persons who are given access to the information in the system. The record shall include:

1. The name of the persons authorizing access;

2. The name, title and organizational affiliation of persons given access;

3. The dates of access;

4. The specific purpose for which the information is to be used; and

5. The results of the independent research.

J. Nothing in this section shall prohibit the publishing of statistical compilations relating to birth defects or poor reproductive outcomes which do not in any way identify individual cases or individual sources of information.

K. Any person who, in violation of a written agreement to maintain confidentiality, willfully discloses any information provided pursuant to this section shall be denied further access to any confidential information maintained by the Department. That person shall also be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of Two Hundred Dollars ($200.00) or imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

L. The State Board of Health is authorized to adopt, amend and repeal rules and regulations for the purpose of carrying out the provisions of this section.

Added by Laws 1987, c. 199, § 2, eff. Nov. 1, 1987. Amended by Laws 1992, c. 123, § 1, emerg. eff. April 23, 1992.

§63-1-550.3. Record of Infants Born Exposed to Alcohol and Other Harmful Substances.

A. The Department of Human Services shall establish and maintain an up-to-date Record of Infants Born Exposed to Alcohol and Other Harmful Substances. Such record shall include data necessary for surveys and scientific research, and other data which is necessary and proper to further the recognition, prevention and

treatment of infants born addicted to or prenatally exposed to harmful substances and shall be based upon information collected by the Department as a result of investigations made pursuant to Section 7103 of Title 10 of the Oklahoma Statutes. For purposes of this section, "harmful substances" means an intoxicating liquor or a controlled dangerous substance.

B. The Record of Infants Born Exposed to Alcohol and Other Harmful Substances shall include, but not be limited to, the following information:

1. The classification of the birth hospital, whether it is public or private;

2. Results of the toxicology report on an infant and its mother and, if positive, the type of drug or drugs involved;

3. The date of birth, birth weight, gestational age and race of the infant;

4. The county of residence;

5. The date and county of report;

6. Demographic information on the mother including, but not limited to, age, race, education level, marital status, income level, whether prenatal care was received and the type of prenatal care received, whether it was private, public health clinic or hospital clinic;

7. Type of treatment, whether the mother was referred for inpatient or outpatient; and

8. Whether the child was recommended for removal from custody of the parent.

C. Nothing in this section shall be construed to compel any infant or mother reported pursuant to the provisions of this act to submit to any medical examination, treatment or supervision of any kind.

D. The Commission for Human Services shall promulgate rules to carry out the provisions of this section and the Department of Human Services shall adopt agency policy directing employees of the Child Welfare Division within the Department of Human Services to collect and compile any and all data and information gathered from investigations made pursuant to Section 7103 of Title 10 of the Oklahoma Statutes necessary for the purposes of this section.

E. The Department of Human Services shall compile and evaluate information received from the reports required pursuant to this section into a report to be distributed on or before January 1 of each year to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives and such other persons as the Department deems advisable or necessary.

Added by Laws 1994, c. 327, § 4, eff. Sept. 1, 1994. Amended by Laws 1998, c. 22, § 1, emerg. eff. April 1, 1998.

§63-1-550.4. Short title – Fayelen's Law.

This section shall be known and may be cited as "Fayelen's Law".
Added by Laws 2013, c. 60, § 1, eff. July 1, 2013.

§63-1-550.5. Birthing facility – Pulse oximetry screening.

A. As used in this section, "birthing facility" means an inpatient or ambulatory health care facility licensed by the State Department of Health that provides birthing and newborn care services.

B. The State Department of Health shall require each birthing facility to perform a pulse oximetry screening on every newborn in its care prior to discharge from the birthing facility.

C. The State Board of Health shall promulgate rules necessary to carry out the purposes of this act.
Added by Laws 2013, c. 60, § 2, eff. July 1, 2013.

§63-1-551.1. Tumor registry.

A. The State Commissioner of Health shall establish and maintain an up-to-date tumor registry to ensure an accurate and continuing source of data concerning such cancerous, precancerous and tumorous diseases as the State Board of Health may by rule specify. Such registry may include data necessary for epidemiological surveys and scientific research, and other data which is necessary and proper to further the recognition, prevention, control, treatment and cure of cancer, precancerous and tumorous diseases.

B. The Commissioner, pursuant to rules of the State Board of Health, shall require any hospital, clinic, laboratory, pathologist, physician or dentist, or any facility which provides diagnostic or treatment services for cancerous diseases and precancerous conditions, to report any or all data and information necessary for the purposes of this act which may include the following:

1. Patient name, address, age, race, sex, Social Security number and hospital identifier or other identifier;

2. Patient's residential, family, environmental, occupational and medical histories; and

3. Physician's name, diagnosis, stage of the disease, method of treatment and the name and address of any facility providing treatment.

C. The provisions of subsection B of this section shall not apply to ambulatory surgical centers, as defined by Section 2657 of this title, upon submission of a signed affidavit that the ambulatory surgical center utilizes a sole source pathology laboratory to report any or all data and information necessary for the purposes of this act.

D. The Commissioner shall protect the identity of the patient and physician involved in any report required by this act, and may not release their identity without written consent, except that:

1. The Commissioner may grant any person involved in a legitimate research activity access to confidential information obtained by the Department concerning individual patients if:

a. the research activity is determined to be in the interest of the public health and welfare,

b. the person conducting the research provides written information about the purpose of the research project, the nature of the data to be collected and how the researcher intends to analyze it, the records the researcher wishes to review, and the safeguards the researcher will take to protect the identity of the patients whose records the researcher will be reviewing,

c. the proposed safeguards are adequate to protect the identity of each patient whose records will be reviewed, and

d. an agreement is executed between the Commissioner of Health and the researcher that specifies the researcher's use of the records and that prohibits the publication or release of the names of individual cancer patients or any facts tending to lead to the identification of individual cancer patients;

2. Researchers may, with the approval of the Commissioner, use the names of individual patients when requesting additional information for research purposes or soliciting an individual patient's participation in a research project. However, if a researcher requests additional information or an individual patient's participation in a research project, the researcher must first obtain the written consent of the patient's attending physician. If the consent of the patient's attending physician is obtained, the researcher must then obtain the individual cancer patient's written consent by having the patient complete a release of confidential medical information form;

3. Data on patients may be shared with other registries, private or governmental, within or without the state, provided that a reciprocal data-sharing agreement, approved by the Commissioner, is implemented with that registry. Such agreements must include patient identification confidentiality requirements; and

4. Provided further, that any confidential information released by the Commissioner under this act shall be deemed to be a confidential communication within the meaning of the physician-patient and the psychotherapist-patient privilege.

E. Nothing in this act shall be construed to compel any individual to submit to any medical examination, treatment or supervision of any kind; nor shall anyone providing information in accordance with this act be deemed to be, or held liable for,

divulging confidential information. An individual shall have the right to deny registration on religious grounds.

F. The State Board of Health is empowered to adopt reasonable regulations to carry out the provisions of this act.

G. Any person who, in violation of a written agreement to maintain confidentiality, willfully discloses any information provided pursuant to this section shall be denied further access to any confidential information maintained by the Department. That person shall also be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of Two Hundred Dollars ($200.00) or imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.
Added by Laws 1987, c. 197, § 1, eff. Nov. 1, 1987. Amended by Laws 2013, c. 235, § 1, eff. Nov. 1, 2013; Laws 2014, c. 235, § 1, eff. Nov. 1, 2014; Laws 2018, c. 99, § 1, eff. Nov. 1, 2018.

§63-1-552. Investigations and other actions - Compilation and evaluation of information.

A. The State Department of Health shall make such investigations concerning birth defects and cancer, the prevention and treatment of said diseases or impairments and the mortality resulting from them, and take such action to assist in reducing said mortality as it deems necessary and appropriate.

B. The State Department of Health shall compile and evaluate information received from the reports required pursuant to Sections 1 and 2 of this act and subsection A of this section in a report to be distributed on or before January 1 of each year to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate and to such other person as the Commissioner deems advisable or necessary. Copies of such report shall also be made available to the federal government, and to members of the public upon written request.
Added by Laws 1985, c. 60, § 3, eff. Nov. 1, 1985.

§63-1-553. Bone marrow donation program.

A. If funds are available, the Oklahoma Medical Center shall design and implement a statewide general public education program concerning:

1. The need for bone marrow donors;

2. The procedures required to become registered as a potential bone marrow donor, including procedures for determining the tissue type of a person; and

3. The medical procedures a donor must undergo to donate bone marrow or other sources of blood stem cells.

B. If funds are available, the Oklahoma Medical Center shall make special efforts to educate and recruit citizens of this state with a special emphasis on minority populations to volunteer as

potential bone marrow donors. Means of communication may include, but not be limited to, use of newspapers, radio and television, and placement of educational materials in appropriate health care facilities, blood banks and agencies of the state and political subdivisions of the state. If funds are available, educational materials shall be provided by the Oklahoma Medical Center to all places where driver's licenses and licenses for identification only are issued or renewed.
Added by Laws 1992, c. 213, § 1, eff. Sept. 1, 1992.

§63-1-553.1. Mammography reports – Breast density classification.

A. All health care facilities that perform mammography examinations shall include in the summary of the mammography report, required by federal law to be provided to a patient, information that identifies the patient's individual breast density classification based on the Breast Imaging Reporting and Data System established by the American College of Radiology. If the facility determines that a patient has heterogeneously or extremely dense breast tissue, the summary of the mammography report shall include the following notice:

"Your mammogram indicates that you have dense breast tissue. Dense breast tissue is common and is found in more than fifty percent (50%) of women and is not abnormal. However, dense breast tissue may make it more difficult to detect breast cancer and may be associated with an increased risk of breast cancer. This information is being provided to raise your awareness and to encourage you and your health care provider to discuss this and other breast cancer risk factors. Together, you and your health care provider can decide if additional screening options may be right for you. A report of your results was sent to your health care provider."

B. Patients who receive diagnostic or screening mammograms may be directed to informative material about breast density. This informative material may include the American College of Radiology's most current brochure on the subject of breast density available on the American College of Radiology's website. Patients and health care providers can be further informed by material from the American Cancer Society or Mammography Saves Lives organizations.

C. Nothing in this section shall be deemed to create a duty of care or other legal obligation beyond the duty to provide notice as set forth in subsection A of this section. Nothing in this section shall be deemed to require a notice that is inconsistent with the provisions of the federal Mammography Quality Standards Act or any regulations promulgated pursuant thereto.
Added by Laws 2016, c. 131, § 1, eff. Nov. 1, 2016.

§63-1-554. Oklahoma Breast and Cervical Cancer Act.

Sections 1-554 through 1-558 of this title shall be known and may be cited as the "Oklahoma Breast and Cervical Cancer Act". Added by Laws 1994, c. 288, § 2, eff. July 1, 1994. Renumbered from § 3315 of this title by Laws 1996, c. 143, § 4, emerg. eff. May 7, 1996. Amended by Laws 1998, c. 210, § 2, eff. July 1, 1998. Renumbered from § 5060.9a-1 of Title 74 by Laws 1998, c. 210, § 9, eff. July 1, 1998. Amended by Laws 2004, c. 219, § 1, emerg. eff. May 4, 2004.

§63-1-555. Repealed by Laws 2013, c. 229, § 99, eff. Nov. 1, 2013.

§63-1-556. Contract review and recommendation.

A. The State Department of Health, giving consideration to the recommendations of the Advancement of Wellness Advisory Council created in Section 44 of this act, shall be responsible for evaluating and reporting to the Governor and the State Commissioner of Health regarding contracting for statewide services or issues related to breast cancer including, but not limited to:

1. Mammography and pap smear screening of women for breast and cervical cancer as an early detection health care measure, provided by facilities which are accredited by national organizations that have formed coalitions to issue national cancer screening guidelines;

2. Medical referral of screened persons with abnormal breast findings and, to the extent practical, for additional services or assistance for such persons;

3. Education and training programs for health care professionals to improve methods for the detection and control of breast and cervical cancer, and to improve communication with breast and cervical cancer patients after diagnosis;

4. Annual public education and awareness campaigns to improve the knowledge and health care practices of all Oklahomans with respect to breast and cervical cancer;

5. Epidemiological trend studies utilizing the data from the Oklahoma Central Cancer Registry for incidence, prevalence and survival of breast and cervical cancer victims; and

6. Outreach to groups with high proportions of uninsured and underinsured women.

B. The evaluative efforts of the Advisory Committee with respect to contracts for services specified in subsection A of this section shall provide appropriate oversight and requirements that result in:

1. Enhanced quality control standards within facilities which perform diagnostic cancer screening for breast and cervical cancer; and

2. Establishment of a fee schedule for breast and cervical cancer screening and diagnosis that complies with accepted

Medicare/Medicaid rates and that incorporates a sliding fee payment system to encourage self-responsibility.

C. The State Department of Health, giving consideration to the recommendations of the Advancement of Wellness Advisory Council created in Section 44 of this act, shall report annually to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the State Board of Health by October 1 of each year, activities completed pursuant to the Oklahoma Breast and Cervical Cancer Act during the prior fiscal year, including a report of the funding for related activities. The report shall identify populations at highest risk for breast or cervical cancer, priority strategies, and emerging technologies, including newly introduced therapies and preventive vaccines that are effective in preventing and controlling the risk of breast and cervical cancer, and any recommendations for additional funding, if necessary, to provide screenings and treatment for breast and cervical cancer for uninsured and underinsured women. The report shall further recommend strategies or actions to reduce the costs of breast and cervical cancer in the State of Oklahoma.

D. The Advancement of Wellness Advisory Council shall evaluate the prospective termination or continuation of its ongoing duties on October 1, 2008. Such evaluation shall be made based on the successful implementation of breast and cervical cancer reduction plans and/or achievement of significant reductions in breast and cervical cancer morbidity and mortality in the State of Oklahoma. Added by Laws 1994, c. 288, § 4, eff. July 1, 1994. Amended by Laws 1996, c. 143, § 1, emerg. eff. May 7, 1996; Laws 1998, c. 210, § 4, eff. July 1, 1998. Renumbered from § 5060.9c of Title 74 by Laws 1998, c. 210, § 9, eff. July 1, 1998. Amended by Laws 2001, c. 411, § 2, eff. Nov. 1, 2001; Laws 2004, c. 219, § 3, emerg. eff. May 4, 2004; Laws 2013, c. 229, § 55, eff. Nov. 1, 2013.

§63-1-557. Breast and Cervical Cancer Act Revolving Fund.

A. 1. There is hereby created in the State Treasury a revolving fund for the State Department of Health to be designated the "Breast and Cervical Cancer Act Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the fund and gifts or donations to the fund.

2. All monies donated or accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the State Department of Health for the purposes specified in and associated with implementation of the Oklahoma Breast and Cervical Cancer Act.

3. Monies from the fund may be transferred to the Breast and Cervical Cancer Prevention and Treatment Account and shall be used to carry out the purposes specified in Section 1-556 of this title.

4. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

B. Monies in the Breast and Cervical Cancer Act Revolving Fund may be expended by the State Department of Health for promotional activities to encourage donations to the Breast and Cervical Cancer Act Revolving Fund by individuals and private businesses or foundations.

Added by Laws 1998, c. 210, § 5, eff. July 1, 1998. Amended by Laws 2001, c. 411, § 3, eff. Nov. 1, 2001; Laws 2004, c. 219, § 4, emerg. eff. May 4, 2004; Laws 2012, c. 304, § 480; Laws 2013, c. 229, § 56, eff. Nov. 1, 2013.

§63-1-558. State income tax return check-off.

A. The Oklahoma Tax Commission shall include on each state individual income tax return form for tax years beginning after January 1, 2004, and each state corporate tax return form for tax years beginning after January 1, 2004, an opportunity for the taxpayer to donate from a tax refund for the benefit of the Oklahoma Breast and Cervical Cancer Act.

B. The monies generated from donations made pursuant to subsection A of this section shall be used by the State Department of Health for the purposes specified in the Oklahoma Breast and Cervical Cancer Act.

C. All monies generated pursuant to subsection A of this section shall be paid to the State Treasurer and placed to the credit of the Breast and Cervical Cancer Act Revolving Fund.

Added by Laws 1995, c. 245, § 2, eff. Nov. 1, 1995. Amended by Laws 1998, c. 210, § 6, eff. July 1, 1998. Renumbered from § 5060.9e of Title 74 by Laws 1998, c. 210, § 9, eff. July 1, 1998. Amended by Laws 2001, c. 358, § 26, eff. July 1, 2001; Laws 2004, c. 219, § 5, emerg. eff. May 4, 2004.

§63-1-559. Belle Maxine Hilliard Breast and Cervical Cancer Treatment Revolving Fund.

A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Health Care Authority to be designated the "Belle Maxine Hilliard Breast and Cervical Cancer Treatment Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Oklahoma Health Care Authority from appropriations, gifts or donations.

B. All monies accruing to the credit of such fund are hereby appropriated and may be budgeted and expended by the Oklahoma Health Care Authority for the purpose specified and associated with the Oklahoma Breast Cancer Act.

C. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.
Added by Laws 2004, c. 297, § 1, eff. Nov. 1, 2004. Amended by Laws 2012, c. 304, § 481.

§63-1-559.1. Repealed by Laws 2017, c. 47, § 1, eff. Nov. 1, 2017.

§63-1-559.2a. Quality Afterschool Opportunities Act to Reduce Childhood Obesity and Improve Academic Performance.
This act shall be known and may be cited as the "Quality Afterschool Opportunities Act to Reduce Childhood Obesity and Improve Academic Performance".
Added by Laws 2008, c. 133, § 1, eff. Nov. 1, 2008.

§63-1-559.2b. Legislative findings.
A. The Legislature recognizes that:
1. Childhood obesity poses a major risk to the health and future of Oklahoma's children, and this challenge must be addressed through a comprehensive approach that includes parents, schools, child care providers, community- and faith-based organizations, health care professionals, civic leaders and many others; and
2. Evidence-based nutrition education and increased physical activity are well-established means of addressing the problem, but not all Oklahoma families are able to take advantage of opportunities to provide these benefits for their children.
B. It is the intent of the State Legislature that support shall be provided to established afterschool programs to fully integrate evidence-based obesity prevention and reduction curriculum that includes structured opportunities for increasing physical activity and promoting healthy eating and nutrition habits.
C. A successful Quality Afterschool Opportunities Initiative will require the resources, expertise and collaboration of a variety of state agencies, including the State Department of Health, the State Department of Education and the Department of Human Services, with advice and guidance from a statewide nonprofit afterschool network.
Added by Laws 2008, c. 133, § 2, eff. Nov. 1, 2008.

§63-1-559.2c. Obesity reduction programs - Department duties - Rules.
A. In order to combat the increasing rate of childhood obesity in the state, the State Department of Health shall create the Quality Afterschool Opportunities Initiative to Reduce Childhood Obesity and Improve Academic Performance. This initiative shall establish and maintain a program to award grants, should funds

become available, to comprehensive, community-based afterschool programs that include evidence-based obesity reduction components.

B. The Department shall, at a minimum:

1. Develop an application process;

2. Determine minimum eligibility requirements for applicants;

3. Develop procedures and criteria for awarding grants; and

4. Determine the minimum and maximum amounts to be awarded.

C. The State Board of Health shall promulgate rules as necessary to implement the provisions of this act.

Added by Laws 2008, c. 133, § 3, eff. Nov. 1, 2008.

§63-1-560.1. Repealed by Laws 2017, c. 47, § 1, eff. Nov. 1, 2017.

§63-1-561. Short title.

This act shall be known and may be cited as the "Genetic Counseling Licensure Act".

Added by Laws 2006, c. 174, § 1, eff. Nov. 1, 2006.

§63-1-562. Definitions.

As used in the Genetic Counseling Licensure Act:

1. "ABGC" means the American Board of Genetic Counseling;

2. "ABMG" means the American Board of Medical Genetics;

3. "General supervision" means the process of a supervisor, whether licensed as a genetic counselor or a physician, having overall responsibility to assess the work of a supervisee, including regular meetings and chart reviews. An annual supervision contract signed by the supervisor and supervisee shall be on file with both parties; and

4. "Genetic counseling" means a communication process, conducted by one or more appropriately trained individuals, that includes:

a. estimating the likelihood of occurrence or recurrence of a birth defect or of any potentially inherited or genetically influenced condition. Such assessment may involve:

(1) obtaining and analyzing a complete health history of an individual and the individual's family,

(2) review of pertinent medical records,

(3) evaluation of the risks from exposure to possible mutagens or teratogens, or

(4) discussion of genetic testing or other valuations to diagnose a condition or determine the carrier status of one or more family members,

b. helping an individual, the individual's family, a health care provider, or the public to:

(1) appreciate the medical, psychological and social implications of a disorder including its

features, variability, usual course, and management options,

(2) learn how genetic factors contribute to the disorder and affect the chance for recurrence of the condition in other family members,

(3) understand available options for coping with, preventing or reducing the chance of occurrence or recurrence of a condition,

(4) select the most appropriate, accurate and cost-effective methods of diagnosis, or

(5) understand genetic or prenatal tests, coordinate testing for inherited disorders, and interpret genetic test results, and

c. facilitating an individual's or family's:

(1) exploration of the perception of risk and burden associated with a disorder,

(2) decision-making regarding testing or medical interventions consistent with the individual's or family's beliefs, goals, needs, resources, culture and ethical or moral views, or

(3) adjustment and adaptation to the condition or the individual's or family's genetic risk by addressing needs for psychological, social and medical support.

Added by Laws 2006, c. 174, § 2, eff. Nov. 1, 2006.

§63-1-563. Genetic counselors - License required.

A. Except as provided in subsection C of this section, any person engaging in the practice of genetic counseling shall obtain a license to do so as hereinafter provided. A license to practice genetic counseling shall be issued to any person who qualifies pursuant to the provisions of this act.

B. Any person who does not have a valid license or temporary license as a genetic counselor shall not use in connection with his or her name or place of business the title "genetic counselor", "licensed genetic counselor", "gene counselor", "genetic consultant", "genetic associate", or any words, letters, abbreviations or insignia indicating or implying that a person has met the qualifications for or has the license issued pursuant to the provisions of this act.

C. The provisions of this section shall not apply to a person engaging in the practice of genetic counseling prior to the effective date of this act.

Added by Laws 2006, c. 174, § 3, eff. Nov. 1, 2006.

§63-1-564. Requirements for licensure - Issuance of temporary license.

A. An applicant for licensure as a genetic counselor shall:

1. Submit an application on forms provided by the State Department of Health;

2. Pay a fee, not to exceed Three Hundred Dollars ($300.00), as determined by the State Board of Health;

3. Provide satisfactory evidence of having earned:

a. a master's degree from a genetic counseling training program that is accredited by the American Board of Genetic Counseling or an equivalent entity as determined by the ABGC, or

b. a doctoral degree from a medical genetics training program accredited by the American Board of Medical Genetics or an equivalent as determined by the ABMG; and

4. Meet the examination requirement for certification as:

a. a genetic counselor by the ABGC or the ABMG, or

b. a medical geneticist by the ABMG.

B. A temporary license may be issued to an applicant who meets all of the requirements for licensure except the examination provided for in paragraph 4 of subsection A of this section.

Added by Laws 2006, c. 174, § 4, eff. Nov. 1, 2006. Amended by Laws 2013, c. 229, § 58, eff. Nov. 1, 2013.

§63-1-565. Requirements for temporary licensure - Term of license.

The requirements for temporary licensure shall provide that:

1. An applicant shall meet all of the qualifications for licensure as established in the Genetic Counseling Licensure Act with the exception of certification by the American Board of Medical Genetics or the American Board of Genetic Counseling, and have active candidate status conferred by the ABMG or ABGC;

2. An individual practicing under the authority of a temporary license must practice under the general supervision of a licensed genetic counselor, or a physician licensed to practice in this state, with current ABMG certification in clinical genetics;

3. A temporary licensee shall apply for and take the next available examination. If an applicant fails the first sitting of the ABGC or ABMG certification examination, the applicant may reapply for a second temporary license;

4. A temporary license shall not be issued to an applicant who has failed the ABGC or ABMG certification examination more than once; and

5. A temporary license shall expire upon the earliest of the following:

a. issuance of full licensure,

b. thirty (30) days after failing the certification examination, or

c. the date printed on the temporary license.

Added by Laws 2006, c. 174, § 5, eff. Nov. 1, 2006.

§63-1-566. Exceptions to licensure requirement.

The following persons may engage in the practice of genetic counseling, subject to the stated circumstances and limitations, without being licensed under the provisions of this act:

1. Professionals licensed, certified or registered in this state other than as a genetic counselor who engage in the competent practice of that occupation or profession without additional licensure under this title. The individual may not use the title "genetic counselor" or any other title tending to indicate that the individual is a genetic counselor unless licensed as such in this state; provided, however, this provision shall not apply to physicians licensed in this state who have appropriate training in medical genetics;

2. A student or intern from a recognized school, engaged in activities constituting the practice of a regulated occupation or profession; provided, however, such activities shall be a defined part of a supervised training program;

3. An individual trained as a genetic counselor, who is reapplying for the American Board of Genetic Counseling certification examination and gathering logbook cases under supervision in an approved genetic counseling training site;

4. An individual trained as a Ph.D. medical geneticist, who is reapplying for the American Board of Medical Genetics certification examination and is gathering logbook cases under a supervisor identified in the training program's ABMG accreditation documents as a member of the training faculty; and

5. A consultant, including activities and services of visiting ABGC- or ABMG-certified genetic counselors from outside this state, or the use of occasional services of organizations from outside the state employing ABGC- or ABMG-certified genetic counselors.

Added by Laws 2006, c. 174, § 6, eff. Nov. 1, 2006.

§63-1-567. Continuing education requirements.

A. The State Board of Health, giving consideration to the recommendations of the Infant and Children's Health Advisory Council created in Section 44 of this act, shall establish continuing education requirements for genetic counselors as a condition of renewal or reinstatement of a license.

B. A licensee shall be responsible for maintaining competent records of completed qualified professional education for a period of four (4) years after close of the two-year period to which the records pertain. It shall be the responsibility of the licensee to maintain such information with respect to qualified professional education to demonstrate that it meets the requirements under this section.

C. A licensee who documents that he or she is subjected to circumstances which prevent the licensee from meeting the continuing professional education requirements established under this section may apply to be excused from the requirement for a period of up to five (5) years. It shall be the responsibility of the licensee to document the reasons and justify why the requirement could not be met.

Added by Laws 2006, c. 174, § 7, eff. Nov. 1, 2006. Amended by Laws 2013, c. 229, § 59, eff. Nov. 1, 2013.

§63-1-568. Licensure, accreditation, certification not contingent upon acceptance of abortion as treatment option.

A. Nothing in the Genetic Counseling Licensure Act may be construed to require any genetic counselor or other person to mention, discuss, suggest, propose, recommend, or refer for, abortion, or to agree or indicate a willingness to do so, nor shall licensing of any genetic counselor be contingent upon acceptance of abortion as a treatment option for any genetic or other prenatal disease, anomaly, or disability.

B. If the State Board of Health determines that accreditation of genetic counseling training programs by the American Board of Genetic Counseling or of medical genetics training programs by the American Board of Medical Genetics is dependent on criteria, or applied in a manner, incompatible with the provisions of subsection A of this section, it shall establish or recognize and apply criteria for accreditation of alternative genetic counseling training programs or medical genetics training programs compatible with the provisions of subsection A of this section and any genetic counseling training programs or medical genetics training programs accredited thereunder shall be deemed accredited for the purposes of paragraph 3 of subsection A of Section 4 of this act.

C. If the State Board of Health determines that the examination required for certification as a genetic counselor by the American Board of Genetic Counseling or the American Board of Medical Genetics or as a medical geneticist by the American Board of Medical Genetics is incompatible with the provisions of subsection A of this section, it shall establish or recognize an alternative examination compatible with the provisions of that subsection and an individual who passes such an examination shall be deemed to meet the relevant requirements of paragraph 4 of subsection A of Section 4 of this act.

D. The State Board of Health shall by rule waive such other provisions of the Genetic Counseling Licensure Act and provide for appropriate substitute requirements as it determines necessary to ensure compliance with subsection A of this section.

E. There shall be no cause of action against any person for failure to mention, discuss, suggest, propose, recommend, or refer

for, abortion, unless the abortion is necessary to prevent the death of the mother.

F. This section shall not be severable from the Genetic Counseling Licensure Act.

Added by Laws 2006, c. 174, § 8, eff. Nov. 1, 2006.

§63-1-569. Licensure requirements - Rules.

The State Board of Health shall promulgate rules, giving consideration to the recommendations of the Infant and Children's Health Advisory Council created in Section 44 of this act, establishing licensure requirements for genetic counselors. Such rules shall include, but not be limited to:

1. Policy and budgetary matters related to licensure;

2. Applicant screening, licensing, renewal licensing, license reinstatement and relicensure;

3. Standards for supervision of students or persons training to become qualified to obtain a license in genetic counseling;

4. Requirements for maintaining and renewal of a license; and

5. Procedures for reviewing cases of individuals found to be in violation of the provisions of the Genetic Counseling Licensure Act, including disciplinary actions when necessary.

Added by Laws 2006, c. 174, § 9, eff. Nov. 1, 2006. Amended by Laws 2013, c. 229, § 60, eff. Nov. 1, 2013.

§63-1-570. Genetic Counseling Licensure Revolving Fund.

A. There is hereby created in the State Treasury a revolving fund for the State Department of Health to be designated the "Genetic Counseling Licensure Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies that may be directed thereto by the State Board of Health, and all other monies including gifts, grants and other funds that may be directed thereto. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Board for the purpose of licensure of genetic counselors and for other purposes specifically authorized by this act. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

B. The fund shall be administered by the State Department of Health.

C. Monies from the fund shall not be used to engage in any political activities or lobbying including, but not limited to, support of or opposition to candidates, ballot initiatives, referenda or other similar activities.

Added by Laws 2006, c. 174, § 10, eff. Nov. 1, 2006. Amended by Laws 2012, c. 304, § 482.

§63-1-604. Transfer of General Hospital to City of Clinton.

The Oklahoma General Hospital located at Clinton, Oklahoma, shall be transferred at the close of regular business hours on June 30, 1973, to the City of Clinton, Oklahoma. Included within such transfer shall be the physical plant, all equipment and supplies, and the following described land:

Lots 13 to 24, inclusive, Block 2, Shoeboy Addition, City of Clinton, County of Custer, State of Oklahoma.

The Director of the Office of Management and Enterprise Services is hereby authorized and directed to execute and deliver, on behalf of this state, instruments conveying title to said real and personal property to the City of Clinton, Oklahoma.

There shall also be transferred to the City of Clinton all accounts receivable including revolving funds of the Oklahoma General Hospital. Any outstanding obligations of the Oklahoma General Hospital shall be assumed by the City of Clinton.

Added by Laws 1973, c. 16, § 1, emerg. eff. March 16, 1973. Amended by Laws 1983, c. 304, § 62, eff. July 1, 1983; Laws 2012, c. 304, § 483.

§63-1-605. Unexpended appropriations - Continuance.

Any unexpended appropriations to or for the use of the Oklahoma General Hospital remaining after the transfer provided by Section 1 of this act shall remain available for the assistance of indigents at the hospital on a contract basis between the State of Oklahoma and the City of Clinton. All such expenditures shall be subject to the approval of the Department of Institutions, Social and Rehabilitative Services.

Added by Laws 1973, c. 16, § 2, emerg. eff. March 16, 1973.

§63-1-606. Successor owners as eligible employers for participation in Public Employees Retirement System.

The successor public owners of Oklahoma General Hospital, or its successor hospitals, shall be considered "eligible employers" for the purpose of participation in the Oklahoma Public Employees Retirement System in the same manner as county hospitals.

Added by Laws 1973, c. 16, § 3, emerg. eff. March 16, 1973.

§63-1-701. Definitions.

For the purposes of this article:

1. "Hospital" means any institution, place, building or agency, public or private, whether organized for profit or not, devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care of patients admitted for overnight stay or longer in order to obtain medical care, surgical care, obstetrical care, or nursing care for illness, disease, injury,

infirmity, or deformity. Except as otherwise provided by paragraph 5 of this subsection, places where pregnant females are admitted and receive care incident to pregnancy, abortion or delivery shall be considered to be a "hospital" within the meaning of this article, regardless of the number of patients received or the duration of their stay. The term "hospital" includes general medical surgical hospitals, specialized hospitals, critical access and emergency hospitals, and birthing centers;

2. "General medical surgical hospital" means a hospital maintained for the purpose of providing hospital care in a broad category of illness and injury;

3. "Specialized hospital" means a hospital maintained for the purpose of providing hospital care in a certain category, or categories, of illness and injury;

4. "Critical access hospital" means a hospital determined by the State Department of Health to be a necessary provider of health care services to residents of a rural community;

5. "Emergency hospital" means a hospital that provides emergency treatment and stabilization services on a 24-hour basis that has the ability to admit and treat patients for short periods of time;

6. "Birthing center" means any facility, place or institution, which is maintained or established primarily for the purpose of providing services of a certified midwife or licensed medical doctor to assist or attend a woman in delivery and birth, and where a woman is scheduled in advance to give birth following a normal, uncomplicated, low-risk pregnancy. Provided, however, licensure for a birthing center shall not be compulsory; and

7. "Day treatment program" means nonresidential, partial hospitalization programs, day treatment programs, and day hospital programs as defined by subsection A of Section 175.20 of Title 10 of the Oklahoma Statutes.

Added by Laws 1963, c. 325, art. 7, § 701, operative July 1, 1963. Amended by Laws 1978, c. 207, § 1, eff. Oct. 1, 1978; Laws 1991, c. 306, § 7, emerg. eff. June 4, 1991; Laws 1995, c. 231, § 5, eff. Nov. 1, 1995; Laws 1999, c. 93, § 1, eff. Nov. 1, 1999.

§63-1-702. Licenses required - Practice of healing arts or medicine

A. It shall be unlawful for any person to establish, operate or maintain in the State of Oklahoma a hospital without first obtaining a license therefor in the manner hereinafter provided. Hospitals operated by the federal government, the Department of Corrections, state mental hospitals, and community-based structured crisis centers as defined in Section 3-317 of Title 43A of the Oklahoma Statutes, shall be exempt from the provisions of this article.

B. A hospital may be licensed as a general medical surgical hospital with one or more specialty services or combination of specialty services in a single license.

C. Nothing in this article shall authorize any person to engage, in any manner, in the practice of the healing arts.

Added by Laws 1963, c. 325, art. 7, § 702, operative July 1, 1963. Amended by Laws 1996, c. 354, § 49, eff. Nov. 1, 1996; Laws 1999, c. 93, § 2, eff. Nov. 1, 1999; Laws 2016, c. 95, § 1, eff. Nov. 1, 2016.

§63-1-702a. Voluntary licensing of birthing centers - Standards for day treatment programs - Rules and regulations.

A. By January 1, 1992, the State Board of Health shall promulgate and adopt rules for the voluntary licensing of birthing centers.

B. The State Board of Health shall promulgate rules establishing standards for day treatment programs other than those operated by community mental health centers.

Added by Laws 1991, c. 306, § 8, emerg. eff. June 4, 1991. Amended by Laws 1995, c. 231, § 6, eff. Nov. 1, 1995.

§63-1-702b. Repealed by Laws 2006, c. 315, § 18, emerg. eff. June 9, 2006.

§63-1-702c. Enhanced reimbursement program for services provided to Medicare beneficiaries.

With available funds, the State Department of Health shall apply to the Secretary for the federal Department of Health and Human Services for any and all waivers, grants, or other assistance that would allow or facilitate the establishment of a program of enhanced reimbursement for services provided to Medicare beneficiaries in emergency hospitals in rural areas of the state.

Added by Laws 2001, c. 317, § 1, eff. Nov. 1, 2001.

§63-1-702d. Repealed by Laws 2006, c. 315, § 19, emerg. eff. June 9, 2006.

§63-1-702e. Uncompensated Care Equalization Revolving Fund.

There is hereby created in the State Treasury a revolving fund to be designated the "Uncompensated Care Equalization Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of monies available to the State Department of Health pursuant to Section 1-702b of Title 63 of the Oklahoma Statutes. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the State Department of Health as authorized by law. The Department

shall ensure that all monies deposited into the fund are matched with federal dollars whenever possible.
Added by Laws 2004, c. 431, § 3, emerg. eff. June 4, 2004.

§63-1-703. Licenses - Application - Evidence of qualifications.

Before a license shall be issued under this article, the person applying, if an individual, shall submit evidence satisfactory to the State Commissioner of Health that he is not less than twenty-one (21) years of age, of reputable and responsible character, and in sound physical and mental health. In the event the applicant is an association, corporation or governmental unit, like information shall be submitted as to the members of the governing board thereof. Every applicant shall also submit satisfactory evidence of his ability to comply with minimum standards and with all rules and regulations adopted by the State Board of Health. The application shall be on a form prescribed by the Commissioner, shall be verified, and shall show the type of institution to be operated and the location thereof, the name of the person in charge of the institution, and such other information as the Commissioner may require. An application on behalf of a corporation, association or governmental unit shall be made by any two officers thereof, or by its managing agent, and shall furnish like information.

Laws

Laws 1963, c. 325, art. 7, § 703.

§63-1-704. Licenses - Fees - Duration - Posting.

A. 1. The application by any person for a license to operate a hospital within the meaning of this article shall be accompanied by a fee to be determined by the number of beds available for patients, to be established by the State Board of Health, but not to exceed Ten Dollars ($10.00) for each bed included in the maximum bed capacity at such facility.

2. For the purpose of determining the fee, the total number of beds shall include cribs and bassinets.

B. No such fee shall be refunded unless licensure is refused. All licenses shall be for a period of twelve (12) months from the date of issue. Provided that licenses may be issued for a period of more than twelve (12) months, but not more than twenty-four (24) months, for the license period immediately following the enactment of this provision in order to permit an equitable distribution of license expiration dates to all months of the year.

C. Fees for such extended licensure period shall be prorated according to the total months to be licensed, with such amounts to be calculated to the nearest dollar.

D. All licenses:

1. Shall be on a form prescribed by the State Commissioner of Health and shall not be transferable or assignable;

2. Shall be issued only for the premises named in the application;

3. Shall be posted in a conspicuous place on the licensed premises; and

4. May be renewed for twelve-month periods upon application, investigation and payment of license fee, as in the case of procurement of an original license.

Added by Laws 1963, c. 325, art. 7, § 704, operative July 1, 1963. Amended by Laws 1978, c. 286, § 1, eff. Jan. 1, 1979; Laws 1993, c. 269, § 13, eff. Sept. 1, 1993; Laws 1999, c. 93, § 3, eff. Nov. 1, 1999.

§63-1-705. Rules and standards - Inspection - Application of other laws - Community-based programs and services to be provided.

A. The State Board of Health, upon recommendation of the State Commissioner of Health and with the advice of the Oklahoma Hospital Advisory Council hereinafter provided for, shall promulgate rules and standards for the construction and operation of hospitals, for which licenses are required by the terms of this article, to provide for the proper care of patients. The promulgation of rules shall be subject to and be governed by the provisions of the Administrative Procedures Act.

B. Every hospital shall be periodically inspected by an authorized representative of the Commissioner. Reports of such inspections shall be on forms prescribed by the Commissioner, who shall, after receipt of such reports, take such action as deemed necessary by the Commission to have corrected any deficiencies or violations of the rules and standards of the Board shown in such reports.

C. Hospitals licensed pursuant to the provisions of this article shall not be exempt from being inspected or licensed under laws relating to hotels, restaurants, lodging houses, boarding houses and places of refreshment.

D. 1. Every hospital that offers or provides inpatient psychiatric or chemical dependency treatment services to persons eighteen (18) years of age or younger shall offer, provide or otherwise make available community-based programs and services and may make such programs and services available directly, through contract, or other appropriate means as determined by the State Department of Health.

2. For the purposes of this subsection the term "community-based services" shall have the same meaning as such term is defined by Section 1-1-105 of Title 10A of the Oklahoma Statutes.

Added by Laws 1963, c. 325, art. 7, § 705, operative July 1, 1963. Amended by Laws 1989, c. 345, § 1, eff. Oct. 1, 1989; Laws 1999, c. 93, § 4, eff. Nov. 1, 1999; Laws 2009, c. 234, § 151, emerg. eff. May 21, 2009.

§63-1-706. Licenses - Issuance, suspension and revocation.

A. The State Commissioner of Health shall issue licenses for the operation of hospitals found to comply with the provisions of this article and rules and standards of the State Board of Health.

B. The Commissioner may suspend or revoke any such license on any of the following grounds:

1. Violation of any of the provisions of this article, or rules or standards promulgated pursuant thereto;

2. Permitting, aiding or abetting the commission of any illegal act in the licensed hospital or institution; or

3. Conduct or practices deemed by the Commissioner to be detrimental to the welfare of the patients of the hospital or institution.

C. If a license is revoked, a new application for license shall be considered by the Commissioner on receipt of evidence that the conditions upon which revocation was based have been corrected. A new license may then be granted after proper inspection has been made and all provisions of this article and rules and standards of the State Board of Health have been satisfied.

Added by Laws 1963, c. 325, art. 7, § 706, operative July 1, 1963.
Amended by Laws 1999, c. 93, § 5, eff. Nov. 1, 1999.

§63-1-706.1. Repealed by Laws 1999, c. 93, § 10, eff. Nov. 1, 1999.

§63-1-706.2. Repealed by Laws 1999, c. 93, § 10, eff. Nov. 1, 1999.

§63-1-706.3. Repealed by Laws 1999, c. 93, § 10, eff. Nov. 1, 1999.

§63-1-706.4. Repealed by Laws 1999, c. 93, § 10, eff. Nov. 1, 1999.

§63-1-706.5. Repealed by Laws 1999, c. 93, § 10, eff. Nov. 1, 1999.

§63-1-706.10. Short title.

This act shall be known and may be cited as the "Emergency Medical Services for Children Resource Center Act".

Added by Laws 1995, c. 194, § 1, eff. Nov. 1, 1995.

§63-1-706.11. Recognition of Center as resource to state's emergency medical services system.

A. The Oklahoma Emergency Medical Services for Children Resource Center, operated within the Department of Pediatrics through its Section of General Pediatrics and within the University of Oklahoma College of Medicine, shall be recognized by the State Department of Health as a resource to the state's overall emergency medical services system, thus ensuring that children have access to

quality pediatric emergency medical services, including, but not limited to, prehospital and hospital care.

B. As funds are available, the State Department of Health may contract with the Center for the implementation of this act.

Added by Laws 1995, c. 194, § 2, eff. Nov. 1, 1995.

§63-1-706.12. Purposes of Center.

The purposes of the Emergency Medical Services for Children Resource Center shall be to:

1. Maximize pediatric emergency care in Oklahoma through expert leadership, education, research and advocacy;

2. Develop guidelines for approval of emergency medical service facilities as Emergency Departments Approved for Pediatrics (EDA-P) and for rating the ability of a facility to provide pediatric emergency medical services;

3. Develop guidelines for equipment and its use for prehospital and hospital pediatric emergency care;

4. Develop guidelines and protocols for prehospital and hospital facilities which encompass all levels of pediatric emergency medical services, including, but not limited to, stabilization, treatment, transfers and referrals;

5. Provide initial and continuing professional education programs and guidelines on pediatric emergency medical care for emergency medical services personnel and other health care providers;

6. Conduct public education concerning pediatric emergency medical services including, but not limited to, prevention and access to pediatric emergency services;

7. Collect and analyze existing data from prehospital and hospital emergency medical systems related to pediatric emergency and critical care for the purpose of quality improvement;

8. Consult with and advise public and private organizations, including the Emergency Medical Services Division and the Trauma Systems Development Section of the Injury Prevention Service within the State Department of Health, the Oklahoma Highway Safety Office, law enforcement, fire service, ambulance services, educational institutions, professional organizations, business organizations, hospital organizations and any other federally funded projects in pediatric emergency and critical care medical services;

9. Provide other services and activities deemed necessary to maximize pediatric emergency care in the State of Oklahoma; and

10. Solicit and accept funds from the federal government and other public and private sources.

Added by Laws 1995, c. 194, § 3, eff. Nov. 1, 1995. Amended by Laws 2013, c. 229, § 61, eff. Nov. 1, 2013.

§63-1-707. Rules and standards – Oklahoma Hospital Advisory.

A. The State Board of Health, upon the recommendation of the State Commissioner of Health and with the advice of the Oklahoma Hospital Advisory Council, shall promulgate rules and standards as it deems to be in the public interest for hospitals, on the following:

1. Construction plans and location, including fees not to exceed Two Thousand Dollars ($2,000.00) for submission or resubmission of architectural and building plans, and procedures to ensure the timely review of such plans by the State Department of Health. Said assessed fee shall be used solely for the purposes of processing approval of construction plans and location by the State Department of Health;

2. Physical plant and facilities;

3. Fire protection and safety;

4. Food service;

5. Reports and records;

6. Staffing and personal service;

7. Surgical facilities and equipment;

8. Maternity facilities and equipment;

9. Control of communicable disease;

10. Sanitation;

11. Laboratory services;

12. Nursing facilities and equipment; and

13. Other items as may be deemed necessary to carry out the purposes of this article.

B. 1. The State Board of Health, upon the recommendation of the State Commissioner of Health and with the advice of the Oklahoma Hospital Advisory Council and the State Board of Pharmacy, shall promulgate rules and standards as it deems to be in the public interest with respect to the storage and dispensing of drugs and medications for hospital patients.

2. The State Board of Pharmacy shall be empowered to inspect drug facilities in licensed hospitals and shall report violations of applicable statutes and rules to the State Department of Health for action and reply.

C. 1. The Commissioner shall appoint an Oklahoma Hospital Advisory Council to advise the Board, the Commissioner and the Department regarding hospital operations and to recommend actions to improve patient care.

2. The Advisory Council shall have the duty and authority to:

a. review and approve in its advisory capacity rules and standards for hospital licensure,

b. evaluate, review and make recommendations regarding Department licensure activities, provided however, the Advisory Council shall not make recommendations regarding scope of practice for any health care

providers or practitioners regulated pursuant to Title 59 of the Oklahoma Statutes, and

c. recommend and approve:

(1) quality indicators and data submission requirements for hospitals, to include:

(a) Agency for Healthcare Research and Quality (AHRQ) Patient Safety Indicators Available as part of the standard inpatient discharge data set, and

(b) for acute care intensive care unit patients, ventilator-associated pneumonia and device-related blood stream infections, and

(2) the indicators and data to be used by the Department to monitor compliance with licensure requirements, and

d. to publish an annual report of hospital performance to include the facility specific quality indicators required by this section.

D. 1. The Advisory Council shall be composed of nine (9) members appointed by the Commissioner with the advice and consent of the Board. The membership of the Advisory Council shall be as follows:

a. two members shall be hospital administrators of licensed hospitals,

b. two members shall be licensed physicians or practitioners who have current privileges to provide services in hospitals,

c. two members shall be hospital employees, and

d. three members shall be citizens representing the public who:

(1) are not hospital employees,

(2) do not hold hospital staff appointments, and

(3) are not members of hospital governing boards.

2. a. Advisory Council members shall be appointed for three-year terms except the initial terms after November 1, 1999, of one hospital administrator, one licensed physician or practitioner, one hospital employee, and one public member shall be one (1) year. The initial terms after the effective date of this act of one hospital administrator, one licensed physician or practitioner, one hospital employee, and one public member shall be two (2) years. The initial terms of all other members shall be three (3) years. After initial appointments to the Council, members shall be appointed to three-year terms.

b. Members of the Advisory Council may be removed by the Commissioner for cause.

E. The Advisory Council shall meet on a quarterly basis and shall annually elect from among its members a chairperson. Members of the Council shall serve without compensation but shall be reimbursed by the Department for travel expenses related to their service as authorized by the State Travel Reimbursement Act.
Added by Laws 1963, c. 325, art. 7, § 707, operative July 1, 1963. Amended by Laws 1968, c. 86, § 1, emerg. eff. April 1, 1968; Laws 1999, c. 93, § 6, eff. Nov. 1, 1999; Laws 1999, c. 213, § 2, eff. July 1, 1999; Laws 2006, c. 315, § 16, emerg. eff. June 9, 2006.

§63-1-707a. Staff privileges - Applications - Psychologists.

A. The administrator in charge of each hospital licensed by the State Commissioner of Health shall accept for consideration each application for professional staff privileges submitted by a person licensed to practice:

1. Medicine by the State Board of Medical Licensure and Supervision;

2. Osteopathy by the State Board of Osteopathy;

3. Podiatry by the State Board of Podiatry; or

4. As a health service psychologist by the Oklahoma State Board of Examiners of Psychologists.

B. The application shall be acted upon by the governing board of the hospital within a reasonable time. A written report of such action shall be furnished to the applicant thereafter.

C. If a hospital grants staff privileges to a psychologist, at the time of admission of a patient of the psychologist to the hospital, the psychologist or the hospital shall identify a psychiatrist, a medical doctor, or a doctor of osteopathy who shall be responsible for the medical evaluation and medical management of the patient.
Added by Laws 1977, c. 180, § 1. Amended by Laws 1979, c. 142, § 1; Laws 1987, c. 118, § 53, operative July 1, 1987; Laws 1995, c. 134, § 1, eff. Nov. 1, 1995; Laws 1999, c. 93, § 7, eff. Nov. 1, 1999.

§63-1-707b. Granting of staff privileges - Criteria.

A. The administrator in charge of or the governing board of each hospital licensed by the State Commissioner of Health shall adopt written criteria for use in determining which licensed medical doctors, doctors of osteopathy, doctors of podiatry, and health service psychologists shall be granted professional and/or medical staff privileges by the hospital. A licensed hospital shall not deny an application based solely on the applicant's license, as long as the applicant is licensed to practice:

1. Medicine by the State Board of Medical Licensure and Supervision;

2. Osteopathy by the State Board of Osteopathy;

3. Podiatry by the State Board of Podiatry; or

4. As a health service psychologist by the Oklahoma State Board of Examiners of Psychologists.

B. The accordance and delineation of medical staff membership or clinical privileges shall be determined on an individual basis commensurate with an applicant's education, training, experience and demonstrated clinical competence.

C. When medical education training and specialty board certification are considerations in the credentialing and recredentialing of physicians, hospitals and health plans shall give equal recognition to those bodies recognized by the federal government for the training and certification of such physicians. Hospitals and health plans shall not discriminate, on the basis of education, against eligible physicians who have:

1. Graduated from medical schools and postdoctoral programs approved by either the American Osteopathic Association or the Accreditation Council for Graduate Medical Education; or

2. Been awarded board eligibility or board certification by specialty boards recognized by either the American Osteopathic Association or the American Board of Medical Specialties.

Added by Laws 1977, c. 180, § 2. Amended by Laws 1979, c. 142, § 2; Laws 1995, c. 134, § 2, eff. Nov. 1, 1995; Laws 1995, c. 358, § 6, eff. Nov. 1, 1995; Laws 1999, c. 93, § 8, eff. Nov. 1, 1999; Laws 2002, c. 156, § 2, eff. Nov. 1, 2002.

NOTE: Laws 1995, c. 107, § 1 repealed by Laws 1995, c. 358, § 13, eff. Nov. 1, 1995.

§63-1-709. Information confidential.

Information received by the State Commissioner of Health through inspection or otherwise, authorized under the foregoing sections of this article, shall be confidential and shall not be disclosed publicly except in a proceeding involving the question of licensure or revocation or suspension of license.

Laws 1963, c. 325, art. 7, § 709.

§63-1-710. Repealed by Laws 1999, c. 93, § 10, eff. Nov. 1, 1999.

§63-1-711. Survey and inventory of hospitals and health centers.

The State Commissioner of Health shall conduct and make a survey and inventory of the location, size, and character of all existing public and private (proprietary as well as nonprofit) hospitals, community mental health facilities, health centers, and related health facilities within the State of Oklahoma; evaluate the sufficiency of such hospitals, community mental health facilities, health centers, and related health facilities to supply the necessary physical facilities for furnishing adequate hospital, clinical, and similar services to all people of the state; and compile data and conclusions, together with a statement of the

additional facilities necessary, in conjunction with existing structures, to supply such services.
Laws 1963, c. 325, art. 7, § 711, operative July 1, 1963; Laws 1965, c. 36, § 2, emerg. eff. March 8, 1965.

§63-1-712. Repealed by Laws 1999, c. 93, § 10, eff. Nov. 1, 1999.

§63-1-713. Standards of United States Surgeon General to be followed - Reports.

The State Commissioner of Health, in making the survey and inventory of existing hospitals, health centers, community mental health facilities, and related health facilities, and in developing programs for the construction of public and other nonprofit health facilities, shall carry out such purposes in accordance with standards prescribed by the Surgeon General of the United States Public Health Service with the approval of the Federal Hospital Advisory Council. The Commissioner shall make such reports, in such form and containing such information, as the Surgeon General of the United States Public Health Service may from time to time require, and shall comply with requirements of the Surgeon General as will assure the correctness and the verification of such reports.
Laws 1963, c. 325, art. 7, § 713; Laws 1965, c. 36, § 4, emerg. eff. March 8, 1965.

§63-1-713.1. Federally Qualified Health Centers - Compliance with federal law - Subject to Open Meeting Act - Investigation of and sanctions for noncompliance - Board member training and certification.

A. The Legislature finds that:

1. As providers of health care to medically underserved populations, Federally Qualified Health Centers are extremely beneficial to the citizens of Oklahoma;

2. The primary source of funding for Federally Qualified Health Centers is through grants of funds by the Bureau of Primary Health Care (BPHC) under Section 330 of the Public Health Service Act as amended by the Health Centers Consolidation Act of 1996;

3. The receipt of federal grants is dependent upon compliance with federal statutes, regulations and policies regarding the mission, programs, governance, management and financial responsibilities of such entities; and

4. In addition to federal grant monies, Federally Qualified Health Centers in Oklahoma receive additional monies through the appropriation of state funds.

B. In an effort to maintain the presence of Federally Qualified Health Centers in Oklahoma and minimize the possibility of jeopardizing federal funding for such entities, all Federally

Qualified Health Centers in Oklahoma that receive grants under Section 330 of the Public Health Service Act shall:

1. Remain in compliance at all times with the federal statutes, regulations and polices governing their existence at 42 U.S.C. 254b, 42 CFR 51c.303, 51c.304 and 51c.305, and BPHC Policy Information Notice 98-23; and

2. Adhere to bylaws adopted in compliance with the federal statutes, regulations and polices including, but not limited to, provisions regarding the composition, functions and responsibilities of boards of directors of Federally Qualified Health Centers.

C. Further, the board of directors of a Federally Qualified Health Center shall be considered a public body for purposes of the Oklahoma Open Meeting Act and shall be subject to the provisions of that act, including criminal penalties provided therein for violations of that act.

D. Any Federally Qualified Health Center in Oklahoma that fails to comply with federal statutes, regulations and policies governing its existence shall be ineligible for state reimbursement for uncompensated care. Further, the entity shall be ineligible to receive such state reimbursement if the board of directors fails to remove, for cause, any board member convicted of a misdemeanor for violating the provisions of the Oklahoma Open Meeting Act, or any board member against whom a civil judgment is rendered relating to that member's service on the board.

E. The State Department of Health shall investigate reported violations of this act and, notwithstanding any other provision, shall enforce this act by not contracting to reimburse the uncompensated care costs of any Federally Qualified Health Center found to be in violation of the provisions of this act. The Department shall further report any violations of federal statutes, regulations and policies related to this act to the Bureau of Primary Health Care or other appropriate federal funding agency, and shall report violations of the Oklahoma Open Meeting Act to the district attorney in the jurisdiction where the entity is located.

F. In order to ensure that Federally Qualified Health Centers in Oklahoma remain eligible to receive state reimbursement for uncompensated care under the provisions of this act, the State Board of Health shall adopt rules, as it deems necessary and appropriate, requiring board members of such entities to receive board member training and establishing certification for entities to provide such training.

Added by Laws 2005, c. 41, § 1, emerg. eff. April 12, 2005.

§63-1-714. Repealed by Laws 1999, c. 93, § 10, eff. Nov. 1, 1999.

§63-1-715. Repealed by Laws 1999, c. 93, § 10, eff. Nov. 1, 1999.

§63-1-716. Repealed by Laws 1999, c. 93, § 10, eff. Nov. 1, 1999.

§63-1-717. Repealed by Laws 1999, c. 93, § 10, eff. Nov. 1, 1999.

§63-1-718. Repealed by Laws 1999, c. 93, § 10, eff. Nov. 1, 1999.

§63-1-719. Bonds of counties, cities and towns.

Any county, city, or town is hereby authorized to issue bonds for constructing and equipping a hospital, community mental health facility, public health center, or related health facility, to be owned and operated by such county, city, or town in accordance with standards approved by the State Commissioner of Health; provided, that such bonds may be issued to construct a jointly owned and operated hospital, community mental health facility, public health center, or related health facility, by two or more counties, or by one or more counties and a city or cities, or by two or more cities. Such bonds shall be issued upon the assent thereto of three-fifths (3/5) of the voters of the subdivision issuing the bonds, voting at an election held for that purpose. The proposition voted on shall state specifically the type of hospital facility to be constructed. Such election shall be called by the governing board or managing body of such subdivision. Notice of the election shall be published for two (2) successive weeks in a weekly or daily newspaper, having a general circulation in the subdivision. The bonds shall be made to mature serially as now provided by law, and shall be sold at an advertised sale under existing laws. The rate of interest shall not exceed eight percent (8%) per annum. The bonds shall be submitted to the Attorney General for his approval as ex officio Bond Commissioner of the state.

Laws 1963, c. 325, art. 7, § 719; Laws 1965, c. 36, § 9; Laws 1970, c. 286, § 10, emerg. eff. April 27, 1970.

§63-1-720. Repealed by Laws 1999, c. 93, § 10, eff. Nov. 1, 1999.

§63-1-721. Repealed by Laws 1999, c. 93, § 10, eff. Nov. 1, 1999.

§63-1-722. Electronic- or computer-generated signatures of physician.

Electronic- or computer-generated signatures of a physician are acceptable as authentication and may be used in any place in the medical record where a physician's signature is required, including, but not limited to, all medical orders, if the signature is generated by a confidential code which only the user possesses and the following safeguards are adhered to:

1. The physician signs and then files a statement in the hospital administrator's office which states that:

a. the physician will use an electronic- or computer-generated signature to authenticate his entries in the medical record,
b. the signature will be generated by a confidential code which only the physician possesses, and
c. no person other than the physician will be permitted to use the signature;

2. The physician's use of an electronic- or computer-generated signature is approved in writing by the hospital's administrator and medical record committee;

3. The electronic- or computer-generated signature is the full, legal name of the physician and includes the physician's professional title; and

4. Rules and regulations pertaining to electronic-generated signatures as provided in this act shall be promulgated by the State Board of Health.

Added by Laws 1993, c. 124, § 1, eff. Sept. 1, 1993.

§63-1-723. Primary Health Care Development Revolving Fund.

A. There is hereby created in the State Treasury a revolving fund for the State Department of Health to be designated the "Primary Health Care Development Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of appropriations, grants, gifts and other money obtained pursuant to this act.

B. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the State Department of Health for the enhancement and establishment of federally qualified health centers or federally qualified look-alike community health centers, as defined by 42 U.S.C., Section 13986d(1)(2)(B).

C. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 2005, c. 253, § 1, eff. July 1, 2005. Amended by Laws 2012, c. 304, § 484.

§63-1-723.2. Discount program for qualified self-pay patients - Defense in collection action.

A. Each hospital in this state shall establish a discount program for hospital charges for qualified self-pay patients who have household incomes of up to three hundred percent (300%) of the federal poverty guidelines. This discount program shall not be required for patients who are eligible for or enrolled in private or public insurance plans providing hospital coverage, including indemnity plans.

B. While a hospital may set uniform prices for its services, products, and fees, qualified self-pay patients shall be eligible for minimum discounts from the hospital so that the hospital charge after the discount shall not exceed the greater of the amount Medicare would pay for the same services, or the cost of services as determined by multiplying the hospital's whole cost-to-charge ratio by the billed charges.

C. It shall be the responsibility of the patient to establish their eligibility for the discount.

D. The provisions of this section do not apply to procedures that are not medically necessary as determined by the treating physician.

E. In a collection action brought by the hospital, a patient may assert the provisions of this section as a defense to the action. To be available as a defense, the patient must establish eligibility for the discount by proving:

1. The household income of the patient is below three hundred percent (300%) of the federal poverty guidelines; and

2. The patient is not eligible or enrolled in private or public insurance plans providing hospital coverage.

If the elements are established, the hospital is limited in its collection efforts to the greater of the amount Medicare would pay for the same services, or the cost of services as determined by multiplying the hospital's whole cost-to-charge ratio by the billed charges.

Added by Laws 2006, c. 315, § 11, eff. July 1, 2007.

§63-1-724. Health centers – Contracts, donations, and grants.

A. The State Department of Health is authorized to enter into contracts, based on the availability of funding, to promote the establishment of new facilities in Oklahoma which will qualify as federally qualified health centers (FQHC) or federally qualified look-alike community health centers, as defined by 42 U.S.C., Section 13986d(1)(2)(B) including:

1. Contracts to provide for community planning and development;

2. Contracts to provide for grants or grant writing to apply for federal 330 FQHC funding; and

3. Contracts for transitional operating support.

B. The State Department of Health is authorized to accept donations of land, property, buildings, equipment and gifts of money or other objects of value for the purpose of establishing or expanding federally qualified health centers.

C. The State Department of Health is authorized to utilize grant funds, donations and other funds made available to the Department for the purpose of establishing or expanding federally qualified health centers, to the extent funds are available.

D. The State Department of Health may enter into agreements with public or private entities as necessary for the purpose of establishing new federally qualified health centers.
Added by Laws 2005, c. 253, § 3, eff. July 1, 2005.

§63-1-727. Human cloning.

A. As used in this section, the term:

1. "Human cloning" means human asexual reproduction, accomplished by introducing the nuclear material of a human somatic cell into a fertilized or unfertilized oocyte whose nucleus has been removed or inactivated to produce a living organism (at any stage of development) with a human genetic constitution;

2. "Somatic cell" means a diploid cell (having a complete set of chromosomes) obtained or derived from a living or deceased human body at any stage of development;

3. "Nucleus" means the cell structure that houses the chromosomes, and thus the genes; and

4. "Oocyte" means the female germ cell, the egg.

B. It shall be unlawful for any person or entity, public or private, to:

1. Perform or attempt to perform human cloning;

2. Participate in an attempt to perform human cloning;

3. Ship, transfer, or receive the product of human cloning for any purpose; or

4. Import the product of human cloning for any purpose.

C. Nothing in this section shall restrict areas of scientific research not specifically prohibited by this section, including research in the use of nuclear transfer or other cloning techniques to produce molecules, DNA, cells other than human embryos, tissues, organs, plants, or animals other than humans.

D. Any person or entity that is convicted of violating any provision of this section shall be guilty of a misdemeanor.
Added by Laws 2009, c. 223, § 1, eff. Nov. 1, 2009.

§63-1-728. Repealed by Laws 2010, c. 47, § 7, emerg. eff. April 2, 2010.

§63-1-728.1. Repealed by Laws 2010, c. 47, § 7, emerg. eff. April 2, 2010.

§63-1-728.2. Repealed by Laws 2010, c. 47, § 7, emerg. eff. April 2, 2010.

§63-1-728.3. Repealed by Laws 2010, c. 47, § 7, emerg. eff. April 2, 2010.

§63-1-728.4. Repealed by Laws 2010, c. 47, § 7, emerg. eff. April 2, 2010.

§63-1-728.5. Repealed by Laws 2010, c. 47, § 7, emerg. eff. April 2, 2010.

§63-1-728a. Short title.

This act shall be known and may be cited as the "Freedom of Conscience Act".

Added by Laws 2010, c. 47, § 1, emerg. eff. April 2, 2010.

§63-1-728b. Definitions.

As used in the Freedom of Conscience Act:

1. "Health care facility" means any public or private organization, corporation, authority, partnership, sole proprietorship, association, agency, network, joint venture, or other entity that is involved in providing health care services, including a hospital, clinic, medical center, ambulatory surgical center, private physician's office, pharmacy, nursing home, university hospital, medical school, nursing school, medical training facility, inpatient health care facility, or other place where health care services are provided;

2. "Human embryo" means a human organism that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes or human diploid cells;

3. "In vitro human embryo" means a human embryo, whether cryopreserved or not, living outside of a woman's body;

4. "Participate in" means to perform, practice, engage in, assist in, recommend, counsel in favor of, make referrals for, prescribe, dispense, or administer drugs or devices or otherwise promote or encourage; and

5. "Person" means any individual, corporation, industry, firm, partnership, association, venture, trust, institution, federal, state or local governmental instrumentality, agency or body or any other legal entity however organized.

Added by Laws 2010, c. 47, § 2, emerg. eff. April 2, 2010.

§63-1-728c. Prohibits employer discrimination - Applicable circumstances.

An employer shall not discriminate against an employee or prospective employee by refusing to reasonably accommodate the religious observance or practice of the employee or prospective employee, unless the employer can demonstrate that the accommodation would pose an undue hardship on the program, enterprise, or business of the employer, in the following circumstances:

1. An abortion as defined in Section 1-730 of Title 63 of the Oklahoma Statutes. The provisions of this section shall not apply

if the pregnant woman suffers from a physical disorder, physical injury, or physical illness which, as certified by a physician, causes the woman to be in imminent danger of death unless an abortion is immediately performed or induced and there are no other competent personnel available to attend to the woman. As used in this act, the term "abortion" shall not include the prescription of contraceptives;

2. An experiment or medical procedure that destroys an in vitro human embryo or uses cells or tissue derived from the destruction of an in vitro human embryo;

3. An experiment or medical procedure on an in vitro human embryo that is not related to the beneficial treatment of the in vitro human embryo;

4. An experiment or medical procedure on a developing child in an artificial womb, at any stage of development, that is not related to the beneficial treatment of the developing child;

5. A procedure, including a transplant procedure, that uses fetal tissue or organs that come from a source other than a stillbirth or miscarriage; or

6. An act that intentionally causes or assists in causing the death of an individual by assisted suicide, euthanasia, or mercy killing.

Added by Laws 2010, c. 47, § 3, emerg. eff. April 2, 2010.

§63-1-728d. No requirement to admit patients - Employee refusal to participate and immunity.

A. No health care facility is required to admit any patient or to allow the use of the health care facility for the purpose of performing any of the acts specified in Section 3 of this act.

B. A physician, physician's assistant, registered nurse, practical nurse, pharmacist, or any employee thereof, or any other person who is an employee of, member of, or associated with the staff of a health care facility in which the performance of an activity specified in Section 3 of this act has been authorized, who in writing, refuses or states an intention to refuse to participate in the activity on moral or religious grounds shall not be required to participate in the activity and shall not be disciplined by the respective licensing board or authorized regulatory department for refusing or stating an intention to refuse to participate in the practice with respect to the activity.

C. A physician, physician's assistant, registered nurse, practical nurse, pharmacist, or any employee thereof, or any other person who is an employee of, member of, or associated with the staff of a health care facility is immune from liability for any damage caused by the refusal of the person to participate in an activity specified in Section 3 of this act on moral or religious grounds.

Added by Laws 2010, c. 47, § 4, emerg. eff. April 2, 2010.

§63-1-728e. Discrimination - Circumstances - Prohibitions.

A. No health care facility, school, or employer shall discriminate against any person with regard to admission, hiring or firing, tenure, term, condition, or privilege of employment, student status, or staff status on the ground that the person refuses or states an intention to refuse, whether or not in writing, to participate in an activity specified in Section 3 of this act, if the refusal is based on religious or moral precepts.

B. No person shall be required to:

1. Participate in an activity specified in Section 3 of this act if the individual's participation in the activity is contrary to the person's religious beliefs or moral convictions;

2. Make facilities available for an individual to participate in an activity specified in Section 3 of this act if the person prohibits the activity from taking place in the facilities on the basis of religious beliefs or moral convictions; or

3. Provide any personnel to participate in an activity specified in Section 3 of this act if the activity is contrary to the religious beliefs or moral convictions of the personnel.

Added by Laws 2010, c. 47, § 5, emerg. eff. April 2, 2010.

§63-1-728f. Ability to sue - Damages.

A. For the purposes of this section, "damages" do not include noneconomic damages, as defined in Section 1-1708.1C of Title 63 of the Oklahoma Statutes.

B. A person who is adversely affected by conduct that is in violation of the Freedom of Conscience Act may bring a civil action for equitable relief, including reinstatement or damages, or both reinstatement and damages. An action under this subsection may be commenced against the state and any office, department, independent agency, authority, institution, association, or other body in state government created or authorized to be created by the state constitution or any law. In an action under this subsection, the court shall award reasonable attorney fees to a person who obtains equitable relief, damages, or both. An action under this subsection shall be commenced within one (1) year after the cause of action accrues or be barred.

Added by Laws 2010, c. 47, § 6, emerg. eff. April 2, 2010.

§63-1-729. Repealed by Laws 2010, c. 48, § 2, emerg. eff. April 2, 2010.

§63-1-729.1. Physician presence for abortion-inducing drugs.

When RU-486 (mifepristone) or any other drug or chemical is used for the purpose of performing or inducing an abortion, the physician

who is prescribing, dispensing, or otherwise providing the drug or chemical shall be physically present, in person, in the same room as the patient when the drug or chemical is first provided to the patient.
Added by Laws 2012, c. 170, § 1, eff. Nov. 1, 2012.

§63-1-729.2. Violation of act - Penalties.

Any person who knowingly or recklessly violates this act shall be guilty of a felony. No penalty may be assessed against the female upon whom the abortion is performed or induced or attempted to be performed or induced.
Added by Laws 2012, c. 170, § 2, eff. Nov. 1, 2012.

§63-1-729.3. Civil actions - Damages and injunctive relief - Civil contempt.

A. Any person who knowingly or recklessly violates a provision of this act shall be liable for damages as provided in this section and may be enjoined from such acts in accordance with this section in an appropriate court.

B. Any female upon whom an abortion has been performed or induced, the father of the unborn child who was the subject of the abortion if the father was married to the woman who received the abortion at the time the abortion was performed or induced, or a maternal grandparent of the unborn child may maintain an action against the person who performed or induced the abortion in knowing or reckless violation of this act for actual and punitive damages. Any female upon whom an abortion has been attempted to be performed or induced in knowing or reckless violation of this act may maintain an action against the person who attempted to perform or induce the abortion for actual and punitive damages.

C. If a judgment is rendered in favor of the plaintiff in any action described in this section, the court shall also render judgment for a reasonable attorney fee in favor of the plaintiff against the defendant. If a judgment is rendered in favor of the defendant and the court finds that the plaintiff’s suit was frivolous and brought in bad faith, the court shall also render judgment for a reasonable attorney fee in favor of the defendant against the plaintiff.

D. A cause of action for injunctive relief against any person who has knowingly or recklessly violated this act may be maintained by:

1. The female upon whom an abortion was performed or induced or attempted to be performed or induced in violation of this act;

2. Any person who is the spouse, parent, sibling or guardian of, or a current or former licensed health care provider of, the female upon whom an abortion has been performed or induced or attempted to be performed or induced in violation of this act;

3. A district attorney with appropriate jurisdiction; or
4. The Attorney General.

The injunction shall prevent the abortion provider from performing or inducing further abortions in violation of this act in the State of Oklahoma.

E. Any person who knowingly or recklessly violates the terms of an injunction issued in accordance with this act shall be subject to civil contempt, and shall be fined Ten Thousand Dollars ($10,000.00) for the first violation, Fifty Thousand Dollars ($50,000.00) for the second violation, One Hundred Thousand Dollars ($100,000.00) for the third violation and for each succeeding violation an amount in excess of One Hundred Thousand Dollars ($100,000.00) sufficient to deter future violations. The fines shall be the exclusive penalties for such contempt. Each performance or induction or attempted performance or induction of an abortion in violation of the terms of an injunction is a separate violation. These fines shall be cumulative. However, no fine may be assessed against the woman on whom an abortion was performed or induced or was attempted to be performed or induced.

F. A physician who performed or induced an abortion or attempted to perform or induce an abortion in violation of this act shall be considered to have engaged in unprofessional conduct for which his or her license to practice medicine in the State of Oklahoma may be suspended or revoked by the State Medical Board of Licensure and Supervision or the State Board of Osteophathic Examiners.

Added by Laws 2012, c. 170, § 3, eff. Nov. 1, 2012.

§63-1-729.4. Anonymity of woman upon whom abortion is performed.

In every proceeding or action brought under this act, the anonymity of any woman upon whom an abortion is performed or induced or attempted to be performed or induced shall be preserved from public disclosure unless she gives her consent to such disclosure. The court, upon motion or sua sponte, shall issue orders to the parties, witnesses, and counsel and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard her identity from public disclosure. In the absence of written consent of the woman upon whom an abortion has been performed or induced or has been attempted to be performed or induced, anyone who brings an action under Section 3 of this act shall do so under a pseudonym.

Added by Laws 2012, c. 170, § 4, eff. Nov. 1, 2012.

§63-1-729.5. Immunity from civil action.

No pregnant female who obtains or possesses RU-486 (mifepristone) or any other drug or chemical for the purpose of

performing or inducing an abortion to terminate her own pregnancy shall be subject to any action brought under Section 3 of this act.
Added by Laws 2012, c. 170, § 5, eff. Nov. 1, 2012.

§63-1-729.6. Interpretation of act.

Nothing in this act shall be construed as creating or recognizing a right to abortion.
Added by Laws 2012, c. 170, § 6, eff. Nov. 1, 2012.

§63-1-729.7. Severability of act.

If any one or more provision, section, subsection, sentence, clause, phrase or word of this act or the application hereof to any person or circumstance is found to be unconstitutional, the same is hereby declared to be severable and the balance of this act shall remain effective notwithstanding such unconstitutionality. The Legislature hereby declares that it would have passed this act, and each provision, section, subsection, sentence, clause, phrase or word thereof, irrespective of the fact that any one or more provision, section, subsection, sentence, clause, phrase, or word be declared unconstitutional.
Added by Laws 2012, c. 170, § 7, eff. Nov. 1, 2012.

§63-1-729a. Sale or distribution of RU-486.

A. The Legislature finds that:

1. The U.S. Food and Drug Administration (FDA) approved the drug mifepristone (brand name "Mifeprex"), a first-generation [selective] progesterone receptor modulator ([S]PRM), as an abortion-inducing drug with a specific gestation, dosage, and administration protocol;

2. The FDA approved mifepristone (brand name Mifeprex) under the rubric of 21 C.F.R., Section 314.520, also referred to as "Subpart H", which is the only FDA approval process that allows for postmarketing restrictions. Specifically, the Code of Federal Regulations (CFR) provides for accelerated approval of certain drugs that are shown to be effective but "can be safely used only if distribution or use is restricted";

3. The FDA does not treat Subpart H drugs in the same manner as drugs which undergo the typical approval process;

4. As approved by the FDA, and as outlined in the Mifeprex final printed labeling (FPL), an abortion by mifepristone consists of three two-hundred-milligram tablets of mifepristone taken orally, followed by two two-hundred-microgram tablets of misoprostol taken orally, through forty-nine (49) days LMP (a gestational measurement using the first day of the woman's "last menstrual period" as a marker). The patient is to return for a follow-up visit in order to confirm that the abortion has been completed. This FDA-approved

protocol is referred to as the "Mifeprex regimen" or the "RU-486 regimen";

5. The aforementioned procedure requires three office visits by the patient, and the dosages may only be administered in a clinic, medical office, or hospital and under supervision of a physician;

6. The Mifeprex final printed labeling (FPL) outlines the FDA-approved dosage and administration of both drugs in the Mifeprex regimen, namely mifepristone and misoprostol;

7. When the FDA approved the Mifeprex regimen under Subpart H, it did so with certain restrictions. For example, the distribution and use of the Mifeprex regimen must be under the supervision of a physician who has the ability to assess the duration of pregnancy, diagnose ectopic pregnancies, and provide surgical intervention (or has made plans to provide surgical intervention through other qualified physicians);

8. One of the restrictions imposed by the FDA as part of its Subpart H approval is a written agreement that must be signed by both the physician and patient. In that agreement, the woman attests to the following, among other statements:

a. "I believe I am no more than 49 days (7 weeks) pregnant",

b. "I understand that I will take misoprostol in my provider's office two days after I take Mifeprex (Day 3)", and

c. "I will do the following: return to my provider's office in two days (Day 3) to check if my pregnancy has ended. My provider will give me misoprostol if I am still pregnant";

9. The FDA concluded that available medical data did not support the safety of home use of misoprostol, and it specifically rejected information in the Mifeprex final printed labeling (FPL) on self-administering misoprostol at home;

10. The use of abortion-inducing drugs presents significant medical risks to women, including but not limited to abdominal pain, cramping, vomiting, headache, fatigue, uterine hemorrhage, viral infections, and pelvic inflammatory disease;

11. Abortion-inducing drugs are associated with an increased risk of complications relative to surgical abortion. The risk of complications increases with advancing gestational age, and, in the instance of the Mifeprex regimen, with failure to complete the two-step dosage process;

12. In July 2011, the FDA reported 2,207 adverse events in the United States after women used abortion-inducing drugs. Among those were 14 deaths, 612 hospitalizations, 339 blood transfusions, and 256 infections (including 48 "severe infections");

13. "Off-label" or so-called "evidence-based" use of abortion-inducing drugs may be deadly. To date, fourteen women have

reportedly died after administering abortion-inducing drugs, with eight deaths attributed to severe bacterial infection. All eight of those women administered the drugs in an "off-label" or "evidence-based" manner advocated by many abortion providers. The FDA has received no reports of women dying from bacterial infection following administration according to the FDA-approved protocol for the Mifeprex regimen. The FDA has not been able to conclude one way or another whether off-label use led to the eight deaths;

14. Medical evidence demonstrates that women who utilize abortion-inducing drugs incur more complications than those who have surgical abortions;

15. Based on the foregoing findings, it is the purpose of this act to:

a. protect women from the dangerous and potentially deadly off-label use of abortion-inducing drugs, and

b. ensure that physicians abide by the protocol approved by the FDA for the administration of abortion-inducing drugs, as outlined in the drugs' final printed labeling (FPL); and

16. In response to the Oklahoma Supreme Court's decision in Cline v. Oklahoma Coalition for Reproductive Justice (No. 111,939), in which the Oklahoma Supreme Court determined, in contravention of this Legislature's intent, that this act prohibits all uses of misoprostol for chemical abortion and prohibits the use of methotrexate in treating ectopic pregnancies, it is also the purpose of this act to legislatively overrule the decision of the Oklahoma Supreme Court and ensure that should such questions be presented before that Court in the future it will reach the proper result that this act does not ban use of misoprostol in chemical abortion (and allows it as part of the FDA-approved Mifeprex regimen) nor prevent the off-label use of drugs for the treatment of ectopic pregnancy.

B. As used in this section:

1. "Abortion-inducing drug" means a medicine, drug, or any other substance prescribed or dispensed with the intent of inducing an abortion. This includes off-label use of drugs known to have abortion-inducing properties, which are prescribed specifically with the intent of causing an abortion, such as misoprostol (Cytotec), and methotrexate. This definition does not apply to drugs that may be known to cause an abortion, but which are prescribed for other medical indications, such as chemotherapeutic agents or diagnostic drugs, or for treatment of an ectopic pregnancy;

2. "Abortion" means the use or prescription of any instrument, medicine, drug, or any other substance or device intentionally to terminate the pregnancy of a female known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, to remove an ectopic pregnancy, or to remove a dead unborn child who died as

the result of a spontaneous miscarriage, accidental trauma, or a criminal assault on the pregnant female or her unborn child;

3. "Drug label" or "drug's label" means the pamphlet accompanying an abortion-inducing drug which outlines the protocol authorized by the U.S. Food and Drug Administration (FDA) and agreed upon by the drug company applying for FDA authorization of that drug. Also known as "final printed labeling (FPL)" or referred to as the "FDA-approved label", it is the FDA-approved document which delineates how a drug is to be used according to the FDA approval;

4. "Mifeprex regimen" means the abortion-inducing drug regimen that is described in the FDA-approved Mifeprex final printed labeling, and which involves administration of mifepristone (brand name "Mifeprex") and misoprostol. It is the only abortion-inducing drug regimen approved by the FDA, and it does not include any dosage or administration not explicitly approved in Mifeprex final printed labeling. It is also commonly referred to as the "RU-486 regimen" or simply "RU-486";

5. "Mifepristone" means the first drug used in the Mifeprex regimen;

6. "Misoprostol" means the second drug used in the Mifeprex regimen;

7. "Personal identifying information" means any information designed to identify a person and any information commonly used or capable of being used alone or in conjunction with any other information to identify a person; and

8. "Physician" means a doctor of medicine or osteopathy legally authorized to practice medicine in the state.

C. No person shall knowingly or recklessly give, sell, dispense, administer, prescribe, or otherwise provide an abortion-inducing drug, including the Mifeprex regimen, unless the person who gives, sells, dispenses, administers, prescribes, or otherwise provides the abortion-inducing drug is a physician who:

1. Has the ability to assess the duration of the pregnancy accurately;

2. Has the ability to diagnose ectopic pregnancies;

3. Has the ability to provide surgical intervention in cases of incomplete abortion or severe bleeding, or has made and documented in the patient's medical record plans to provide such care through other qualified physicians; and

4. Is able to assure patient access to medical facilities equipped to provide blood transfusions and resuscitation, if necessary.

D. No physician who provides an abortion-inducing drug, including the Mifeprex regimen, shall knowingly or recklessly fail to provide or prescribe the drug according to the protocol authorized by the U.S. Food and Drug Administration and as outlined in the FDA-approved label. In the specific case of the Mifeprex

regimen, the Mifeprex label includes the FDA-approved dosage and administration instructions for both mifepristone (brand name Mifeprex) and misoprostol, and any provision accomplished according to that labeling is not prohibited.

E. No physician who provides an abortion-inducing drug, including the Mifeprex regimen, shall knowingly or recklessly fail to:

1. Provide each patient with a copy of the drug manufacturer's medication guide and drug label for the drug(s) being used; when the Mifeprex regimen is being utilized, this requirement is satisfied so long as the patient is provided the FDA-approved Mifeprex medication guide and final printed labeling;

2. Fully explain the procedure to the patient, including, but not limited to, explaining that the drug is being used in accordance with the protocol authorized by the U.S. Food and Drug Administration and as outlined in the drug label for the abortion-inducing drug;

3. Provide the female with a copy of the drug manufacturer's patient agreement and obtain the patient's signature on the patient agreement;

4. Sign the patient agreement; and

5. Record the drug manufacturer's package serial number in the patient's medical record.

F. Because the failure and complications rates from abortion-inducing drugs increase with increasing gestational age, and because the physical symptoms of an abortion induced by drugs can be identical to the symptoms of ectopic pregnancy, thereby increasing the risk of ruptured ectopic pregnancy, the physician giving, selling, dispensing, administering, or otherwise providing or prescribing the abortion-inducing drug shall first examine the woman and document, in the woman's medical chart, gestational age and intrauterine location of the pregnancy prior to giving, selling, dispensing, administering, or otherwise providing or prescribing the abortion-inducing drug.

G. An abortion-inducing drug must be administered in the same room and in the physical presence of the physician who prescribed, dispensed, or otherwise provided the drug to the patient. The physician inducing the abortion, or a person acting on behalf of the physician inducing the abortion, shall schedule the patient for a follow-up appointment and make all reasonable efforts to ensure that the patient returns twelve (12) to eighteen (18) days after the administration or use of the abortion-inducing drug for a follow-up visit so that the physician can confirm that the pregnancy has been terminated and assess the patient's medical condition. A brief description of the efforts made to comply with this subsection, including the date, time, and identification by name of the person

making such efforts, shall be included in the patient's medical record.

H. 1. If a physician provides an abortion-inducing drug and knows that the female who uses the abortion-inducing drug experiences within one (1) year after the use of the abortion-inducing drug an incomplete abortion, severe bleeding, or an adverse reaction to the abortion-inducing drug or is hospitalized, receives a transfusion, or experiences any other serious event, the physician shall, as soon as is practicable, but in no case more than sixty (60) days after the physician learns of the adverse reaction or serious event, provide a written report of the incomplete abortion, severe bleeding, adverse reaction, hospitalization, transfusion, or serious event to the drug manufacturer. If the physician is a doctor of medicine, the physician shall simultaneously provide a copy of the report to the State Board of Medical Licensure and Supervision. If the physician is a doctor of osteopathy, the physician shall simultaneously provide a copy of the report to the State Board of Osteopathic Examiners. The relevant Board shall compile and retain all reports it receives pursuant to this subsection. All reports the relevant Board receives under this subsection are public records open to inspection pursuant to the Oklahoma Open Records Act; however, absent an order by a court of competent jurisdiction, neither the drug manufacturer nor the relevant Board shall release the name or any other personal identifying information regarding a person who uses or provides the abortion-inducing drug for the purpose of inducing an abortion and who is the subject of a report the drug manufacturer or the relevant Board receives under this subsection.

2. No physician who provides an abortion-inducing drug to a pregnant female shall knowingly or recklessly fail to file a report required under paragraph 1 of this subsection. Knowing or reckless failure to comply with this subsection shall subject the physician to sanctioning by the licensing board having administrative authority over such physician.

I. Any female upon whom an abortion has been performed, the father of the unborn child who was the subject of the abortion if the father was married to the woman who received the abortion at the time the abortion was performed, or a maternal grandparent of the unborn child may maintain an action against the person who performed the abortion in knowing or reckless violation of this section for actual and punitive damages. Any female upon whom an abortion has been attempted in knowing or reckless violation of this section may maintain an action against the person who attempted to perform the abortion for actual and punitive damages.

J. If a judgment is rendered in favor of the plaintiff in any action described in this section, the court shall also render judgment for a reasonable attorney fee in favor of the plaintiff

against the defendant. If a judgment is rendered in favor of the defendant and the court finds that the plaintiff's suit was frivolous and brought in bad faith, the court shall also render judgment for a reasonable attorney fee in favor of the defendant against the plaintiff.

K. No pregnant female who obtains or possesses an abortion-inducing drug to terminate her own pregnancy shall be subject to any action brought under subsection I of this section.

L. If some or all of the language in this section is ever temporarily or permanently restrained or enjoined by judicial order, then this section shall be enforced as though such restrained or enjoined provisions had not been adopted; provided, however, that whenever such temporary or permanent restraining order or injunction is stayed or dissolved, or otherwise ceases to have effect, such provisions shall have full force and effect.

Added by Laws 2010, c. 48, § 1, emerg. eff. April 2, 2010. Amended by Laws 2011, c. 216, § 1, eff. Nov. 1, 2011; Laws 2014, c. 121, § 1, eff. Nov. 1, 2014.

§63-1-730. Definitions.

A. As used in this article:

1. "Abortion" means the use or prescription of any instrument, medicine, drug, or any other substance or device intentionally to terminate the pregnancy of a female known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, to remove an ectopic pregnancy, or to remove a dead unborn child who died as the result of a spontaneous miscarriage, accidental trauma, or a criminal assault on the pregnant female or her unborn child;

2. “Attempt to perform an abortion” means an act, or an omission of a statutorily required act, that under the circumstances as the actor believes them to be constitutes a substantial step in a course of conduct planned to culminate in the performance of an abortion;

3. “Certified technician” means a Registered Diagnostic Medical Sonographer who is certified in obstetrics and gynecology by the American Registry for Diagnostic Medical Sonography (ARDMS) or a Nurse Midwife or Advance Practice Nurse Practitioner in Obstetrics with certification in obstetrical ultrasonography;

4. "Unborn child" means the unborn offspring of human beings from the moment of conception, through pregnancy, and until live birth including the human conceptus, zygote, morula, blastocyst, embryo and fetus;

5. "Unemancipated minor" means any person less than eighteen (18) years of age who is not or has not been married or who is under the care, custody, and control of the person’s parent or parents, guardian, or juvenile court of competent jurisdiction;

6. "Viable" means potentially able to live outside of the womb of the mother upon premature birth, whether resulting from natural causes or an abortion;

7. "Conception" means the fertilization of the ovum of a female individual by the sperm of a male individual;

8. "Health" means physical or mental health;

9. "Department" means the State Department of Health; and

10. "Inducing an abortion" means the administration by any person, including the pregnant woman, of any substance designed or intended to cause an expulsion of the unborn child, effecting an abortion as defined above.

B. Nothing contained herein shall be construed in any manner to include any birth control device or medication or sterilization procedure.

Added by Laws 1978, c. 207, § 2, eff. Oct. 1, 1978. Amended by Laws 2007, c. 161, § 1, eff. Nov. 1, 2007; Laws 2009, c. 227, § 1, eff. Nov. 1, 2009.

§63-1-731. Persons who may perform abortions - Violations.

A. No person shall perform or induce an abortion upon a pregnant woman unless that person is a physician licensed to practice medicine in the State of Oklahoma. Any person violating this section shall be guilty of a felony punishable by imprisonment for not less than one (1) year nor more than three (3) years in the State Penitentiary.

B. No person shall perform or induce an abortion upon a pregnant woman subsequent to the end of the first trimester of her pregnancy, unless such abortion is performed or induced in a general hospital.

Added by Laws 1978, c. 207, § 3, eff. Oct. 1, 1978. Amended by Laws 1997, c. 133, § 523, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 379, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 523 from July 1, 1998, to July 1, 1999.

§63-1-731.1. Repealed by Laws 2010, c. 46, § 2, emerg. eff. April 2, 2010.

§63-1-731.2. Prohibiting certain abortions - Penalties.

A. As used in this section:

1. “Attempt to perform an abortion” means an act, or an omission of a statutorily required act, that under the circumstances as the actor believes them to be constitutes a substantial step in a course of conduct planned to culminate in the performance of an abortion; and

2. “Unemancipated minor” means any person less than eighteen (18) years of age who is not or has not been married or who is under

the care, custody, and control of the person's parent or parents, guardian, or juvenile court of competent jurisdiction.

B. No person shall knowingly or recklessly perform or attempt to perform an abortion with knowledge that the pregnant female is seeking the abortion solely on account of the sex of the unborn child. Nothing in this section shall be construed to proscribe the performance of an abortion because the unborn child has a genetic disorder that is sex-linked.

C. Any person who knowingly or recklessly violates a provision of this section shall be liable for damages as provided in this subsection and may be enjoined from such acts in accordance with this section in an appropriate court.

1. A cause of action for injunctive relief against any person who has knowingly or recklessly violated a provision of this section may be maintained by:

a. the female upon whom an abortion was performed or attempted to be performed in violation of this section,

b. any person who is the spouse, parent, sibling, or guardian of, or current or former licensed health care provider of, the female upon whom an abortion has been performed in violation of this section,

c. a district attorney with appropriate jurisdiction, or

d. the Attorney General.

2. The injunction shall prevent the abortion provider from performing further abortions in violation of this section in this state.

3. Any person who knowingly violates the terms of an injunction issued in accordance with this section shall be subject to civil contempt and shall be fined Ten Thousand Dollars ($10,000.00) for the first violation, Fifty Thousand Dollars ($50,000.00) for the second violation, and One Hundred Thousand Dollars ($100,000.00) for the third violation and for each succeeding violation. The fines shall be the exclusive penalties for civil contempt pursuant to this paragraph. Each performance or attempted performance of an abortion in violation of the terms of an injunction is a separate violation. These fines shall be cumulative. No fine shall be assessed against the female upon whom an abortion is performed or attempted.

4. A pregnant female upon whom an abortion has been performed in violation of this section, or the parent or legal guardian of the female if she is an unemancipated minor, may commence a civil action against the abortion provider for any knowing or reckless violation of this section for actual and punitive damages.

D. An abortion provider who knowingly or recklessly performed an abortion in violation of this section shall be considered to have engaged in unprofessional conduct for which the certificate or license of the provider to provide health care services in this

state shall be suspended or revoked by the State Board of Medical Licensure and Supervision or the State Board of Osteopathic Examiners.

E. In every proceeding or action brought under this section, the anonymity of any female upon whom an abortion is performed or attempted shall be preserved unless she gives her consent to such disclosure. The court, upon motion or sua sponte, shall issue orders to the parties, witnesses, and counsel and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard the female's identity from public disclosure. In the absence of written consent of the female upon whom an abortion has been performed or attempted, anyone who brings an action under subsection B of this section shall do so under a pseudonym.

Added by Laws 2010, c. 46, § 1, emerg. eff. April 2, 2010.

§63-1-732. Viable fetus - Grounds to abort - Procedure.

A. No person shall perform or induce an abortion upon a pregnant woman after such time as her unborn child has become viable unless such abortion is necessary to prevent the death of the pregnant woman or to prevent impairment to her health.

B. An unborn child shall be presumed to be viable if more than twenty-four (24) weeks have elapsed since the probable beginning of the last menstrual period of the pregnant woman, based upon either information provided by her or by an examination by her attending physician. If it is the judgment of the attending physician that a particular unborn child is not viable where the presumption of viability exists as to that particular unborn child, then he shall certify in writing the precise medical criteria upon which he has determined that the particular unborn child is not viable before an abortion may be performed or induced.

C. No abortion of a viable unborn child shall be performed or induced except after written certification by the attending physician that in his best medical judgment the abortion is necessary to prevent the death of the pregnant woman or to prevent an impairment to her health. The physician shall further certify in writing the medical indications for such abortion and the probable health consequences if the abortion is not performed or induced.

D. The physician who shall perform or induce an abortion upon a pregnant woman after such time as her unborn child has become viable shall utilize the available method or technique of abortion most likely to preserve the life and health of the unborn child, unless he shall first certify in writing that in his best medical judgment such method or technique shall present a significantly greater danger to the life or health of the pregnant woman than another available method or technique.

E. An abortion of a viable unborn child shall be performed or induced only when there is in attendance a physician other than the physician performing or inducing the abortion who shall take control of and provide immediate medical care for the child. During the performance or inducing of the abortion, the physician performing it, and subsequent to it, the physician required by this section to be in attendance, shall take all reasonable steps in keeping with good medical practice, consistent with the procedure used, to preserve the life and health of the child, in the same manner as if the child had been born naturally or spontaneously. The requirement of the attendance of a second physician may be waived when in the best judgment of the attending physician a medical emergency exists and further delay would result in a serious threat to the life or physical health of the pregnant woman. Provided that, under such emergency circumstances and waiver, the attending physician shall have the duty to take all reasonable steps to preserve the life and health of the child before, during and after the abortion procedure, unless such steps shall, in the best medical judgment of the physician, present a significantly greater danger to the life or health of the pregnant woman.

F. Any person violating subsection A of this section shall be guilty of homicide.

Added by Laws 1978, c. 207, § 4, eff. Oct. 1, 1978. Amended by Laws 1997, c. 133, § 524, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 524 from July 1, 1998, to July 1, 1999.

§63-1-733. Self-induced abortions.

No woman shall perform or induce an abortion upon herself, except under the supervision of a duly licensed physician. Any physician who supervises a woman in performing or inducing an abortion upon herself shall fulfill all the requirements of this article which apply to a physician performing or inducing an abortion.

Added by Laws 1978, c. 207, § 5, eff. Oct. 1, 1978. Amended by Laws 1997, c. 133, § 525, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 525 from July 1, 1998, to July 1, 1999.

§63-1-734. Live-born fetus - Care and treatment.

A. No person shall purposely take the life of a child born as a result of an abortion or attempted abortion which is alive when partially or totally removed from the uterus of the pregnant woman.

B. No person shall purposely take the life of a viable child who is alive while inside the uterus of the pregnant woman and may be removed alive therefrom without creating any significant danger to her life or health.

C. Any person who performs, induces, or participates in the performance or inducing of an abortion shall take all reasonable measures to preserve the life of a child who is alive when partially or totally removed from the uterus of the pregnant woman, so long as the measures do not create any significant danger to her life or health.

D. Any person violating this section shall be guilty of homicide.

Added by Laws 1978, c. 207, § 6, eff. Oct. 1, 1978. Amended by Laws 1997, c. 133, § 526, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 526 from July 1, 1998, to July 1, 1999.

§63-1-735. Sale of child, unborn child or remains of child - Experiments.

A. No person shall sell a child, an unborn child or the remains of a child or an unborn child resulting from an abortion. No person shall experiment upon a child or an unborn child resulting from an abortion or which is intended to be aborted unless the experimentation is therapeutic to the child or unborn child.

B. No person shall experiment upon the remains of a child or an unborn child resulting from an abortion. The term "experiment" does not include autopsies performed according to law.

Added by Laws 1978, c. 207, § 7, eff. Oct. 1, 1978.

§63-1-736. Hospitals - Advertising of counseling to pregnant women.

Section 1-736. No hospital in which abortions are performed or induced shall advertise or hold itself out as also providing counseling to pregnant women, unless:

1. The counseling is done by a licensed physician, a licensed registered nurse or by a person holding at least a bachelor's degree from an accredited college or university in psychology or some similarly appropriate field;

2. The counseling includes factual information, including explicit discussion of the development of the unborn child; and

3. The counseling includes a thorough discussion of the alternatives to abortion and the availability of agencies and services to assist her if she chooses not to have an abortion.

Laws 1978, c. 207, § 8, eff. Oct. 1, 1978.

§63-1-737. Hospitals which may perform abortions.

An abortion otherwise permitted by law shall be performed only in a hospital, as defined in this article, which meets standards set by the Department. The Department shall develop and promulgate reasonable standards relating to abortions.

Added by Laws 1978, c. 207, § 9, eff. Oct. 1, 1978.

§63-1-737.1. Repealed by Laws 2010, c. 163, § 4, emerg. eff. April 22, 2010.

§63-1-737.2. Repealed by Laws 2010, c. 163, § 4, emerg. eff. April 22, 2010.

§63-1-737.3. Repealed by Laws 2010, c. 163, § 4, emerg. eff. April 22, 2010.

§63-1-737.4. Required signage in abortion facilities.

A. Any private office, freestanding outpatient clinic, or other facility or clinic in which abortions, other than abortions necessary to prevent the death of the pregnant female, are performed, induced, prescribed for, or where the means for an abortion are provided shall conspicuously post a sign in a location defined in subsection C of this section so as to be clearly visible to patients, which reads:

> Notice: It is against the law for anyone, regardless of his or her relationship to you, to force you to have an abortion. By law, we cannot perform, induce, prescribe for, or provide you with the means for an abortion unless we have your freely given and voluntary consent. It is against the law to perform, induce, prescribe for, or provide you with the means for an abortion against your will. You have the right to contact any local or state law enforcement agency to receive protection from any actual or threatened physical abuse or violence.
>
> There are public and private agencies willing and able to help you carry your child to term, have a healthy pregnancy and a healthy baby and assist you and your child after your child is born, whether you choose to keep your child or place him or her for adoption. The State of Oklahoma strongly encourages you to contact them if you are pregnant.

B. The sign required pursuant to subsection A of this section shall be printed with lettering that is legible and shall be at least three-quarters-of-an-inch boldfaced type.

C. A facility in which abortions are performed, induced, prescribed for, or where the means for an abortion are provided that is a private office or a freestanding outpatient clinic shall post the required sign in each patient waiting room and patient consultation room used by patients on whom abortions are performed, induced, prescribed for, or who are provided with the means for an abortion. A hospital or any other facility in which abortions are performed, induced, prescribed for, or where the means for an abortion are provided that is not a private office or freestanding outpatient clinic shall post the required sign in each patient admission area used by patients on whom abortions are performed,

induced, prescribed for, or by patients who are provided with the means for an abortion.
Added by Laws 2010, c. 163, § 1, emerg. eff. April 22, 2010.
Amended by Laws 2017, c. 123, § 1, eff. July 1, 2017.

§63-1-737.5. Failure to post signage in abortion facilities – Fine – Cause of action.

A. Any private office, freestanding outpatient clinic or other facility or clinic that fails to post a required sign in knowing, reckless, or negligent violation of this act shall be assessed an administrative fine of Ten Thousand Dollars ($10,000.00). Each day on which an abortion, other than an abortion necessary to prevent the death of the pregnant female, is performed, induced, prescribed for, or where the means for an abortion are provided in a private office, freestanding outpatient clinic or other facility or clinic in which the required sign is not posted during any portion of business hours when patients or prospective patients are present is a separate violation.

B. An action may be brought by or on behalf of an individual injured by the failure to post the required sign. A plaintiff in an action under this subsection may recover damages for emotional distress and any other damages allowed by law.

C. The sanctions and actions provided in this section shall not displace any sanction applicable under other law.
Added by Laws 2010, c. 163, § 2, emerg. eff. April 22, 2010.

§63-1-737.6. Orally inform minors in abortion facilities – Minor certification.

A. If the pregnant female is a minor, the attending physician shall orally inform the female that no one can force her to have an abortion and that an abortion cannot be performed, induced, prescribed for, or that the means for an abortion cannot be provided unless she provides her freely given, voluntary, and informed consent.

B. The minor female shall certify in writing, prior to the performance of, induction of, receiving the prescription for, or provision of the means for the abortion, that she was informed by the attending physician of the required information in subsection A of this section. A copy of the written certification shall be placed in the minor’s file and kept for at least seven (7) years or for five (5) years after the minor reaches the age of majority, whichever is greater.
Added by Laws 2010, c. 163, § 3, emerg. eff. April 22, 2010.

§63-1-737.7. Short title - Oklahoma Unborn Child Protection from Dismemberment Abortion Act.

This act shall be known and may be cited as the "Oklahoma Unborn Child Protection from Dismemberment Abortion Act".
Added by Laws 2015, c. 59, § 1, eff. Nov. 1, 2015.

§63-1-737.8. Definitions.

For the purposes of the Oklahoma Unborn Child Protection from Dismemberment Abortion Act:

1. "Abortion" means the use or prescription of any instrument, medicine, drug, or any other substance or device:
   a. to purposely kill the unborn child of a woman known to be pregnant, or
   b. to purposely terminate the pregnancy of a woman known to be pregnant, with a purpose other than:
      (1) after viability to produce a live birth and preserve the life and health of the child born alive, or
      (2) to remove a dead unborn child;

2. "Attempt to perform an abortion" means to do or omit to do anything that, under the circumstances as the actor believes them to be, is an act or omission constituting a substantial step in a course of conduct planned to culminate in the actor performing an abortion. Such substantial steps include, but are not limited to:
   a. agreeing with an individual to perform an abortion on that individual or on some other person, whether or not the term "abortion" is used in the agreement, and whether or not the agreement is contingent on another factor such as receipt of payment or a determination of pregnancy, or
   b. scheduling or planning a time to perform an abortion on an individual, whether or not the term "abortion" is used, and whether or not the performance is contingent on another factor such as receipt of payment or a determination of pregnancy.

This definition shall not be construed to require that an abortion procedure actually must be initiated for an attempt to occur;

3. "Dismemberment abortion" means, with the purpose of causing the death of an unborn child, purposely to dismember a living unborn child and extract him or her one piece at a time from the uterus through use of clamps, grasping forceps, tongs, scissors or similar instruments that, through the convergence of two rigid levers, slice, crush, and/or grasp a portion of the unborn child's body to cut or rip it off. This definition does not include an abortion which uses suction to dismember the body of the developing unborn child by sucking fetal parts into a collection container;

4. "Physician" means a person licensed to practice medicine and surgery or osteopathic medicine and surgery, or otherwise legally authorized to perform an abortion;

5. "Purposely" means the following: A person acts purposely with respect to a material element of an offense when:

a. if the element involves the nature of his or her conduct or a result thereof, it is his or her conscious objective to engage in conduct of that nature or to cause such a result, and

b. if the element involves the attendant circumstances, he or she is aware of the existence of such circumstances or he or she believes or hopes that they exist;

6. "Serious health risk to the unborn child's mother" means that in reasonable medical judgment she has a condition that so complicates her medical condition that it necessitates the abortion of her pregnancy to avert her death or to avert serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions. No such condition may be determined to exist if it is based on a claim or diagnosis that the woman will engage in conduct which she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function; and

7. "Woman" means a female human being whether or not she has reached the age of majority.

Added by Laws 2015, c. 59, § 2, eff. Nov. 1, 2015.

§63-1-737.9. Unlawful dismemberment abortions - Exceptions.

A. Notwithstanding any other provision of law, it shall be unlawful for any person to purposely perform or attempt to perform a dismemberment abortion and thereby kill an unborn child unless necessary to prevent serious health risk to the unborn child's mother.

B. A person accused in any proceeding of unlawful conduct under subsection A of this section may seek a hearing before the State Board of Medical Licensure and Supervision on whether the dismemberment abortion was necessary to prevent serious health risk to the unborn child's mother. The Board's findings are admissible on that issue at any trial in which such unlawful conduct is alleged. Upon a motion of the person accused, the court shall delay the beginning of the trial for not more than thirty (30) days to permit such a hearing to take place.

C. No woman upon whom an abortion is performed or attempted to be performed shall be thereby liable for performing or attempting to perform a dismemberment abortion. No nurse, technician, secretary, receptionist or other employee or agent who is not a physician but who acts at the direction of a physician and no pharmacist or other individual who is not a physician but who fills a prescription or provides instruments or materials used in an abortion at the

direction of or to a physician shall be thereby liable for performing or attempting to perform a dismemberment abortion.
Added by Laws 2015, c. 59, § 3, eff. Nov. 1, 2015.

§63-1-737.10. Injunctive relief.

A. A cause of action for injunctive relief against a person who has performed or attempted to perform a dismemberment abortion in violation of Section 3 of this act may be maintained by:

1. A woman upon whom such a dismemberment abortion was performed or attempted to be performed;

2. A person who is the spouse, parent or guardian of, or a current or former licensed health care provider of, a woman upon whom such a dismemberment abortion was performed or attempted to be performed; or

3. A prosecuting attorney with appropriate jurisdiction.

B. The injunction shall prevent the defendant from performing or attempting to perform further dismemberment abortions in violation of Section 3 of this act.
Added by Laws 2015, c. 59, § 4, eff. Nov. 1, 2015.

§63-1-737.11. Civil damages action.

A. A cause of action for civil damages against a person who has performed a dismemberment abortion in violation of Section 3 of this act may be maintained by:

1. Any woman upon whom a dismemberment abortion has been performed in violation of Section 3 of this act; or

2. If the woman had not attained the age of eighteen (18) years at the time of the dismemberment abortion or has died as a result of the abortion, the maternal grandparents of the unborn child.

B. No damages may be awarded a plaintiff if the pregnancy resulted from the plaintiff's criminal conduct.

C. Damages awarded in such an action shall include:

1. Money damages for all injuries, psychological and physical, occasioned by the dismemberment abortion; and

2. Statutory damages equal to three times the cost of the dismemberment abortion.
Added by Laws 2015, c. 59, § 5, eff. Nov. 1, 2015.

§63-1-737.12. Attorney fees.

A. If judgment is rendered in favor of the plaintiff in an action described in Section 4 or 5 of this act, the court shall also render judgment for a reasonable attorney fee in favor of the plaintiff against the defendant.

B. If judgment is rendered in favor of the defendant in an action described in Section 4 or 5 of this act and the court finds that the plaintiff's suit was frivolous and brought in bad faith,

the court shall render judgment for a reasonable attorney fee in favor of the defendant against the plaintiff.

C. No attorney fee may be assessed against the woman upon whom an abortion was performed or attempted to be performed except in accordance with subsection B of this section.

Added by Laws 2015, c. 59, § 6, eff. Nov. 1, 2015.

§63-1-737.13. Penalties.

Whoever violates Section 3 of this act shall be fined Ten Thousand Dollars ($10,000.00) or imprisoned for not more than two (2) years or both.

Added by Laws 2015, c. 59, § 7, eff. Nov. 1, 2015.

§63-1-737.14. Disclosure of identity.

In every civil, criminal, or administrative proceeding or action brought under the Oklahoma Unborn Child Protection from Dismemberment Abortion Act, the court shall rule whether the identity of any woman upon whom an abortion has been performed or attempted to be performed shall be preserved from public disclosure if she does not give her consent to such disclosure. The court, upon motion or sua sponte, shall make such a ruling and, upon determining that her anonymity should be preserved, shall issue orders to the parties, witnesses, and counsel and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard her identity from public disclosure. Each such order shall be accompanied by specific written findings explaining why the anonymity of the woman should be preserved, why the order is essential to that end, how the order is narrowly tailored to serve that interest, and why no reasonable less-restrictive alternative exists. In the absence of written consent of the woman upon whom an abortion has been performed or attempted to be performed, anyone other than a public official who brings an action under Section 4 or 5 of this act shall do so under a pseudonym. This section may not be construed to conceal the identity of the plaintiff or of witnesses from the defendant or from attorneys for the defendant.

Added by Laws 2015, c. 59, § 8, eff. Nov. 1, 2015.

§63-1-737.15. Limitations of act.

Nothing in the Oklahoma Unborn Child Protection from Dismemberment Abortion Act shall be construed as creating or recognizing a right to abortion, nor a right to a particular method of abortion.

Added by Laws 2015, c. 59, § 9, eff. Nov. 1, 2015.

§63-1-737.16. Severability.

If any one or more provisions, sections, subsections, sentences, clauses, phrases or words of this act or the application thereof to any person or circumstance is found to be unconstitutional, the same is hereby declared to be severable and the balance of this act shall remain effective notwithstanding such unconstitutionality. The Legislature hereby declares that it would have passed this act, and each provision, section, subsection, sentence, clause, phrase or word thereof, irrespective of the fact that any one or more provisions, sections, subsections, sentences, clauses, phrases or words be declared unconstitutional.
Added by Laws 2015, c. 59, § 10, eff. Nov. 1, 2015.

§63-1-738. Repealed by Laws 2009, c. 227, § 12, eff. Nov. 1, 2009.

§63-1-738.1. Repealed by Laws 2010, c. 173, § 4, emerg. eff. April 27, 2010.

§63-1-738.1A. Definitions.

As used in this section and Sections 1-738.2 through 1-738.5 of Title 63 of the Oklahoma Statutes:

1. "Abortion" means the term as defined in Section 1-730 of Title 63 of the Oklahoma Statutes;

2. "Attempt to perform an abortion" means an act, or an omission of a statutorily required act, that, under the circumstances as the actor believes them to be, constitutes a substantial step in a course of conduct planned to culminate in the performance of an abortion in this state in violation of this act;

3. "Board" means the State Board of Medical Licensure and Supervision;

4. "Certified technician" means a Registered Diagnostic Medical Sonographer who is certified in obstetrics and gynecology by the American Registry for Diagnostic Medical Sonography (ARDMS), or a nurse midwife or Advance Practice Nurse Practitioner in obstetrics with certification in obstetrical ultrasonography;

5. "Medical emergency" means the existence of any physical condition, not including any emotional, psychological, or mental condition, which a reasonably prudent physician, with knowledge of the case and treatment possibilities with respect to the medical conditions involved, would determine necessitates the immediate abortion of the pregnancy of the female to avert her death or to avert substantial and irreversible impairment of a major bodily function arising from continued pregnancy;

6. "Physician" means a person licensed to practice medicine in this state pursuant to Sections 495 and 633 of Title 59 of the Oklahoma Statutes;

7. "Probable gestational age of the unborn child" means what, in the judgment of the physician, will with reasonable probability

be the gestational age of the unborn child at the time the abortion is planned to be performed;

8. "Stable Internet website" means a website that, to the extent reasonably practicable, is safeguarded from having its content altered other than by the State Board of Medical Licensure and Supervision;

9. "Unborn child" means the term as is defined in Section 1-730 of Title 63 of the Oklahoma Statutes; and

10. "Woman" means a female human being whether or not she has reached the age of majority.

Added by Laws 2010, c. 173, § 1, emerg. eff. April 27, 2010.

§63-1-738.2. Voluntary and informed consent - Compliance by physicians - Confirmation of receipt of medical risk information.

A. No abortion shall be performed in this state except with the voluntary and informed consent of the woman upon whom the abortion is to be performed.

B. Except in the case of a medical emergency, consent to an abortion is voluntary and informed if and only if:

1. a. not less than seventy-two (72) hours prior to the performance of the abortion, the woman is told the following, by telephone or in person, by the physician who is to perform the abortion, or by a referring physician, or by an agent of either physician:
   (1) the name of the physician who will perform the abortion,
   (2) the medical risks associated with the particular abortion procedure to be employed,
   (3) the probable gestational age of the unborn child at the time the abortion is to be performed,
   (4) the medical risks associated with carrying her child to term, and
   (5) that ultrasound imaging and heart tone monitoring that enable the pregnant woman to view her unborn child or listen to the heartbeat of the unborn child are available to the pregnant woman. The physician or agent of the physician shall inform the pregnant woman that the website and printed materials described in Section 1-738.3 of this title, contain phone numbers and addresses for facilities that offer such services at no cost,

   b. the information required by this paragraph may be provided by telephone without conducting a physical examination or tests of the woman. If the information is supplied by telephone, the information shall be based on facts supplied to the physician,

c. the information required by this paragraph shall not be provided by a tape recording, but shall be provided during a consultation in which the physician is able to ask questions of the woman and the woman is able to ask questions of the physician,

d. if a physical examination, tests, or other new information subsequently indicates, in the medical judgment of the physician, the need for a revision of the information previously supplied to the woman, that revised information may be communicated to the woman at any time prior to the performance of the abortion, and

e. nothing in subparagraph a of this paragraph may be construed to preclude provision of the required information in a language understood by the woman through a translator;

2. Not less than seventy-two (72) hours prior to the abortion, the woman is informed, by telephone or in person, by the physician who is to perform the abortion, by a referring physician, or by an agent of either physician:

a. that medical assistance benefits may be available for prenatal care, childbirth, and neonatal care,

b. that the father is liable to assist in the support of her child, even in instances in which the father has offered to pay for the abortion,

c. that:

(1) she has the option to review the printed materials described in Section 1-738.3 of this title,

(2) those materials have been provided by the State Board of Medical Licensure and Supervision, and

(3) they describe the unborn child and list agencies that offer alternatives to abortion, and

d. (1) if the woman chooses to exercise her option to view the materials in a printed form, they shall be mailed to her, by a method chosen by the woman, or

(2) if the woman chooses to exercise her option to view the materials via the Internet, the woman shall be informed at least seventy-two (72) hours before the abortion of the specific address of the Internet website where the material can be accessed.

The information required by this paragraph may be provided by a tape recording if provision is made to record or otherwise register specifically whether the woman does or does not choose to review the printed materials;

3. The woman certifies in writing, prior to the abortion, that she has been told the information described in subparagraph a of paragraph 1 of this subsection and in subparagraphs a, b and c of paragraph 2 of this subsection and that she has been informed of her option to review or reject the printed information described in Section 1-738.3 of this title; and

4. Prior to the abortion, the physician who is to perform the abortion or the agent of the physician receives a copy of the written certification prescribed by paragraph 3 of this subsection.

C. The State Board of Medical Licensure and Supervision and the State Board of Osteopathic Examiners shall promulgate rules to ensure that physicians who perform abortions and referring physicians or agents of either physician comply with all the requirements of this section.

D. Before the abortion procedure is performed, the physician shall confirm with the patient that she has received information regarding:

1. The medical risks associated with the particular abortion procedure to be employed;

2. The probable gestational age of the unborn child at the time the abortion is to be performed; and

3. The medical risks associated with carrying the unborn child to term.

Added by Laws 2005, c. 200, § 7, emerg. eff. May 20, 2005. Amended by Laws 2006, c. 185, § 3, eff. Nov. 1, 2006; Laws 2015, c. 255, § 1, eff. Nov. 1, 2015.

§63-1-738.3. Print and online information - Requirements.

A. Within one hundred twenty (120) days of the effective date of this act, the State Board of Medical Licensure and Supervision shall cause to be published, in English and in Spanish, and shall update on an annual basis, the following printed materials in such a way as to ensure that the information is easily comprehensible:

1. a. geographically indexed materials designed to inform the woman of public and private agencies, including adoption agencies and services that are available to assist a woman through pregnancy, upon childbirth, and while the child is dependent, including:

(1) a comprehensive list of the agencies available,

(2) a description of the services they offer, including which agencies offer, at no cost to the pregnant woman, ultrasound imaging that enables a pregnant woman to view the unborn child or heart tone monitoring that enables the pregnant woman to listen to the heartbeat of the unborn child, and

(3) a description of the manner, including telephone numbers, in which they might be contacted, or

b. at the option of the Board a toll-free, twenty-four-hour-a-day telephone number which may be called to obtain, in a mechanical, automated, or auditory format, a list and description of agencies in the locality of the caller and of the services they offer; and

2. a. materials designed to inform the woman of the probable anatomical and physiological characteristics of the unborn child at two-week gestational increments from the time when a woman can be known to be pregnant to full term, including:

(1) any relevant information on the possibility of the survival of the unborn child, and

(2) pictures or drawings representing the development of unborn children at two-week gestational increments, provided that the pictures or drawings shall describe the dimensions of the unborn child and shall be realistic and appropriate for the stage of pregnancy depicted,

b. the materials shall be objective, nonjudgmental, and designed to convey only accurate scientific information about the unborn child at the various gestational ages, and

c. the material shall also contain objective information describing:

(1) the methods of abortion procedures commonly employed,

(2) the medical risks commonly associated with each of those procedures,

(3) the possible detrimental psychological effects of abortion and of carrying a child to term, and

(4) the medical risks commonly associated with carrying a child to term, and

d. the material shall contain the statement "Abortion shall terminate the life of a whole, separate, unique, living human being."

B. 1. The materials referred to in subsection A of this section shall be printed in a typeface large enough to be clearly legible.

2. The materials required under this section shall be available at no cost from the State Board of Medical Licensure and Supervision and shall be distributed upon request in appropriate numbers to any person, facility, or hospital.

C. 1. The Board shall provide on its stable Internet website the information described under subsection A of this section.

2. The website provided for in this subsection shall be maintained at a minimum resolution of 72 PPI.

D. Any facility performing abortions that has a website shall publish an easily identifiable link on the homepage of such website that directly links to the Board's website, *www.awomansright.org*, that provides informed consent materials under the Woman's Right-to-Know Act. Such link shall read: "The State Board of Medical Licensure and Supervision maintains a website containing information about the development of the unborn child, as well as video of ultrasound images of the unborn child at various stages of development. The Board's website can be reached by clicking here: *www.awomansright.org*."

Added by Laws 2005, c. 200, § 8, emerg. eff. May 20, 2005. Amended by Laws 2006, c. 185, § 4, eff. Nov. 1, 2006; Laws 2015, c. 255, § 2, eff. Nov. 1, 2015.

§63-1-738.3a. Form tracking voluntary and informed consent - Contents of form - Submission - Late fee.

A. By February 1, 2008, the State Department of Health shall prepare and make available on its stable Internet website the form described in subsection B of this section. A copy of this act shall be posted on the website. Physicians performing abortions shall complete and electronically submit the required forms to the Department no later than April 1 for the previous calendar year. Nothing in the report shall contain the name, address, or any other identifying information of any patient.

B. The form for physicians shall contain a listing for the following information:

1. The number of females to whom the physician, or an agent of the physician, provided the information described in Section 1-738.2 of Title 63 of the Oklahoma Statutes; of that number, the number provided the information by telephone and the number provided the information in person; and of each of those numbers, the number provided the information in the capacity of a referring physician and the number provided the information in the capacity of a physician who is to perform the abortion; and of each of those numbers, the number provided the information by the physician and the number provided the information by an agent of the physician;

2. The number of females who availed themselves of the opportunity to obtain a copy of the printed information described in Section 1-738.3 of Title 63 of the Oklahoma Statutes other than on the website, and the number who did not; and of each of those numbers, the number who, to the best of the information and belief of the reporting physician, went on to obtain the abortion; and

3. The number of abortions performed by the physician in which information otherwise required to be provided at least seventy-two (72) hours before the abortion was not so provided because an

immediate abortion was necessary to avert the death of the female, and the number of abortions in which the information was not so provided because a delay would cause substantial and irreversible impairment of a major bodily function.

C. The State Department of Health shall ensure that the reporting forms described in subsection B of this section are posted, on its stable Internet website, within one hundred twenty (120) days after the effective date of this act. The State Department of Health shall notify the following of the requirements of this act:

1. By March 1, 2008, all physicians licensed to practice in this state;

2. Each physician who subsequently becomes newly licensed to practice in this state, at the same time as official notification to that physician that the physician is so licensed; and

3. By December 1 of each year, other than the calendar year in which forms are first made available to all physicians licensed to practice in this state.

D. By February 28 of each year following a calendar year in any part of which this section was in effect, each physician who provided, or whose agent provided, information to one or more females in accordance with Section 1-738.2 of Title 63 of the Oklahoma Statutes during the previous calendar year shall electronically submit to the State Department of Health the form described in subsection B of this section, with the requested data entered accurately and completely.

E. Reports that are not electronically submitted by the end of a grace period of thirty (30) days following the due date shall be subject to a late fee of Five Hundred Dollars ($500.00) for each additional thirty-day period or portion of a thirty-day period the reports are overdue. Any physician required to report in accordance with this section who has not completed and electronically submitted a report, or has electronically submitted only an incomplete report, more than one (1) year following the due date, may, in an action brought by the State Department of Health, be directed by a court of competent jurisdiction to electronically submit a complete report within a period stated by court order or be subject to sanctions for civil contempt.

F. By June 30 of each year, the State Department of Health shall prepare and make available on its stable Internet website a public report providing statistics for the previous calendar year compiled from all items listed in subsection B of this section. Each report shall also provide statistics for all previous calendar years, adjusted to reflect any additional information from late or corrected reports. The State Department of Health shall take care to ensure that none of the information included in the public reports could reasonably lead to the identification of any

individual providing or provided information in accordance with subsection B of this section.

G. The State Department of Health may promulgate rules in accordance with the Administrative Procedures Act to alter the dates established by this section or consolidate the form or report described in this section with other forms or reports to achieve administrative convenience, fiscal savings or to reduce the burden of reporting requirements, as long as reporting forms are made available, on its stable Internet website to all licensed physicians in the state, and the report described in this section is issued at least once every year.

Added by Laws 2007, c. 161, § 3, eff. Nov. 1, 2007. Amended by Laws 2015, c. 255, § 3, eff. Nov. 1, 2015.

§63-1-738.3b. Repealed by Laws 2010, c. 173, § 4, emerg. eff. April 27, 2010.

§63-1-738.3c. Repealed by Laws 2010, c. 173, § 4, emerg. eff. April 27, 2010.

§63-1-738.3d. Ultrasound required prior to procedure - Written certification - Medical emergency exception.

A. Any abortion provider who knowingly performs any abortion shall comply with the requirements of this section.

B. In order for the woman to make an informed decision, at least one (1) hour prior to a woman having any part of an abortion performed or induced, and prior to the administration of any anesthesia or medication in preparation for the abortion on the woman, the physician who is to perform or induce the abortion, or the certified technician working in conjunction with the physician, shall:

1. Perform an obstetric ultrasound on the pregnant woman, using either a vaginal transducer or an abdominal transducer, whichever would display the embryo or fetus more clearly;

2. Provide a simultaneous explanation of what the ultrasound is depicting;

3. Display the ultrasound images so that the pregnant woman may view them;

4. Provide a medical description of the ultrasound images, which shall include the dimensions of the embryo or fetus, the presence of cardiac activity, if present and viewable, and the presence of external members and internal organs, if present and viewable; and

5. Obtain a written certification from the woman, prior to the abortion, that the requirements of this subsection have been complied with; and

6. Retain a copy of the written certification prescribed by paragraph 5 of this subsection. The certification shall be placed in the medical file of the woman and shall be kept by the abortion provider for a period of not less than seven (7) years. If the woman is a minor, then the certification shall be placed in the medical file of the minor and kept for at least seven (7) years or for five (5) years after the minor reaches the age of majority, whichever is greater.

C. Nothing in this section shall be construed to prevent a pregnant woman from averting her eyes from the ultrasound images required to be provided to and reviewed with her. Neither the physician nor the pregnant woman shall be subject to any penalty if she refuses to look at the presented ultrasound images.

D. Upon a determination by an abortion provider that a medical emergency, as defined in Section 1 of this act, exists with respect to a pregnant woman, subsection B of this section shall not apply and the provider shall certify in writing the specific medical conditions that constitute the emergency. The certification shall be placed in the medical file of the woman and shall be kept by the abortion provider for a period of not less than seven (7) years. If the woman is a minor, then the certification shall be placed in the medical file of the minor and kept for at least seven (7) years or for five (5) years after the minor reaches the age of majority, whichever is greater.

E. An abortion provider who willfully falsifies a certification under subsection D of this section shall be subject to all penalties provided for under Section 3 of this act.

Added by Laws 2010, c. 173, § 2, emerg. eff. April 27, 2010.

§63-1-738.3e. Violation of ultrasound requirement - Injunctive relief - Action for damages - License suspension.

A. An abortion provider who knowingly violates a provision of Section 2 of this act shall be liable for damages as provided in this section and may be enjoined from such acts in accordance with this section in an appropriate court.

B. A cause of action for injunctive relief against any person who has knowingly violated a provision of Section 2 of this act may be maintained by the woman upon whom an abortion was performed or attempted to be performed in violation of this act; any person who is the spouse, parent, sibling or guardian of, or a current or former licensed health care provider of, the female upon whom an abortion has been performed or attempted to be performed in violation of this act; by a district attorney with appropriate jurisdiction; or by the Attorney General. The injunction shall prevent the abortion provider from performing further abortions in violation of this act in the State of Oklahoma.

C. Any person who knowingly violates the terms of an injunction issued in accordance with this section shall be subject to civil contempt, and shall be fined Ten Thousand Dollars ($10,000.00) for the first violation, Fifty Thousand Dollars ($50,000.00) for the second violation, One Hundred Thousand Dollars ($100,000.00) for the third violation, and for each succeeding violation an amount in excess of One Hundred Thousand Dollars ($100,000.00) that is sufficient to deter future violations. The fines shall be the exclusive penalties for such contempt. Each performance or attempted performance of an abortion in violation of the terms of an injunction is a separate violation. These fines shall be cumulative. No fine shall be assessed against the woman on whom an abortion is performed or attempted.

D. A pregnant woman upon whom an abortion has been performed in violation of Section 2 of this act, or the parent or legal guardian of the woman if she is an unemancipated minor, as defined in Section 1-740.1 of Title 63 of the Oklahoma Statutes, may commence a civil action against the abortion provider for any knowing or reckless violation of this act for actual and punitive damages.

E. An abortion provider who performed an abortion in violation of Section 2 of this act shall be considered to have engaged in unprofessional conduct for which the provider's certificate or license to provide health care services in this state may be suspended or revoked by the State Board of Medical Licensure and Supervision or the State Board of Osteopathic Examiners.
Added by Laws 2010, c. 173, § 3, emerg. eff. April 27, 2010.

§63-1-738.3f. Civil actions - Damages.

A woman upon whom an abortion has been performed in negligent violation of Section 1-738.2, 1-738.3d, 1-738.8, 1-740.2 or 1-740.4b of Title 63 of the Oklahoma Statutes, or the parent or legal guardian of the woman if she is an unemancipated minor, as defined in Section 1-740.1 of Title 63 of the Oklahoma Statutes, may commence a civil action against the abortion provider, against the prescriber of any drug or chemical intended to induce abortion, and against any person or entity which referred the woman to the abortion provider or prescriber and which knew or reasonably should have known that the abortion provider or prescriber had acted in violation of Section 1-738.2, 1-738.3d, 1-738.8, 1-740.2 or 1-740.4b of Title 63 of the Oklahoma Statutes for actual damages and, in cases of gross negligence, for punitive damages. The measure of damages shall include damages for the mental anguish and emotional distress of the plaintiff, in addition to all damages available for the wrongful death of the child whose life was aborted in negligent violation of Section 1-738.2, 1-738.3d, 1-738.8, 1-740.2 or 1-740.4b of Title 63 of the Oklahoma Statutes, notwithstanding any exception for abortion provided in Section 1053 of Title 12 of the Oklahoma

Statutes. Whether the individual or entity committed an abortion in negligent violation of Section 1-738.2, 1-738.3d, 1-738.8, 1-740.2 or 1-740.4b of Title 63 of the Oklahoma Statutes shall be determined by the trier of fact in the civil action by the greater weight of the evidence. Unless the defendant can prove to the trier of fact by the greater weight of the evidence that the abortion was performed on a child who was already dead from natural causes before the abortion, and that the defendant informed the plaintiff that the child was already dead at the time of the abortion, it shall be a rebuttable presumption that if an abortion was performed, that the child whose life was aborted was alive until the abortion was performed, and was capable eventually of living a normal human lifespan had the abortion not occurred.
Added by Laws 2012, c. 198, § 1, eff. Sept. 1, 2012.

§63-1-738.3g. Reasonable costs and attorney fees.

If judgment is rendered in favor of the plaintiff in any action pursuant to Section 1 of this act, the court shall also render judgment for costs including reasonable expert witness fees and for a reasonable attorney fee in favor of the plaintiff against the defendant. If judgment is rendered in favor of the defendant and the court finds that the plaintiff's suit was frivolous, unreasonable or without foundation, the court shall also render judgment for costs including reasonable expert witness fees and for a reasonable attorney fee in favor of the defendant against the plaintiff.
Added by Laws 2012, c. 198, § 2, eff. Sept. 1, 2012.

§63-1-738.3h. Identity of woman upon whom abortion performed - Disclosure.

In every action brought under this act, the court shall rule whether the anonymity of any female upon whom an abortion has been performed or attempted shall be preserved from public disclosure if she does not give her consent to such disclosure. The court, upon motion or sua sponte, shall make such a ruling and, upon determining that her anonymity should be preserved, shall issue orders to the parties, witnesses, and counsel and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard her identity from public disclosure. Each such order shall be accompanied by specific written findings explaining why the anonymity of the female should be preserved from public disclosure, why the order is essential to that end, how the order is narrowly tailored to serve that interest, and why no reasonable less restrictive alternative exists. In the absence of written consent of the female upon whom an abortion has been performed or attempted, anyone, other than a public official, who brings an action under this act shall do so under a pseudonym.

This section may not be construed to conceal the identity of the plaintiff or of witnesses from the defendant.
Added by Laws 2012, c. 198, § 3, eff. Sept. 1, 2012.

§63-1-738.3i. Statute of limitations.

An action pursuant to this act shall be brought within two (2) years of the date the woman upon whom an abortion has been performed in negligent violation of Section 1-738.2, 1-738.3d, 1-738.8, 1-740.2 or 1-740.4b of Title 63 of the Oklahoma Statutes, or the parent or legal guardian of the woman if she is an unemancipated minor, as defined in Section 1-740.1 of Title 63 of the Oklahoma Statutes, knew or reasonably should have known of any information not provided by the defendant in negligent violation of Section 1-738.2, 1-738.3d, 1-738.8, 1-740.2 or 1-740.4b of Title 63 of the Oklahoma Statutes. If any defendant disputes whether the action was brought within the time specified in this section, the question of whether the action was brought within the time specified in this section shall be determined by the trier of fact by the greater weight of the evidence.
Added by Laws 2012, c. 198, § 4, eff. Sept. 1, 2012.

§63-1-738.3j. Interpretation of act.

A. Nothing in this act shall be construed as creating or recognizing a right to abortion.

B. Nothing in this act shall apply to a hospital as defined in Section 1-701 of Title 63 of the Oklahoma Statutes which has a dedicated emergency department as defined in 42 CFR 489.24b.
Added by Laws 2012, c. 198, § 5, eff. Sept. 1, 2012.

§63-1-738.3k. Severability of act.

If any one or more provision, section, subsection, sentence, clause, phrase or word of this act or the application thereof to any person or circumstance is found to be unconstitutional, the same is hereby declared to be severable and the balance of this act shall remain effective notwithstanding such unconstitutionality. The Legislature hereby declares that it would have passed this act and each provision, section, subsection, sentence, clause, phrase or word thereof, irrespective of the fact that any one or more provision, section, subsection, sentence, clause, phrase, or word be declared unconstitutional.
Added by Laws 2012, c. 198, § 6, eff. Sept. 1, 2012.

§63-1-738.4. Medical emergency abortions – Physician’s judgment – Patient’s right to information.

When a medical emergency compels the performance of an abortion, the physician shall inform the female, prior to the abortion if possible, of the medical indications supporting the physician’s

judgment that an abortion is necessary to avert her death or that a delay will create serious risk of substantial and irreversible impairment of a major bodily function.
Added by Laws 2005, c. 200, § 9, emerg. eff. May 20, 2005.

§63-1-738.5. Disciplinary action.

A. Any physician who knowingly or recklessly performs or attempts to perform an abortion in violation of the provisions of this act shall be subject to disciplinary action by the State Board of Medical Licensure and Supervision or the State Board of Osteopathic Examiners.

B. No penalty may be assessed against the woman upon whom the abortion is performed or attempted to be performed.

C. No penalty or civil liability may be assessed for failure to comply with Section 1-738.2 of this title unless the State Board of Medical Licensure and Supervision has made the printed materials available at the time the physician or the agent of the physician is required to inform the woman of her right to review them.

D. Any person who knowingly or recklessly performs or attempts to perform an abortion in violation of this act shall be guilty of a felony.
Added by Laws 2005, c. 200, § 10, emerg. eff. May 20, 2005. Amended by Laws 2006, c. 185, § 5, eff. Nov. 1, 2006.

§63-1-738.5a. Severability.

If some or all of the newly amended provisions of 63 O.S. 2011, Section 1-738.2, 63 O.S. 2011, Section 1-738.3; 63 O.S. 2011, Section 1-738.3a; 63 O.S. 2011, Section 1-738.8; 63 O.S. 2011, Section 1-738.13; 63 O.S. 2011, Section 1-738m, as amended by Section 2, Chapter 303, O.S.L. 2013 (63 O.S. Supp. 2014, Section 1-738m); Section 2, Chapter 175, O.S.L. 2014 (63 O.S. Supp. 2014, Section 1-746.2); or Section 6, Chapter 175, O.S.L. 2013 (63 O.S. Supp. 2014, Section 1-746.6), resulting from the actions taken by the 2015 session of the Oklahoma legislature are ever temporarily or permanently restrained or enjoined by judicial order, these sections shall be enforced as though such restrained or enjoined provisions had not been adopted; provided, however, that whenever such temporary or permanent restraining order or injunction is stayed or dissolved, or otherwise ceases to have effect, such provisions shall have full force and effect.
Added by Laws 2015, c. 255, § 9, eff. Nov. 1, 2015.

§63-1-738.6. Short title.

This act shall be known and may be cited as the "Unborn Child Pain Awareness/Prevention Act".
Added by Laws 2006, c. 185, § 6, eff. Nov. 1, 2006.

§63-1-738.7. Definitions.

As used in the Unborn Child Pain Awareness/Prevention Act:

1. "Abortion" means the use or prescription of any instrument, medicine, drug, or any other substance or device intentionally to terminate the pregnancy of a female known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, to remove an ectopic pregnancy, or to remove a dead fetus who dies as the result of a spontaneous miscarriage, accidental trauma or a criminal assault on the pregnant female or her unborn child;

2. "Attempt to perform an abortion" means an act, or an omission of a statutorily required act that, under the circumstances as the actor believes them to be, constitutes a substantial step in a course of conduct planned to culminate in the performance of an abortion in Oklahoma in violation of the Unborn Child Pain Awareness/Prevention Act;

3. "Unborn child" means a member of the species homo sapiens from fertilization until birth;

4. "Medical emergency" means the existence of any physical condition, not including any emotional, psychological, or mental condition, which a reasonably prudent physician, with knowledge of the case and treatment possibilities with respect to the medical conditions involved, would determine necessitates the immediate abortion of the pregnancy of the female to avert her death or to avert substantial and irreversible impairment of a major bodily function arising from continued pregnancy;

5. "Physician" means a person licensed to practice medicine in this state pursuant to Sections 495 and 633 of Title 59 of the Oklahoma Statutes; and

6. "Probable gestational age" means the gestational age of the unborn child at the time the abortion is planned to be performed, as determined by the physician using reasonable probability.
Added by Laws 2006, c. 185, § 7, eff. Nov. 1, 2006. Amended by Laws 2007, c. 161, § 4, eff. Nov. 1, 2007.

§63-1-738.8. Review of materials, notice in cases of twenty-plus weeks' gestation - Certification, furnishing of information.

A. Except in the case of a medical emergency, at least seventy-two (72) hours prior to an abortion being performed on an unborn child whose probable gestational age is twenty (20) weeks or more, the physician performing the abortion or the agent of the physician shall inform the pregnant female, by telephone or in person, of the right to review the printed materials described in Section 1-738.10

of this title, that these materials are available on a state-sponsored website, and the web address of that website. The physician or the agent of the physician shall orally inform the female that the materials have been provided by the State of Oklahoma and that the materials contain information on pain and the unborn child. If the female chooses to view the materials other than on the website, the materials shall either be given to the female at least seventy-two (72) hours before the abortion, or received by the female at least seventy-two (72) hours before the abortion by certified mail, restricted delivery to the addressee. The information required by this subsection may be provided by a tape recording if provision is made to record or otherwise register specifically whether the female does or does not choose to receive the printed materials given or mailed.

B. The female shall certify in writing, prior to the abortion, that the information described in subsection A of this section has been furnished to the female and that the female has been informed of the opportunity to review the printed materials described in Section 1-738.10 of this title. Prior to the performance of the abortion, the physician who is to perform the abortion or the agent of the physician shall obtain a copy of the written certification and retain the copy on file with the medical record of the female for at least three (3) years following the date of receipt.
Added by Laws 2006, c. 185, § 8, eff. Nov. 1, 2006. Amended by Laws 2015, c. 255, § 4, eff. Nov. 1, 2015.

§63-1-738.9. Use of anesthetic or analgesic to eliminate or alleviate pain - Notice.

Except in the case of a medical emergency, before an abortion is performed on an unborn child who is twenty (20) weeks gestational age or more, the physician performing the abortion or the agent of the physician shall inform the female if an anesthetic or analgesic would eliminate or alleviate organic pain to the unborn child caused by the particular method of abortion to be employed and inform the female of the particular medical risks associated with the particular anesthetic or analgesic. With the consent of the female, the physician shall administer the anesthetic or analgesic.
Added by Laws 2006, c. 185, § 9, eff. Nov. 1, 2006.

§63-1-738.10. Publication of materials on twenty-week gestation - Legibility - Availability at no cost.

A. Within ninety (90) days after the Unborn Child Pain Awareness/Prevention Act becomes law, the State Board of Medical Licensure and Supervision shall cause to be published, in English and in each language which is the primary language of two percent (2%) or more of the population of the state, and shall cause to be available on the state web site provided for in Section 11 of this

act, printed materials with the following statement concerning unborn children of twenty (20) weeks gestational age: "By twenty (20) weeks gestation, the unborn child has the physical structures necessary to experience pain. There is evidence that by twenty (20) weeks gestation unborn children seek to evade certain stimuli in a manner which in an infant or an adult would be interpreted to be a response to pain. Anesthesia is routinely administered to unborn children who are twenty (20) weeks gestational age or older who undergo prenatal surgery."

The materials shall be objective, nonjudgmental and designed to convey only accurate scientific information about the human fetus at the various gestational ages.

B. The materials referred to in subsection A of this section shall be printed in a typeface large enough to be clearly legible. The web site provided for in Section 11 of this act shall be maintained at a minimum resolution of 70 DPI (dots per inch). All pictures appearing on this web site shall be a minimum of 200x300 pixels. All letters on the web site shall be a minimum of 11 point font. All information and pictures shall be accessible with an industry standard browser requiring no additional plug-ins.

C. The materials required under this section shall be available at no cost from the State Board of Medical Licensure and Supervision upon request and in appropriate number to any person, facility, or hospital.

Added by Laws 2006, c. 185, § 10, eff. Nov. 1, 2006.

§63-1-738.11. Web site, development and maintenance.

The State Board of Medical Licensure and Supervision shall develop and maintain a stable Internet web site to provide the information described under Section 10 of this act. No information regarding who uses the web site shall be collected or maintained. The State Board of Medical Licensure and Supervision shall monitor the web site on a daily basis to prevent and correct tampering.

Added by Laws 2006, c. 185, § 11, eff. Nov. 1, 2006.

§63-1-738.12. Medical emergency abortion - Notice of medical indications.

When a medical emergency compels the performance of an abortion, the physician shall inform the female, prior to the abortion if possible, of the medical indications supporting the judgment of the physician that an abortion is necessary to avert the death of the female or that a twenty-four-hour delay will create serious risk of substantial and irreversible impairment of a major bodily function.

Added by Laws 2006, c. 185, § 12, eff. Nov. 1, 2006.

§63-1-738.13. Reporting forms - Submission of copies - Late fees - Public report - Alteration of dates.

A. Within ninety (90) days after the Unborn Child Pain Awareness/Prevention Act becomes law, the State Department of Health shall prepare a reporting form for physicians containing a reprint of the Unborn Child Pain Awareness/Prevention Act and listing:

1. The number of females to whom the physician or an agent of the physician provided the information described in subsection A of Section 1-738.8 of this title; of that number, the number provided by telephone and the number provided in person; and of each of those numbers, the number provided in the capacity of a referring physician and the number provided in the capacity of a physician who is to perform the abortion or agent of such a physician;

2. The number of females who availed themselves of the opportunity to obtain a copy of the printed information described in Section 1-738.10 of this title other than on the website, and the number who did not; and of each of those numbers, the number who, to the best of the information and belief of the reporting physician, went on to obtain the abortion; and

3. The number of abortions performed by the physician in which information otherwise required to be provided at least seventy-two (72) hours before the abortion was not so provided because an immediate abortion was necessary to avert the death of the female, and the number of abortions in which such information was not so provided because a delay would create serious risk of substantial and irreversible impairment of a major bodily function.

B. The Department shall ensure that copies of the reporting forms described in subsection A of this section are provided:

1. Within one hundred twenty (120) days after the Unborn Child Pain Awareness/Prevention Act becomes law, to all physicians licensed to practice in this state;

2. To each physician who subsequently becomes newly licensed to practice in this state, at the same time as official notification to that physician that the physician is so licensed; and

3. By December 1 of each year, other than the calendar year in which forms are distributed in accordance with paragraph 1 of this subsection, to all physicians licensed to practice in this state.

C. By February 28 of each year following a calendar year in any part of which the Unborn Child Pain Awareness/Prevention Act was in effect, each physician who provided, or whose agent provided, information to one or more females in accordance with Section 1-738.8 of this title during the previous calendar year shall submit to the Department a copy of the form described in subsection A of this section, with the requested data entered accurately and completely.

D. Reports that are not submitted by the end of a grace period of thirty (30) days following the due date shall be subject to a late fee of Five Hundred Dollars ($500.00) for each additional thirty-day period or portion of a thirty-day period the reports are

overdue. Any physician required to report in accordance with this section who has not submitted a report, or has submitted only an incomplete report, more than one (1) year following the due date may, in an action brought by the State Board of Medical Licensure and Supervision, be directed by a court of competent jurisdiction to submit a complete report within a period stated by court order or be subject to sanctions for civil contempt.

E. By June 30 of each year, the Department shall issue a public report providing statistics for the previous calendar year compiled from all of the reports covering that year submitted in accordance with this section for each of the items listed in subsection A of this section. Each such report shall also provide the statistics for all previous calendar years, adjusted to reflect any additional information from late or corrected reports. The Department shall take care to ensure that none of the information included in the public reports could reasonably lead to the identification of any individual providing or provided information in accordance with subsection A or B of Section 1-738.8 of this title.

F. The Department, by rule promulgated in accordance with the Administrative Procedures Act, may alter the dates established by paragraph 3 of subsection B, subsection C, or subsection E of this section or consolidate the forms or reports described in this section with other forms or reports to achieve administrative convenience or fiscal savings or to reduce the burden of reporting requirements, so long as reporting forms are sent to all licensed physicians in the state at least once every year and the report described in subsection E of this section is issued at least once every year.

Added by Laws 2006, c. 185, § 13, eff. Nov. 1, 2006. Amended by Laws 2015, c. 255, § 5, eff. Nov. 1, 2015.

§63-1-738.14. Violation of Act - Penalties.

Any person who knowingly or recklessly performs or attempts to perform an abortion in violation of the Unborn Child Pain Awareness/Prevention Act shall be guilty of a felony. Any physician who knowingly or recklessly submits a false report under subsection C of Section 13 of this act shall be guilty of a misdemeanor. No penalty may be assessed against the female upon whom the abortion is performed or attempted to be performed. No penalty or civil liability may be assessed for failure to comply with Section 8 of this act requiring a written certification that the female has been informed of the opportunity to review the information referred to in Section 8 of this act unless the State Department of Health has made the printed materials available at the time the physician or the agent of the physician is required to inform the female of the right to review the materials.

Added by Laws 2006, c. 185, § 14, eff. Nov. 1, 2006.

§63-1-738.15. Failure to comply with Act or issue public report - Civil liability.

A. Any person upon whom an abortion has been performed without the Unborn Child Pain Awareness/Prevention Act having been complied with, the father of the unborn child who was the subject of such an abortion, or the grandparent of such an unborn child may maintain an action against the person who performed the abortion in knowing or reckless violation of the Unborn Child Pain Awareness/Prevention Act for actual and punitive damages. Any person upon whom an abortion has been attempted without the Unborn Child Pain Awareness/Prevention Act having been complied with may maintain an action against the person who attempted to perform the abortion in knowing or reckless violation of the Unborn Child Pain Awareness/Prevention Act for actual and punitive damages.

B. If the Department fails to issue the public report required by the Statistical Reporting of Abortion Act of Oklahoma, an action pursuant to Title 12 of the Oklahoma Statutes may be initiated.

Added by Laws 2006, c. 185, § 15, eff. Nov. 1, 2006.

§63-1-738.16. Civil or criminal actions - Anonymity of person upon whom abortion has been performed or attempted.

In every civil or criminal proceeding or action brought under the Unborn Child Pain Awareness/Prevention Act, the court shall rule whether the anonymity of any female upon whom an abortion has been performed or attempted shall be preserved from public disclosure if the female does not give her consent to such disclosure. The court, upon motion or sua sponte, shall make such a ruling and, upon determining that the anonymity of the female should be preserved, shall issue orders to the parties, witnesses, and counsel and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard the identity of the female from public disclosure. Each such order shall be accompanied by specific written findings explaining why the anonymity of the female should be preserved from public disclosure, why the order is essential to that end, how the order is narrowly tailored to serve that interest, and why no reasonable less restrictive alternative exists. In the absence of written consent of the female upon whom an abortion has been performed or attempted, anyone, other than a public official, who brings an action under subsection A of Section 15 of this act shall do so under a pseudonym. This section may not be construed to conceal the identity of the plaintiff or of witnesses from the defendant.

Added by Laws 2006, c. 185, § 16, eff. Nov. 1, 2006.

§63-1-738.17. Severability of provisions.

If any one or more provision, section, subsection, sentence, clause, phrase or word of the Unborn Child Pain Awareness/Prevention Act or the application thereof to any person or circumstance is found to be unconstitutional, the same is hereby declared to be severable and the balance of the Unborn Child Pain Awareness/Prevention Act shall remain effective notwithstanding such unconstitutionality. The Legislature hereby declares that it would have passed the Unborn Child Pain Awareness/Prevention Act, and each provision, section, subsection, sentence, clause, phrase or word thereof, irrespective of the fact that any one or more provision, section, subsection, sentence, clause, phrase, or word be declared unconstitutional.
Added by Laws 2006, c. 185, § 17, eff. Nov. 1, 2006.

§63-1-738a. Repealed by Laws 2010, c. 276, § 9, eff. Nov. 1, 2010.

§63-1-738b. Repealed by Laws 2010, c. 276, § 9, eff. Nov. 1, 2010.

§63-1-738c. Repealed by Laws 2010, c. 276, § 9, eff. Nov. 1, 2010.

§63-1-738d. Repealed by Laws 2010, c. 276, § 9, eff. Nov. 1, 2010.

§63-1-738e. Repealed by Laws 2010, c. 276, § 9, eff. Nov. 1, 2010.

§63-1-738f. Repealed by Laws 2010, c. 276, § 9, eff. Nov. 1, 2010.

§63-1-738g. Repealed by Laws 2010, c. 276, § 9, eff. Nov. 1, 2010.

§63-1-738h. Repealed by Laws 2010, c. 276, § 9, eff. Nov. 1, 2010.

§63-1-738i. Statistical Abortion Reporting Act.
This act shall be known and may be cited as the "Statistical Abortion Reporting Act".
Added by Laws 2010, c. 276, § 1, eff. Nov. 1, 2010.

§63-1-738j. Individual Abortion Form - Submission of abortion statistics.
A. As used in the Statistical Abortion Reporting Act:
1. "Abortion" means the term as defined in Section 1-730 of Title 63 of the Oklahoma Statutes;
2. "Complication" means any adverse physical or psychological condition arising from the performance of an abortion, which includes but is not limited to: uterine perforation, cervical perforation, infection, bleeding, hemorrhage, blood clots, failure to actually terminate the pregnancy, incomplete abortion (retained tissue), pelvic inflammatory disease, endometritis, missed ectopic pregnancy, cardiac arrest, respiratory arrest, renal failure,

metabolic disorder, shock, embolism, coma, placenta previa, preterm delivery in subsequent pregnancies, free fluid in abdomen, adverse reaction to anesthesia and other drugs, and mental and psychological complications such as depression, anxiety, sleeping disorders, psychiatric hospitalization, and emotional problems; and

3. "Stable Internet website" means a website that, to the extent reasonably practicable, is safeguarded from having its content altered other than by the State Department of Health.

B. By March 1, 2012, the State Department of Health shall make available, on its stable Internet website, an Individual Abortion Form as required by Section 3 of this act, and a form for a Complications of Induced Abortion Report as required by Section 4 of this act.

C. As required by Section 5 of this act, information from a completed Individual Abortion Form or a completed Complications of Induced Abortion Report shall be combined with information from all other such completed forms and reports submitted for the year. An Annual Abortion Report providing statistics for the previous calendar year compiled from all of that year's completed forms and reports submitted in accordance with the Statistical Abortion Reporting Act shall be published annually by the Department on its stable Internet website.

D. No Individual Abortion Forms or Complications of Induced Abortion Reports that have been completed and submitted to the Department by any physician pursuant to subsection B of Section 3 of this act or subsection C of Section 4 of this act shall be posted online.

E. By March 1, 2012, the State Department of Health shall, on its stable Internet website, provide the language of all Oklahoma Statutes and regulations directly relating to abortion, and shall promptly update its website to reflect subsequent statutory and regulatory changes. The Department shall also, by March 1, 2012, provide, on its stable Internet website, the means by which physicians may electronically submit the reports required by the Statistical Abortion Reporting Act. The Department shall include instructions on its stable Internet website regarding electronic submission. The Department shall take all necessary precautions to ensure the security of the electronically submitted reports so that the submitted data is able to be accessed only by specially authorized departmental personnel during and following the process of transmission.

Added by Laws 2010, c. 276, § 2, eff. Nov. 1, 2010.

§63-1-738k. Posting of Individual Abortion Form - Notice - Sample form.

A. Subsections B and C of this section shall become operative on the later of:

1. April 1, 2012; or

2. Thirty (30) calendar days following the date on which the State Department of Health posts on its website the Individual Abortion Form and instructions concerning its electronic submission referenced in this section.

B. The Department shall post the Individual Abortion Form and instructions concerning its electronic submission on its stable Internet website. Nothing in the Individual Abortion Form shall contain the name, address, hometown, county of residence, or any other information specifically identifying any patient. The Department's Individual Abortion Form shall be substantially similar to, but need not be in the specific format, provided in subsection F of this section.

C. Any physician performing abortions shall fully complete and submit, electronically, an Individual Abortion Form to the State Department of Health by the last business day of the calendar month following the month in which the physician performs an abortion, for each abortion the physician performs.

D. In cases in which a physician or the agent of a physician:

1. Mails the printed materials described in Section 1-738.3 of this title to a female specifically to comply with division (1) of subparagraph d of paragraph 2 of subsection B of Section 1-738.2 of this title;

2. Gives or mails the printed materials described in Section 1-738.10 of this title to a female specifically to comply with subsection A of Section 1-738.8 of this title; or

3. Provides notice to a parent in compliance with Section 1-740.2 of this title,

but does not subsequently perform an abortion on the female or minor, the physician shall electronically submit a completed Individual Abortion Form to the State Department of Health, and shall mark as "not applicable" those items of information that may accurately be provided only when an abortion is performed. The physician shall not submit such a form if the physician knows that an abortion was subsequently performed on the female or minor by another physician. Individual Abortion Forms required by this subsection shall be submitted by the last business day of the second calendar month following the calendar month in which the physician mails the printed materials or provides notice to a parent.

E. The Individual Abortion Form shall contain a notice containing an assurance that, in accordance with subsection F of Section 1-738m of this title, public reports based on the form submitted will not contain the name, address, hometown, county of residence, or any other identifying information of any individual female, that the State Department of Health will take care to ensure that none of the information included in its public reports could reasonably lead to the identification of any individual female about

whom information is reported in accordance with the Statistical Abortion Reporting Act or of any physician providing information in accordance with the Statistical Abortion Reporting Act, and that such information is not subject to the Oklahoma Open Records Act.

F. Individual Abortion Form. The Department's Individual Abortion Form shall be substantially similar to, but need not be in the specific format of, the following form:

Individual Abortion Form

(TO BE COMPLETED FOR EACH ABORTION PERFORMED)

1. Date of abortion: _____

2. County in which the abortion was performed: _____

3. Age of mother: _____

4. Marital status of mother: _____

(specify married, divorced, separated, widowed, or never married)

5. Race of mother: _____

6. Years of education of mother: _____

(specify highest year completed)

7. State or foreign country of residence of mother:_____

8. Total number of previous pregnancies of the mother:_____

Live Births: _____

Miscarriages: _____

Induced Abortions: _____

9. Approximate gestational age in weeks, as measured from the last menstrual period of the mother, of the unborn child subject to abortion: _____

10. Method of abortion used:

Suction Aspiration: _____

Dilation and Curettage: _____

RU 486: _____

Methotrexate: _____

Other drug/chemical/medicine (specify): _____

Dilation and Evacuation: _____

Saline: _____

Urea: _____

Prostaglandins: _____

Partial Birth Abortion: _____

Hysterotomy: _____

Other (specify): _____

11. Was there an infant born alive as a result of the abortion? _____

If yes:

Were life-sustaining measures undertaken? _____

How long did the infant survive? _____

12. Was anesthesia administered to mother? _____

If yes, what type? _____

13. Was anesthesia administered to the fetus? _____

If yes:

What type? _____

How was it administered? _____

14. Method of fetal tissue disposal: _____

15. Unless a medical emergency, as defined in Section 1-738.1A, or as applicable, Section 1-745.2 of Title 63 of the Oklahoma Statutes, exists, the abortion provider or agent shall ask the pregnant female to provide, orally or in writing, the reason(s) she is seeking the abortion. If such a medical emergency exists, the abortion provider or agent shall specify on the form the condition which necessitated the immediate abortion: _____

REASON GIVEN FOR ABORTION (check all applicable):

Having a baby:

Would dramatically change the life of the mother: _____

Would interfere with the education of the mother: _____

Would interfere with the job/employment/career of the mother: _____

Mother has other children or dependents: _____

Mother cannot afford the child: _____

Mother is unmarried: _____

Mother is a student or planning to be a student: _____

Mother cannot afford child care: _____

Mother cannot afford the basic needs of life: _____

Mother is unemployed: _____

Mother cannot leave job to care for a baby: _____

Mother would have to find a new place to live: _____

Mother does not have enough support from a husband or partner: _____

Husband or partner is unemployed: _____

Mother is currently or temporarily on welfare or public assistance: _____

Mother does not want to be a single mother: _____

Mother is having relationship problems: _____

Mother is not certain of relationship with the father of the child: _____

Partner and mother are unable to or do not want to get married: _____

Mother is not currently in a relationship: _____

The relationship or marriage of the mother may soon break up: _____

Husband or partner is abusive to the mother or her children: _____

Mother has completed her childbearing: _____

Mother is not ready for a, or another, child: _____

Mother does not want people to know that she had sex or became pregnant: _____
Mother does not feel mature enough to raise a, or another, child: _____
Husband or partner wants mother to have an abortion: _____
There may be possible problem affecting the health of the fetus: _____
Physical health of the mother is at risk: _____
Parents want mother to have an abortion: _____
Emotional health of the mother is at risk: _____
Mother suffered from a medical emergency as defined in Section 1-738.1A of Title 63 of the Oklahoma Statutes: _____
Mother suffered from a medical emergency as defined in Section 1-745.2 of Title 63 of the Oklahoma Statutes: _____
Mother wanted a child of a different sex: _____
Abortion is necessary to avert the death of the mother: _____
Pregnancy was a result of forcible rape: _____
Pregnancy was a result of incest: _____
Other (specify): _____
Patient was asked why she is seeking an abortion, but she declined to give a reason: _____

16. Method of payment (check one):
Private insurance: _____
Public health plan: _____
Medicaid: _____
Private pay: _____
Other (specify): _____

17. Type of private medical health insurance coverage, if any (check one):
Fee-for-service insurance company: _____
Managed care company: _____
Other (specify): _____

18. Sum of fee(s) collected: _____

19. Time of fee collection (check one):
Full fee for abortion collected prior to or at the time the patient was provided the information required under subsection B of Section 1-738.2 of Title 63 of the Oklahoma Statutes: _____
Partial fee for abortion collected prior to or at the time the patient was provided the information required under subsection B of Section 1-738.2 of Title 63 of the Oklahoma Statutes: _____
Full fee for abortion collected at time the abortion was performed: _____
Other (specify): _____

20. Specialty area of medicine of the physician: _____
At which hospital(s) did the physician have hospital privileges at the time of the abortion?
_____

21. Was ultrasound equipment used before, during, or after the performance of this abortion?

Before? _____ Vaginal, abdominal, or both? _____

How long prior to the abortion was the ultrasound performed? _____

Was the mother under the effect of anesthesia at the time of the ultrasound? _____

During? _____ Vaginal, abdominal, or both? _____

After? _____ Vaginal, abdominal, or both? _____

If an ultrasound was performed, what was the gestational age of the fetus at the time of the abortion, as determined by the ultrasound? _____

Attach to this form a copy or screenshot of the ultrasound, intact with the date on which the ultrasound was performed, and with the name of the mother redacted; provided, however, such ultrasound shall not be subject to an open records request and shall be subject to HIPAA regulations governing confidentiality and release of private medical records.

21A. If an ultrasound was not performed prior to the abortion, was the reason for not performing an ultrasound a medical emergency necessitating an immediate abortion:

To avert death: _____

To avert substantial and irreversible impairment of a major bodily function arising from continued pregnancy: _____

Other reason: _____

22. If ultrasound equipment was used, was the ultrasound performed by:

The physician performing the abortion: _____

A physician other than the physician performing the abortion: _____

Other (specify): _____

23. Was the information required by paragraph 1 of subsection B of Section 1-738.2 of Title 63 of the Oklahoma Statutes provided to the mother? _____

a. If yes, was it provided:

In person: _____

By telephone: _____

b. Was it provided by:

A referring physician: _____

The physician performing the abortion: _____

An agent of a referring physician: _____

An agent of the physician performing the abortion: _____

24. Was the information required by paragraph 2 of subsection B of Section 1-738.2 of Title 63 of the Oklahoma Statutes provided to the mother? _____

a. If yes, was it provided:

In person: _____

By telephone: _____

b. Was it provided by:

A referring physician: _____

An agent of a referring physician: _____

The physician performing the abortion: _____

An agent of the physician performing the abortion: _____

25. Did the mother avail herself of the opportunity to have the printed materials described in Section 1-738.3 of Title 63 of the Oklahoma Statutes mailed to her? _____

26. Were the informed consent requirements of subsection B of Section 1-738.2 of Title 63 of the Oklahoma Statutes dispensed with because of a medical emergency necessitating an immediate abortion:

To avert death: _____

To avert substantial and irreversible impairment of a major bodily function arising from continued pregnancy: _____

27. Was a determination of probable postfertilization age made as required by Section 1-745.5 of Title 63 of the Oklahoma Statutes? _____

a. If no, was the determination of probable postfertilization age dispensed with:

To avert death: _____

To avert substantial and irreversible impairment of a major bodily function arising from continued pregnancy: _____

b. If yes, what was the probable postfertilization age? _____

What was the method and basis of the determination? _____

What was the basis for the determination to perform the abortion:

To avert death: _____

To avert substantial and irreversible impairment of a major bodily function arising from continued pregnancy: _____

Was the method of abortion used one that, in reasonable medical judgment, provided the best opportunity for the unborn child to survive? _____

If yes, was there an infant born alive as a result of the abortion? _____

If no, what was the basis of the determination? _____

28. Was the abortion performed within the scope of employment of an Oklahoma state employee or an employee of an agency or political subdivision of the state? _____

29. Was the abortion performed with the use of any public institution, public facility, public equipment, or other physical asset owned, leased, or controlled by this state, its agencies, or political subdivisions? _____

30. If the answer to question 28 or 29 is yes:

a. Was the abortion necessary to save the life of the mother? _____
If yes, what was the life-endangering condition? _____

b. Did the pregnancy result from an act of forcible rape? _____
If yes, list the law enforcement authority to which the rape was reported: _____
List the date of the report: _____

c. Did the pregnancy result from an act of incest committed against a minor? _____
If yes, list the law enforcement authority to which the perpetrator was reported: _____
List the date of the report: _____

THIS PORTION TO BE COMPLETED IN CASE OF MINOR

31. Minor's age at the time the abortion was performed: _____

32. Was a parent of the minor provided notice prior to the abortion as described in Section 1-740.2 of Title 63 of the Oklahoma Statutes? _____

a. If yes, how was the notice provided?
In person: _____
By mail: _____

b. If yes, to the best of the reporting physician's knowledge and belief, did the minor go on to obtain the abortion? _____

33. Was informed written consent of one parent obtained as described in Section 1-740.2 of Title 63 of the Oklahoma Statutes? _____

If yes, how was it secured?
In person: _____
Other (specify): _____

34. If no notice was provided nor consent obtained, indicate which of the following apply:

Minor was emancipated: _____

Abortion was necessary to prevent the death of the minor: _____

Medical emergency, as defined in Section 1-738.1A of Title 63 of the Oklahoma Statutes, existed: _____

Minor received judicial authorization to obtain abortion without parental notice or consent: _____

35. If no notice was provided nor consent obtained because a medical emergency existed, indicate:

Whether parent was subsequently notified (state period of time elapsed before notice was given): _____

Whether judicial waiver of notice requirement was obtained: _____

36. If the minor received judicial authorization to obtain an abortion without parental notice or consent, indicate which of the following applies:

Judge ruled that minor was mature enough to give informed consent on her own: _____

Judge ruled that abortion was in the best interest of the minor: _____

37. If the female was a minor at the time of conception, indicate the age of the father of the unborn child at the time of conception: _____

38. If at the time of conception the ages of the mother and father were such that a violation of Section 1111, 1112, 1114 or 1123 of Title 21 or Section 843.5 of Title 21 of the Oklahoma Statutes occurred, was the rape or abuse reported to the proper authorities? _____

39. Were the remains of the fetus after the abortion examined to ensure that all such remains were evacuated from the mother's body? _____

If the remains of the fetus were examined after the abortion, what was the sex of the child, as determined from such examination? _____

Was the sex of the child determined prior to the abortion? _____

If so, by whom? _____

If so, by what method? _____

If the sex of the child was determined prior to the abortion, was the mother given information of the child's sex prior to the abortion? _____

40. If the abortion was performed without surgery but rather as the result of the administration of chemicals, was the physician present in the same room as the woman to whom the chemicals were administered at the time any such chemicals were first administered? _____

41. Prior to the pregnant woman giving informed consent to having any part of the abortion performed or induced, if the pregnancy was at least eight (8) weeks after fertilization, was the pregnant woman told that it may be possible to make the embryonic or fetal heartbeat of the unborn child audible for the pregnant woman to hear? _____

Was the pregnant woman asked if she would like to hear the heartbeat? _____

Was the embryonic or fetal heartbeat of the unborn child made audible for the pregnant woman to hear, using a Doppler fetal heart rate monitor? _____

If the response to any of the questions in this paragraph was anything other than an unqualified YES, how was the abortion

performed in compliance with Sections 1-745.12 through 1-745.19 of Title 63 of the Oklahoma Statutes? _____

Filed this ____ day of _____, _____, by:

_____

(Name of physician)

_____

(Physician's license number)

NOTICE: In accordance with subsection F of Section 1-738m of Title 63 of the Oklahoma Statutes, public reports based on this form will not contain the name, address, hometown, county of residence, or any other identifying information of any individual female. The State Department of Health shall take care to ensure that none of the information included in its public reports could reasonably lead to the identification of any individual female about whom information is reported or of any physician providing information in accordance with the Statistical Abortion Reporting Act. Such information is not subject to the Oklahoma Open Records Act.

Be advised that any complication(s) shall be detailed in a "Complications of Induced Abortion Report" and submitted to the Department as soon as is practicable after the encounter with the induced-abortion-related illness or injury, but in no case more than sixty (60) days after such an encounter.

Added by Laws 2010, c. 276, § 3, eff. Nov. 1, 2010. Amended by Laws 2013, c. 303, § 1, eff. Nov. 1, 2013.

§63-1-738*l*. Complications of Induced Abortion Report - Sample form.

A. Complications of Induced Abortion Report. By March 1, 2012, the State Department of Health shall prepare and make available, on its stable Internet website, a Complications of Induced Abortion Report for all physicians licensed and practicing in the State of Oklahoma.

B. Subsection C of this section shall become operative on the later of:

1. April 1, 2012; or

2. Thirty (30) calendar days following the date on which the State Department of Health posts on its stable Internet website the Individual Abortion Form and instructions concerning its electronic submission referenced in Section 3 of this act.

C. Any physician practicing in Oklahoma who encounters an illness or injury that a reasonably knowledgeable physician would judge is related to an induced abortion shall complete and submit, electronically or by regular mail, a Complications of Induced Abortion Report to the Department as soon as is practicable after the encounter with the induced-abortion-related illness or injury, but in no case more than sixty (60) days after such an encounter. Nothing in the Complications of Induced Abortion Report shall contain the name, address, hometown, county of residence, or any

other information specifically identifying any patient. Knowing or reckless unreasonable delay or failure to submit a Complications of Induced Abortion Report shall be sanctioned according to the provisions of the Statistical Abortion Reporting Act.

D. The Complications of Induced Abortion Report shall contain a notice containing an assurance that in accordance with subsection F of Section 5 of this act, public reports based on the form submitted will not contain the name, address, hometown, county of residence, or any other identifying information of any individual female, that the State Department of Health will take care to ensure that none of the information included in its public reports could reasonably lead to the identification of any individual female about whom information is reported in accordance with the Statistical Abortion Reporting Act, or of any physician providing information in accordance with the Statistical Abortion Reporting Act, and that such information is not subject to the Oklahoma Open Records Act.

E. Complication(s) of Induced Abortion Report. The Complications of Induced Abortion Report shall be substantially similar to, but need not be in the specific format of, the following form:

Complications of Induced Abortion Report

1. Name and specialty field of medical practice of the physician filing the report: _____

2. Did the physician filing the report perform or induce the abortion? _____

3. Name, address, and telephone number of the health care facility where the induced abortion complication was discovered or treated: _____

4. Date on which the complication was discovered: _____

5. Date on which, and location of the facility where, the abortion was performed, if known: _____

6. Age of the patient experiencing the complication: _____

7. Describe the complication(s) resulting from the induced abortion: _____

8. Circle all that apply:

   a. Death
   b. Cervical laceration requiring suture or repair
   c. Heavy bleeding/hemorrhage with estimated blood loss of greater than or equal to 500cc
   d. Uterine Perforation
   e. Infection
   f. Failed termination of pregnancy (continued viable pregnancy)
   g. Incomplete termination of pregnancy (Retained parts of fetus requiring re-evacuation)
   h. Other (May include psychological complications, future reproductive complications, or other illnesses or

injuries that in the physician's medical judgment occurred as a result of an induced abortion. Specify diagnosis.): _____

9. Type of follow-up care, if any, recommended: _____

10. Will the physician filing the Complications of Induced Abortion Report be providing such follow-up care (if not, the name of the medical professional who will, if known)? _____

11. Name and license number of physician filing the Complications of Induced Abortion Report: _____

Added by Laws 2010, c. 276, § 4, eff. Nov. 1, 2010.

§63-1-738m. Annual Abortion Report - Annual Judicial Bypass of Abortion Parental Consent Summary Report.

A. Beginning in 2013, by June 1 of each year, the Department shall issue, on its stable Internet website, a public Annual Abortion Report providing statistics for the previous calendar year compiled from all of the reports covering that year submitted in accordance with the Statistical Abortion Reporting Act.

B. The Department's public report shall also provide statistics for all previous calendar years for which abortion-reporting requirements have been in effect, adjusted to reflect any additional information from late or corrected reports.

C. The Annual Abortion Report shall include, but not be limited to, the following information:

1. The number of induced abortions performed in the previous calendar year, broken down by month and county in which the abortion was performed;

2. The number of abortions classified by:

a. the state or foreign country of residence of the mother,

b. the age, marital status, and race of the mother, and

c. the number of years of education of the mother;

3. The number of abortions classified by:

a. the number of previous pregnancies of the mother,

b. previous live births to the mother,

c. previous miscarriages, and

d. previous induced abortions;

4. The number of abortions by week of gestational age;

5. The number of abortions performed by each reported method;

6. The number of abortions resulting in an infant born alive; of these, the number of cases in which life-sustaining measures were taken; and a statistical summary of the length of survival of such infants;

7. The number of cases in which anesthesia was administered to the mother and the number of each type of anesthesia;

8. The number of cases in which anesthesia was administered to the unborn child, and the number of each type of anesthesia and of each method of administration;

9. The number of each reported method of fetal disposal;

10. The reasons reported for the abortions, and the number of times each reported reason was cited;

11. The number of abortions paid for by:

a. private insurance,

b. public health plan,

c. Medicaid,

d. private pay, or

e. other;

12. The number of abortions in which medical health insurance coverage was under:

a. a fee-for-service insurance company,

b. a managed care company, or

c. other;

13. A statistical summary of the fees collected;

14. Specialty area of medicine of the physician;

15. The number of abortions in which ultrasound equipment was used before, during, or after the abortion, and the number of times vaginal ultrasound, abdominal ultrasound, or both were used in each of the three circumstances;

16. The number of abortions before which an ultrasound was performed by:

a. the physician performing the abortion,

b. a physician other than the physician performing the abortion, or

c. other;

17. The number of abortions resulting in reported complications, and of those, how many were reported by the physician who performed the abortion, and how many were reported by another physician, the types of reported complications, and the number of each type based on data which shall be compiled and transmitted to the State Department of Health by the State Board of Medical Licensure and Supervision and the State Board of Osteopathic Examiners;

18. The number of abortions resulting in the reported death of the mother;

19. The number of females to whom the physician provided the information in subparagraph a of paragraph 1 of subsection B of Section 1-738.2 of this title; of that number, the number provided by telephone and the number provided in person; and of each of those numbers, the number provided in the capacity of a referring physician and the number provided in the capacity of a physician who is to perform the abortion;

20. The number of females to whom physicians or agents of physicians provided the information in paragraph 2 of subsection B of Section 1-738.2 of this title; of that number, the number provided by telephone and the number provided in person; of each of those numbers, the number provided in the capacity of a referring physician and the number provided in the capacity of a physician who is to perform the abortion; and of each of those numbers, the number provided by the physician and the number provided by an agent of the physician;

21. The number of females who availed themselves of the opportunity to have a copy of the printed information described in Section 1-738.3 of this title mailed to them; and of that number, the number who, based on the submitted reports, did and did not obtain an abortion;

22. The number of abortions performed by the physician in which information otherwise required to be provided at least seventy-two (72) hours before the abortion was not so provided because an immediate abortion was necessary to avert the death of the female, and the number of abortions in which such information was not so provided because a delay would create serious risk of substantial and irreversible impairment of a major bodily function;

23. The number of females to whom physicians or their agents provided the information described in subsection A of Section 1-738.8 of this title; of that number:

a. the number provided by telephone and the number provided in person; and of each of those numbers, the number provided in the capacity of a referring physician and the number provided in the capacity of a physician who is to perform the abortion, or by the agent of such physician, and

b. the number of females who availed themselves of the opportunity to be given or mailed the materials described in Section 1-738.10 of this title, and the number who did not; and of each of those numbers, the number who, to the best of the information and belief of the reporting physician, went on to obtain the abortion;

24. The number of females to whom the information described in subsection A of Section 1-738.8 of this title would have had to be provided but for a medical emergency determination; of that number, the number for whom an immediate abortion was necessary to avert the death of the female, and the number for whom a delay would have created serious risk of substantial and irreversible impairment of a major bodily function;

25. The number of abortions performed within the scope of employment of Oklahoma state employees and employees of an agency or political subdivision of the state, the number of abortions

performed with the use of public institutions, facilities, equipment, or other physical assets owned, leased, or controlled by this state, its agencies, or political subdivisions, and for each category:

a. the number of abortions reported as necessary to save the life of the mother, the life-endangering conditions identified, and the number of each such condition reported,

b. the number of abortions reported from pregnancies resulting from forcible rape, the number of such rapes reported to law enforcement authorities, general categories of law enforcement authorities to whom reports were made and the number made to each category, and a statistical summary of the length of time between the dates of reporting to law enforcement authorities and the dates of the abortions, and

c. the number of abortions reported from pregnancies resulting from incest committed against a minor, the number of perpetrators of incest in such cases reported to law enforcement authorities, general categories of law enforcement authorities to whom reports were made and the number made to each category, and a statistical summary of the length of time between the dates of reporting to law enforcement authorities and the dates of the abortions;

26. The number of females to a parent of whom the physician provided notice as required by Section 1-740.2 of this title; of that number, the number provided personally as described in that section, and the number provided by mail as described in that section, and of each of those numbers, the number of females who, to the best of the information and belief of the reporting physician, went on to obtain the abortion;

27. The number of females upon whom the physician performed an abortion without the notice to or consent of the parent of the minor required by Section 1-740.2 of this title; of that number, the number who were emancipated minors and the number who suffered from a medical emergency, and of the latter, the number of cases in which a parent was notified subsequently and the number of cases in which a judicial waiver was obtained. In the case of medical emergencies in which a parent was informed subsequently, a statistical summary of the period of time elapsed before notification;

28. The number of abortions performed after receiving judicial authorization to do so without parental notice and consent;

29. The number of abortions performed on minors after judicial authorizations were granted because of a finding that the minor girl was mature and capable of giving informed consent;

30. The number of abortions performed on minors after judicial authorizations were granted because of a finding that the performance of the abortion without parental notification and consent was in the best interest of the minor;

31. The number of abortions performed after which the remains of the fetus after the abortion were examined to ensure that all such remains were evacuated from the mother's body;

32. The number of male children aborted and female children aborted, as determined from the examination of fetal remains after abortion;

33. The number of male children aborted and female children aborted, as determined by any method other than those reported in paragraph 32 of this subsection;

34. The number of instances in which the mother was informed prior to the abortion that the child to be aborted was a female;

35. The number of abortions performed without surgery but rather as the result of the administration of chemicals;

36. The number of abortions performed as reported in paragraph 35 of this subsection, in which the physician was present in the same room as the woman to whom the chemicals were administered at the time any such chemicals were first administered;

37. The number of abortions performed for each hospital at which the abortionist had hospital privileges at the time of the abortion;

38. The number of abortions performed at which ultrasound equipment was used before the abortion;

39. The number of abortions reported in paragraph 38 of this subsection, during which the mother was under the effect of anesthesia at the time of the ultrasound;

40. The number of abortions performed at which ultrasound equipment was used during the abortion;

41. The number of abortions reported in paragraph 40 of this subsection, during which the mother was under the effect of anesthesia at the time of the ultrasound;

42. The number of abortions performed at which ultrasound equipment was used after the abortion;

43. The number of abortions reported in paragraph 42 of this subsection, during which the mother was under the effect of anesthesia at the time of the ultrasound;

44. The mean gestational age of the fetus at the time of the abortion, as determined by ultrasounds reported;

45. The number of abortions for which no determination of probable postfertilization age was made as required by Section 1-745.5 of this title; and

46. The number of abortions in which the pregnant woman was told that it may be possible to make the embryonic or fetal heartbeat of the unborn child audible for the pregnant woman to

hear; the number of abortions in which the pregnant woman was asked if she would like to hear the heartbeat; and the number of abortions in which the embryonic or fetal heartbeat of the unborn child was made audible for the pregnant woman to hear, using a Doppler fetal heart rate monitor.

D. Beginning in 2013, by June 1 of each year, the State Department of Health shall post, on its stable Internet website, a public Annual Judicial Bypass of Abortion Parental Consent Summary Report providing statistics which shall be compiled and supplied to the Department by the Administrative Office of the Courts giving the total number of petitions or motions filed under Section 1-740.3 of this title and of that number, the number in which:

1. The court appointed a guardian ad litem;
2. The court appointed counsel;
3. The judge issued an order authorizing an abortion without parental notification or consent, and of those:
    a. the number authorized due to a determination by the judge that the minor was mature and capable of giving consent to the proposed abortion, and
    b. the number authorized due to a determination by the judge that an abortion was in the best interest of the minor; and
4. The judge denied such an order, and of this, the number of:
    a. denials from which an appeal was filed,
    b. the appeals that resulted in the denial being affirmed, and
    c. appeals that resulted in reversals of the denials.

E. Each Annual Judicial Bypass of Abortion Parental Consent Summary Report shall also provide the statistics for all previous calendar years for which the public statistical report was required to be issued, adjusted to reflect any additional information from late or corrected reports.

F. The Department's public reports shall not contain the name, address, hometown, county of residence, or any other identifying information of any individual female, and shall take care to ensure that none of the information included in its public reports could reasonably lead to the identification of any individual female about whom information is reported in accordance with the Statistical Abortion Reporting Act or of any physician providing information in accordance with the Statistical Abortion Reporting Act. Nor shall the information described in the preceding sentence be subject to the Oklahoma Open Records Act.

Added by Laws 2010, c. 276, § 5, eff. Nov. 1, 2010. Amended by Laws 2013, c. 303, § 2, eff. Nov. 1, 2013; Laws 2015, c. 255, § 6, eff. Nov. 1, 2015.

§63-1-738n. Notification of physicians - Late fee - Promulgation of rules – Claims brought by taxpayers.

A. The State Board of Medical Licensure and Supervision and the State Board of Osteopathic Examiners shall notify, by March 1, 2012, all physicians licensed to practice in this state over whom they have licensure authority of the requirements of the Statistical Abortion Reporting Act and of the addresses of the pages on the State Department of Health's secure Internet website providing access to the forms it requires and instructions for their electronic submission. The respective Board shall also notify each physician who subsequently becomes newly licensed to practice in this state, at the same time as an official notification to that physician, that the physician is so licensed.

B. Individual Abortion Forms or Complications of Induced Abortion Reports that are not submitted by the end of a grace period of thirty (30) days following the due date shall be subject to a late fee of Five Hundred Dollars ($500.00) for each additional thirty-day period the forms or reports are overdue. Any monies collected under this subsection shall be deposited into an account created within the Department, which shall be used for the administration of the Statistical Abortion Reporting Act. Any physician required to report in accordance with the Statistical Abortion Reporting Act who has not completed and electronically submitted a form or report, or has submitted only an incomplete form or report, more than one (1) year following the due date shall be precluded from renewing his or her license until such fines are paid in full and outstanding forms or reports are submitted, and may, in an action brought by the State Department of Health, be directed by a court of competent jurisdiction to electronically submit completed forms or reports within a period stated by court order or be subject to sanctions for civil contempt.

C. Anyone who knowingly or recklessly fails to submit an Individual Abortion Form or Complications of Induced Abortion Report, or submits false information under the Statistical Abortion Reporting Act, shall be guilty of a misdemeanor.

D. The Department, the State Board of Medical Licensure and Supervision and the State Board of Osteopathic Examiners shall ensure compliance with the Statistical Abortion Reporting Act and shall verify the data provided by periodic inspections of places where the Department, the State Board of Medical Licensure and Supervision or the State Board of Osteopathic Examiners know or have reason to believe abortions are performed.

E. The Department may promulgate rules in accordance with the Administrative Procedures Act to alter the dates established by the Statistical Abortion Reporting Act to achieve administrative convenience, fiscal savings, or to reduce the burden of reporting requirements, so long as the forms and reports are made available,

on its stable Internet website, to all licensed physicians in this state, and the public reports described in Section 1-738m of this title are issued at least once every year.

F. If the Department fails to issue the public reports described in Section 1-738m of this title, an action pursuant to Chapter 26 of Title 12 of the Oklahoma Statutes may be initiated. If judgment is rendered in favor of the plaintiff in any action described in this subsection, the court shall also render judgment for a reasonable attorney fee in favor of the plaintiff against the defendant. If judgment is rendered in favor of the defendant and the court finds that the plaintiff's suit was frivolous and brought in bad faith, the court shall also render judgment for a reasonable attorney fee in favor of the defendant against the plaintiff.

G. If an abortion provider fails to submit any report required pursuant to Section 1-738k of this title, upon the refusal, failure or neglect of the State Commissioner of Health, within twenty (20) days after written demand signed, verified and served upon the State Department of Health by at least ten registered voters of the state, to institute or diligently prosecute proper proceedings at law or in equity to compel an abortion provider to submit any report required pursuant to Section 1-738k of this title but not yet submitted to the State Department of Health, any resident taxpayer of the state after serving the notice aforesaid may in the name of the State of Oklahoma as plaintiff, institute and maintain any proper action which the State Department of Health might institute and maintain to compel the abortion provider to file such report. If a court of competent jurisdiction determines the claims to be meritorious, the abortionist shall be compelled to file the report and to pay the fee(s) prescribed in subsection B of this section, with costs and reasonable attorney fees. If all claims stated by the resident taxpayers in the written demand are determined in a court of competent jurisdiction to be frivolous and brought in bad faith, the resident taxpayers who signed such demand and who are parties to the lawsuit in which such claims are determined to be frivolous and brought in bad faith shall be jointly and severally liable for all reasonable attorney fees and court costs incurred by the abortionist.

Added by Laws 2010, c. 276, § 6, eff. Nov. 1, 2010. Amended by Laws 2013, c. 303, § 3, eff. Nov. 1, 2013.

§63-1-738o. Authority to intervene by right.

The Oklahoma Legislature, by joint resolution, may appoint one or more of its members who sponsored or cosponsored this act in his or her official capacity to intervene as a matter of right in any case in which the constitutionality of this law is challenged.

Added by Laws 2010, c. 276, § 7, eff. Nov. 1, 2010.

§63-1-738p. Judicial order restraining or enjoining Statistical Abortion Reporting Act.

A. Sections 1-738.3a, 1-738.13 and 1-740.4a of Title 63 of the Oklahoma Statutes shall become ineffective and of no binding force on the date specified in subsection B of this section, but if the Statistical Abortion Reporting Act is ever temporarily or permanently restrained or enjoined by judicial order, these sections shall become effective and enforceable; provided, however, that if such temporary or permanent restraining order or injunction is ever stayed or dissolved, or otherwise ceases to have effect, these sections shall again become ineffective and of no binding force until or unless an injunction or restraining order against the Statistical Abortion Reporting Act is again in effect. If and to the extent the Statistical Abortion Reporting Act is restrained or enjoined in part, then only those provisions of these sections that neither conflict with nor substantively duplicate the provisions of the Statistical Abortion Reporting Act that are not enjoined shall have effect. As promptly as feasible following the issuance of any restraining order or injunction that enjoins part but not all of the Statistical Abortion Reporting Act, the Attorney General shall issue an opinion specifically identifying those provisions of these sections that are effective and enforceable in accordance with the preceding sentence.

B. The date specified in this subsection is the later of:

1. April 1, 2012; or

2. Thirty (30) calendar days following the date on which the State Department of Health posts on its secure Internet website the Individual Abortion Form and instructions concerning its electronic submission referenced in Section 3 of this act.

Added by Laws 2010, c. 276, § 8, eff. Nov. 1, 2010.

§63-1-738q. Injucntion or restraining orders – Enforcement of provisions.

If some or all of the provisions of Sections 1-738k, 1-738m and 1-738n of Title 63 of the Oklahoma Statutes, as amended by Sections 1, 2 and 3 of this act, are ever temporarily or permanently restrained or enjoined by judicial order, these sections shall be enforced as though such restrained or enjoined provisions had not been adopted; provided, however, that whenever such temporary or permanent restraining order or injunction is stayed or dissolved, or otherwise ceases to have effect, such provisions shall have full force and effect.

Added by Laws 2013, c. 303, § 4, eff. Nov. 1, 2013.

§63-1-739. Records.

All hospitals shall keep records, including admission and discharge notes, histories, results of tests and examinations,

nurses worksheets, social service records and progress notes of patients. All abortion facilities and hospitals in which abortions are performed shall also keep certifications of medical necessity, certifications of nonviability, certifications of nonavailability, abortion reports and complication reports as required in this act. Such records shall be maintained in the permanent files of the hospital for a period of not less than seven (7) years.
Added by Laws 1978, c. 207, § 11, eff. Oct. 1, 1978.

§63-1-740. Abortion on minor without parental consent or knowledge - Liability.

Any person who performs an abortion on a minor without parental consent or knowledge shall be liable for the cost of any subsequent medical treatment such minor might require because of the abortion.
Added by Laws 2001, c. 379, § 2, emerg. eff. June 4, 2001.
NOTE: Editorially renumbered from § 1-738 of this title to avoid duplication in numbering.

§63-1-740.1. Definitions.

As used in Sections 1-740.1 through 1-740.5 of this title:

1. "Abortion" means the term as is defined in Section 1-730 of this title;

2. "Medical emergency" means the existence of any physical condition, not including any emotional, psychological, or mental condition, which a reasonably prudent physician, with knowledge of the case and treatment possibilities with respect to the medical conditions involved, would determine necessitates the immediate abortion of the pregnancy of the minor in order to avert her death or to avert substantial and irreversible impairment of a major bodily function arising from continued pregnancy, and there is insufficient time to provide the required notice and obtain the written informed consent of one parent;

3. "Parent" means one parent of the pregnant unemancipated minor or guardian if the pregnant unemancipated minor has one; and

4. "Unemancipated minor" means any person less than eighteen (18) years of age who is not or has not been married or who is under the care, custody and control of the person's parent or parents, guardian or juvenile court of competent jurisdiction.
Added by Laws 2005, c. 200, § 11, emerg. eff. May 20, 2005. Amended by Laws 2007, c. 161, § 5, eff. Nov. 1, 2007.

§63-1-740.2. Consent of parent - Requirements - Exceptions - Forms.

A. Except in the case of a medical emergency, a physician may not perform an abortion on a pregnant female unless the physician has:

1. Obtained proof of age demonstrating that the female is not a minor;

2. Obtained proof that the female, although a minor, is emancipated; or

3. Complied with Section 1-740.3 of this title.

B. No abortion shall be performed upon an unemancipated minor or upon a female for whom a guardian has been appointed pursuant to Section 1-113 of Title 30 of the Oklahoma Statutes because of a finding of incompetency, except in a medical emergency or where a judicial waiver was obtained pursuant to Section 1-740.3 of this title, until at least forty-eight (48) hours after the request for written informed consent for the pending abortion has been delivered in the manner specified in this subsection and the attending physician has secured proof of identification and the written informed consent of one parent.

1. The request for written informed consent of one parent shall be addressed to the parent at the usual place of abode of the parent and delivered personally to the parent by the physician or an agent.

2. In lieu of the delivery required by paragraph 1 of this subsection, the request for written informed consent of one parent shall be made by certified mail addressed to the parent at the usual place of abode of the parent with return-receipt requested and restricted delivery to the addressee, which means a postal employee can only deliver the mail to the authorized addressee. Time of delivery shall be deemed to occur at 12 noon on the third day on which regular mail delivery takes place, subsequent to mailing. The information concerning the address of the parent shall be that which a reasonable and prudent person, under similar circumstances, would have relied upon as sufficient evidence that the parent resides at that address.

3. a. The parent who provides consent shall provide to the physician a copy of a government-issued proof of identification and written documentation that establishes that he or she is the lawful parent of the pregnant female. The parent shall certify in a signed, dated, notarized statement, initialed on each page, that he or she consents to the abortion. The signed, dated, and notarized statement shall include: "I certify that I, (insert name of parent), am the parent of (insert name of minor daughter) and give consent for (insert name of physician) to perform an abortion on my daughter. I understand that any person who knowingly makes a fraudulent statement in this regard commits a felony."

b. The physician shall keep a copy of the proof of identification of the parent and the certified statement in the medical file of the minor for five

(5) years past the majority of the minor, but in no event less than seven (7) years.

c. A physician receiving parental consent under this section shall execute for inclusion in the medical record of the minor an affidavit stating: "I, (insert name of physician), certify that according to my best information and belief, a reasonable person under similar circumstances would rely on the information presented by both the minor and her parent as sufficient evidence of identity."

C. No request for written informed consent of one parent shall be required under this section if the attending physician certifies in the medical records of the pregnant unemancipated minor that a medical emergency exists; provided, however, that the attending physician or an agent shall, within twenty-four (24) hours after completion of the abortion, notify one of the parents of the minor in the manner provided in this section that an emergency abortion was performed on the minor and of the circumstances that warranted invocation of this subsection.

D. The attending physician, or the agent of the physician, shall verbally inform the parent of the minor within twenty-four (24) hours after the performance of a medical emergency abortion or an abortion that was performed to prevent her death that an abortion was performed on the unemancipated minor. The attending physician, or the agent of the attending physician, shall also inform the parent of the basis for the certification of the physician required under subsection C of this section. The attending physician, or the agent of the attending physician, shall also send a written notice of the performed abortion via the United States Post Office to the last-known address of the parent, restricted delivery, return receipt requested. The information concerning the address of the parent shall be that which a reasonable and prudent person, under similar circumstances, would have relied upon as sufficient evidence that the parent resides at that address.

E. The State Board of Health shall adopt the forms necessary for physicians to obtain the certifications required by this section.

Added by Laws 2005, c. 200, § 12, emerg. eff. May 20, 2005. Amended by Laws 2006, c. 185, § 18, eff. Nov. 1, 2006; Laws 2007, c. 161, § 6, eff. Nov. 1, 2007; Laws 2009, c. 234, § 152, emerg. eff. May 21, 2009; Laws 2013, c. 268, § 1, eff. Nov. 1, 2013; Laws 2013, c. 320, § 2, eff. Nov. 1, 2013.

§63-1-740.2A. Evaluation and counseling session.

A. Prior to the court hearing for judicial waiver pursuant to Section 1-740.3 of Title 63 of the Oklahoma Statutes, the court may require the pregnant unemancipated minor to participate in an

evaluation and counseling session with a mental health professional from the State Department of Health. Such evaluation shall be confidential and scheduled expeditiously.

B. Such evaluation and counseling session shall be for the purpose of developing trustworthy and reliable expert opinion concerning the pregnant unemancipated minor's sufficiency of knowledge, insight, judgment, and maturity with regard to her abortion decision in order to aid the court in its decision and to make the resources of the state available to the court for this purpose. Persons conducting such sessions may employ the information and printed materials referred to in Sections 1-738.2 and 1-738.3 of Title 63 of the Oklahoma Statutes in examining how well the pregnant unemancipated minor is informed about pregnancy, fetal development, abortion risks and consequences, and abortion alternatives, and should also endeavor to verify that the pregnant unemancipated minor is seeking an abortion of her own free will and is not acting under coercion, intimidation, threats, abuse, undue pressure, or extortion by any other persons.

C. The results of such evaluation and counseling shall be reported to the court by the most expeditious means, commensurate with security and confidentiality, to assure receipt by the court prior to a hearing on the petition of the pregnant unemancipated minor.

Added by Laws 2013, c. 268, § 2, eff. Nov. 1, 2013.

§63-1-740.3. Judicial authorization prior to abortion - Court proceedings - Confidentiality - Appeal.

A. If a pregnant unemancipated minor elects not to allow the request for written informed consent of her parent, any judge of a district court in the county in which the pregnant unemancipated minor resides shall, upon petition or motion, and after an appropriate hearing, authorize a physician to perform the abortion if the judge determines, by clear and convincing evidence, that the pregnant unemancipated minor is mature and capable of giving informed consent to the proposed abortion based upon her experience level, perspective, and judgment. If the judge determines that the pregnant unemancipated minor is not mature, or if the pregnant unemancipated minor does not claim to be mature, the judge shall determine, by clear and convincing evidence, whether the performance of an abortion upon her without written informed consent of her parent would be in her best interest and shall authorize a physician to perform the abortion without written informed consent if the judge concludes that the best interests of the pregnant unemancipated minor would be served thereby.

In assessing the experience level of the pregnant unemancipated minor, the court may consider, among other relevant factors, the age of the pregnant unemancipated minor and experiences working outside

the home, living away from home, traveling on her own, handling personal finances, and making other significant decisions. In assessing the perspective of the pregnant unemancipated minor, the court may consider, among other relevant factors, what steps the pregnant unemancipated minor took to explore her options and the extent to which she considered and weighed the potential consequences of each option. In assessing the judgment of the pregnant unemancipated minor, the court may consider, among other relevant factors, the conduct of the pregnant unemancipated minor since learning of her pregnancy and her intellectual ability to understand her options and to make an informed decision. In assessing whether, by clear and convincing evidence, obtaining the written informed consent of the parent of the pregnant unemancipated minor is not in her best interest, a court may not consider the potential financial impact on the pregnant unemancipated minor or the family of the pregnant unemancipated minor if she does not have an abortion.

B. A pregnant unemancipated minor may participate in proceedings in the court on her own behalf, and the court may appoint a guardian ad litem for her. The court shall advise the pregnant unemancipated minor that she has a right to court-appointed counsel and, upon her request, shall provide her with counsel.

C. Proceedings in the court under this section shall be confidential and shall be given precedence over other pending matters so that the court may reach a decision promptly and without delay so as to serve the best interests of the pregnant unemancipated minor. A judge of the court who conducts proceedings under this section shall make, in writing, specific factual findings and legal conclusions supporting the decision and shall order a record of the evidence to be maintained, including the findings and conclusions of the court.

D. An expedited confidential appeal shall be available to any pregnant unemancipated minor for whom the court denies an order authorizing an abortion without written informed consent of one parent. An order authorizing an abortion without written informed consent of one parent shall not be subject to appeal. No filing fees shall be required of any pregnant unemancipated minor at either the trial or the appellate level. Access to the trial court for the purpose of a petition or motion, and access to the appellate courts for the purpose of making an appeal from the denial of same, shall be afforded a pregnant unemancipated minor twenty-four (24) hours a day, seven (7) days a week.

Added by Laws 2005, c. 200, § 13, emerg. eff. May 20, 2005. Amended by Laws 2006, c. 185, § 19, eff. Nov. 1, 2006; Laws 2007, c. 161, § 7, eff. Nov. 1, 2007; Laws 2013, c. 268, § 3, eff. Nov. 1, 2013; Laws 2013, c. 320, § 3, eff. Nov. 1, 2013.

§63-1-740.4. Illegal abortion on unemancipated minor - Criminal and civil liability.

Performance of an abortion in knowing or reckless violation of Sections 1-740.1 through 1-740.5 of this title shall be a misdemeanor. Performance of an abortion in violation of Sections 1-740.1 through 1-740.5 of this title shall be grounds for actual and punitive damages in a civil action pursuant to Sections 1-738.3f through 1-738.3k of this title.

Added by Laws 2005, c. 200, § 14, emerg. eff. May 20, 2005. Amended by Laws 2006, c. 185, § 20, eff. Nov. 1, 2006; Laws 2013, c. 320, § 4, eff. Nov. 1, 2013.

§63-1-740.4a. Report of procedure - Contents - Submission - Late fee - Public report - Rules - Failure to post public report - Attorneys fees.

A. Any physician performing an abortion upon an unemancipated minor shall complete and electronically transmit to the State Department of Health a report of the procedure within thirty (30) days after having performed the abortion. Within ninety (90) days after this act becomes law, the State Department of Health shall prepare and make available on its stable Internet web site the reporting forms for this purpose to all physicians required to be licensed in this state and health facilities licensed in accordance with Section 1-702 of Title 63 of the Oklahoma Statutes. The reporting form regarding the minor receiving the abortion shall include, but not be limited to:

1. Age;
2. Educational level;
3. Number of previous pregnancies;
4. Number of previous live births;
5. Number of previous abortions;
6. Complications, if any, of the abortion being reported;
7. The city and county in which the abortion was performed;
8. Whether a parent gave consent to the physician, or an agent of the physician, pursuant to Section 1-740.2 of Title 63 of the Oklahoma Statutes; or
9. Whether the physician performed the abortion without first obtaining the consent of the parent of the minor as described in Section 1-740.2 of Title 63 of the Oklahoma Statutes; if so:
    a. whether the minor was emancipated,
    b. whether the abortion was performed because of a medical emergency,
    c. whether the abortion was performed to prevent the death of the minor,
    d. whether the parent was notified after the performance of a medical emergency abortion, and

e. whether the parent was notified after the performance of an abortion to prevent the death of the minor;

10. Whether a judicial waiver was obtained after the performance of a medical emergency abortion; and

11. Whether a judicial waiver was obtained after the performance of an abortion to prevent the death of the minor.

B. The State Department of Health shall ensure that the reporting forms described in this section, together with a reprint of this act, are posted on its stable Internet web site, within one hundred twenty (120) days after the effective date of this act. The State Department of Health shall notify:

1. Each physician who subsequently becomes newly licensed to practice in this state, simultaneously with the receipt of official notification to that physician that the physician is so licensed, of the requirements of this act; and

2. By December 1 of every year, other than the calendar year in which forms are made available in accordance with subsection A of this section, all physicians licensed to practice in this state.

C. By February 28 of each year following a calendar year in any part of which this act was in effect, each physician, or agent of a physician, who obtained the consent described in Section 1-740.2 of Title 63 of the Oklahoma Statutes, and any physician who knowingly performed an abortion upon a pregnant minor or upon a female for whom a guardian or conservator had been appointed pursuant to applicable federal law or as provided by Section 1-113 of Title 30 of the Oklahoma Statutes because of incompetency during the previous calendar year shall complete and electronically submit to the State Department of Health the form described in subsection A of this section, with the requested data entered accurately and completely. Any such report shall not contain the name, address, or other information by which the minor receiving the abortion may be identified.

D. Reports that are not submitted by the end of a grace period of thirty (30) days following the due date shall be subject to a late fee of Five Hundred Dollars ($500.00) for each additional thirty-day period or portion of a thirty-day period the reports are overdue. Any physician required to report in accordance with this section who has not electronically submitted a report, or has electronically submitted only an incomplete report, more than one (1) year following the due date, may, in an action brought by the State Department of Health, be directed by a court of competent jurisdiction to submit a complete report within a period stated by court order or be subject to sanctions for civil contempt.

E. By June 30 of each year, the State Department of Health shall post, on its stable Internet web site, a public report providing statistics for the previous calendar year compiled from all of the reports covering that year submitted in accordance with

this section for each of the items listed in subsection A of this section. The report shall also include statistics giving the total number of petitions or motions filed under Section 1-740.3 of Title 63 of the Oklahoma Statutes and of that number:

1. The number in which the court appointed a guardian ad litem;
2. The number in which the court appointed counsel;
3. The number in which the judge issued an order authorizing an abortion without notification; and
4. The number in which the judge denied such an order, and of this:
    a. the number of denials from which an appeal was filed,
    b. the number of the appeals that resulted in the denial being affirmed, and
    c. the number of appeals that resulted in reversals of the denials.

Each report shall also provide the statistics for all previous calendar years for which the public statistical report was required to be issued, adjusted to reflect any additional information from late or corrected reports. The State Department of Health shall take care to ensure that none of the information included in the public reports could reasonably lead to the identification of any individual female.

F. The State Department of Health may promulgate rules in accordance with the Administrative Procedures Act to alter the dates established by this section or consolidate the forms or reports to achieve administrative convenience, fiscal savings, or to reduce the burden of reporting requirements, as long as reporting forms are made available on its web site, to all licensed physicians in the state at least once every year and the report described in subsection E of this section is posted at least once every year.

G. If the State Department of Health fails to post the public report required by subsection E of this section, an action may be initiated pursuant to Title 12 of the Oklahoma Statutes.

H. If judgment is rendered in favor of the plaintiff in any action described in this section, the court shall also render judgment for a reasonable attorney fee in favor of the plaintiff against the defendant. If judgment is rendered in favor of the defendant and the court finds that the plaintiff's suit was frivolous and brought in bad faith, the court shall also render judgment for a reasonable attorney fee in favor of the defendant against the plaintiff.

Added by Laws 2007, c. 161, § 8, eff. Nov. 1, 2007.

§63-1-740.4b. Unlawful acts - Defense - Civil action - Consent.

A. A person who knowingly or recklessly uses a false governmental record or makes a fraudulent representation or statement in order to obtain an abortion for a minor in violation of

this title or intentionally causes, aids, abets or assists an unemancipated minor to obtain an abortion without the consent required by Section 1-740.2 of this title commits a felony.

B. A physician who intentionally or knowingly performs an abortion on a pregnant unemancipated minor in violation of this title commits a felony.

C. 1. It is a defense to prosecution under subsection B of this section if the person falsely representing himself or herself as the parent or guardian of the minor displayed an apparently valid governmental record of identification such that a reasonable person, under similar circumstances, would have relied on the representation.

2. The defense does not apply if the physician, or agent of the physician, failed to use due diligence in determining the age of the minor or the identity of the person represented as the parent or guardian of the minor.

D. A person who knowingly or recklessly uses a false governmental record or makes a fraudulent representation or statement in order to obtain an abortion for a minor in violation of this title or intentionally causes, aids, abets or assists an unemancipated minor to obtain an abortion without the consent required by Section 1-740.2 of this title or any physician who intentionally or knowingly performs an abortion on a pregnant unemancipated minor in violation of this title shall be civilly liable to the minor and to the person or persons required to give consent pursuant to the provisions of Section 1-740.2 of this title. A court may award damages to the person or persons adversely affected by a violation of this section including compensation for emotional injury without the need for personal presence at the act or event, and the court may further award attorney fees, litigation costs, and punitive damages. Any adult who engages in or consents to another person engaging in a sexual act with a minor, which results in the minor's pregnancy, shall not be awarded damages under this section.

E. A court of competent jurisdiction may enjoin conduct that would be in violation of this section upon petition by the Attorney General, a district attorney or any person adversely affected or who reasonably may be adversely affected by such conduct, upon a showing that such conduct:

1. Is reasonably anticipated to occur in the future; or

2. Has occurred in the past, whether with the same minor or others, and that it is reasonably expected to be repeated.

F. It is not a defense to a claim brought pursuant to this section that the minor gave informed and voluntary consent.

G. An unemancipated minor does not have the capacity to consent to any action that violates this title.

Added by Laws 2007, c. 161, § 9, eff. Nov. 1, 2007. Amended by Laws 2015, c. 386, § 1, eff. Nov. 1, 2015.

§63-1-740.5. Severability.

If any one or more provision, section, subsection, sentence, clause, phrase or word of this act or the application thereof to any person or circumstance is found to be unconstitutional, the same is hereby declared to be severable and the balance shall remain effective notwithstanding such unconstitutionality. The Legislature hereby declares that it would have passed each provision, section, subsection, sentence, clause, phrase or word thereof, irrespective of the fact that any one or more provision, section, subsection, sentence, clause, phrase or word be declared unconstitutional.
Added by Laws 2005, c. 200, § 15, emerg. eff. May 20, 2005.

§63-1-740.6. Enjoinder, suspension, or delay of act.

If any court of law enjoins, suspends, or delays the implementation of the provisions of this act, the provisions of Sections 1-730, 1-738.1, 1-738.7, 1-740.1, 1-740.2 and 1-740.3 of Title 63 of the Oklahoma Statutes, as of December 31, 2006, are effective during the injunction, suspension, or delayed implementation.
Added by Laws 2007, c. 161, § 10, eff. Nov. 1, 2007.

§63-1-740.11. Nongovernmental entities providing alternatives-to-abortion services, funding - Annual reports - Contracts for services - Rules.

A. Before July 1, 2007, the State Department of Health shall establish and implement a program to facilitate funding to nongovernmental entities that provide alternatives-to-abortion services. The services must be outcome-based with positive outcome-based results.

B. During the 2006 interim, the State Department of Health shall make annual reports to the Speaker of the House of Representatives and the President Pro Tempore of the Senate regarding the status of the alternatives-to-abortion services funding, the first of which must be made by December 1, 2006.

C. The Department may contract with nongovernmental health care and special service organizations to provide services offered under the program. The services must be outcome-based with positive outcome-based results. The Department may not contract with a provider of adoption services not licensed by the state.

D. The State Department of Health shall promulgate rules necessary to implement the provisions of this act.

E. As used in this section, "alternatives-to-abortion services" means those services that promote childbirth instead of abortion by providing information, counseling, and support services that assist

pregnant women or women who believe they may be pregnant to choose childbirth and to make informed decisions regarding the choice of adoption or parenting with respect to their children.

The information, counseling and services provided under this program may include, but are not limited to:

1. Medical care;
2. Nutritional services;
3. Housing assistance;
4. Adoption services;
5. Educational and employment assistance, including services that support the continuation and completion of high school;
6. Child care assistance; and
7. Parenting education and support services.

Added by Laws 2006, c. 185, § 21, eff. Nov. 1, 2006.

§63-1-740.12. Alternatives-to-Abortion Services Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the State Department of Health to be designated the "Alternatives-to-Abortion Services Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies deposited to the credit of the fund by law. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the State Department of Health as provided in subsection A of Section 1-740.11 of this title. The fund shall not be available to any organization or affiliate of an organization which provides or promotes abortions or directly refers for abortion; provided, however, any nondirective counseling relating to the pregnancy shall not disqualify an organization from receiving these funds. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 2006, c. 185, § 22, eff. Nov. 1, 2006. Amended by Laws 2012, c. 304, § 485.

§63-1-740.13. Consent form.

A. A form created by the State Department of Health shall be used by physicians to obtain the consent required prior to performing an abortion on a minor who is not emancipated.

B. A form is not valid, and therefore consent is not sufficient, unless:

1. A parent or legal guardian initials each page of the form, indicating that he or she has read and understands the information included on that page;
2. A parent or legal guardian signs the last page of the form in front of a person who is a notary public;

3. The minor initials each list of risks and hazards listed in subsection C of this section;

4. The minor signs a consent statement described in subsection C of this section; and

5. The physician signs the declaration described in subsection C of this section.

C. The form shall include, but not be limited to, the following:

1. A description of the minor's rights, including her right to informed consent;

2. A description of the parent or legal guardian's rights pursuant to Oklahoma law;

3. A detailed description of the surgical and medical procedures that are planned to be performed on the minor;

4. A detailed list of the risks and hazards related to the surgical and medical procedures planned for the minor, including but not limited to:

a. risks and hazards that may occur in connection with any surgical, medical, or diagnostic procedure, including but not limited to infection, blood clots in veins and lungs, hemorrhage, allergic reactions, and death,

b. risks and hazards that may occur with surgical abortion, including but not limited to hemorrhage, uterine perforation, sterility, injuries to the bowel and bladder, hysterectomy as a result of complication or injury during the procedure, and failure to remove all products of conception that may result in an additional procedure,

c. risks and hazards that may occur with a medical or nonsurgical abortion, including but not limited to hemorrhage, failure to remove all products of conception that may result in an additional procedure, sterility, and possible continuation of pregnancy, and

d. risks and hazards of the particular procedure planned for the minor, including but not limited to cramping of the uterus, pelvic pain, infection of the uterus, tubes, and ovaries, cervical laceration, incompetent cervix, and emergency treatment for any of the above named complications;

5. A description of additional information that must be provided by the physician to the minor pursuant to the provisions of Section 1-730 et seq. of this title;

6. A consent statement which must be signed by the minor. The consent statement must include, but not be limited to, the following requirements, which must each be individually initialed by the minor:

a. that the minor understands that the doctor is going to perform an abortion on her which will end her pregnancy and result in the death of her unborn child,
b. that the minor is not being forced to have an abortion and that she has the choice not to have the abortion and may withdraw consent prior to the abortion,
c. that the minor gives permission for the procedure,
d. that the minor understands that there are risks and hazards that could affect the minor if she has the surgical or medical procedures planned for her,
e. that the minor has been given the opportunity to ask questions about her condition, alternative forms of treatment, risks of not receiving treatment, the procedures to be used, and the risks and hazards involved,
f. that the minor has been given information required by Section 1-730 et seq. of this title, and
g. that the minor has sufficient information to give informed consent;

7. A physician declaration, which must be signed by the physician, stating that the physician or his or her assistant has explained the procedure and the contents of this form to the minor and her parent or legal guardian, as required, and has answered all questions. Further, to the best of the physician's knowledge, the patient and her parent or legal guardian have been adequately informed and have consented to the procedure;

8. A parental consent statement stating that the signing parent or legal guardian:

a. understands that the doctor signing the physician declaration is going to perform an abortion on the minor which will end her pregnancy and result in the death of her unborn child,
b. that the parent or legal guardian had the opportunity to read this form or have it read to him or her and has initialed each page,
c. that the parent or legal guardian had the opportunity to ask questions to the physician or the physician's assistant about the information in this form and the surgical and medical procedures to be performed on the minor,
d. that the parent or legal guardian believes he or she has sufficient information to give informed consent, and
e. that by the parent or legal guardian's signature, the parent or legal guardian affirms that he or she is the minor's parent or legal guardian;

9. A page for the parent or legal guardian's signature that must be notarized by a notary public; and

10. Any additional information that must be provided pursuant to applicable laws of this state.

Added by Laws 2013, c. 268, § 4, eff. Nov. 1, 2013.

§63-1-740.14. Injunctions or restraining orders – Enforcement of provisions.

If some or all of the provisions of Sections 1-740.2 and 1-740.3 of Title 63 of the Oklahoma Statutes, as amended by Sections 1 and 3 of this act, are ever temporarily or permanently restrained or enjoined by judicial order, these sections shall be enforced as though such restrained or enjoined provisions had not been adopted; provided, however, that whenever such temporary or permanent restraining order or injunction is stayed or dissolved, or otherwise ceases to have effect, such provisions shall have full force and effect.

Added by Laws 2013, c. 268, § 5, eff. Nov. 1, 2013.

§63-1-740.15. Short title - Choosing Childbirth Act.

This act shall be known and may be cited as the "Choosing Childbirth Act".

Added by Laws 2017, c. 308, § 1, eff. Nov. 1, 2017.

§63-1-740.16. Definitions.

As used in the Choosing Childbirth Act:

1. "Abortion" means the use or prescription of any instrument, medicine, drug or any other substance or device to intentionally:

a. kill the unborn child of a woman known to be pregnant, or

b. terminate the pregnancy of a woman known to be pregnant, with an intention other than:

(1) after viability of the unborn child, to produce a live birth and preserve the life and health of the child born alive, or

(2) to remove a dead unborn child;

2. "Unborn child" means an individual organism of the species Homo sapiens from fertilization until birth; and

3. "Grant-supervising entity" means a private entity which approves all grants provided under the Choosing Childbirth Act and which:

a. is organized as a not-for-profit corporation in Oklahoma and as a 501(c)3 entity under the federal Internal Revenue Code, and

b. does not encourage or counsel any woman to have an abortion not necessary to prevent her death, to provide her such an abortion or to refer her for such

an abortion, and does not accept funds or services knowingly from any entity which performs abortions or receives money for abortions.

Added by Laws 2017, c. 308, § 2, eff. Nov. 1, 2017.

§63-1-740.17. Department of Health grants to private organizations for services.

A. The State Department of Health shall make grants, from funds appropriated by the Legislature specifically for this purpose, to a grant-supervising entity for the purpose of reimbursing private organizations in Oklahoma for the reasonable expenses of programs providing the following services:

1. Providing information on, referral to, and assistance in securing the services of relevant existing programs or agencies that assist women in Oklahoma to carry their children to term, and/or providing services that assist women to carry their children to term, including, but not limited to, agencies and programs that will provide medical attention for the pregnant woman for the duration of her pregnancy, nutritional support services, housing assistance, adoption services, education and employment assistance and parenting education and support services; and

2. Providing women in Oklahoma, in person and through community outreach, information and/or services that encourage and assist them to carry their children to term.

B. To be eligible for a service grant, an organization shall:

1. Be registered with the Oklahoma Secretary of State as a not-for-profit corporation located in Oklahoma;

2. Have the grant amount approved by a grant-supervising entity;

3. Provide each pregnant woman counseled with accurate information on the developmental characteristics of unborn children, including offering the printed information described in Section 1-738.3 of Title 63 of the Oklahoma Statutes;

4. Assure that the grant's sole purposes are to assist and encourage women to carry their children to term and to maximize their potentials thereafter; and

5. Assure that none of the funds provided pursuant to the Choosing Childbirth Act, nor any other funds or services provided by the organization, are used to encourage or counsel a woman to have an abortion not necessary to prevent her death, to provide her such an abortion or to refer her for such an abortion.

Added by Laws 2017, c. 308, § 3, eff. Nov. 1, 2017.

§63-1-740.18. Grant supervising entity.

The State Department of Health shall make grants to a grant-supervising entity under the Choosing Childbirth Act from funds appropriated by the Legislature specifically for this purpose. The

State Department of Health shall annually monitor and review the grant-supervising entity to assure that the grant-supervising entity carefully adheres to the purposes and requirements of the Choosing Childbirth Act, and it shall cease funding a grant-supervising entity that fails to do so if the Department proves specific findings of noncompliance, subject to judicial review.
Added by Laws 2017, c. 308, § 4, eff. Nov. 1, 2017.

§63-1-740.19. Severability.

If any provision, word, phrase or clause of the Choosing Childbirth Act or the application thereof to any person or circumstance is held invalid, such invalidity shall make the entire Act invalid and to this end, the provisions, works, phrases and clauses of the Choosing Childbirth Act are declared to be inseverable.
Added by Laws 2017, c. 308, § 5, eff. Nov. 1, 2017.

§63-1-741. Abortions - Refusal to perform or participate - Exemptions.

A. No private hospital, hospital director or governing board of a private hospital in Oklahoma, is required to permit abortions to be performed or induced in such hospital. Refusal to permit an abortion, in accordance with a standard policy, is not grounds for civil liability nor a basis for disciplinary or other recriminatory action.

B. No person may be required to perform, induce or participate in medical procedures which result in an abortion which are in preparation for an abortion or which involve aftercare of an abortion patient, except when the aftercare involves emergency medical procedures which are necessary to protect the life of the patient, and refusal to perform or participate in such medical procedures is not grounds for civil liability nor a basis for disciplinary or other recriminatory action.

C. The rights and immunities granted by this section shall not include medical procedures in which a woman is in the process of the spontaneous, inevitable abortion of an unborn child, the death of the child is imminent, and the procedures are necessary to prevent the death of the mother.
Laws 1978, c. 158, § 1.

§63-1-741.1. Performance or assisting performance of abortion by state employee or agency prohibited - Exceptions - Use of public funds to encourage abortions prohibited.

A. It shall be unlawful for any person employed by this state or any agency or political subdivision thereof, within the scope of the person’s employment, to perform or assist an abortion not necessary to save the life of the mother except when the pregnancy

resulted from an act of forcible rape which was reported to the proper law enforcement authorities or when the pregnancy resulted from an act of incest committed against a minor and the perpetrator has been reported to the proper law enforcement authorities. It shall be unlawful for any public institution, public facility, public equipment, or other physical asset owned, leased or controlled by this state or any agency or political subdivisions thereof to be used for the purpose of performing or assisting an abortion not necessary to save the life of the mother except when the pregnancy resulted from an act of forcible rape which was reported to the proper law enforcement authorities or when the pregnancy resulted from an act of incest committed against a minor and the perpetrator has been reported to the proper law enforcement authorities. This subsection shall not be construed to prohibit use by private entities of public utilities or the services of firefighters or police.

B. It shall be unlawful for any funds received or controlled by this state or any agency or political subdivision thereof, including, but not limited to, funds derived from federal, state or local taxes, gifts or grants, federal grants or payments, or intergovernmental transfers, to be used to encourage a woman to have an abortion not necessary to save her life, except to the extent required for continued participation in a federal program. Nothing in this subsection shall be construed to prohibit a physician from discussing options with a patient through nondirective counseling. Added by Laws 2007, c. 161, § 11, eff. Nov. 1, 2007.

§63-1-741.2. Repealed by Laws 2011, c. 92, § 2, eff. Nov. 1, 2011.

§63-1-741.3. Patient Protection and Affordable Care Act - Qualified insurance plans - Elective abortion prohibited.

A. Pursuant to the Patient Protection and Affordable Care Act, P.L. 111-148, all qualified health plans offered through an Exchange established in the state are prohibited from including elective abortion coverage. Nothing in this section shall be construed as preventing anyone from purchasing optional supplemental coverage for elective abortions for which there must be paid a separate premium in accordance with subsection D of this section in the health insurance market outside of the Exchange.

B. No health plan, including health insurance contracts, plans or policies, offered outside of an Exchange, but within the state, shall provide coverage for elective abortions except by optional separate supplemental coverage for abortion for which there must be paid a separate premium in accordance with subsection D of this section.

C. For purposes of this section, “elective abortion” means an abortion for any reason other than to prevent the death of the

mother upon whom the abortion is performed; provided, however, that an abortion may not be deemed one to prevent the death of the mother based on a claim or diagnosis that she will engage in conduct which will result in her death.

D. The issuer of any health plan providing elective abortion coverage shall:

1. Calculate the premium for such coverage so that it fully covers the estimated cost of covering elective abortions per enrollee as determined on an average actuarial basis. In calculating such premium, the issuer of the plan shall not take into account any cost reduction in any health plan covering an enrollee estimated to result from the provision of abortion coverage, including prenatal care, delivery or postnatal care;

2. If the enrollee is enrolling in a health plan providing any other coverage at the same time as the enrollee is enrolling in a plan providing elective abortion coverage, require a separate signature, distinct from that to enroll in the health plan providing other coverage, in order to enroll in the separate supplemental plan providing elective abortion coverage; and

3. Provide a notice to enrollees at the time of enrollment that:

a. specifically states the cost of the separate premium for coverage of elective abortions distinct and apart from the cost of the premium for any health plan providing any other coverage in any health plan covering an enrollee,

b. states that enrollment in elective abortion coverage is optional, and

c. if the enrollee is enrolling in a health plan providing any other coverage at the same time as the enrollee is enrolling in a plan providing elective abortion coverage, states that the enrollee may choose to enroll in the plan providing other coverage without enrolling in the plan providing elective abortion coverage.

E. The issuer of any health plan providing any coverage other than elective abortion shall not discount or reduce the premium for such coverage on the basis that an enrollee has elective abortion coverage.

F. Any employer who offers employees a health plan providing elective abortion coverage shall, at the time of beginning employment and at least once in each calendar year thereafter, provide each employee the option to choose or reject the separate supplemental elective abortion coverage.

G. Any entity offering a group health plan providing separate supplemental elective abortion coverage, other than employers offering such a plan to their employees, shall, at the time each

group member begins coverage and at least once in each calendar year thereafter, provide each group member the option to choose or reject the separate supplemental elective abortion coverage.

H. Nothing in this section shall be construed to apply in circumstances in which federal law preempts state health insurance regulation.

Added by Laws 2011, c. 92, § 1, eff. Nov. 1, 2011.

§63-1-741.11. Repealed by Laws 2010, c. 171, § 2, emerg. eff. April 27, 2010.

§63-1-741.12. Wrongful life or wrongful birth action - Damages.

A. It is the intent of the Legislature that the birth of a child does not constitute a legally recognizable injury and that it is contrary to public policy to award damages because of the birth of a child or for the rearing of that child.

B. For the purposes of this section:

1. "Abortion" means the term as is defined in Section 1-730 of Title 63 of the Oklahoma Statutes;

2. "Wrongful life action" means a cause of action that is brought by or on behalf of a child, which seeks economic or noneconomic damages for the child because of a condition of the child that existed at the time of the child's birth, and which is based on a claim that a person's act or omission contributed to the mother's not having obtained an abortion; and

3. "Wrongful birth action" means a cause of action that is brought by a parent or other person who is legally required to provide for the support of a child, which seeks economic or noneconomic damages because of a condition of the child that existed at the time of the child's birth, and which is based on a claim that a person's act or omission contributed to the mother's not having obtained an abortion.

C. In a wrongful life action or a wrongful birth action, no damages may be recovered for any condition that existed at the time of a child's birth if the claim is that the defendant's act or omission contributed to the mother's not having obtained an abortion.

D. This section shall not preclude causes of action based on claims that, but for a wrongful act or omission, maternal death or injury would not have occurred, or handicap, disease, or disability of an individual prior to birth would have been prevented, cured, or ameliorated in a manner that preserved the health and life of the affected individual.

Added by Laws 2010, c. 171, § 1, emerg. eff. April 27, 2010.

§63-1-742. Payment for securing or soliciting patients for hospital or other entity - Penalties - Construction of act - Exceptions.

A. 1. Any person who intentionally or knowingly pays to or accepts anything of value from any person, firm, association of persons, partnership or corporation for securing or soliciting patients for any health care professional, health care provider or other entity providing health care services in this state, upon conviction, shall be guilty of a misdemeanor and shall be punished by a fine of not less than Five Hundred Dollars ($500.00) and not more than Two Thousand Dollars ($2,000.00).

2. In addition to any other penalties or remedies provided by law:

a. a violation of this section by a health care professional or health care provider shall be grounds for disciplinary action by the state agency licensing, certifying or registering such professional or provider, and

b. the state agency licensing, certifying or registering such professional or provider may institute an action to enjoin violation or potential violation of this section.

B. This section shall not be construed to prohibit:

1. Advertising, except that advertising which:

a. is false, misleading or deceptive,

b. advertises professional superiority or the performance of a professional service in a superior manner, and

c. is not readily subject to verification;

2. Remuneration for advertising, marketing or other services that are provided for the purpose of securing or soliciting patients, provided the remuneration is:

a. set in advance,

b. consistent with the fair market value of the services, and

c. not based on the volume or value of any patient referrals or business otherwise generated between the parties; and

3. Any payment, business arrangements or payments practice not prohibited by 42 U.S.C., Section 1320a-7b(b), or any regulations promulgated pursuant thereto.

C. This section shall not apply to licensed insurers, including but not limited to, group hospital service corporations or health maintenance organizations which reimburse, provide, offer to provide or administer hospital, medical, dental or other health-related benefits under a health benefits plan for which it is the payor when it is providing those services under a health benefits plan.

D. For purposes of this section:

1. "Health care professional" means any person who offers or provides counseling or health or mental health care under a license,

certification or registration issued pursuant to Title 59 of the Oklahoma Statutes; and

2. "Health care provider" means any hospital or related institution offering or providing health care services licensed pursuant to Section 1-702 of this title.

Added by Laws 1993, c. 165, § 3, eff. Sept. 1, 1993. Amended by Laws 1998, c. 344, § 2, eff. Nov. 1, 1998.

§63-1-743. Advertisement of mammography services - Disclosure of cost - Penalty.

Any entity advertising mammography services must include in its advertising the total cost of the procedure. Any entity who has been determined to be in violation of this section by the State Board of Health, after notice and hearing by the Board, shall be subject to a fine of not less than One Hundred Dollars ($100.00) or more than One Thousand Dollars ($1,000.00) for each violation.

Added by Laws 1993, c. 165, § 4, eff. Sept. 1, 1993.

§63-1-744. Short title - Parental Notification for Abortion Act.

This act shall be known and may be cited as the "Parental Notification for Abortion Act".

Added by Laws 2013, c. 320, § 1, eff. Nov. 1, 2013.

§63-1-744.1. Definitions.

As used in the Parental Notification for Abortion Act:

1. "Parent" means one parent of the pregnant minor, or the guardian or conservator if the pregnant female has one;

2. "Abortion" means the use of any means intentionally to terminate the pregnancy of a female known to be pregnant with knowledge that the termination with those means will, with reasonable likelihood, cause the death of the fetus;

3. "Fetus" means any individual human organism from fertilization to birth;

4. "Medical emergency" means the existence of any physical condition, not including any emotional, psychological, or mental condition, which a reasonably prudent physician would determine necessitates the immediate abortion of the female's pregnancy to avert her death or to avert substantial and irreversible impairment of a major bodily function arising from continued pregnancy;

5. "Reasonable medical judgment" means a medical judgment that would be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved; and

6. "Physician" means any person licensed to practice medicine and surgery or osteopathic medicine and surgery in this state.

Added by Laws 2013, c. 320, § 5, eff. Nov. 1, 2013.

§63-1-744.2. Notice – Waiting period.

No abortion shall be performed or induced upon an unemancipated minor or upon a female for whom a guardian or conservator has been appointed pursuant to the Oklahoma Guardianship and Conservatorship Act because of a finding of incompetency, until at least forty-eight (48) hours after written notice of the pending abortion has been delivered in the manner specified in Sections 7 through 9 of this act to one of the parents of the minor upon whom the abortion is contemplated or to the guardian or conservator of the female upon whom the abortion is contemplated.

1. The notice shall be addressed to the parent at the usual place of abode of the parent and delivered personally to the parent by the physician or an agent.

2. In lieu of the delivery required by paragraph 1 of this section, notice shall be made by certified mail addressed to the parent at the usual place of abode of the parent with return receipt requested and restricted delivery to the addressee, which means a postal employee can deliver the mail only to the authorized addressee. Time of delivery shall be deemed to occur at noon on the third day on which regular mail delivery takes place, subsequent to mailing. The information concerning the address of the parent shall be that which a reasonable and prudent person, under similar circumstances, would have relied upon as sufficient evidence that the parent resides at that address.

Added by Laws 2013, c. 320, § 6, eff. Nov. 1, 2013.

§63-1-744.3. Medical emergency – Notice requirement.

Immediate notice shall not be required if the attending physician certifies in the pregnant female's record that, in reasonable medical judgment, a medical emergency exists and there is insufficient time to provide the prior notification required by Section 6 of this act. The attending physician or the physician's agent shall verbally inform the parent within twenty-four (24) hours after the performance of a medical emergency abortion, that a medical emergency abortion was performed on the unemancipated minor or on the female for whom a guardian or conservator has been appointed and shall also send a written notice within twenty-four (24) hours after the performance of a medical emergency abortion to the last-known address of the parent, of the performed medical emergency abortion. The written notice shall follow the requirements in paragraph 2 of Section 6 of this act.

Added by Laws 2013, c. 320, § 7, eff. Nov. 1, 2013.

§63-1-744.4. Exceptions to notice requirement.

No notice shall be required under this act if:

1. The person who is entitled to notice states in notarized writing that he or she has been notified and the statement is placed in the female's medical record; or

2. The pregnant female declares that she is a victim of sexual or physical abuse by her parent as defined in Section 1111 et seq. of Title 21 of the Oklahoma Statutes and the attending physician has notified child abuse authorities about the alleged parental sexual or physical abuse. In such circumstances, the physician shall notify child abuse authorities of the name and address of the abusing parent so that they can investigate. The child abuse authorities shall maintain the confidentiality of the fact that the minor has sought or obtained an abortion and shall take all necessary steps to ensure that this information is not revealed to the female's parents or guardians.

Added by Laws 2013, c. 320, § 8, eff. Nov. 1, 2013.

§63-1-744.5. Criminal and civil liability.

Performance of an abortion in knowing or reckless violation of this act shall be a misdemeanor. Performance of an abortion in violation of this act shall be grounds for a civil action pursuant to Sections 1-738.3f through 1-738.3k of Title 63 of the Oklahoma Statutes.

Added by Laws 2013, c. 320, § 9, eff. Nov. 1, 2013.

§63-1-744.6. Injunction or restraining orders – Enforcement of provisions.

If some or all of the provisions of Sections 1-740.2, 1-740.3 and 1-740.4 of Title 63 of the Oklahoma Statutes, as amended by Sections 2, 3 and 4 of this act, are ever temporarily or permanently restrained or enjoined by judicial order, these sections shall be enforced as though such restrained or enjoined provisions had not been adopted; provided, however, that whenever such temporary or permanent restraining order or injunction is stayed or dissolved, or otherwise ceases to have effect, such provisions shall have full force and effect.

Added by Laws 2013, c. 320, § 10, eff. Nov. 1, 2013.

§63-1-745.1. Pain-Capable Unborn Child Protection Act.

This act shall be known and may be cited as the “Pain-Capable Unborn Child Protection Act”.

Added by Laws 2011, c. 89, § 1, eff. Nov. 1, 2011.

§63-1-745.2. Definitions.

As used in the Pain-Capable Unborn Child Protection Act only:

1. “Abortion” means the use or prescription of any instrument, medicine, drug, or any other substance or device to terminate the pregnancy of a woman known to be pregnant with an intention other

than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead unborn child who died as the result of natural causes in utero, accidental trauma, or a criminal assault on the pregnant woman or her unborn child, and which causes the premature termination of the pregnancy;

2. "Attempt to perform or induce an abortion" means an act, or an omission of a statutorily required act, that, under the circumstances as the actor believes them to be, constitutes a substantial step in a course of conduct planned to culminate in the performance or induction of an abortion in this state in violation of the Pain-Capable Unborn Child Protection Act;

3. "Postfertilization age" means the age of the unborn child as calculated from the fertilization of the human ovum;

4. "Fertilization" means the fusion of a human spermatozoon with a human ovum;

5. "Medical emergency" means a condition that, in reasonable medical judgment, so complicates the medical condition of the pregnant woman that it necessitates the immediate abortion of her pregnancy without first determining postfertilization age to avert her death or for which the delay necessary to determine postfertilization age will create serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions. No condition shall be deemed a medical emergency if based on a claim or diagnosis that the woman will engage in conduct which she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function;

6. "Reasonable medical judgment" means a medical judgment that would be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved;

7. "Physician" means any person licensed to practice medicine and surgery or osteopathic medicine and surgery in this state;

8. "Probable postfertilization age of the unborn child" means what, in reasonable medical judgment, will with reasonable probability be the postfertilization age of the unborn child at the time the abortion is planned to be performed or induced;

9. "Unborn child" or "fetus" each means an individual organism of the species homo sapiens from fertilization until live birth; and

10. "Woman" means a female human being whether or not she has reached the age of majority.

Added by Laws 2011, c. 89, § 2, eff. Nov. 1, 2011.

§63-1-745.3. Legislative findings.

The Legislature of the State of Oklahoma finds that:

1. Pain receptors (nociceptors) are present throughout the unborn child's entire body by no later than sixteen (16) weeks after fertilization and nerves link these receptors to the brain's thalamus and subcortical plate by no later than twenty (20) weeks;

2. By eight (8) weeks after fertilization, the unborn child reacts to touch. After twenty (20) weeks, the unborn child reacts to stimuli that would be recognized as painful if applied to an adult human, for example by recoiling;

3. In the unborn child, application of such painful stimuli is associated with significant increases in stress hormones known as the stress response;

4. Subjection to such painful stimuli is associated with long-term harmful neurodevelopmental effects, such as altered pain sensitivity and, possibly, emotional, behavioral, and learning disabilities later in life;

5. For the purposes of surgery on unborn children, fetal anesthesia is routinely administered and is associated with a decrease in stress hormones compared to their level when painful stimuli are applied without such anesthesia;

6. The position, asserted by some medical experts, that the unborn child is incapable of experiencing pain until a point later in pregnancy than twenty (20) weeks after fertilization predominately rests on the assumption that the ability to experience pain depends on the cerebral cortex and requires nerve connections between the thalamus and the cortex. However, recent medical research and analysis, especially since 2007, provides strong evidence for the conclusion that a functioning cortex is not necessary to experience pain;

7. Substantial evidence indicates that children born missing the bulk of the cerebral cortex, those with hydranencephaly, nevertheless experience pain;

8. In adults, stimulation or ablation of the cerebral cortex does not alter pain perception, while stimulation or ablation of the thalamus does;

9. Substantial evidence indicates that structures used for pain processing in early development differ from those of adults, using different neural elements available at specific times during development, such as the subcortical plate, to fulfill the role of pain processing;

10. The position, asserted by some, that the unborn child remains in a coma-like sleep state that precludes the unborn child from experiencing pain is inconsistent with the documented reaction of unborn children to painful stimuli and with the experience of fetal surgeons who have found it necessary to sedate the unborn child with anesthesia to prevent the unborn child from thrashing about in reaction to invasive surgery;

11. Consequently, there is substantial medical evidence that an unborn child is capable of experiencing pain by twenty (20) weeks after fertilization;

12. It is the purpose of the State of Oklahoma to assert a compelling state interest in protecting the lives of unborn children from the stage at which substantial medical evidence indicates that they are capable of feeling pain; and

13. Oklahoma's compelling state interest in protecting the lives of unborn children from the stage at which substantial medical evidence indicates that they are capable of feeling pain is intended to be separate from and independent of Oklahoma's compelling state interest in protecting the lives of unborn children from the stage of viability, and neither state interest is intended to replace the other.

Added by Laws 2011, c. 89, § 3, eff. Nov. 1, 2011.

§63-1-745.4. Abortion requirements – Determination of probable postfertilization age of unborn child.

A. Except in the case of a medical emergency, no abortion shall be performed or induced or be attempted to be performed or induced unless the physician performing or inducing it has first made a determination of the probable postfertilization age of the unborn child or relied upon such a determination made by another physician. In making such a determination, the physician shall make such inquiries of the woman and perform or cause to be performed such medical examinations and tests as a reasonably prudent physician, knowledgeable about the case and the medical conditions involved, would consider necessary to perform in making an accurate diagnosis with respect to postfertilization age.

B. Knowing or reckless failure by any physician to conform to any requirement of this section constitutes "unprofessional conduct".

Added by Laws 2011, c. 89, § 4, eff. Nov. 1, 2011.

§63-1-745.5. Abortions prohibited when probable postfertilization age of unborn child is 20 or more weeks – Exceptions – Procedure for abortion.

A. No person shall perform or induce or attempt to perform or induce an abortion upon a woman when it has been determined, by the physician performing or inducing or attempting to perform or induce the abortion or by another physician upon whose determination that physician relies, that the probable postfertilization age of the woman's unborn child is twenty (20) or more weeks, unless, in reasonable medical judgment, she has a condition which so complicates her medical condition as to necessitate the abortion of her pregnancy to avert her death or to avert serious risk of substantial and irreversible physical impairment of a major bodily

function, not including psychological or emotional conditions. No such condition shall be deemed to exist if it is based on a claim or diagnosis that the woman will engage in conduct which she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function.

B. When an abortion upon a woman whose unborn child has been determined to have a probable postfertilization age of twenty (20) or more weeks is not prohibited by this section, the physician shall terminate the pregnancy in the manner which, in reasonable medical judgment, provides the best opportunity for the unborn child to survive, unless, in reasonable medical judgment, termination of the pregnancy in that manner would pose a greater risk either of the death of the pregnant woman or of the substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions, of the woman than would other available methods. No such greater risk shall be deemed to exist if it is based on a claim or diagnosis that the woman will engage in conduct which she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function. Added by Laws 2011, c. 89, § 5, eff. Nov. 1, 2011.

§63-1-745.6. Abortion – Report to State Department of Health – Public statistical report – Late fee.

A. Any physician who performs or induces or attempts to perform or induce an abortion shall report to the State Department of Health, on a schedule and in accordance with forms and rules and regulations adopted and promulgated by the State Board of Health that include:

1. If a determination of probable postfertilization age was made, the probable postfertilization age determined and the method and basis of the determination;

2. If a determination of probable postfertilization age was not made, the basis of the determination that a medical emergency existed;

3. If the probable postfertilization age was determined to be twenty (20) or more weeks, the basis of the determination that the pregnant woman had a condition which so complicated her medical condition as to necessitate the abortion of her pregnancy to avert her death or to avert serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions; and

4. The method used for the abortion and, in the case of an abortion performed when the probable postfertilization age was determined to be twenty (20) or more weeks:

a. whether the method used was one that, in reasonable medical judgment, provided the best opportunity for the unborn child to survive, or

b. if such a method was not used, the basis of the determination that termination of the pregnancy in that manner would pose a greater risk either of the death of the pregnant woman or of the substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions, of the woman than would other available methods.

B. By June 30 of each year, the State Department of Health shall issue a public report providing statistics for the previous calendar year compiled from all of the reports covering that year submitted in accordance with this section for each of the items listed in subsection A of this section. Each such report shall also provide the statistics for all previous calendar years during which this section was in effect, adjusted to reflect any additional information from late or corrected reports. The State Department of Health shall take care to ensure that none of the information included in the public reports could reasonably lead to the identification of any pregnant woman upon whom an abortion was performed or attempted.

C. Any physician who fails to submit a report by the end of thirty (30) days following the due date shall be subject to a late fee of Five Hundred Dollars ($500.00) for each additional thirty-day period or portion of a thirty-day period the report is overdue. Any physician required to report in accordance with this act who has not submitted a report, or has submitted only an incomplete report, more than one (1) year following the due date, may, in an action brought by the State Department of Health or by the State Board of Medical Licensure and Supervision, be directed by a court of competent jurisdiction to submit a complete report within a period stated by court order or be subject to civil contempt. Knowing or reckless failure by any physician to conform to any requirement of this section, other than late filing of a report, constitutes "unprofessional conduct" pursuant to Section 509 of Title 59 of the Oklahoma Statutes. Knowing or reckless failure by any physician to submit a complete report in accordance with a court order constitutes "unprofessional conduct" pursuant to Section 509 of Title 59 of the Oklahoma Statutes. Knowing or reckless falsification of any report required under this section is a misdemeanor.

D. By February 1, 2012, the State Board of Health shall adopt and promulgate rules and regulations to assist in compliance with this section. Subsection A of this section shall take effect so as to require reports regarding all abortions performed or induced on and after the first day of the first calendar month following the effective date of such rules.

Added by Laws 2011, c. 89, § 6, eff. Nov. 1, 2011.

§63-1-745.7. Violations of act.

Any person who knowingly or recklessly performs or induces or attempts to perform or induce an abortion in violation of the Pain-Capable Unborn Child Protection Act shall be guilty of a felony. No penalty may be assessed against the woman upon whom the abortion is performed or induced or attempted to be performed or induced. Added by Laws 2011, c. 89, § 7, eff. Nov. 1, 2011.

§63-1-745.8. Suits upon violation of act – Injunctive relief – Attorney fees.

A. Any woman upon whom an abortion has been performed in violation of the Pain-Capable Unborn Child Protection Act, or the father of the unborn child who was the subject of such an abortion, may maintain an action against the person who performed or induced the abortion in knowing or reckless violation of the Pain-Capable Unborn Child Protection Act for actual and punitive damages. Any woman upon whom an abortion has been attempted in violation of the Pain-Capable Unborn Child Protection Act may maintain an action against the person who attempted to perform or induce the abortion in knowing or reckless violation of the Pain-Capable Unborn Child Protection Act for actual and punitive damages.

B. A cause of action for injunctive relief against any person who has knowingly or recklessly violated the Pain-Capable Unborn Child Protection Act may be maintained by the woman upon whom an abortion was performed or induced or attempted to be performed or induced in violation of the Pain-Capable Unborn Child Protection Act; by any person who is the spouse, parent, sibling or guardian of, or a current or former licensed health care provider of, the woman upon whom an abortion has been performed or induced or attempted to be performed or induced in violation of the Pain-Capable Unborn Child Protection Act; by a district attorney with appropriate jurisdiction; or by the Attorney General. The injunction shall prevent the abortion provider from performing or inducing or attempting to perform or induce further abortions in violation of the Pain-Capable Unborn Child Protection Act in the State of Oklahoma.

C. If judgment is rendered in favor of the plaintiff in an action described in this section, the court shall also render judgment for a reasonable attorney fee in favor of the plaintiff against the defendant.

D. If judgment is rendered in favor of the defendant and the court finds that the plaintiff’s suit was frivolous and brought in bad faith, the court shall also render judgment for a reasonable attorney fee in favor of the defendant against the plaintiff.

E. No damages or attorney fee may be assessed against the woman upon whom an abortion was performed or attempted to be performed except in accordance with subsection D of this section.
Added by Laws 2011, c. 89, § 8, eff. Nov. 1, 2011.

§63-1-745.9. Public disclosure of woman's identity whom an abortion was performed on.

In every civil or criminal proceeding or action brought under the Pain-Capable Unborn Child Protection Act, the court shall rule whether the anonymity of any woman upon whom an abortion has been performed or induced or attempted to be performed or induced shall be preserved from public disclosure if she does not give her consent to such disclosure. The court, upon motion or sua sponte, shall make such a ruling and, upon determining that her anonymity should be preserved, shall issue orders to the parties, witnesses, and counsel and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard her identity from public disclosure. Each such order shall be accompanied by specific written findings explaining why the anonymity of the woman should be preserved from public disclosure, why the order is essential to that end, how the order is narrowly tailored to serve that interest, and why no reasonable less restrictive alternative exists. In the absence of written consent of the woman upon whom an abortion has been performed or induced or attempted to be performed or induced, anyone, other than a public official, who brings an action under subsections A or B of Section 8 of this act shall do so under a pseudonym. This section may not be construed to conceal the identity of the plaintiff or of witnesses from the defendant or from attorneys for the defendant.
Added by Laws 2011, c. 89, § 9, eff. Nov. 1, 2011.

§63-1-745.10. Severability.

A. If any one or more provisions, sections, subsections, sentences, clauses, phrases or words of the Pain-Capable Unborn Child Protection Act or the application thereof to any person or circumstance is found to be unconstitutional, the same is hereby declared to be severable and the balance of the Pain-Capable Unborn Child Protection Act shall remain effective notwithstanding such unconstitutionality. The Legislature hereby declares that it would have passed the Pain-Capable Unborn Child Protection Act, and each provision, section, subsection, sentence, clause, phrase, or word thereof, irrespective of the fact that any one or more provisions, sections, subsections, sentences, clauses, phrases, or words of the Pain-Capable Unborn Child Protection Act, or the application of the Pain-Capable Unborn Child Protection Act, would be declared unconstitutional.

B. The Pain-Capable Unborn Child Protection Act shall not be construed to repeal, by implication or otherwise, Section 1-732 of Title 63 of the Oklahoma Statutes, or any otherwise applicable provision of Oklahoma's laws regulating or restricting abortion. An abortion that complies with this act but violates the provisions of Section 1-732 of Title 63 of the Oklahoma Statutes, or any otherwise applicable provision of Oklahoma's laws shall be deemed unlawful as provided in such provision. An abortion that complies with the provisions of Section 1-732 of Title 63 of the Oklahoma Statutes, or any otherwise applicable provision of Oklahoma's laws regulating or restricting abortion but violates this act shall be deemed unlawful as provided in this act.
Added by Laws 2011, c. 89, § 10, eff. Nov. 1, 2011.

§63-1-745.11. Construction of act.
Nothing in the Pain-Capable Unborn Child Protection Act shall be construed as creating or recognizing a right to abortion.
Added by Laws 2011, c. 89, § 11, eff. Nov. 1, 2011.

§63-1-745.12. Heartbeat Informed Consent Act.
This act shall be known and may be cited as the "Heartbeat Informed Consent Act".
Added by Laws 2012, c. 159, § 1, eff. Nov. 1, 2012.

§63-1-745.13. Definitions.
As used in the Heartbeat Informed Consent Act:
1. "Abortion" means the use or prescription of any instrument, medicine, drug, or any other substance or device to cause the premature termination of the pregnancy of a woman known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead unborn child who died as the result of natural causes in utero, accidental trauma, or a criminal assault on the pregnant woman or her unborn child;
2. "Abortion provider" means any person legally qualified to perform an abortion under state law;
3. "Embryonic or fetal heartbeat" means embryonic or fetal cardiac activity or the steady and repetitive rhythmic contraction of the embryonic or fetal heart;
4. "Medical emergency" means a condition that, in reasonable medical judgment, so complicates the medical condition of the pregnant woman that it necessitates the immediate abortion of her pregnancy to avert her death or for which the delay will create serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions. No condition shall be deemed a medical emergency if based on a claim or diagnosis that the woman will engage in conduct

which she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function;

5. "Reasonable medical judgment" means a medical judgment that would be made by a reasonably prudent physician;

6. "Unborn child" means a member of the species Homo sapiens from fertilization until live birth; and

7. "Woman" means a female human being, whether or not she has reached the age of majority.

Added by Laws 2012, c. 159, § 3, eff. Nov. 1, 2012.

§63-1-745.14. Making heartbeat audible before abortion.

A. Any abortion provider who knowingly performs or induces any abortion shall comply with the requirements of the Heartbeat Informed Consent Act.

B. Prior to a woman giving informed consent to having any part of an abortion performed or induced, if the pregnancy is at least eight (8) weeks after fertilization, the abortion provider who is to perform or induce the abortion or an agent of the abortion provider shall tell the woman that it may be possible to make the embryonic or fetal heartbeat of the unborn child audible for the pregnant woman to hear and ask the woman if she would like to hear the heartbeat. If the woman would like to hear the heartbeat, the abortion provider shall, using a Doppler fetal heart rate monitor, make the embryonic or fetal heartbeat of the unborn child audible for the pregnant woman to hear. An abortion provider or an agent of the abortion provider shall not be in violation of the requirements of this subsection if:

1. The provider or agent has attempted, consistent with standard medical practice, to make the embryonic or fetal heartbeat of the unborn child audible for the pregnant woman to hear using a Doppler fetal heart rate monitor;

2. That attempt does not result in the heartbeat being made audible; and

3. The provider has offered to attempt to make the heartbeat audible at a subsequent date.

C. Nothing in this section shall be construed to prevent the pregnant woman from not listening to the sounds detected by the Doppler fetal heart rate monitor pursuant to the requirements of subsection B of this section.

Added by Laws 2012, c. 159, § 4, eff. Nov. 1, 2012.

§63-1-745.15. Application of act.

A. The provisions of Section 4 of this act shall not apply to an abortion provider in the case that the abortion is necessary to avert the mother's death or in the case of a medical emergency.

B. Upon a determination by an abortion provider under subsection A of this section that an abortion is necessary to avert

the death of the mother or that there is a medical emergency, such provider shall certify the specific medical conditions that support such determination and include such certification in the medical file of the pregnant woman.

C. An abortion provider who knowingly or recklessly falsifies a certification made pursuant to subsection B of this section shall be deemed to have knowingly or recklessly failed to comply with this act for purposes of Section 6 of this act.

Added by Laws 2012, c. 159, § 5, eff. Nov. 1, 2012.

§63-1-745.16. Violations of act - Penalties - Civil actions.

A. Any person who intentionally or recklessly performs or induces an abortion in violation of the Heartbeat Informed Consent Act shall be guilty of a misdemeanor. No penalty shall be assessed against the woman upon whom the abortion is performed or induced or attempted to be performed or induced.

B. Any woman upon whom an abortion has been performed or induced in violation of this act, or the father of the unborn child who was the subject of such an abortion, may maintain an action against the person who performed or induced the abortion in intentional or reckless violation of this act for actual and punitive damages. Any woman upon whom an abortion has been attempted in violation of this act may maintain an action against the person who attempted to perform or induce the abortion in an intentional or reckless violation of this act for actual and punitive damages.

C. A cause of action for injunctive relief against any person who has intentionally or recklessly violated this act may be maintained by the woman upon whom an abortion was performed or induced in violation of this act; by any person who is the spouse, parent, sibling, or guardian of, or a current or former licensed health care provider of, the woman upon whom an abortion has been performed or induced in violation of this act; by a district attorney with appropriate jurisdiction; or by the Attorney General. The injunction shall prevent the abortion provider from performing or inducing further abortions in violation of this act in the state.

D. If judgment is rendered in favor of the plaintiff in an action described in this section, the court shall also render judgment for a reasonable attorney fee in favor of the plaintiff against the defendant.

E. If judgment is rendered in favor of the defendant and the court finds that the plaintiff's suit was frivolous and brought in bad faith, the court shall also render judgment for a reasonable attorney fee in favor of the defendant against the plaintiff.

F. No damages or attorney fee may be assessed against the woman upon whom an abortion was performed or attempted to be performed or induced except in accordance with subsection E of this section.

Added by Laws 2012, c. 159, § 6, eff. Nov. 1, 2012.

§63-1-745.17. Public disclosure of identity.

In every civil or criminal proceeding or action brought under the Heartbeat Informed Consent Act, the court shall rule whether the identity of any woman upon whom an abortion has been performed or induced or attempted to be performed or induced shall be preserved from public disclosure if she does not give her consent to such disclosure. The court, upon motion or sua sponte, shall make such a ruling and, upon determining that her identity should be preserved from public disclosure, shall issue orders to the parties, witnesses, and counsel and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard her identity from public disclosure. Such an order shall be accompanied by specific written findings explaining why the identity of the woman should be preserved from public disclosure, why the order is essential to that end, how the order is narrowly tailored to serve that interest, and why no reasonable, less restrictive alternative exists. In the absence of written consent of the woman upon whom an abortion has been performed or induced or attempted to be performed or induced, anyone, other than a public official, who brings an action under Section 6 of this act shall do so under a pseudonym. This section shall not be construed to conceal the identity of the plaintiff or of witnesses from the defendant or from attorneys for the defendant.
Added by Laws 2012, c. 159, § 7, eff. Nov. 1, 2012.

§63-1-745.18. Interpretation of statute.

Nothing in the Heartbeat Informed Consent Act shall be construed as creating or recognizing a right to abortion.
Added by Laws 2012, c. 159, § 8, eff. Nov. 1, 2012.

§63-1-745.19. Severability of act.

If any one or more provision, section, subsection, sentence, clause, phrase, or word of this act or the application thereof to any person or circumstance is found to be unconstitutional, the same is hereby declared to be severable and the balance of this act shall remain effective notwithstanding such unconstitutionality. The Oklahoma Legislature hereby declares that it would have passed this act, and each provision, section, subsection, sentence, clause, phrase, or word thereof, irrespective of the fact that any one or more provision, section, subsection, sentence, clause, phrase, or word be declared unconstitutional.
Added by Laws 2012, c. 159, § 9, eff. Nov. 1, 2012.

§63-1-746.1. Definitions.

As used in this act, the term:

1. "Abortion" means the use or prescription of any instrument, medicine, drug, or any other substance or device intentionally to terminate the pregnancy of a female known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, to remove an ectopic pregnancy or to remove a dead unborn child who died as a result of a spontaneous abortion, accidental trauma or a criminal assault on the pregnant female or her unborn child;

2. "Attempt to perform or induce an abortion" means an act, or an omission of a statutorily required act, that, under the circumstances as the actor believes them to be, constitutes a substantial step in a course of conduct planned to culminate in the performance of an abortion in Oklahoma in violation of this act;

3. "Fetal anomaly incompatible with life" means a profound and irremediable congenital or chromosomal anomaly that is incompatible with sustaining life after birth. Fetal anomaly incompatible with life does not include conditions which can be treated;

4. "Medical emergency" means any condition which, on the basis of the physician's good-faith clinical judgment, so complicates the medical condition of a pregnant female as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function;

5. "Perinatal hospice" means comprehensive support that includes support from the time of diagnosis through the time of birth and death of the infant and through the postpartum period. Supportive care may include maternal-fetal medical specialists, obstetricians, neonatologists, anesthesia specialists, psychiatrists, psychologists, or other mental health professionals, clergy, social workers, and specialty nurses; and

6. "Physician" means a person licensed to practice medicine in this state pursuant to Sections 495 and 633 of Title 59 of the Oklahoma Statutes.

Added by Laws 2014, c. 175, § 1, eff. Nov. 1, 2014.

§63-1-746.2. Voluntary and informed consent.

No abortion shall be performed or induced or attempted to be performed or induced without the voluntary and informed consent of the female upon whom the abortion is to be performed or induced or attempted to be performed or induced. Except in the case of a medical emergency, consent to an abortion is voluntary and informed if and only if, at least seventy-two (72) hours before the abortion:

1. In the case of a female seeking an abortion of her unborn child diagnosed with a fetal anomaly incompatible with life, the female is informed, by telephone or in person, by the physician who is to perform the abortion or the physician's agent:

a. that perinatal hospice services are available,

b. this service is an alternative to abortion,
c. that she has the right to review the printed materials described in this section,
d. that these materials are available on a state-sponsored website, and
e. what the website address is where she can access this information.

The information required by this paragraph may be provided by a tape recording if provision is made to record or otherwise register specifically whether the female does or does not choose to have the printed materials given or mailed to her;

2. The physician or the physician's agent shall orally inform the female that the materials have been provided by the State of Oklahoma and that they list the places which offer perinatal hospice services both in her state and nationally. If the female chooses to view the materials other than on the website, they shall either be given to her at least seventy-two (72) hours before the abortion, or received by her at least seventy-two (72) hours before the abortion by certified mail, restricted delivery to addressee, which means the postal employee can only deliver the mail to the addressee;

3. The female certifies in writing, prior to the abortion, that the information described in paragraphs 1 and 2 of this section has been furnished her, and that she has been informed of her opportunity to review the information referred to in paragraph 2 of this section; and

4. Prior to the performance of the abortion, the physician who is to perform the abortion or the physician's agent receives a copy of the written certification prescribed by paragraph 3 of this section. This certification shall be maintained in the female patient's file for not less than five (5) years.

Added by Laws 2014, c. 175, § 2, eff. Nov. 1, 2014. Amended by Laws 2015, c. 255, § 7, eff. Nov. 1, 2015.

§63-1-746.3. Printed materials to provide information.

A. Within ninety (90) days after this act is enacted, the State Board of Medical Licensure and Supervision shall cause to be published, in English and in each language which is the primary language of two percent (2%) or more of the state's population, and shall cause to be available on the state website provided for in Section 4 of this act, the following printed materials in such a way as to ensure that the information is easily comprehensible: geographically indexed materials designed to inform the female who has been told her unborn child has a fetal anomaly incompatible with life of public and private agencies and services available to her which offer perinatal hospice and palliative care if she chooses to continue her pregnancy. The material shall include a comprehensive list of the agencies available, a description of the services they

offer, and a description of the manner, including telephone numbers, in which they might be contacted or, at the option of the Board, printed materials including a toll-free, twenty-four-hour-a-day telephone number which may be called to obtain, orally, such a list and description of agencies in the locality of the caller and of the services they offer.

B. The materials referred to in subsection A of this section shall be printed in a typeface large enough to be clearly legible. The website provided for in Section 4 of this act shall be maintained at a minimum resolution of 70 DPI (dots per inch). All letters on the website shall be a minimum of 11-point font. All information shall be accessible with an industry standard browser, requiring no additional plug-ins.

C. The materials required under this section shall be available at no cost from the Board upon request and in appropriate number to any person, facility or hospital.

Added by Laws 2014, c. 175, § 3, eff. Nov. 1, 2014.

§63-1-746.4. Website to provide information.

A. The State Board of Medical Licensure and Supervision shall develop and maintain a stable Internet website to provide the information described under Section 2 of this act. No information regarding who uses the website shall be collected or maintained. The State Board of Medical Licensure and Supervision shall monitor the website on a daily basis to prevent and correct tampering and shall immediately notify abortion providers of any change in the location of the material on its website.

B. The website:

1. Must use enhanced, user-friendly search capabilities to ensure that the information described in Section 2 of this act is easily accessible and must be searchable by keywords and phrases, specifically to ensure that entering the terms "abortion" and "fetal anomaly" yield the materials described in Section 2 of this act, regardless of how the materials are labeled;

2. Must ensure that the materials described in Section 2 of this act are printable;

3. Must give clear prominent instructions on how to receive the information in printed form; and

4. Must be accessible to the public without requiring registration or use of a user name, a password or another user identification.

Added by Laws 2014, c. 175, § 4, eff. Nov. 1, 2014.

§63-1-746.5. Medical emergency.

When a medical emergency compels the performance of an abortion, the physician shall inform the female, prior to the abortion if possible, of the medical indications supporting the physician's

judgment that an abortion is necessary to avert her death or that a twenty-four-hour delay will create serious risk of substantial and irreversible impairment of a major bodily function.
Added by Laws 2014, c. 175, § 5, eff. Nov. 1, 2014.

§63-1-746.6. Reporting form for physicians.

A. Within ninety (90) days after this act is enacted, the State Board of Medical Licensure and Supervision shall prepare a reporting form for physicians containing a reprint of this act and listing:

1. The number of females to whom the physician or an agent of the physician provided the information described in paragraph 1 of Section 2 of this act; of that number, the number provided by telephone and the number provided in person; of each of those numbers, the number provided in the capacity of a referring physician and the number provided in the capacity of a physician who is to perform the abortion; and of each of those numbers, the number provided by the physician and the number provided by an agent of the physician;

2. The number of females who availed themselves of the opportunity to obtain a copy of the printed information described in Section 3 of this act other than on the website, and the number who did not; and of each of those numbers, the number who, to the best of the reporting physician's information and belief, went on to obtain the abortion; and

3. The number of abortions performed by the physician in which information otherwise required to be provided at least seventy-two (72) hours before the abortion was not so provided because an immediate abortion was necessary to avert the female's death, and the number of abortions in which such information was not so provided because a delay would create serious risk of substantial and irreversible impairment of a major bodily function.

B. The Board shall ensure that copies of the reporting forms described in subsection A of this section are provided:

1. Within one hundred twenty (120) days after this act is enacted, to all physicians licensed to practice in this state;

2. To each physician who subsequently becomes newly licensed to practice in this state, at the same time as official notification to that physician that the physician is so licensed; and

3. By December 1 of each year, other than the calendar year in which forms are distributed in accordance with paragraph 1 of this subsection, to all physicians licensed to practice in this state.

C. By February 28 of each year following a calendar year in any part of which this act was in effect, each physician who provided, or whose agent provided, information to one or more females in accordance with Section 2 of this act during the previous calendar year shall submit to the Board a copy of the form described in

subsection A of this section, with the requested data entered accurately and completely.

D. Reports that are not submitted by the end of a grace period of thirty (30) days following the due date shall be subject to a late fee of Five Hundred Dollars ($500.00) for each additional thirty-day period or portion of a thirty-day period they are overdue. Any physician required to report in accordance with this section who has not submitted a report, or has submitted only an incomplete report, more than one (1) year following the due date, may, in an action brought by the Board, be directed by a court of competent jurisdiction to submit a complete report within a period stated by court order or be subject to sanctions for civil contempt.

E. By June 30 of each year the State Board of Medical Licensure and Supervision shall issue a public report providing statistics for the previous calendar year compiled from all of the reports covering that year submitted in accordance with this section for each of the items listed in subsection A of this section. Each such report shall also provide the statistics for all previous calendar years, adjusted to reflect any additional information from late or corrected reports. The Board shall take care to ensure that none of the information included in the public reports could reasonably lead to the identification of any individual provided information in accordance with paragraph 1 of Section 2 of this act.

F. The Board may by rule alter the dates established by paragraph 3 of subsection B or subsection C or E of this section or consolidate the forms or reports described in this section with other forms or reports to achieve administrative convenience or fiscal savings or to reduce the burden of reporting requirements, so long as reporting forms are sent to all licensed physicians in the state at least once every year and the report described in subsection E of this section is issued at least once every year. Added by Laws 2014, c. 175, § 6, eff. Nov. 1, 2014. Amended by Laws 2015, c. 255, § 8, eff. Nov. 1, 2015.

§63-1-746.7. Violations - Penalties.

Any person who knowingly or recklessly performs or attempts to perform an abortion in violation of this act shall be guilty of a felony. No penalty may be assessed against the female upon whom the abortion is performed or attempted to be performed.

No penalty or civil liability may be assessed for failure to comply with paragraph 1 or 2 of Section 2 of this act or that portion of paragraph 3 of Section 2 of this act requiring a written certification that the female has been informed of her opportunity to review the information referred to in paragraph 1 of Section 2 of this act unless the Board has made the printed materials available at the time the physician or the physician's agent is required to inform the female of her right to review them.

Added by Laws 2014, c. 175, § 7, eff. Nov. 1, 2014.

§63-1-746.8. Violations – Civil actions for mother, father or grandparent.

Any person upon whom an abortion has been performed or induced without this act being complied with, the father of the unborn child who was the subject of such an abortion, or the grandparent of such an unborn child may maintain an action pursuant to Sections 1-738.3f through 1-738.3k of Title 63 of the Oklahoma Statutes against any person or entity which performed or induced or attempted to perform or induce the abortion in violation of this act, or against any person or entity which made a referral as defined in Sections 1-738.3f through 1-738.3k of Title 63 of the Oklahoma Statutes regarding this particular abortion. The procedure and remedy in a civil action brought pursuant to this section shall be the same as the procedure and remedy in other suits brought pursuant to Sections 1-738.3f through 1-738.3k of Title 63 of the Oklahoma Statutes.
Added by Laws 2014, c. 175, § 8, eff. Nov. 1, 2014.

§63-1-746.9. Anonymity in court proceedings.

In every civil or criminal proceeding or action brought under this act, the court shall rule whether the anonymity of any female upon whom an abortion has been performed or attempted shall be preserved from public disclosure if she does not give her consent to such disclosure. The court, upon motion or sua sponte, shall make such a ruling and, upon determining that her anonymity should be preserved, shall issue orders to the parties, witnesses, and counsel and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard her identity from public disclosure. Each such order shall be accompanied by specific written findings explaining why the anonymity of the female should be preserved from public disclosure, why the order is essential to that end, how the order is narrowly tailored to serve that interest, and why no reasonable less-restrictive alternative exists. In the absence of written consent of the female upon whom an abortion has been performed or attempted, anyone, other than a public official, who brings an action under Section 8 of this act shall do so under a pseudonym. This section may not be construed to conceal the identity of the plaintiff or of witnesses from the defendant.
Added by Laws 2014, c. 175, § 9, eff. Nov. 1, 2014.

§63-1-746.10. Severability.

If any one or more provision, section, subsection, sentence, clause, phrase or word of this act or the application thereof to any person or circumstance is found to be unconstitutional, the same is hereby declared to be severable and the balance of this act shall

remain effective notwithstanding such unconstitutionality. The Legislature hereby declares that it would have passed this act, and each provision, section, subsection, sentence, clause, phrase or word thereof, irrespective of the fact that any one or more provision, section, subsection, sentence, clause, phrase or word be declared unconstitutional.
Added by Laws 2014, c. 175, § 10, eff. Nov. 1, 2014.

§63-1-747.1. Short title - Prioritization of Public Funding in the Purchasing of Family Planning and Counseling Services Act.

This act shall be known as the "Prioritization of Public Funding in the Purchasing of Family Planning and Counseling Services Act".
Added by Laws 2013, c. 385, § 1, eff. Nov. 1, 2013.

§63-1-747.2. Definitions.

As used in the Prioritization of Public Funding in the Purchasing of Family Planning and Counseling Services Act:

1. "Public funds" means state funds from whatever source, including without limitation state general revenue funds, state special account and limited purpose grants and/or loans, and federal funds provided under Title V (42 U.S.C., Section 701 et seq.), Title X (42 U.S.C., Section 300 et seq.), Title XIX (42 U.S.C., Section 1396 et seq.), Title XX (42 U.S.C., Section 1397 et seq.) and Title X (42 U.S.C., Section 1786 et seq.);

2. "Federally qualified health center" means a health care provider that is eligible for federal funding under 42 U.S.C., Section 1396d(1)(2)(B);

3. "Rural health clinic" means a health care provider that is eligible for federal funding under 42 U.S.C., Section 1395x(aa)(2);

4. "Hospital" means a primary or tertiary care facility licensed as a hospital under the laws of this state; and

5. "Department" means the Oklahoma Health Care Authority or the State Department of Health.
Added by Laws 2013, c. 385, § 2, eff. Nov. 1, 2013.

§63-1-747.3. Order of priority.

Subject to any applicable requirements of federal statutes, rules, regulations or guidelines, any expenditures or grants of public funds for family planning or counseling services by the State of Oklahoma, by and through the Department shall be made in the following order of priority:

1. To public entities;

2. To nonpublic hospitals, federally qualified health centers, and rural health clinics; and

3. To nonpublic health providers that have as their primary purpose the provision of the primary health care services enumerated in 42 U.S.C., Section 254b(a)(1).

Added by Laws 2013, c. 385, § 3, eff. Nov. 1, 2013.

§63-1-747.4. Cause of action.

A cause of action in law or equity for recoupment, declaratory or injunctive relief against any person who has intentionally violated the Prioritization of Public Funding in the Purchasing of Family Planning and Counseling Services Act may be maintained by a district attorney with appropriate jurisdiction, or by the Attorney General.

Added by Laws 2013, c. 385, § 4, eff. Nov. 1, 2013.

§63-1-747.5. Severability.

If any one or more provisions, sections, subsections, sentences, clauses, phrases or words of this act or the application thereof to any person or circumstance is found to be unconstitutional, the same is hereby declared to be severable and the balance of the Prioritization of Public Funding in the Purchasing of Family Planning and Counseling Services Act shall remain effective notwithstanding such unconstitutionality. The Legislature hereby declares that it would have passed this act, and each provision, section, subsection, sentence, clause, phrase or word thereof, irrespective of the fact that any one or more provisions, sections, subsections, sentences, clauses, phrases or words of the act, or the application of the act, would be declared unconstitutional.

Added by Laws 2013, c. 385, § 5, eff. Nov. 1, 2013.

§63-1-748. Abortion facility standards - Admitting privileges requirement - Violations - Penalties.

A. The State Board of Health shall establish abortion facility supplies and equipment standards, including equipment required to be immediately available for use in an emergency. Such standards shall, at a minimum:

1. Specify required equipment and supplies, including medications, required for the performance of abortion procedures and for monitoring the progress of each patient throughout the abortion procedure and post-procedure recovery period;

2. Require that the number or amount of equipment and supplies at the facility is adequate at all times to assure sufficient quantities of clean and sterilized durable equipment and supplies to meet the needs of each patient;

3. Specify the mandated equipment and supplies for required laboratory tests and the requirements for protocols to calibrate and maintain laboratory equipment at the abortion facility or operated by facility staff;

4. Require ultrasound equipment in all abortion facilities; and

5. Require that all equipment is safe for the patient and facility staff, meets applicable federal standards, and is checked annually to ensure safety and appropriate calibration.

B. On any day when any abortion is performed in a facility providing abortions, a physician with admitting privileges at a general medical surgical hospital which offers obstetrical or gynecological care in this state within thirty (30) miles of where the abortion is being performed must remain on the premises of the facility to facilitate the transfer of emergency cases if hospitalization of an abortion patient or a child born alive is necessary and until all abortion patients are stable and ready to leave the recovery room.

C. The State Board of Health shall adopt standards relating to the training physician assistants licensed pursuant to the provisions of Section 519.1 of Title 59 of the Oklahoma Statutes and employed by or providing services in a facility providing abortions shall receive in counseling, patient advocacy, and the specific medical and other services.

D. The State Board of Health shall adopt standards related to the training that volunteers at facilities providing abortions shall receive in the specific services that the volunteers provide, including counseling and patient advocacy.

E. The State Board of Health shall adopt standards related to the medical screening and evaluation of each abortion patient. At minimum these standards shall require:

1. A medical history, including the following:
   a. reported allergies to medications, antiseptic solutions, and latex,
   b. obstetric and gynecological history,
   c. past surgeries, and
   d. medication the patient is currently taking;

2. A physical examination, including a bimanual examination estimating uterine size and palpation of the adnexa; and

3. The appropriate preprocedure testing, including:
   a. urine or blood tests for pregnancy, if ordered by a physician,
   b. a test for anemia,
   c. Rh typing, unless reliable written documentation of blood type is available, and
   d. an ultrasound evaluation for all patients who elect to have an abortion. The physician performing the abortion is responsible for estimating the gestational age of the unborn child based on the ultrasound examination and established standards of obstetrical care and shall write the estimate in the patient's medical record. An original print of each ultrasound

examination of the patient shall be kept in the patient's medical record.

F. The State Board of Health shall adopt standards related to the performance of the abortion procedure and post-procedure follow-up care. At minimum these standards shall require:

1. That medical personnel are available to all abortion patients throughout the procedure;

2. The appropriate use of local anesthesia, analgesia, and sedation if ordered by the physician performing the procedure;

3. The use of appropriate precautions, such as the establishment of intravenous access;

4. That the physician performing the abortion procedure monitors the patient's vital signs and other defined signs and markers of the patient's status throughout the procedure and during the recovery period until the patient's condition is deemed to be stable in the recovery room;

5. Immediate post-procedure care and observation in a supervised recovery room for as long as the patient's condition warrants;

6. That the facility in which the abortion procedure is performed arranges for a patient's hospitalization if any complication beyond the management capability of the abortion facility's medical staff occurs or is suspected;

7. That a licensed health-care professional trained in the management of the recovery room and capable of providing cardiopulmonary resuscitation actively monitors patients in the recovery room;

8. That there is a specified minimum time that a patient remains in the recovery room by type of abortion procedure and duration of gestation;

9. That a physician discusses RhO(D) immune globulin with each patient for whom it is indicated and assures it is offered to the patient in the immediate post-operative period or that it will be available to her within seventy-two (72) hours after completion of the abortion procedure. If the patient refuses, a refusal form approved by the State Board of Health shall be signed by the patient and a witness and included in the medical record;

10. Written instructions with regard to post-abortion coitus, signs of possible complications, and general aftercare are given to each patient. Each patient shall have specific instructions regarding access to medical care for complications, including a telephone number to call for medical emergencies;

11. That the physician ensures that a licensed health-care professional from the abortion facility makes a good faith effort to contact the patient by phone, with the patient's consent, within twenty-four (24) hours after procedure to assess the patient's recovery;

12. Equipment and services are located in the recovery room to provide appropriate emergency and resuscitative life-support procedures pending the transfer of the patient or a child born alive in the facility;

13. That a post-abortion medical visit shall be offered to each abortion patient and, if requested, scheduled for two (2) to three (3) weeks after the abortion procedure and shall include a medical examination and a review of the results of all laboratory tests; and

14. That a urine or blood test shall be obtained at the time of the follow-up visit to rule out continued pregnancy. If a continuing pregnancy is suspected, the patient shall be appropriately evaluated; and a physician who performs abortions shall be consulted.

G. Facilities performing abortions shall record each incident resulting in a patient's or a born-alive child's injury occurring at the facility and shall report incidents in writing to the State Board of Health within ten (10) days of the incident. For the purposes of this subsection, "injury" shall mean an injury that occurs at the facility and creates a serious risk of substantial impairment of a major body organ or function.

H. If a patient's death occurs, other than the death of an unborn child properly reported pursuant to law, the facility performing abortions shall report the death to the State Board of Health no later than the next business day.

I. Incident reports shall be filed with the State Board of Health and all appropriate professional licensing and regulatory boards, including, but not limited to, the State Board of Medical Licensure and Supervision and the Oklahoma Board of Nursing.

J. Whoever operates a facility performing abortions without a valid license shall be guilty of a felony. Any person who intentionally, knowingly, or recklessly violates the provisions of this act or any standards adopted by the State Board of Health in accordance with this act shall be guilty of a felony.

K. Any violation of this act or any standards adopted under this act may be subject to a civil penalty or fine up to Twenty-five Thousand Dollars ($25,000.00) imposed by the State Board of Health. Each day of violation constitutes a separate violation for purposes of assessing civil penalties or fines. In deciding whether and to what extent to impose civil penalties or fines, the State Board of Health shall consider the following factors:

1. Gravity of the violation, including the probability that death or serious physical harm to a patient or individual will result or has resulted;

2. Size of the population at risk as a consequence of the violation;

3. Severity and scope of the actual or potential harm;

4. Extent to which the provisions of the applicable statutes or regulations were violated;

5. Any indications of good faith exercised by facility;

6. The duration, frequency, and relevance of any previous violations committed by the facility; and

7. Financial benefit to the facility of committing or continuing the violation.

L. In addition to any other penalty provided by law, whenever in the judgment of the State Commissioner of Health any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, a violation of this act, or any standard adopted in accordance with this act, the Commissioner shall make application to any court of competent jurisdiction for an order enjoining such acts and practices. Upon a showing by the Commissioner that such person has engaged, or is about to engage, in any such acts or practices, an injunction, restraining order, or such other order as may be appropriate shall be granted by such court without bond.

Added by Laws 2014, c. 370, § 1, eff. Nov. 1, 2014.

§63-1-749. Preservation of fetal tissue extracted.

A. Any physician who performs an abortion on a minor who is less than fourteen (14) years of age at the time of the abortion shall preserve, in accordance with rules promulgated by the Oklahoma State Bureau of Investigation, fetal tissue extracted during such abortion. The physician shall submit the tissue to the Oklahoma State Bureau of Investigation.

B. The Oklahoma State Bureau of Investigation shall adopt rules to implement the provisions of this section. Such rules shall contain, at a minimum:

1. The amount and type of fetal tissue to be preserved and submitted by a physician pursuant to the provisions of this section;

2. Procedures for the proper preservation of such tissue for the purposes of DNA testing and examination;

3. Procedures for documenting the chain of custody of such tissue for use as evidence;

4. Procedures for the proper disposal of fetal tissue preserved pursuant to this section;

5. A uniform reporting form mandated to be utilized by physicians when submitting fetal tissue under this section, which shall include the name and address of the physician submitting the fetal tissue and the name and complete address of residence of the parent or legal guardian of the minor upon whom the abortion was performed; and

6. Procedures for communication with law enforcement regarding evidence and information obtained pursuant to this section.

C. Failure of a physician to comply with any requirement of this section or any rule adopted thereunder:

1. Shall constitute unprofessional conduct pursuant to the provisions of Section 509 of Title 59 of the Oklahoma Statutes; and

2. Is a felony.

Added by Laws 2015, c. 386, § 2, eff. Nov. 1, 2015.

§63-1-749.1. Inspections of abortion facilities.

A. The State Board of Health shall establish policies and procedures for conducting pre-licensure and re-licensure inspections of abortion facilities. Prior to issuing or reissuing a license, the Department shall conduct an on-site inspection to ensure compliance with the rules promulgated by the Board.

B. The Board shall promulgate rules for conducting inspections and investigations pursuant to complaints received by the State Department of Health and made against any abortion facility. The Department shall receive, record, and dispose of complaints in accordance with established policies and procedures.

C. If the State Commissioner of Health determines that there is reasonable cause to believe a licensee, licensed abortion facility or abortion facility that is required to be licensed in this state is not adhering to the requirements of Section 1-729a et seq. of Title 63 of the Oklahoma Statutes, local fire ordinances or rules or any other law, administrative rule or regulation relating to abortion, the Commissioner and any duly designated employee or agent of the Commissioner including employees of county or city-county health departments and county or municipal fire inspectors, consistent with standard medical practices, may enter on and into the premises of the licensee, licensed abortion facility or abortion facility that is required to be licensed in this state during regular business hours of the licensee or abortion facility to determine compliance with the provisions of Section 1-729a et seq. of Title 63 of the Oklahoma Statutes, local fire ordinances or rules, and any other law, administrative rule or regulation relating to abortion.

D. An application for a license to operate a private office, freestanding outpatient clinic or other facility or clinic in which abortions are performed constitutes permission for, and complete acquiescence in, an entry or inspection of the premises during the pendency of the application and, if licensed, during the term of the license.

E. If an inspection or investigation conducted pursuant to this section reveals that an applicant, licensee or licensed abortion facility is not adhering to the requirements of this section, the provisions of Title 1-729a et seq. of Title 63 of the Oklahoma Statutes, local fire ordinances or rules and any other law, administrative rule or regulation relating to abortion, the

Commissioner may take action to deny, suspend, revoke or refuse to renew a license to operate an abortion facility.
Added by Laws 2015, c. 386, § 3, eff. Nov. 1, 2015.

§63-1-750. Criminal and civil penalties - Civil liability - Severability.

A. A person who intentionally, knowingly or recklessly violates any provision or requirement of this act, Section 1-729a et seq. of Title 63 of the Oklahoma Statutes or any rule or regulation adopted under Section 1-729a et seq. of Title 63 of the Oklahoma Statutes is guilty of a felony.

B. No criminal penalty may be assessed against the pregnant woman upon whom the abortion is performed for a violation of any provision or requirement of this act, Section 1-729a et seq. of Title 63 of the Oklahoma Statutes or any rule or regulation adopted under Section 1-729a et seq. of Title 63 of the Oklahoma Statutes.

C. Any violation of this act, Section 1-729a et seq. of Title 63 of the Oklahoma Statutes or any rule or regulation adopted under Section 1-729a et seq. of Title 63 of the Oklahoma Statutes may be subject to a civil penalty or a fine up to One Hundred Thousand Dollars ($100,000.00).

D. Each day of violation shall constitute a separate violation for purposes of assessing civil penalties or fines.

E. In deciding whether and to what extent to impose fines, a court shall consider the:

1. Gravity of the violation or violations including the probability that death or serious physical harm to a patient or individual will result or has resulted;

2. Size of the population at risk as a consequence of the violation or violations;

3. Severity and scope of the actual or potential harm;

4. Extent to which the provisions of the applicable statutes or regulations were violated;

5. Indications of good faith exercised by the licensee, abortion facility or the person performing the abortion;

6. Duration, frequency, and relevance of any previous violations committed by the licensee, abortion facility or person performing the abortion; and

7. Financial benefit to the abortion facility or person performing the abortion from committing or continuing the violation or violations.

F. The Office of the Attorney General and a district attorney for the county in which the violation or violations occurred may institute a legal action to enforce collection of civil penalties or fines.

G. Any person who violates this act, Section 1-729a et seq. of Title 63 of the Oklahoma Statutes or any rule or regulation adopted

under Section 1-729a et seq. of Title 63 of the Oklahoma Statutes shall be civilly liable to the person or persons adversely affected by the violation or violations. A court may award damages to the person or persons adversely affected by any violation of this act, Section 1-729a et seq. of Title 63 of the Oklahoma Statutes or any rule or regulation adopted under Section 1-729a et seq. of Title 63 of the Oklahoma Statutes including compensation for emotional, physical, and psychological harm; attorney fees, litigation costs, and punitive damages.

H. The provisions of this act are severable, and if any part or provision shall be held void, the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this act.

I. If some or all of the newly amended provisions of this act resulting from the actions taken by the 2015 Session of the Oklahoma Legislature are ever temporarily or permanently restrained or enjoined by judicial order, this act shall be enforced as though such restrained or enjoined provisions had not been adopted; provided, however, that whenever such temporary or permanent restraining order or injunction is stayed or dissolved, or otherwise ceases to have effect, such provisions shall have full force and effect.

J. The Oklahoma State Bureau of Investigation and the State Board of Health shall promulgate rules to implement the provisions of this act.

Added by Laws 2015, c. 386, § 4, eff. Nov. 1, 2015.

§63-1-751. Short title - Humanity of the Unborn Child Act.

This act shall be known and may be cited as the "Humanity of the Unborn Child Act".

Added by Laws 2016, c. 353, § 1, eff. Nov. 1, 2016.

§63-1-752. Pregnancy assistance — Agencies and services available — Promotion on social media platforms

A. Utilizing funds appropriated to the Health Department specifically for the provisions of this act, the State Department of Health shall develop, update annually and maintain an electronic form containing information concerning public and private agencies and services available to assist a woman through pregnancy, upon childbirth and while the child is dependent, which shall include a comprehensive list of the agencies available, including adoption agencies, a description of the services they offer and a description of the manner, including telephone numbers and email addresses, by which they might be contacted. The Department shall index this form geographically and shall make it readily accessible on the Department's website. The website shall include the following statement:

"There are many public and private agencies willing and able to help you carry your child to term, have a healthy pregnancy and a healthy baby and assist you and your child after your child is born, whether you choose to keep your child or to place him or her for adoption. The State of Oklahoma strongly urges you to contact them if you are pregnant."

B. The statement required by subsection A of this section and a unique URL linked to the section of the Department's Internet website containing the information required by subsection A of this section shall be made available in a downloadable format appropriate for display.

C. The Department shall use its official, online social media platforms to promote the unique URL specified in subsection B of this section.

D. The State Board of Health shall promulgate rules to implement the provisions of this section.

Added by Laws 2016, c. 353, § 2, eff. Nov. 1, 2016. Amended by Laws 2017, c. 123, § 2, eff. July 1, 2017.

§63-1-753. Development and distribution of educational and informational materials – Community assistance.

Contingent on the availability of funds being appropriated by the Legislature specifically for this purpose, the State Department of Health shall:

1. Develop and make available materials designed to provide accurate, scientifically verifiable information concerning the probable anatomical and physiological characteristics of the unborn child at two-week gestational intervals. The Department may utilize as a resource the material dealing with characteristics of the unborn child created pursuant to Section 1-738.3 of Title 63 of the Oklahoma Statutes and as located on the website *www.awomansright.org* under the link "Characteristics of the Unborn Child";

2. Develop and distribute educational and informational materials to provide public information through public service announcements, media and otherwise for the purpose of achieving an abortion-free society. Such materials shall be developed from the most readily available, accurate and up-to-date information and shall clearly and consistently teach that abortion kills a living human being. All efforts by the Department in this regard shall be reported annually to the Chair and Vice Chair of the Senate Health and Human Services Committee and the House Public Health Committee;

3. Provide technical assistance to help community-based organizations in the planning and implementation of abortion prevention, alternatives to abortion referral and education programs regarding the humanity of the unborn child;

4. Provide outreach, consultation, training and alternatives to abortion referral services to schools, organizations and members of the community;

5. Distribute educational and informational material concerning maternal behavior during pregnancy which is helpful to a human child in utero, including avoidance of tobacco, alcohol and other drugs; proper nutrition and prenatal vitamins; and utilization of and resources available for prenatal medical and wellness care; and

6. Recommend to the State Department of Education scientifically verifiable information concerning the unborn child in the educational standards of science, family and consumer sciences and health classes.

Added by Laws 2016, c. 353, § 3, eff. Nov. 1, 2016.

§63-1-754. Instructional program for students.

Contingent on the availability of funds being appropriated by the Legislature specifically for this purpose and pursuant to Section 5 of this act, the State Department of Education, in collaboration with the State Department of Health, shall establish an instructional program for students consistent with the provisions of the Humanity of the Unborn Child Act. Local school boards may choose to implement the instructional program established by the State Department of Health and the State Department of Education consistent with the provisions of the Humanity of the Unborn Child Act. For school districts choosing to implement the instructional program, the content of instruction used by local schools to teach the humanity of the unborn child shall be at the discretion of the local school board; provided, the instructional program shall:

1. Provide accurate, scientifically verifiable information concerning the probable anatomical and physiological characteristics of the unborn child at two-week gestational intervals. The State Department of Education may utilize as a resource the material dealing with characteristics of the unborn child created pursuant to Section 1-738.3 of Title 63 of the Oklahoma Statutes and as located on the website *www.awomansright.org* under the link "Characteristics of the Unborn Child";

2. Include information on accessing prenatal health care; provided, no program or state employee may refer any student to a medical facility or any provider for the performance of an abortion;

3. Include no component of human sexuality education other than those included in science education standards; and

4. Comply with the provisions of the Parents' Bill of Rights, Section 2001 et seq. of Title 25 of the Oklahoma Statutes.

Added by Laws 2016, c. 353, § 4, eff. Nov. 1, 2016.

§63-1-755. Public Education on the Humanity of the Unborn Child Fund.

There is hereby created in the State Treasury a revolving fund for the State Board of Education to be designated as the "Public Education on the Humanity of the Unborn Child Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies deposited to the credit of the fund by law. All monies accruing to the credit of said fund shall be budgeted and expended by the Board for the establishment of the instruction programs established in Section 4 of this act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.
Added by Laws 2016, c. 353, § 5, eff. Nov. 1, 2016.

§63-1-818.1. Renumbered as § 1430.1 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.2. Renumbered as § 1430.2 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.3. Renumbered as § 1430.3 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.4. Renumbered as § 1430.4 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.5. Renumbered as § 1430.5 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.6. Renumbered as § 1430.6 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.7. Renumbered as § 1430.7 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.8. Renumbered as § 1430.8 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.9. Renumbered as § 1430.9 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.10. Renumbered as § 1430.10 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.11. Renumbered as § 1430.11 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.12. Renumbered as § 1430.12 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.13. Renumbered as § 1430.13 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.14. Renumbered as § 1430.14 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.15. Renumbered as § 1430.15 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.16. Renumbered as § 1430.16 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.17. Renumbered as § 1430.17 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.18. Renumbered as § 1430.18 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.19. Renumbered as § 1430.19 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.20. Renumbered as § 1430.20 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.21. Renumbered as § 1430.21 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.22. Renumbered as § 1430.22 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.23. Renumbered as § 1430.23 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.24. Renumbered as § 1430.24 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.25. Renumbered as § 1430.25 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.26. Renumbered as § 1430.26 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.27. Renumbered as § 1430.27 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.28. Renumbered as § 1430.28 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.29. Renumbered as § 1430.29 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.30. Renumbered as § 1430.30 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.31. Renumbered as § 1430.31 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.32. Renumbered as § 1430.32 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.33. Renumbered as § 1430.33 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.34. Renumbered as § 1430.34 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.35. Renumbered as § 1430.35 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.36. Renumbered as § 1430.36 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.37. Renumbered as § 1430.37 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.38. Renumbered as § 1430.38 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.39. Renumbered as § 1430.39 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.40. Renumbered as § 1430.40 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-818.41. Renumbered as § 1430.41 of Title 10 by Laws 1996, c. 354, § 56, eff. Nov. 1, 1996.

§63-1-819. Residential Care Act.

Sections 1-820 through 1-840 of this act shall be known and may be cited as the "Residential Care Act".

Added by Laws 1984, c. 128, § 1, eff. Nov. 1, 1984. Amended by Laws 1987, c. 98, § 1, emerg. eff. May 20, 1987.

§63-1-820. Definitions.

As used in the Residential Care Act:

1. "Abuse" means the willful infliction of injury, unreasonable confinement, intimidation or punishment, with resulting physical harm, impairment or mental anguish;

2. "Access" means the right of a person to enter a home to communicate privately and without unreasonable restriction;

3. "Administrator" means the person who is in charge of a home and who devotes at least one-third (1/3) of his or her full working time to on-the-job supervision of the home;

4. "Adult companion home" means any home or establishment, funded and certified by the Department of Human Services, which provides homelike residential accommodations and supportive assistance to three or fewer developmentally disabled adults;

5. "Advisory Board" means the Long-Term Care Facility Advisory Board;

6. "Ambulatory" means any resident who is capable of self-movement, including in and out of wheelchairs, to all areas of the home;

7. "Board" means the State Board of Health;

8. "Commissioner" means the State Commissioner of Health;

9. "Department" means the State Department of Health;

10. "Habilitation" means procedures and interventions designed to assist a mentally ill, drug-dependent or alcohol-dependent person eighteen (18) years of age or older to achieve greater physical, mental and social development by enhancing the well-being of the person and teaching skills which increase the possibility that the resident will make progressively independent and responsible decisions about social behavior, quality of life, job satisfaction and personal relationships;

11. "Home" means a residential care home;

12. "Residential care home":

a. means any establishment or institution which offers, provides or supports residential accommodations, food service, and supportive assistance to any of its residents or houses any residents requiring supportive assistance who are not related to the owner or administrator of the home by blood or marriage. A residential care home shall not include:

(1) an adult companion home,

(2) a group home,

(3) a hotel,

(4) a motel,

(5) a residential mental health facility operated by the Department of Mental Health and Substance Abuse Services,
(6) a fraternity or a sorority house,
(7) college or university dormitory, or
(8) a home or facility approved and annually reviewed by the United States Department of Veterans Affairs as a medical foster home in which care is provided exclusively to three or fewer veterans.

The residents of a residential care home shall be ambulatory and essentially capable of participating in their own activities of daily living, but shall not routinely require nursing services, and

b. may consist of a series of units or buildings which are not connected or part of the same structure if:
(1) such buildings or units are owned by the same owner or operator,
(2) all residents of the units or buildings are fully capable of ambulation to and from the buildings or units,
(3) the location and construction of the buildings or units ensure the health, safety, and protection from fire hazards and other hazards and provide for the convenience and accessibility of the residents to each residential building or unit,
(4) any out-of-doors premise or thoroughfare is adequately maintained to ensure the health and safety of the residents, and
(5) the buildings or units are within one hundred seventy-five (175) feet of the building housing the main kitchen and dining room. The units or buildings must be located in the most convenient and accessible location for residents;

provided, however, the leasing of rooms directly or indirectly to residents of a home shall not void the application of the provisions of the Residential Care Act or rules promulgated pursuant thereto.

The State Board of Health shall promulgate rules for such residential homes pursuant to the provisions of Section 1-836 of this title;

13. "Licensee" means a person, corporation, partnership, or association who is the owner of a home which is licensed pursuant to the provisions of the Residential Care Act;

14. "Maintenance" means meals, shelter, and laundry services;

15. "Neglect" means failure to provide goods and/or services necessary to avoid physical harm, mental anguish, or mental illness;

16. "Operator" means the person who is not the administrator but who manages the home;

17. "Owner" means a person, corporation, partnership, association, or other entity which owns or leases a home or part of a home, directly or indirectly, to residents. The person or entity that stands to profit or lose as a result of the financial success or failure of the operation shall be presumed to be the owner of the home;

18. "Personal care" means assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision of the physical and mental well-being of a person, who is incapable of maintaining a private, independent residence, or who is unable to manage all activities of daily living without assistance, whether or not a guardian has been appointed for the person;

19. "Resident" means a person of legal age, residing in a home due to illness, physical or mental infirmity, or advanced age;

20. "Representative of a resident" means a court-appointed guardian, or if there is no court-appointed guardian, a relative or other person designated in writing by the resident. No owner, agent, employee, or person with a pecuniary interest in the residential facility or relative thereof shall be a representative of a resident unless the person is appointed by the court;

21. "Supportive assistance" means the service rendered to any person which is sufficient to enable the person to meet an adequate level of daily living. Supportive assistance includes, but is not limited to, housekeeping, assistance in the preparation of meals, assistance in the safe storage, distribution and administration of medications, and assistance in personal care as necessary for the health and comfort of the person. The term "supportive assistance" shall not be interpreted or applied so as to prohibit the participation of residents in housekeeping or meal preparation tasks as a part of the written treatment plan for the training, habilitation or rehabilitation of the resident, prepared with the participation of the resident, the mental health or drug or alcohol services case manager assigned to the resident, and the administrator of the facility or a designee; and

22. "Transfer" means a change in location of living arrangements of a resident from one home to another home.

Added by Laws 1984, c. 128, § 8, eff. Nov. 1, 1984. Amended by Laws 1985, c. 135, § 1, emerg. eff. June 7, 1985; Laws 1987, c. 98, § 2, emerg. eff. May 20, 1987; Laws 1987, c. 225, § 45, eff. Nov. 1, 1987; Laws 1988, c. 260, § 1, eff. Nov. 1, 1988; Laws 1989, c. 330, § 5, eff. Nov. 1, 1989; Laws 1990, c. 295, § 2, operative July 1, 1990; Laws 1993, c. 159, § 15, eff. July 1, 1993; Laws 1995, c. 230, § 4, eff. July 1, 1995; Laws 2001, c. 410, § 1, eff. Nov. 1, 2001;

Laws 2003, c. 220, § 1, eff. Nov. 1, 2003; Laws 2012, c. 12, § 1, emerg. eff. April 5, 2012.

§63-1-821. Rules - Powers and duties.

A. The State Board of Health shall promulgate rules to enforce the provisions of the Residential Care Act which shall include, but not be limited to, provisions for temperature settings, lighting, ventilation, and other physical conditions that affect the health, safety and welfare of the residents in a home. Residential care homes that provide care for three or fewer residents shall be subject to the provisions of the Residential Care Act; provided, however, if such rules unduly restrict operation of the home, the Board shall be authorized and shall promulgate additional rules for residential care homes based upon the number of residents in a home.

B. The State Department of Health shall have the power and duty to:

1. Issue, renew, deny, modify, suspend, and revoke licenses for homes pursuant to the provisions of the Residential Care Act;

2. Enforce the provisions of the Residential Care Act and any rules promulgated pursuant thereto by the Board, and require the submission and review of reports from any person establishing or operating a home;

3. Enter upon any public or private property for the purpose of:

a. inspecting and investigating conditions of the residents in the home,

b. inspecting and investigating the home for compliance with the provisions of the Residential Care Act or rules promulgated pursuant thereto, or

c. determining if services are being provided without a license;

4. Employ or designate personnel to conduct investigations and inspections, to make reports of the condition of homes and the residents of such homes, and to take necessary action pursuant to the provisions of the Residential Care Act to protect and safeguard the health, safety, and welfare of residents of homes;

5. Establish a procedure for receipt and investigation of complaints regarding a home or concerning the condition, care, and treatment of a resident of a home;

6. Report to the district attorney having jurisdiction or the Attorney General any act committed by an owner, administrator, operator, or employee of a home which may constitute a misdemeanor pursuant to the provisions of the Residential Care Act;

7. Advise, consult, and cooperate with other agencies of this state, the federal government, other states and interstate agencies, and with affected groups and political subdivisions to further the purposes of the provisions of the Residential Care Act;

8. Investigate, request or otherwise obtain the information necessary to determine the qualifications and background of an applicant for licensure;

9. Establish civil penalties for violations of the provisions of the Residential Care Act as authorized by the Board pursuant to the provisions of the Residential Care Act;

10. Institute and maintain or intervene in any action or proceeding where deemed necessary by the Department to protect the health, safety, and welfare of any resident of a home;

11. Assure the accountability for reimbursed care provided in certified homes participating in a federal or state health program as provided by or through the Department of Human Services;

12. Advise, consult, cooperate and assist with technology center schools or institutions of higher education in this state in providing the training of persons to distribute and administer medication to a resident of a home;

13. Transfer or discharge a resident or otherwise protect the health, safety, and welfare of any resident of a home; and

14. Exercise all incidental powers as necessary and proper for the administration of the Residential Care Act.

C. To improve patient care, the Department shall hold a public meeting at least once every four (4) years in each of the licensed homes to advise and to facilitate communication and cooperation between personnel of the home and the residents. Administrators, employees of the home, residents, friends and relatives of the residents, representatives of the residents, and employees from appropriate state and federal agencies shall be invited and encouraged to attend such meetings.

Added by Laws 1984, c. 128, § 9, eff. Nov. 1, 1984. Amended by Laws 1985, c. 135, § 2, emerg. eff. June 7, 1985; Laws 1987, c. 98, § 3, emerg. eff. May 20, 1987; Laws 2001, c. 410, § 2, eff. Nov. 1, 2001; Laws 2002, c. 22, § 21, emerg. eff. March 8, 2002.

NOTE: Laws 2001, c. 33, § 59 repealed by Laws 2002, c. 22, § 34, emerg. eff. March 8, 2002.

§63-1-821.1. Repealed by Laws 2017, c. 47, § 1, eff. Nov. 1, 2017.

§63-1-822. Application for license - Fee - Information required - Qualifications - Issuance of license - Expiration - Modification - Renewal.

A. An application for a license, or renewal thereof, to establish or operate a residential care home shall be accompanied by a fee of Fifty Dollars ($50.00). The fee shall not be refunded. Except as provided for in Section 1-824 of this title, a license shall expire twenty-four (24) months from the date of issuance, unless sooner revoked, and may be renewed biannually by the State Department of Health pursuant to the provisions of the Residential

Care Act. All licenses shall be on a form prescribed by the State Commissioner of Health, and shall include, but not be limited to, the maximum bed capacity for which the license is granted, the date the license was issued, and the expiration date of the license. The provisions of the license shall require that the license shall:

1. Not be transferable or assignable except as authorized by the provisions of the Residential Care Act;

2. Be posted in a conspicuous place on the licensed premises; and

3. Be issued only for the premises named in the application, and may be renewed for twenty-four-month periods upon application, inspection, and payment of the license fee, as required by the provisions of the Residential Care Act.

B. An application shall contain the following information:

1. The name and address of the owner of the home. If the owner is a firm or partnership, the name and address of each member thereof shall be included in the application. If the owner is a corporation, the name and address of the corporation and the name and address of each officer and registered agent of the corporation shall be included in the application;

2. The name and address of the applicant if the applicant is not the owner and is acting as agent for the owner;

3. The name and location of the home for which a license is sought;

4. The name of the administrator of the home;

5. The number and type of residents for whom services are to be provided; and

6. The staffing pattern for providing resident care. In the case of an application for an initial license, the staffing pattern shown may be the projected staffing pattern.

C. Each initial application shall be accompanied by a statement from the unit of local government having zoning jurisdiction over the location of the home stating that the location is not in violation of a zoning ordinance.

D. 1. An applicant shall be twenty-one (21) years of age or older and meet the specific requirements for licensure as specified in rules promulgated by the State Board of Health pursuant to the provisions of the Residential Care Act.

2. No person who has been convicted of a felony in connection with the management or operation of a home, or facility as defined in Section 1-1902 of this title or in the care and treatment of the residents of a home, or facility as defined in Section 1-1902 or 1-1950.1 of this title shall be eligible to be licensed or to participate in the management or operation of a home.

3. If the applicant is a firm, partnership, or corporation, the applicant shall not be eligible to be licensed if any member of the firm or partnership or any officer or major stockholder of the

corporation has been convicted of a felony in connection with the operation or management of a home or facility or the care and treatment of the residents of a home or facility as defined in Section 1-1902 of this title.

E. 1. The application for a license or renewal of a license shall be accompanied by a statement of ownership which shall include the following:

a. the name, address, telephone number, occupation or business activity, business address, and business telephone number of the owner of the home and of every person who owns the building in which the home is located. If the owner is a partnership or corporation, the name and address of each partner and stockholder with an ownership interest of five percent (5%) or more shall be included in the statement, and

b. the name and address of any other home in which the owner has a full or partial financial interest or, if the owner is a partnership or corporation, any other home in which the partnership or corporation has a full or partial financial interest. The statement shall indicate whether or not any other home wherein a full or partial financial interest is held would, if located in this state, be required to be licensed.

2. The applicant shall agree in writing, prior to the issuance of a license, to notify the Department if there is any change in the information required to be included in the statement of ownership thirty (30) days in advance of such change. The information contained in the statement of ownership shall be public information and shall be available upon request from the Department.

F. Upon application of a licensee, a license may be modified in accordance with the provisions of the Residential Care Act. Such application for modification of a license shall be accompanied by a fee of Twenty Dollars ($20.00) and shall be submitted in such form and manner as required by the Department.

G. Upon payment of the required application fees, the Commissioner may issue and renew licenses which substantially comply with the provisions of the Residential Care Act and rules promulgated pursuant thereto; provided, however, a plan of correction shall be submitted and accepted by both parties prior to licensure.

H. All residential care homes shall be required to have or employ a licensed administrator for the home.

Added by Laws 1984, c. 128, § 10, eff. Nov. 1, 1984. Amended by Laws 1985, c. 135, § 3, emerg. eff. June 7, 1985; Laws 1987, c. 98, § 4, emerg. eff. May 20, 1987; Laws 2001, c. 410, § 3, eff. Nov. 1, 2001; Laws 2017, c. 367, § 1, eff. Nov. 1, 2017.

§63-1-823. Transfer of ownership of home - Probationary license required - Notice of transfer.

Whenever ownership of a residential care home is transferred from the person named in the application to another person who does not have a current license for the home, the transferee must obtain a probationary license as provided in Section 1-824 of this title.

1. The transferee shall notify the State Department of Health of the transfer and apply for a license no less than thirty (30) days prior to final transfer.

2. The transferor shall notify the Department of the transfer no less than thirty (30) days prior to final transfer and shall remain responsible for the operation of the home until such time as a probationary license is issued to the transferee. The transferor shall remain liable for all penalties assessed which are imposed for violations occurring prior to transfer of ownership.

Added by Laws 1984, c. 128, § 11, eff. Nov. 1, 1984. Amended by Laws 1987, c. 98, § 5, emerg. eff. May 20, 1987; Laws 2001, c. 410, § 4, eff. Nov. 1, 2001.

§63-1-824. Probationary license - Duration - Conditions for issuance - Termination - Issuance or denial of regular license.

If an applicant for licensure under the Residential Care Act has not been previously licensed, or if a home is not in operation at the time application is made, the State Department of Health shall issue a probationary license. A probationary license shall be valid for one hundred twenty (120) days unless sooner suspended or revoked pursuant to the provisions of the Residential Care Act.

1. Prior to the issuance of a probationary license, the Department shall:

a. ascertain whether the applicant is qualified to be licensed pursuant to the provisions of Section 1-822 of this title, and

b. inspect the home and inform the applicant of any conditions which require correction prior to the issuance of a license. If the home is a new home, the Department shall also inform the applicant of any condition which requires correction prior to the acceptance of residents into the home. If the home is an existing home whose ownership is being transferred, the probationary license issued to the transferee, in addition to any corrections required as a result of the inspection, shall be subject to any plan of correction submitted by the previous owner and approved by the Department.

2. Within thirty (30) days prior to the termination of a probationary license, the Department shall completely inspect the home and, if the home meets the applicable rules for licensure,

shall issue a license pursuant to the provisions of the Residential Care Act and rules promulgated pursuant thereto. If at the end of an extension of the probationary license, the home is not in substantial compliance with the provisions of the Residential Care Act and the rules promulgated pursuant thereto, the license shall be denied and the Department shall take such action as necessary and as authorized pursuant to the provisions of the Residential Care Act for the protection of the health, safety, and welfare of the residents of the home.
Added by Laws 1984, c. 128, § 12, eff. Nov. 1, 1984. Amended by Laws 1987, c. 98, § 6, emerg. eff. May 20, 1987; Laws 2001, c. 410, § 5, eff. Nov. 1, 2001.

§63-1-825. Violation of act - Penalties and liabilities.

Any person who violates any of the provisions of the Residential Care Act, the rules promulgated pursuant thereto by the State Board of Health, or any order or determination of the State Department of Health pursuant to the provisions of the Residential Care Act, or who fails to perform any duty imposed upon such person by the provisions of the Residential Care Act, shall be subject to any of the following penalties and liabilities as authorized by the provisions of the Residential Care Act:

1. License revocation, suspension, or nonrenewal;
2. Transfer of residents;
3. Temporary manager;
4. Injunctive proceedings;
5. Civil fines; and
6. Criminal penalties as provided in Section 1-832 of this title.

Added by Laws 1984, c. 128, § 13, eff. Nov. 1, 1984. Amended by Laws 1987, c. 98, § 7, emerg. eff. May 20, 1987; Laws 2001, c. 410, § 6, eff. Nov. 1, 2001.

§63-1-826. Denial, refusal to renew, suspension or revocation of license.

After notice and opportunity for hearing pursuant to the provisions of Section 1-830 of this title, the State Department of Health may:

1. Deny a license to an applicant who does not meet the requirements for licensure pursuant to the provisions of the Residential Care Act or rules promulgated pursuant thereto;
2. Refuse to renew, suspend, or revoke a license to a licensee or home which is not in compliance with the provisions of the Residential Care Act or the rules of the State Board of Health promulgated pursuant thereto;
3. Deny, refuse to renew, suspend, or revoke a license to an applicant, licensee, or home which has a history of noncompliance or

incomplete or partial compliance with the provisions of the Residential Care Act or the rules promulgated pursuant thereto or for which there is other satisfactory evidence which demonstrates that the applicant or licensee is unlikely to manage or operate a home or to provide care or treatment to the residents of a home in a manner which warrants public trust;

4. Deny, refuse to renew, suspend, or revoke a license to an applicant or licensee who has insufficient financial or other resources to the extent that the applicant or licensee is incapable of assuring or providing adequate care or treatment to the residents of the home;

5. Deny, refuse to renew, suspend, or revoke a license to an applicant or licensee who has been convicted of a felony in connection with the management or operation of a home, or facility as defined in Section 1-1902 of this title, or the care or treatment of a resident of the home, or facility as defined in Section 1-1902 of this title;

6. Deny, refuse to renew, suspend, or revoke a license if an administrator or operator of a home has been convicted of a felony in connection with the management or operation of a home, or facility as defined in Section 1-1902 or 1-1950.1 of this title, or care or treatment of a resident of the home, or facility as defined in Section 1-1902 of this title;

7. Deny, refuse to renew, suspend, or revoke a license to an applicant or licensee who has permitted, aided, or abetted the commission of any illegal act in connection with the management or operation of a home or the care or treatment of a resident of a home;

8. Refuse to renew a license if, at the time application is made for the renewal of the license, the licensee or home is subject to a plan of correction. The license may be renewed at such time as the required corrections are completed in the manner and time specified in the plan of correction. If a license is issued or renewed with a plan of correction, such license may be suspended if the required corrections are not completed in the manner and time specified in the plan of correction; or

9. Suspend or revoke a license if the licensee has failed to submit a plan of correction or to correct conditions as required in a plan of correction pursuant to the provisions of Section 1-831 of this title.

Added by Laws 1984, c. 128, § 14, eff. Nov. 1, 1984. Amended by Laws 1987, c. 98, § 8, emerg. eff. May 20, 1987; Laws 2001, c. 410, § 7, eff. Nov. 1, 2001.

§63-1-827. Effective date of nonrenewal, suspension or revocation of license - Hearing - New application - New license.

A. If a hearing is not requested, the effective date of the nonrenewal, suspension, or revocation shall be as follows:

1. In cases of nonrenewal of a license the effective date shall be the expiration date of the license. The date may be extended no longer than necessary to permit the orderly removal of the residents; or

2. In cases of revocation or suspension of the license the effective date shall be the date set by the State Department of Health in the notice of revocation. The date shall be no later than necessary to permit the orderly removal of the residents.

B. If a hearing is requested, unless otherwise ordered by a district court, the effective date of the nonrenewal, suspension, or revocation of a license shall be set upon final action after the hearing and shall be no later than necessary to permit the orderly removal of the residents.

C. A new application of the applicant or licensee whose license was not renewed, suspended, or revoked may be considered after ninety (90) days upon receipt of satisfactory evidence that the conditions upon which such nonrenewal, suspension, or revocation was based have been corrected. A new license may be granted after a full and complete inspection or investigation and the applicant or licensee and the home are in substantial compliance with the provisions of the Residential Care Act and the rules promulgated thereto by the State Board of Health.

Added by Laws 1984, c. 128, § 15, eff. Nov. 1, 1984. Amended by Laws 1987, c. 98, § 9, emerg. eff. May 20, 1987; Laws 2001, c. 410, § 8, eff. Nov. 1, 2001.

§63-1-828. Fire safety inspections - Fire safety rules and regulations.

The State Fire Marshal or a designee shall conduct fire safety inspections on a regular basis at residential care homes and report any findings from the inspections to the State Department of Health. In addition, the State Fire Marshal shall develop, adopt, and promulgate rules, or specifications consistent with nationally recognized standards or practices necessary for the safeguarding of life and property of residents of residential care homes from the hazards of fire and smoke.

Added by Laws 1984, c. 128, § 16, eff. Nov. 1, 1984. Amended by Laws 1987, c. 98, § 10, emerg. eff. May 20, 1987; Laws 2001, c. 410, § 9, eff. Nov. 1, 2001.

§63-1-828.1. State agencies - Placement of persons in unlicensed residential care homes prohibited.

No state agency shall knowingly place, refer, or recommend placement of a person in need of care in an unlicensed residential care home.

Added by Laws 1987, c. 98, § 20, emerg. eff. May 20, 1987.

§63-1-829. Inspections and investigations - Reports.

A. Every home for which a license has been issued shall be inspected by a duly appointed representative of the State Department of Health pursuant to rules promulgated by the State Board of Health with the advice and counsel of the Long-Term Care Facility Advisory Board. Inspection reports shall be prepared on forms prescribed by the Department with the advice and counsel of the Advisory Board.

B. 1. The Department shall at least one time a year and whenever it deems necessary inspect, survey, and evaluate each home to determine compliance with applicable licensure rules.

2. An inspection, investigation, survey, or evaluation shall be either announced or unannounced. The State Board of Health shall promulgate rules determining the criteria when an inspection, investigation, survey or evaluation shall be unannounced or may be announced by the Department. Any licensee, applicant for a license or operator of any unlicensed facility shall be deemed to have given consent to any duly authorized employee, agent of the Department to enter and inspect the home in accordance with the provisions of the Residential Care Act. Refusal to permit such entry or inspection shall constitute grounds for the denial, nonrenewal, suspension, or revocation of a license as well as emergency transfer of all residents.

3. Any employee of the Department who discloses to any unauthorized person, prior to an inspection, information regarding an unannounced residential care home inspection that is required pursuant to the provisions of the Residential Care Act shall, upon conviction thereof, be guilty of a misdemeanor. In addition, such action shall be construed to be a misuse of office and punishable as a violation of rules promulgated by the Ethics Commission.

One person may be invited from a statewide organization of older adults or persons with disabilities by the Department to act as a citizen observer in any inspection.

C. The Department shall maintain a log, updated at least monthly and available for public inspection, which shall at a minimum detail:

1. The name of the home and date of inspection, investigation, survey, or evaluation;

2. Any deficiencies, lack of compliance, or violation noted at the inspection, investigation, survey, or evaluation;

3. The date a notice of violation, license denial, nonrenewal, suspension, or revocation was issued or other enforcement action occurred;

4. The date a plan of correction was submitted and the date the plan was approved;

5. The date corrections were completed, as verified by an inspection; and

6. If the inspection or investigation was made pursuant to the receipt of a complaint, the date such complaint was received and the date the complainant was notified of the results of the inspection or investigation.

D. The Department may require the residential care home to submit periodic reports. The Department shall have access to books, records and other documents maintained by the home to the extent necessary to implement the provisions of the Residential Care Act and the rules promulgated by the Board pursuant thereto.

E. The Department shall make at least one annual report on each home in the state. The report shall include all conditions and practices not in compliance with the provisions of the Residential Care Act or rules promulgated pursuant thereto within the last year and, if a violation is corrected, or is subject to an approved plan of correction. The Department shall send a copy of the report to any person upon receiving a written request. The Department may charge a reasonable fee to cover the cost of copying and mailing the report.

F. A state or local ombudsman as that term is defined by the Special Unit on Aging within the Department of Human Services pursuant to the Older Americans' Act, 42 U.S.C.A., Section 3001 et seq., as amended, or case manager employed by the Department of Mental Health and Substance Abuse Services or one of its contract agencies is authorized to accompany and shall be notified by the Department of any inspection conducted of any home licensed pursuant to the provisions of the Residential Care Act. Any state or local ombudsman is authorized to enter any home licensed pursuant to the provisions of the Residential Care Act, communicate privately and without unreasonable restriction with any resident of a home who consents to such communication, to seek consent to communicate privately and without restriction with any resident of a home, and to observe all areas of a home that directly pertain to the care of a resident of a home.

G. Following any inspection by the Department, pursuant to the provisions of this section, all reports relating to the inspection shall be filed in the county office of the Department of Human Services in which the home is located and with the Department of Mental Health and Substance Abuse Services.

Added by Laws 1984, c. 128, § 17, eff. Nov. 1, 1984. Amended by Laws 1987, c. 98, § 11, emerg. eff. May 20, 1987; Laws 1990, c. 51, § 132, emerg. eff. April 9, 1990; Laws 2001, c. 410, § 10, eff. Nov. 1, 2001; Laws 2017, c. 367, § 2, eff. Nov. 1, 2017.

§63-1-830. Complaints - Notice - Hearing - Orders - Emergencies.

A. Whenever the State Department of Health determines that a home is in violation of the provisions of the Residential Care Act or any rule promulgated pursuant thereto, the Department shall give written notice to the home of the violation.

B. The Department shall give the notice specified by the provisions of subsection A of this section within ten (10) business days of an inspection or investigation of the home.

C. The home may request a hearing within ten (10) business days of receipt of the notice. On the basis of the evidence produced at the hearing, the Department shall make findings of fact and conclusions of law and enter an order thereon. The Department shall give written notice of such order to the alleged violator and to such other persons as shall have appeared at the hearing and made written request for notice of the order. The Department may enter its order on the basis of such record or, before issuing its order, require additional hearings or further evidence to be presented. The order of the Department shall become final and binding on all parties unless appealed to the district court as provided in Sections 317 through 325 of Title 75 of the Oklahoma Statutes within thirty (30) days after notice has been sent to the parties.

D. Whenever the Department finds that an emergency exists requiring immediate action to protect the public health or welfare of any resident of a home licensed pursuant to the provisions of the Residential Care Act, the Department may without notice or hearing issue an order stating the existence of such an emergency and requiring that such action be taken as it deems necessary to meet the emergency. Such order shall be effective immediately. The State Board of Health shall adopt rules that establish criteria for the emergency transfer of residents initiated by the State Department of Health, including notice and hearings, if the resident is aggrieved by the decision. Any person to whom such an order is directed shall comply with the order immediately but on application to the Department shall be afforded a hearing within ten (10) business days of receipt of the notice. On the basis of such hearing, the Department shall continue such order in effect, revoke it, or modify it. Any person aggrieved by such order continued after the hearing provided for in this subsection may appeal to the district court of the area affected within thirty (30) days. Such appeal when docketed shall have priority over all cases pending on the docket, except criminal cases.

E. The hearings authorized by this section may be conducted by the Department. The Department may designate hearing officers who shall have the power and authority to conduct such hearings in the name of the Department at any time and place. Such hearings shall be conducted in conformity with and records made thereof as provided by the provisions of Sections 309 through 326 of Title 75 of the Oklahoma Statutes.

Added by Laws 1984, c. 128, § 18, eff. Nov. 1, 1984. Amended by Laws 1987, c. 98, § 12, emerg. eff. May 20, 1987; Laws 2001, c. 410, § 11, eff. Nov. 1, 2001.

§63-1-830.1. Participation in dispute resolution panels

A. Upon written request to the State Department of Health, a residential care home as defined by the Residential Care Act may choose to participate in an informal dispute resolution panel or an alternate dispute resolution panel. Such request shall be made within thirty (30) days of the receipt of a Statement of Deficiencies from the Department.

B. The informal dispute resolution process provided by subsection A of this section shall be the same as that provided by Sections 1-1914.3 through 1-1914.10 of Title 63 of the Oklahoma Statutes.

C. The alternate informal dispute resolution process provided by subsection A of this section shall be the same provided by Sections 1-1914.13 through 1-1914.16 of Title 63 of the Oklahoma Statutes.

D. The State Department of Health shall appoint the informal dispute resolution panel, to be comprised of the following impartial members:

1. Two members who are representative volunteers with experience in the operation of a residential care home;

2. One member that is an employee of the Department with experience in residential care home surveys;

3. One representative from the aging and disabled community but not representing a state agency; and

4. One member who is a lay member and is not employed by the Department.

E. The State Board of Health shall promulgate rules to implement the provisions of this act.

Added by Laws 2016, c. 104, § 1, eff. Nov 1, 2016.

§63-1-830.2. Challenge to statement of deficiency – Informal dispute resolution – Alternative informal dispute resolution.

A. Any residential care home, as defined in paragraph 12 of Section 1-820 of Title 63 of the Oklahoma Statutes, that wishes to challenge a statement of deficiency through either an informal dispute resolution process or an alternative informal dispute resolution process may make a written request to the State Department of Health within thirty (30) calendar days after the receipt of a statement of deficiencies from the Department.

B. The informal dispute resolution process for violations of the Residential Care Act or any rule promulgated pursuant thereto shall follow the process contained in Sections 1-1914.3, 1-1914.4,

subsections B and C of 1-1914.5 and 1-1914.6 through 1914.10 of Title 63 of the Oklahoma Statutes.

C. The alternative informal dispute resolution process for violations of the Residential Care Act or any rule promulgated pursuant thereto shall follow the process contained in Sections 1-1914.11 through 1-1914.16 of Title 63 of the Oklahoma Statutes.

D. An impartial decision-making panel for the alternative informal dispute resolution set forth in subsection C of this section shall be comprised of the following members:

1. Two members who are representative volunteers who have experience in the operation of a residential care home;

2. One member who is an employee of the Department and has experience in the survey process from residential care homes;

3. One member who is a representative from the aging and disabled community and who does not represent a state agency; and

4. One member who is a lay member and who is not employed by the Department.

Added by Laws 2016, c. 198, § 1, eff. Nov. 1, 2016.
NOTE: Editorially renumbered from § 1-830.1 of this title to avoid duplication in numbering.

§63-1-831. Report or plan of correction.

A. If the violations specified in the notice required by Section 1-830 of this title have been corrected prior to the date of filing of a plan of correction, the home may submit a report of correction in place of a plan of correction as specified in subsection B of this section. Such report shall be signed by the administrator or operator.

B. A home shall have ten (10) business days after receipt of notice of violation in which to prepare and submit a plan of correction. The plan shall include a fixed time period within which violations are to be corrected. The Department may grant an extended period where correction involves substantial capital improvement. If the Department rejects a plan of correction, it shall send notice of the rejection and the reason for the rejection within ten (10) business days of receipt of the plan of correction to the home. The home shall have ten (10) business days after receipt of the notice of rejection in which to submit a modified plan. If the modified plan is not timely submitted, or if the modified plan is rejected, the home shall follow a directed plan of correction imposed by the Department which shall be submitted to the home within thirty (30) days.

Added by Laws 1984, c. 128, § 19, eff. Nov. 1, 1984. Amended by Laws 1987, c. 98, § 13, emerg. eff. May 20, 1987; Laws 2001, c. 410, § 12, eff. Nov. 1, 2001.

§63-1-832. Prohibited acts - Violations.

A. No person shall willfully:

1. Fail to correct or interfere with the correction of a violation within the time specified on the notice or approved plan of correction pursuant to the provisions of the Residential Care Act as the maximum period given for correction, unless an extension is granted and the corrections are made before expiration of extension;

2. Prevent, interfere with, or attempt to impede in any way the work of any duly authorized representative of the State Department of Health in the investigation and enforcement of the Residential Care Act;

3. Prevent or attempt to prevent any such representative from examining any relevant books or records in the conduct of official duties pursuant to the provisions of the Residential Care Act;

4. Prevent or interfere with any such representative in the preserving of evidence of any violation of the Residential Care Act or the rules promulgated pursuant thereto;

5. Retaliate or discriminate against any resident or employee for contacting or providing information to any state official, or for initiating, participating in, or testifying in an action for any remedy authorized pursuant to the provisions of the Residential Care Act;

6. File any false, incomplete, or intentionally misleading information required to be filed pursuant to the provisions of the Residential Care Act, or willfully fail or refuse to file any information required by the Department pursuant to the provisions of the Residential Care Act; or

7. Open or operate a home without a license. Operation of a residential care home without a license is a public health emergency warranting action pursuant to the provisions of Section 1-830 of this title.

B. No employee of a state or unit of a local governmental agency shall aid, abet, assist, conceal or conspire with an administrator, operator or other employee of a home in a violation of any provision of the Residential Care Act or any rule promulgated by the State Board of Health pursuant thereto.

C. Any person who violates any of the provisions of the Residential Care Act, upon conviction, shall be guilty of a misdemeanor. Each day upon which such violation occurs shall constitute a separate violation.

Added by Laws 1984, c. 128, § 20, eff. Nov. 1, 1984. Amended by Laws 1985, c. 135, § 4, emerg. eff. June 7, 1985; Laws 1987, c. 98, § 14, emerg. eff. May 20, 1987; Laws 2001, c. 410, § 13, eff. Nov. 1, 2001.

§63-1-833. Penalties.

A. Any person who has been determined by the State Department of Health to have violated any provision of the Residential Care Act

or any rule promulgated pursuant thereto may be liable for a civil penalty of not more than One Hundred Dollars ($100.00) for each day that the violation continues. The maximum civil penalty shall not exceed Ten Thousand Dollars ($10,000.00) for any related series of violations.

B. The amount of the penalty shall be assessed by the Department pursuant to the provisions of subsection A of this section, after notice and hearing. In determining the amount of the penalty, the Department shall include, but not be limited to, consideration of the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, the effect on ability of the person to continue to do business, and any show of good faith in attempting to achieve compliance with the provisions of the Residential Care Act.

C. Any license holder may elect to surrender his or her license in lieu of the fine but shall be forever barred from obtaining a reissuance of the license.

Added by Laws 1984, c. 128, § 21, eff. Nov. 1, 1984. Amended by Laws 1987, c. 98, § 15, emerg. eff. May 20, 1987; Laws 2001, c. 410, § 14, eff. Nov. 1, 2001.

§63-1-834. Prosecution of violations - Action for equitable relief.

A. The Attorney General, the State Department of Health or the district attorney of the appropriate district court of Oklahoma may bring an action in a court of competent jurisdiction for the prosecution of a violation by any person of a provision of the Residential Care Act or any rule promulgated pursuant thereto.

B. 1. Enforcement of any action for equitable relief to redress or restrain a violation by any person of a provision of the Residential Care Act or for an injunction or recovery of any administrative or civil penalty assessed pursuant to the Residential Care Act may be brought by:

a. the district attorney of the appropriate district court of the State of Oklahoma,

b. the Attorney General on behalf of the State of Oklahoma in the appropriate district court of the State of Oklahoma, or

c. the Department on behalf of the State of Oklahoma in the appropriate district court of the State of Oklahoma, or as otherwise authorized by law.

2. The court has jurisdiction to determine the action, and to grant the necessary or appropriate relief including, but not limited to, mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

Added by Laws 1984, c. 128, § 22, eff. Nov. 1, 1984. Amended by Laws 1987, c. 98, § 16, emerg. eff. May 20, 1987; Laws 1988, c. 233,

§ 3, operative July 1, 1988; Laws 2001, c. 410, § 15, eff. Nov. 1, 2001.

§63-1-835. Administration of medication to resident.

Administration of medication to a resident of a home shall be administered by a person who has obtained appropriate training from a technology center school or institution of higher education. Added by Laws 1984, c. 128, § 23, eff. Nov. 1, 1984. Amended by Laws 1985, c. 135, § 5, emerg. eff. June 7, 1985; Laws 2001, c. 33, § 60, eff. July 1, 2001.

§63-1-836. Rules ensuring minimum standards for homes.

A. The State Board of Health shall promulgate rules to enforce the provisions of the Residential Care Act. Such rules shall regulate:

1. Location and construction of the home, including plumbing, heating, lighting, ventilation, and other physical conditions which shall ensure the health, safety, and comfort of residents and protection from fire hazards;

2. Number of all personnel, including management and supervisory personnel, having responsibility for any part of the care given to residents. The Department shall establish staffing ratios for homes which shall specify the number of staff hours of care per resident that are needed for care for various types of homes or areas within homes. Minimum personnel ratio requirements for all homes shall be based only on average daily census;

3. All sanitary conditions within the home and its surroundings, including water supply, sewage disposal, food handling, and general hygiene, which shall ensure the health and comfort of residents;

4. Diet-related needs of each resident based on sound nutritional practice and on recommendations which may be made by the physicians attending the resident;

5. Equipment essential to the health and welfare of the residents; and

6. Rehabilitation programs for those residents who would benefit from such programs.

B. 1. In order to further ensure minimum standards for homes, a certificate of training as specified shall be required of all:

a. administrators, who shall obtain a residential care administrator certificate of training, and

b. direct care staff responsible for administration of medication to residents, who shall obtain a residential care certificate of training.

2. The certificate will be developed and administered by an institution of higher learning with the advice of the State

Commissioner of Health and of the Long-Term Care Facility Advisory Board.

a. (1) For residential care home administrators the training shall consist of a minimum of fifty (50) hours which shall include at least fifteen (15) hours of training in the administration of medication and shall also include, but not be limited to, training in:
(a) administration,
(b) supervision,
(c) reporting,
(d) record keeping,
(e) independent or daily living skills,
(f) leisure skills and recreation, and
(g) public relations concerning the issues associated with the operation of residential care homes and programs.

(2) An individual applying for certification as an administrator may at any time present the institution of higher education with documentation of prior education and work experience for consideration for possible credit toward certification.

(3) Any person employed as an administrator after July 1, 1988, shall have completed the training specified by this division.

(4) Thereafter, annually, at least sixteen (16) hours of training in the subjects specified by this division shall be required for such administrator.

(5) A certified administrator may make a written request to the Commissioner to be placed in an inactive status for up to five (5) subsequent calendar years. Such inactive status shall allow the administrator to waive the educational requirements for the period of the request. Such certified administrator shall not work in a residential care administrator capacity in Oklahoma until such time as the certificate is reactivated. The request to reactivate the certificate shall be made in writing to the Commissioner. Such administrator shall then be required to complete sixteen (16) hours of training in the subjects specified in this division.

b. All direct care staff who are responsible for administration of medication to residents shall be

required to begin training in the administration of medication within ninety (90) days of employment with the home and to satisfactorily complete at least fifteen (15) hours of training in the administration of medication, within the first year of employment with the home.

3. All other direct care staff who are employed by a residential care home, within ninety (90) days of employment with the home, shall be required to begin eight (8) hours of in-service training, to be administered by the administrator of the home or other person designated by the administrator of the home and completed within twelve (12) months from such person's date of employment, and annually thereafter. Thereafter such direct care staff and the direct care staff responsible for administering medication to residents shall, annually, be required to receive at least eight (8) hours of training by the administrator of the home in:

a. patient reporting and observation,
b. record keeping,
c. independent or daily living skills,
d. leisure skills and recreation,
e. human relations, and
f. such other training relevant to residential care programs and operations.

4. The requirement of certification and the training specified pursuant to the provisions of this subsection shall be included in the rules promulgated by the Board.

5. Failure of the owner or administrator to ensure the training required pursuant to this subsection is received shall constitute a violation of the Residential Care Act and shall be grounds for revocation of licensure. Proof of successful completion of such training for the residential care home administrator and direct care staff shall be required prior to issuance or renewal of a license issued pursuant to the provisions of the Residential Care Act. The Department shall not renew any license for any residential care home if the training required by this subsection has not been completed. Added by Laws 1984, c. 128, § 24, eff. Nov. 1, 1984. Amended by Laws 1985, c. 135, § 6, emerg. eff. June 7, 1985; Laws 1987, c. 98, § 17, emerg. eff. May 20, 1987; Laws 1988, c. 233, § 2, operative July 1, 1988; Laws 1998, c. 110, § 1, eff. Nov. 1, 1998; Laws 2001, c. 410, § 16, eff. Nov. 1, 2001.

§63-1-837. Insuring life of resident - Persons eligible - Assignment of benefits of life insurance policy.

A. No owner, administrator, or operator of a residential care home shall have an insurable interest in the life of a resident of

the home unless the owner, administrator or operator is related to the resident by blood or marriage.

B. No owner, administrator or operator of a residential care home shall be entitled or assigned to any benefits of a life insurance policy on a resident unless the owner, administrator or operator is related to the resident by blood or marriage.

Added by Laws 1984, c. 128, § 25, eff. Nov. 1, 1984. Amended by Laws 1987, c. 98, § 18, emerg. eff. May 20, 1987; Laws 2001, c. 410, § 17, eff. Nov. 1, 2001.

§63-1-838. Repealed by Laws 2001, c. 410, § 21, eff. Nov. 1, 2001.

§63-1-839. Disposition of monies received by Department.

All monies received by the State Department of Health, from any monies received as a result of an assessment of a civil penalty pursuant to the provisions of the Residential Care Act shall be deposited in the Public Health Special Fund created in Section 1-107 of this title.

Added by Laws 1984, c. 128, § 27, eff. Nov. 1, 1984. Amended by Laws 1986, c. 312, § 15, operative July 1, 1986; Laws 1987, c. 98, § 19, emerg. eff. May 20, 1987; Laws 2001, c. 410, § 18, eff. Nov. 1, 2001.

§63-1-840. Other provisions applicable to residential care homes.

Residential care homes subject to the provisions of the Residential Care Act shall comply with the provisions of Sections 1-1909, 1-1910, 1-1914.1, 1-1914.2, 1-1915, 1-1917, 1-1918, 1-1919, 1-1920, 1-1921, 1-1922, 1-1924, 1-1926, 1-1927, 1-1930, 1-1939, 1-1940 and 1-1941 of this title.

Added by Laws 1984, c. 128, § 28, eff. Nov. 1, 1984. Amended by Laws 1985, c. 135, § 7, emerg. eff. June 7, 1985; Laws 1986, c. 10, § 1, emerg. eff. March 17, 1986; Laws 1987, c. 98, § 21, emerg. eff. May 20, 1987; Laws 1995, c. 230, § 6, eff. July 1, 1995.

§63-1-841. Accounting of clients' financial records.

The State Department of Health shall require as a condition of licensure for residential care facilities that an accounting be made of financial records of each client for which the facility is the payee in each such residential facility. Such accounting shall be recorded and given to the resident and/or the resident’s representative upon request. The records may be inspected by any employee of the Department during any regular inspection or at any time a complaint is received by the Department regarding a client's finances.

Added by Laws 1995, c. 230, § 3, eff. July 1, 1995. Amended by Laws 2001, c. 410, § 19, eff. Nov. 1, 2001.

§63-1-842. Residents' representatives.

A. Any contract or application for admission to a residential care facility shall include provisions for the applicant to designate an individual to be the "representative of a resident". The individual so designated shall have a fiduciary duty to the resident to act at all times in the best interests of the resident. Any resident of a residential care facility may change the designation of a representative at any time and for any reason. No representative shall be required to serve in such capacity if the person objects to serving, and may resign as representative upon written notice to the resident and the facility.

B. Upon admission or the signing of a contract for admission to a residential care facility or any modifications to the contract for admission, the representative of the resident shall be notified of the admission, the contract or any modifications to the contract.

C. If a resident is subject to a special, limited or full guardianship, pursuant to the provisions of the Oklahoma Guardianship and Conservatorship Act or the Protective Services for the Elderly and for Incapacitated Adults Act, the representative of the resident shall be the court-appointed guardian.

Added by Laws 1995, c. 230, § 5, eff. July 1, 1995.

§63-1-849. Renumbered as § 629 of Title 57 by Laws 2015, c. 227, § 2, eff. Nov. 1, 2015.

§63-1-850. Short title.

Sections 6 through 17 of this act shall be known and may be cited as the Long-term Care Certificate of Need Act.

Added by Laws 1989, c. 227, § 5.

§63-1-851. Public policy as to development of long-term services.

The Legislature hereby declares that it is the public policy of the State of Oklahoma that the offering and development of long-term care services should be made in a planned, orderly and economical manner consistent with and appropriate to services needed by people in various regions, districts or localities in the State of Oklahoma, and that it is essential to the realization of this public policy that the offering and development of long-term care services in the state be made in accordance with the needs for such services. It is the purpose of the Legislature in enacting this act to further this public policy by providing for the submittal of plans and applications, and by prohibiting the offering, development or change of existing services prior to the issuance of a certificate of need by the State Department of Health.

Added by Laws 1971, c. 64, § 1, emerg. eff. April 8, 1971. Amended by Laws 1980, c. 188, § 2, eff. July 1, 1980; Laws 1986, c. 149, §

12, emerg. eff. April 29, 1986; Laws 1989, c. 227, § 6, operative July 1, 1989.

§63-1-851.1. Definitions.

For purposes of the Long-term Care Certificate of Need Act:

1. "Board" means the State Board of Health;
2. "Commissioner" means the State Commissioner of Health;
3. "Department" means the State Department of Health;
4. "Long-term care facility" means:
    a. a nursing facility or a specialized facility, as such terms are defined by Section 1-1902 of this title,
    b. skilled nursing care provided in a distinct part of a hospital as such term is defined by Section 1-701 of this title,
    c. the nursing care component of a continuum of care facility, as such term is defined under the Continuum of Care and Assisted Living Act, or
    d. the nursing care component of a life care community as such term is defined by the Long-term Care Insurance Act;
5. "Disclosure statement" means a written statement by the applicant which contains:
    a. the full name, business address, and social security number of the applicant, and all persons with controlling interest as defined by the Long-term Care Certificate of Need Act,
    b. the full name and address of any legal entity in which the applicant holds a debt or equity interest of at least five percent (5%), or which is a parent company or subsidiary of the applicant,
    c. a description of the experience and credentials of the applicant, including any past or present permits, licenses, certifications, or operational authorizations relating to long-term care facility regulation,
    d. a listing and explanation of any administrative, civil or criminal legal actions against the applicant or any person with a controlling interest which resulted in a final agency order or final judgment by a court of record including, but not limited to, final orders or judgments on appeal related to long-term care in the five (5) years immediately preceding the filing of the application. Such actions shall include, without limitation, any permit denial or any sanction imposed by a state regulatory authority or the Centers for Medicare and Medicaid Services, and

e. a listing of any federal long-term care agency and any state long-term care agency outside this state that has or has had regulatory responsibility over the applicant;

6. “History of noncompliance” means three standard or complaint surveys found to be at the substandard quality of care level when the facility does not achieve compliance by date certain in a nursing facility or specialized facility for persons with Alzheimer’s disease or related disorders. Additionally, “history of noncompliance” for an intermediate care or specialized facility for persons with mental retardation means three consecutive routine or complaint surveys that resulted in determinations that the facility was out of compliance with two or more Conditions of Participation in the Medicaid program within the preceding thirty-six (36) months when the facility does not achieve compliance within sixty (60) days;

7. “Person” means any individual, corporation, industry, firm, partnership, association, venture, trust, institution, federal, state or local governmental instrumentality, agency or body or any other legal entity however organized; and

8. "Person with a controlling interest" means a person who meets any one or more of the following requirements:

a. controls fifty percent (50%) or more of the common stock of the corporate entity involved or controls fifty percent (50%) or more of the interest in the partnership involved,

b. controls a percentage of stock greater than any other stockholder or equal to the other single largest stockholder or controls a percentage of partnership interest greater than any other partner or equal to the other single largest partnership interest, or

c. a managing member of a Limited Liability Company (LLC).

Added by Laws 1989, c. 227, § 7, operative July 1, 1989. Amended by Laws 1996, c. 336, § 1, eff. Nov. 1, 1996; Laws 1997, c. 223, § 9, emerg. eff. May 20, 1997; Laws 2000, c. 340, § 12, eff. July 1, 2000; Laws 2001, c. 285, § 1, eff. Nov. 1, 2001; Laws 2004, c. 436, § 1, emerg. eff. June 4, 2004.

§63-1-851.2. Department - Powers and duties - Participation in federal programs - Collection of monthly data.

A. The State Commissioner of Health shall have the power and duty to:

1. Issue, renew, deny, modify, suspend and revoke certificates of need;

2. Establish and enforce standards and requirements for certificates of need;

3. Require the submission of and to review reports from any person requesting or obtaining a certificate of need;

4. Employ or designate personnel necessary to implement the provisions of the Long-term Care Certificate of Need Act;

5. Report to the district attorney having jurisdiction or the Attorney General, any act committed by any person which may constitute a violation pursuant to the provisions of the Long-term Care Certificate of Need Act;

6. Advise, consult and cooperate with other agencies of this state, the federal government, other states and interstate agencies, and with affected groups and political subdivisions to further the purposes of the provisions of the Long-term Care Certificate of Need Act;

7. Promulgate and enforce rules subject to the approval of the State Board of Health to implement the provisions of the Long-term Care Certificate of Need Act;

8. Investigate, request or otherwise obtain the information necessary to determine the qualifications and background of an applicant for a certificate of need;

9. Establish administrative penalties for violations of the provisions of the Long-term Care Certificate of Need Act as authorized by the Board;

10. Institute and maintain or intervene in any action or proceeding where deemed necessary by the Department pursuant to the Long-term Care Certificate of Need Act;

11. Develop and administer plans for health services including, but not limited to, staffing, facilities and other resources;

12. Develop and publish, once every four (4) years, a Quadrennial State Health Plan, following guidelines and procedures adopted by the Board which specify the method of adoption of the plan document, its format, provisions for developing and publishing plan amendments and the role of the State Department of Health, local health planning advisory councils and the Alcohol, Drug Abuse and Community Mental Health Planning and Coordination Boards of each mental health catchment area in its development;

13. Establish and administer criteria and standards for the delineation and approval of areas and regions for health planning purposes;

14. Promote and maintain plans for providing health services including, but not limited to, health, staffing and health facilities, in this state; and

15. Exercise all incidental powers as necessary and proper for the administration of the Long-term Care Certificate of Need Act.

B. The State Department of Health shall be the single state agency to participate in federal programs for health planning and to apply for and administer federal funds for health planning, provided, that the Long-term Care Certificate of Need Act, and any

other law vesting planning functions in any other state agency, shall not apply to health planning functions vested by law in the Department of Mental Health and Substance Abuse Services, the Oklahoma Health Care Authority and the Department of Human Services.

C. Facility occupancy data used in the review of Certificate of Need applications shall be based upon monthly reports that are submitted by facilities to the Oklahoma Heath Care Authority pursuant to Section 1-1925.2 of this title and that are available to the public upon request.

Added by Laws 1989, c. 227, § 8, operative July 1, 1989. Amended by Laws 1990, c. 51, § 133, emerg. eff. April 9, 1990; Laws 1996, c. 336, § 2, eff. Nov. 1, 1996; Laws 2004, c. 436, § 2, emerg. eff. June 4, 2004.

§63-1-851.3. Certificate of need required.

No long-term care facility shall be developed, acquired or offered unless a certificate of need therefor has been issued as provided in the Long-term Care Certificate of Need Act. No governmental entity shall approve any grant of funds, issue any debentures or issue or renew any license for the operation of a long-term care facility, nor shall any third-party purchasers, licensed or operated by this state, issue reimbursement for services provided to its insurers or clients, unless the certificate of need as provided in the Long-term Care Certificate of Need Act has been obtained.

Added by Laws 1989, c. 227, § 9, operative July 1, 1989. Amended by Laws 1996, c. 336, § 3, eff. Nov. 1, 1996.

§63-1-852. Long-term care facility certificate of need - Requirements - Exemptions.

A. Every entity desiring to establish a new long-term care facility, to expand an existing facility whether through construction or conversion of facilities, or to acquire an existing long-term care facility shall make application to the State Department of Health for a certificate of need. The application for a certificate of need shall be in such form as the State Commissioner of Health shall prescribe.

B. A certificate of need shall be required for:

1. Any capital investment or lease of One Million Dollars ($1,000,000.00) or more, including predevelopment activities such as arrangements and commitments for financing, architectural designs, plans, working drawings, specifications, and site acquisition; provided, that this dollar limit shall not apply to a change in bed capacity;

2. Acquisition of the ownership or operation of a facility whether by purchase, lease, donation, transfer of stock or interest,

management contract, corporate merger, assignment, or through foreclosure; and

3. An increase in licensed beds, whether through establishment of a new facility or expansion of an existing facility.

C. The Department within fifteen (15) days after receipt of an application, shall issue an exemption from certificate of need requirements upon written request and demonstration that applicable exemption criteria have been met, for any of the following activities:

1. An increase of no more than ten beds or ten percent (10%) of the facility's licensed beds, whichever is greater, per calendar year if:

a. the total capital cost of the increase is less than One Million Dollars ($1,000,000.00), and

b. the facility's occupancy rate averaged ninety-three percent (93%) or more during the twelve (12) months preceding the filing of the exemption request;

2. Construction of a long-term care facility to replace or relocate all or part of the licensed bed capacity of an existing facility if:

a. the project involves no increase in licensed beds;

b. the facility shall be constructed no farther than three (3) miles for rural areas and seven and one-half (7 1/2) miles for urban areas, as defined by the Standard Metropolitan Statistical Area (SMSA), from the facility it is replacing or relocating, and

c. a plan for the use of the facility to be replaced or relocated is provided that ensures continuity of services; and

3. A management agreement if:

a. the management entity discloses all persons with controlling interest in the management entity and discloses all experience in long-term care facility management or operation in any state during the preceding thirty-six (36) months,

b. the management entity and any person with controlling interest if the management entity has less than thirty-six (36) months experience in management or operation of facilities, does not have a history of noncompliance, and

c. the licensed entity remains responsible for facility operation, financial performance, staffing and delivery of resident services required under the Nursing Home Care Act.

D. A certificate of need shall not be required for:

1. Any changes of ownership resulting from the operation of law, including but not limited to divorce, probate, reversions and

bankruptcy if the transfer of interest is to any already existing stockholder or person or entity listed on the license application disclosure statement. This shall also include cancellations and expirations of leases. Operational law ownership changes shall be reported to the Department within five (5) working days of the change;

2. Ownership changes for estate planning purposes, treasury stock purchases, and transfers between existing owners and/or family members; increases in the amount of common stock or partnership interest for any individual who already owns fifty percent (50%) of the common stock or corporate entity involved or controls fifty percent (50%) or more of the interest in the partnership involved; and

3. New purchases of common stock or partnership interest by any legal entity if such new purchaser will own, in total, less than fifty percent (50%) of the corporate entity involved or partnership involved.

E. All applicants for the issuance of a certificate of need, at such time and in such manner as required by the Department, shall file:

1. A disclosure statement with their applications unless the applicant is a publicly held company required to file periodic reports under the Securities and Exchange Act of 1934, or a wholly owned subsidiary of a publicly held company. In such case, the applicant shall not be required to submit a disclosure statement, but shall submit the most recent annual and quarterly reports required by the Securities and Exchange Commission, which provide information regarding legal proceedings in which the applicant has been involved;

2. Copies of residents council minutes and family council minutes, if any, and the facility's written response to the councils' requests or grievances, for the three (3) months prior to the date of application, for each of the applicant's current holdings in the State of Oklahoma; and

3. Such other relevant information required by the Department pursuant to the Long-term Care Certificate of Need Act that relates to the competency, reliability, or responsibility of the applicant and affiliated persons.

F. An application for a certificate of need shall be signed under oath by the applicant.

G. Promptly upon receipt of any such application, the Department shall examine and transmit the application to reviewing bodies selected by the Department to assist the Department in determining whether the application is complete. Once the Department has determined that the application is complete, it shall notify the affected parties and other reviewing bodies and cause a thorough investigation to be made of the need for and

appropriateness of the new or any long-term care service acquisition, expansion, or establishment of a new facility.

H. Except as provided by Section 1-853.1 of this title, the investigation made pursuant to an application for a certificate of need shall include the following:

1. The adequacy of long-term care facilities in relation to an optimal target ratio of long-term care beds per thousand persons seventy-five (75) years of age or older in the state;

2. The availability of long-term care which may serve as alternatives or substitutes;

3. The adequacy of financial resources for the acquisition, expansion, or establishment of a new long-term care facility and for the continued operation thereof;

4. The availability of sufficient staff to properly operate the proposed acquisition, expansion, or establishment of a new long-term care facility;

5. The record of the applicant's current and prior ownership, operation and management of similar facilities in this state and in any other state. The investigation of such record shall include, but not be limited to, inquiry to the State Long-Term Care Ombudsman Office, the state Medicaid Fraud Control Unit, and the state licensure and certification agency;

6. Review of minutes of family councils and residents councils, and the facilities' responses, from each of the applicant's holdings in Oklahoma; and

7. Any other matter which the Department deems appropriate.

I. Before making a final determination on an acquisition application, the Commissioner shall cause paid public notices to be published in a newspaper of general circulation near the facility and in a newspaper of general circulation in the area where the application is available for public inspection. A notice in a form prescribed by the Department also shall be posted by the applicant in a public area in each facility operated by the applicant in Oklahoma, to inform residents and families of the applicant's proposed action. The public notices shall offer participating parties an opportunity to submit written comments.

J. The Commissioner's decision to approve or deny the proposed acquisition, expansion, or establishment of a new facility shall be made within forty-five (45) days following the deadline for submitting written comments, or the proposed acquisition or establishment shall be automatically approved, unless otherwise prohibited pursuant to the provisions of the Long-term Care Certificate of Need Act.

K. If the Commissioner finds that a proposed acquisition, expansion, or establishment of a new facility is consistent with the criteria and standards for review of such projects, and is otherwise in compliance with the provision of the Long-term Care Certificate

of Need Act, then the Commissioner shall issue a certificate of need. If the Commissioner finds that the proposed acquisition, expansion, or establishment of a new facility is not consistent with the criteria and standards, or is otherwise not in compliance with the provisions of the Long-term Care Certificate of Need Act, the Commissioner shall deny the certificate of need.
Added by Laws 1971, c. 64, § 2, emerg. eff. April 8, 1971. Amended by Laws 1980, c. 188, § 3, eff. July 1, 1980; Laws 1983, c. 285, § 5, operative July 1, 1983; Laws 1984, c. 238, § 4, operative July 1, 1984; Laws 1986, c. 149, § 13, emerg. eff. April 29, 1986; Laws 1987, c. 206, § 43, operative July 1, 1987; Laws 1987, c. 236, § 27, emerg. eff. July 20, 1987; Laws 1988, c. 282, § 4, operative July 1, 1988; Laws 1989, c. 227, § 10, operative July 1, 1989; Laws 1993, c. 269, § 14, eff. Sept. 1, 1993; Laws 1996, c. 336, § 4, eff. Nov. 1, 1996; Laws 2001, c. 285, § 2, eff. Nov. 1, 2001; Laws 2004, c. 436, § 3, emerg. eff. June 4, 2004.

§63-1-852.1. Fees - Maximum fee - Capital cost for acquisition - Request for exemption.

A. Each application for a new certificate of need applied for pursuant to the provisions of Section 1-852 of this title, except for those applications filed by state agencies, shall be accompanied by an application fee of Three Thousand Dollars ($3,000.00).

B. The maximum filing fee on an application for replacement of an existing facility shall be One Thousand Dollars ($1,000.00).

C. 1. The maximum filing fee on an application for an acquisition shall be Five Thousand Dollars ($5,000.00).

2. The capital cost for acquisition shall be the current book value of the facility as shown by a recognized method or basis of accounting as attested by a Certified Public Accountant.

D. If an application for a certificate of need is not approved, the Department shall refund the application fee in full.

E. Each request for exemption from certificate of need requirements submitted under Section 1-852 of this title, except for a request filed by a state agency, shall be accompanied by a fee of One Hundred Dollars ($100.00).
Added by Laws 1996, c. 336, § 5, emerg. eff. June 12, 1996. Amended by Laws 2004, c. 436, § 4, emerg. eff. June 4, 2004; Laws 2009, c. 121, § 1, emerg. eff. April 28, 2009.

§63-1-853. Findings as to necessity.

A. Except as provided in subsections B and C of this section, no certificate of need shall be issued by the State Department of Health unless after investigation the State Commissioner of Health makes the following findings:

1. The action proposed in the application for such certificate of need is necessary and desirable in order to provide the services required in the locality to be served;

2. The proposed action can be economically accomplished and maintained;

3. The proposed action will contribute to the orderly development of long-term care services in the locality;

4. The applicant is or employs a licensed nursing home administrator; and

5. The applicant is found to be in compliance with the provisions of subsection D of this section.

B. 1. An application for a certificate of need for a capital expenditure to eliminate or prevent imminent safety hazards as defined by federal, state or local fire, building or life safety codes or regulations, or to comply with state licensure standards, or to comply with accreditation standards, compliance with which is required to receive reimbursements under Title XVIII of the Social Security Act or payments under a state plan for medical assistance approved under Title XIX of such act, shall be approved unless the Department finds:

a. that the facility or service is not needed, or

b. that the applicant is found to be out of compliance with the provisions of subsection D of this section.

2. Approval under this subsection shall cover only the capital expenditure to eliminate or prevent the hazards or to comply with standards described herein.

C. No certificate of need shall be issued for the acquisition of an existing facility unless after investigation the Commissioner finds that the applicant:

1. Has financial resources necessary to complete the transaction and to maintain services and staffing; and

2. Is found to be in compliance with the provisions of subsection D of this section.

D. 1. The Commissioner shall refuse to issue a certificate of need to any applicant who has had, in ten percent (10%) or more of the applicant's long-term care facility holdings in the preceding sixty (60) months, a facility license or certification revoked, rescinded, canceled, terminated, involuntarily suspended, or refused renewal; or if the license or certification was relinquished voluntarily in lieu of penalty.

2. The Commissioner shall refuse to issue a certificate of need to any applicant except where the applicant overcomes a presumption against approval with clear and convincing evidence that one of the following circumstances was not due to the action or inaction of the applicant or any person with a controlling interest:

a. the applicant has had, in any of the applicant's long-term care holdings in the preceding sixty (60) months,

a facility's license or certificate revoked, rescinded, canceled, terminated, involuntarily suspended or refused renewal,

b. the applicant has a history of noncompliance, as defined by statute, with the standards for licensure of long-term care facilities of any state in which the applicant has or has had long-term care facilities, or with federal standards for certification of long-term care facilities,

c. the applicant, in all current and prior ownership, operation and management of long-term care facilities, has not complied with all lawful orders of suspension, receivership, temporary management, or administrative penalty issued by the Department or by other authorities with similar responsibilities in other states or by the federal Centers for Medicare and Medicaid Services, or

d. the applicant has been convicted of a felony criminal offense related to the operation or management of a long-term care facility.

3. Other than any of those reasons listed in paragraph 1 or 2 of this subsection, the Commissioner may refuse to issue a certificate of need to any applicant who has had, in the preceding thirty-six (36) months, one or more of the following:

a. findings of substandard quality of care or noncompliance with two or more conditions of participation on twenty percent (20%) or more of the surveys conducted in the applicant’s long-term care facility holdings or against any long-term care facility operated by a person with a controlling interest during the preceding thirty-six (36) months,

b. a temporary manager, monitor, or receiver appointed, or

c. had a civil money penalty imposed of Thirty-five Thousand Dollars ($35,000.00) or more.

E. Noncompliance with a final agency order or final order or judgment of a court of record which has been set aside by a court on appeal of such final order or judgment shall not be considered a final order or judgment for the purposes of this section.

F. When the Commissioner makes a determination to issue or deny a certificate of need, the Commissioner shall provide written findings to the applicant, other reviewers and to other persons upon their request. The certificate of need shall establish the maximum capital expenditure for the project. The State Board of Health shall adopt rules concerning the time in which a decision must be made on an application.

G. Any person may request a reconsideration of the Commissioner's determination for good cause shown, the grounds for which shall be established by the Board by rule. A request for reconsideration shall be filed within ten (10) days of the Department determination. The hearing thereupon shall be conducted within thirty (30) days following the receipt of request. Written findings shall be issued within forty-five (45) days of such hearing.

Added by Laws 1971, c. 64, § 3, emerg. eff. April 8, 1971. Amended by Laws 1980, c. 188, § 4, eff. July 1, 1980; Laws 1986, c. 149, § 14, emerg. eff. April 29, 1986; Laws 1989, c. 227, § 11, operative July 1, 1989; Laws 1994, c. 48, § 1, eff. Sept. 1, 1994; Laws 1996, c. 336, § 6, eff. Nov. 1, 1996; Laws 1998, c. 328, § 2, eff. Nov. 1, 1998; Laws 2000, c. 340, § 13, eff. July 1, 2000; Laws 2001, c. 285, § 3, eff. Nov. 1, 2001; Laws 2004, c. 436, § 5, emerg. eff. June 4, 2004.

§63-1-853.1. Investigation of application by not-for-profit life care community for certificate of need.

A. The investigation made pursuant to an application by a not-for-profit life care community for a certificate of need shall include:

1. The adequacy of financial resources for the acquisition, expansion, or establishment of a new long-term care facility and for the continued operation thereof;

2. The record of the applicant's current and prior ownership, operation, and management of similar facilities in this state and in any other state. The investigation of such record shall include, but not be limited to, inquiry to the State Long-Term Care Ombudsman Office, the state Medicaid Fraud Control Unit, and the state licensure and certification agency;

3. If the applicant has holdings in Oklahoma, a review of minutes of family councils and residents' councils, and the facilities' responses, from each of the applicant's holdings in this state; and

4. Any other matter which the Department deems necessary and appropriate.

B. 1. The State Department of Health may approve an initial certificate of need for a not-for-profit life care community for nursing care beds that does not exceed twenty percent (20%) of the total number of units in the life care community for which no certificate of need is required.

2. Approval of the initial certificate of need shall include open admission with respect to fifty percent (50%) of the nursing care beds. With respect to the remaining nursing care beds, open admission shall only be allowed during the first seven (7) years

following the initial licensure of nursing care beds in the life care community.

3. Upon expiration of the one-time seven-year open admission period, with respect to fifty percent (50%) of the nursing care beds, a life care community that has obtained a certificate of need pursuant to this section shall admit only the following persons to its nursing care beds:

a. an individual who has executed a written agreement for services with the facility and who has been a bona fide resident of the portion of the life care community for which a certificate of need bed is not required for a period of at least thirty (30) days,

b. an individual who has executed a written agreement for services with the facility and who has been a bona fide resident of the portion of the life care community for which a certificate of need bed is not required for a period of less than thirty (30) days and requires skilled care that was not originally contemplated upon admission to the life care community,

c. an individual who has executed a written agreement for services with the facility and whose physician certifies that the individual is likely to be able to move to a portion of the life care community for which a certificate of need bed is not required in thirty (30) days or less after entering the life care community, or

d. an individual who is a family member (spouse, parent, child, sibling, aunt, uncle or first cousin by blood, marriage or adoption) of an individual who has executed a written agreement for services with the facility and resides in the portion of the life care community for which a certificate of need bed is not required.

C. The State Department of Health may approve a subsequent certificate of need for nursing care beds for a not-for-profit life care community that has obtained a certificate of need pursuant to this section when a subsequent application does not cause the nursing care beds to exceed twenty percent (20%) of the total number of units in the life care community for which no certificate of need is required. No open admission period shall be authorized for the additional nursing care beds.

D. The provisions of subsections B and C of this section shall apply to all certificates of need previously or hereafter granted pursuant to the provisions of this section.

Added by Laws 2001, c. 285, § 4, eff. Nov. 1, 2001. Amended by Laws 2014, c. 92, § 1, eff. Nov. 1, 2014.

§63-1-854.1. Appeal of findings.

Any final determination by the State Department of Health pursuant to the Long-term Care Certificate of Need Act may be appealed by the applicant, or any other aggrieved party under the provisions of Sections 317 and 318 of Article II of the Administrative Procedures Act; provided, that the venue for such appeal shall be in Oklahoma County or in the county in which the facility at issue in the application is located.

Added by Laws 1980, c. 188, § 5, eff. July 1, 1980. Amended by Laws 1986, c. 149, § 15, emerg. eff. April 29, 1986; Laws 1989, c. 227, § 12, operative July 1, 1989; Laws 1993, c. 234, § 1, eff. July 1, 1993; Laws 1994, c. 48, § 2, eff. Sept. 1, 1994; Laws 1996, c. 336, § 7, eff. Nov. 1, 1996; Laws 2004, c. 436, § 6, emerg. eff. June 4, 2004.

§63-1-857. Time for submitting plans and specifications - Time for construction - Time for acquisition.

A. 1. A certificate of need issued pursuant to the provisions of the Long-term Care Certificate of Need Act for the construction or establishment of a new long-term care service or the expansion of an existing service shall be valid for a period of six (6) months during which time the applicant shall submit to the State Department of Health the plans and specifications for the facility to be constructed; however, the Department may extend such time by a period not to exceed twelve (12) months for extraordinary circumstances beyond the control of the applicant.

2. If no such plans and specifications are submitted within the time required by this section, then such certificate shall be null and void.

3. If plans and specifications are submitted, the Department shall approve or disapprove such plans and specifications within thirty (30) days of the filing or such plans and specifications shall be presumed to be approved.

4. If the Department disapproves the plans and specifications, such disapproval shall include a detailed statement of the corrections needed.

5. The State Board of Health shall provide by rule the review process and time deadlines not exceeding twelve (12) months for approval or disapproval and resubmittal of initial, final and corrected plans and specifications. The applicant’s failure to meet the review process deadlines promulgated by the Board shall render the certificate of need void.

6. The applicant must begin construction of the structure within twelve (12) months following the approval of the final plans and specifications and must proceed to complete the structure within eighteen (18) months of the approval from the beginning of

construction or the certificate will be canceled. However, the Department may extend such completion day by a period not to exceed twenty-four (24) months for good cause upon the applicant's demonstration that the applicant has made a good faith effort to complete the structure or modifications and that the delay is unlikely to result in harm to the population to be served by the applicant.

B. A certificate of need issued pursuant to the provisions of this act for the acquisition of a long-term care facility shall be valid for a period of six (6) months by which time the acquisition must be finalized, provided that the Department may extend such final date by a period not to exceed twelve (12) months for good cause.

C. Pending the appeal of an order granting a certificate of need in the district or Supreme Court, the effective dates of deadlines for submitting plans, filing reports, completion of the project and other requirements related to such project shall commence on the date of a final judicial determination of any such appeal, and any certificate of need which has been approved by the Department shall remain in effect pending such appeal. The effective date of the issuance of a certificate of need shall be the date of a final judicial determination of any such appeal. The provisions of this subsection shall have prospective and retrospective application.

Added by Laws 1971, c. 64, § 7, emerg. eff. April 8, 1971. Amended by Laws 1980, c. 188, § 7, eff. July 1, 1980; Laws 1986, c. 149, § 17, emerg. eff. April 29, 1986; Laws 1987, c. 225, § 46, eff. July 5, 1987; Laws 1989, c. 227, § 13; Laws 2002, c. 230, § 2, eff. Nov. 1, 2002; Laws 2004, c. 436, § 7, emerg. eff. June 4, 2004.

§63-1-857.1. Rules and regulations - Oaths - Reports.

A. The State Board of Health shall promulgate such rules as are necessary to implement the provisions of the Long-term Care Certificate of Need Act and meet the requirements of federal regulations. The State Department of Health may administer oaths at any hearing or investigation conducted pursuant to the Long-term Care Certificate of Need Act, and receive federal grant or contract funds by complying with the requirements therefor.

B. The Department shall post on the Department's Internet site a monthly report which shall include the status of each review currently being conducted, the reviews completed since the last report issued, and a general statement of the findings and decisions made in the course of these reviews.

Added by Laws 1980, c. 188, § 8, eff. July 1, 1980. Amended by Laws 2004, c. 436, § 8, emerg. eff. June 4, 2004.

§63-1-857.2. Decision granting or denying certificate of need for new long-term care facility - Written findings of facts, conclusions of law and explanations required.

The Department is hereby directed, with respect to any decision granting or denying a certificate of need for a new long-term care facility, to issue in writing findings of fact, conclusions of law, and explanations of any other pertinent considerations, including precedents, upon which such decision is based. The Department shall be allowed forty-five (45) days within which to issue a formal order and opinion to the applicant and any parties opposed to the application after the conclusion of the hearing, or after the submission of additional evidence or briefs requested by the Department.

Added by Laws 1988, p. 1896, S.J.R. No. 49, § 5. Amended by Laws 1989, c. 227, § 14.

§63-1-857.4. Repealed by Laws 2004, c. 436, § 14, emerg. eff. June 4, 2004.

§63-1-857.6. Oklahoma Health Planning Commission - Abolition - Transfer of funds, property, etc.

A. The Oklahoma Health Planning Commission is hereby abolished, and the powers, duties and responsibilities exercised by such Commission pursuant to law are hereby transferred to the State Department of Health and the State Commissioner of Health. All unexpended funds, property, records, personnel and any outstanding financial obligations and encumbrances of such office are hereby transferred to the State Department of Health and the State Commissioner of Health.

B. The Director of the Office of Management and Enterprise Services is hereby directed to coordinate the transfer of funds, allotments, purchase orders, outstanding financial obligations or encumbrances provided for in this section.

C. Any application for a certificate of need which was duly filed with the Oklahoma Health Planning Commission prior to the effective date of the Long-term Care Certificate of Need Act or the Psychiatric and Chemical Dependency Facility Certificate of Need Act shall be reviewed and approved or disapproved pursuant to criteria and procedures in effect at the time such application was filed. Any application for Certificate of Need not scheduled for review at the regularly scheduled June, 1989, Commission meeting or by the Director before July 1, 1989, shall be considered to have been duly filed with the State Department of Health. In all appellate matters, including but not limited to reconsideration and remand, the Department shall be considered as the Commission.

D. The rules of the Oklahoma Health Planning Commission in effect on July 1, 1989, shall be enforceable by the State Department

of Health and shall remain effective until the adoption of new rules by the State Board of Health.

E. Any references to the Oklahoma Health Planning Commission in the Oklahoma Statutes shall be construed to refer to the State Department of Health.

Added by Laws 1989, c. 301, § 12, operative July 1, 1989. Amended by Laws 2012, c. 304, § 486.

§63-1-858. Penalties.

A. Any person who offers or develops or begins to offer or develop a long-term care facility without having first obtained a certificate of need, as provided by the Long-term Care Certificate of Need Act, shall be deemed guilty of a misdemeanor, and upon conviction shall be punishable by payment of a fine of not less than One Thousand Dollars ($1,000.00) and not more than Five Thousand Dollars ($5,000.00).

B. If the State Department of Health, through one of its agents or representatives, notifies in writing, through certified mail, return receipt requested, the person who has unlawfully commenced the offering or development of a long-term care facility to cease and desist, then each day that such person continues such offering or development shall be a separate offense. If any person continues to offer or develop an institutional health service after the issuance of a cease and desist order, the Department shall seek an injunction to prohibit the continued offering or development.

Added by Laws 1971, c. 64, § 8, emerg. eff. April 8, 1971. Amended by Laws 1980, c. 188, § 9, eff. July 1, 1980; Laws 1989, c. 227, § 17, operative July 1, 1989; Laws 2004, c. 436, § 9, emerg. eff. June 4, 2004.

§63-1-859. Provisions as supplemental.

The provisions of this act shall be supplemental to any other law of this state relating to the offering and development of long-term care service, and shall repeal only those laws in direct conflict herewith.

Laws 1971, c. 64, § 9, emerg. eff. April 8, 1971; Laws 1980, c. 188, § 10, eff. July 1, 1980.

§63-1-859.1. Volunteer program.

The State Department of Health is authorized to create a volunteer program for long-term care facilities. The Department may promote, develop, train and manage volunteers related to long-term care needs.

Added by Laws 2001, c. 410, § 20, eff. Nov. 1, 2001.

§63-1-860.1. Short title.

Sections 1 through 16 of this act shall be known and may be cited as the "Oklahoma Hospice Licensing Act".
Added by Laws 1991, c. 217, § 1, eff. Sept. 1, 1991.

§63-1-860.2. Definitions.

As used in the Oklahoma Hospice Licensing Act:

1. "Board" means the State Board of Health;

2. "Department" means the State Department of Health;

3. "Hospice program" means a centrally administered, nonprofit or profit, medically directed, nurse-coordinated program which provides a continuum of home and inpatient care for the terminally ill patient and the patient's family. A hospice program offers palliative and supportive care to meet the special needs arising out of the physical, emotional and spiritual stresses experienced during the final stages of illness and during dying and bereavement. This care is available twenty-four (24) hours a day, seven (7) days a week, and is provided on the basis of need, regardless of ability to pay. "Class A" Hospice refers to Medicare certified hospices. "Class B" refers to all other providers of hospice services;

4. "Hospice interdisciplinary team" or "hospice team" means a unit composed of professionals and lay persons, as specified by the Oklahoma Hospice Licensing Act, who provide hospice care;

5. "Hospice patient/family" means the hospice patient's immediate kin, including a spouse, brother, sister, child, parent or other persons with significant personal ties to the hospice patient, who may be designated by members of the hospice patient/family;

6. "Hospice services" means those services furnished to a patient by a hospice or by other persons, pursuant to arrangements with such hospice, in a place of temporary or permanent residence used as the home of the terminally ill patient for the purpose of maintaining the patient at home. Should a patient require short-term institutionalization, such hospice services shall be furnished in cooperation with those contracted institutions or in a hospice inpatient facility. Such services may include, but need not be limited to, bereavement, palliative, personal care and such other services as are provided by nurses, physicians, home health aides, physical therapists, counselors, psychologists, social workers and volunteers. Services provided by a hospital, nursing home or other health care provider shall not constitute hospice services unless such hospital, nursing home or other health care provider is licensed as a hospice program;

7. "Medical advisor" means a physician licensed pursuant to the laws of this state who is commissioned as a medical advisor by a hospice for the purpose of providing ongoing palliative care as a member of a hospice team;

8. "Palliative services" means the care or treatment given to a patient by a hospice team for the reduction or abatement of pain and other symptoms attendant to the patient's condition;

9. "Patient" means a terminally ill person receiving hospice services;

10. "Terminally ill" means a medical prognosis of limited life expectancy of one (1) year or less at the time of referral to a hospice of a person who is experiencing an illness for which therapeutic strategies directed toward cure and control of the illness alone, outside the context of symptom control, are no longer appropriate;

11. "Bereavement" means the period of time following death during which survivors mourn a death and process their grief;

12. "Bereavement services" means support services offered to a family during the bereavement period;

13. " Hospice inpatient facility" means a facility of a licensed hospice program, with twelve or fewer beds, in which only hospice services are provided;

14. "Personal care" means services provided to a patient in a home to meet the physical requirements and to accommodate the maintenance or supportive needs of a patient;

15. "Medically directed" means the delivery of medical care as directed by a medical advisor;

16. "Hospice home services" means hospice services provided primarily in the home of a patient;

17. "Inpatient services" means hospice services provided to patients who require twenty-four (24) hour supervision by a licensed health care provider; and

18. "Health care provider" means a facility or institution licensed by the laws of this state to provide on a regular basis medical services, skilled nursing care, necessary dietary service, hospice inpatient services or personal care. The term "health care provider" includes, but is not limited to, hospice inpatient facilities, hospitals, skilled nursing homes, intermediate care facilities and residential care facilities.

Added by Laws 1991, c. 217, § 2, eff. Sept. 1, 1991. Amended by Laws 1992, c. 236, § 1, emerg. eff. May 19, 1992; Laws 1997, c. 189, § 1, eff. Nov. 1, 1997; Laws 2003, c. 339, § 1, eff. Nov. 1, 2003.

§63-1-860.2a. Hospices exempt from act.

A public or private agency or person which establishes, conducts, or maintains a hospice or holds itself out to the public as a hospice is required by the Oklahoma Hospice Licensing Act, to obtain a first-year or permanent license from the Department pursuant to the Oklahoma Hospice Licensing Act.

Added by Laws 1992, c. 236, § 2, emerg. eff. May 19, 1992. Amended by Laws 1997, c. 189, § 2, eff. Nov. 1, 1997; Laws 2005, c. 282, § 2, emerg. eff. June 6, 2005.

§63-1-860.3. Contents of hospice program.

Each hospice program shall consist of hospice home services and may provide inpatient hospice services which afford the patient and the family of the patient a range of hospice services which can be tailored to specific needs and preferences of the patient and family.

Added by Laws 1991, c. 217, § 3, eff. Sept. 1, 1991.

§63-1-860.4. Requirements and conditions for hospices - Hospice teams - Records - Governing body - Administrators.

A. A hospice shall comply with the following:

1. A hospice shall coordinate its services with those of the patient's primary or attending physician;

2. A hospice shall coordinate its services with professional and nonprofessional services already in the community. A hospice may contract for some elements of its services to a patient and family, provided direct patient care is maintained with the patient and the hospice team so that overall coordination of services can be maintained by the hospice team. The majority of hospice services available through a hospice shall be provided directly by the licensee. Any contract entered into between a hospice and health care provider shall specify that the hospice retain the responsibility for planning, coordinating and prescribing hospice services on behalf of a hospice patient and the hospice patient's family. No hospice may charge fees for services provided directly by the hospice team which duplicate contractual services provided to the patient or the patient's family;

3. The hospice team shall be responsible for coordination and continuity between inpatient and home care aspects of care;

4. A hospice shall not contract with a health care provider or another hospice that has or has been given a conditional license within the last eighteen (18) months;

5. Hospice services shall provide a symptom control process, to be provided by a hospice team skilled in physical and psychosocial management of distressing signs and symptoms;

6. Hospice care shall be available twenty-four (24) hours a day, seven (7) days a week;

7. A hospice shall have a bereavement program which shall provide a continuum of supportive and therapeutic services for the family;

8. The unit of care in a hospice program shall be composed of the patient and family;

9. A hospice program shall provide a continuum of care and a continuity of care providers throughout the length of care for the patient and to the family through the bereavement period;

10. A hospice program shall not impose the dictates of any value or belief system on its patients and their families;

11. a. Admission to a hospice shall be upon the order of a physician licensed pursuant to the laws of this state and shall be dependent on the expressed request and informed consent of the patient and family.

b. The hospice program shall have admission criteria and procedures that reflect:

(1) the patient and family's desire and need for service,

(2) the participation of the attending physician, and

(3) the diagnosis and prognosis of the patient.

c. (1) Any hospice or employee or agent thereof who knowingly or intentionally solicits patients or pays to or offers a benefit to any person, firm, association, partnership, corporation or other legal entity for securing or soliciting patients for the hospice or hospice services in this state, upon conviction thereof, shall be guilty of a misdemeanor and shall be punished by a fine of not less than Five Hundred Dollars ($500.00) and not more than Two Thousand Dollars ($2,000.00).

(2) In addition to any other penalties or remedies provided by law:

(a) a violation of this section by a hospice or employee or agent thereof shall be grounds for disciplinary action by the State Department of Health, and

(b) the State Department of Health may institute an action to enjoin violation or potential violation of this section. The action for an injunction shall be in addition to any other action, proceeding or remedy authorized by law.

(3) This subparagraph shall not be construed to prohibit:

(a) advertising, except that advertising which:

(i) is false, misleading or deceptive,

(ii) advertises professional superiority or the performance of a professional service in a superior manner, and

(iii) is not readily subject to verification, and

(b) remuneration for advertising, marketing or other services that are provided for the purpose of securing or soliciting patients, provided the remuneration is:
(i) set in advance,
(ii) consistent with the fair market value of the services, and
(iii) not based on the volume or value of any patient referrals or business otherwise generated between the parties, and
(c) any payment, business arrangements or payments practice not prohibited by 42 U.S.C., Section 1320a-7b(b), or any regulations promulgated pursuant thereto.
(4) This paragraph shall not apply to licensed insurers, including but not limited to group hospital service corporations or health maintenance organizations which reimburse, provide, offer to provide or administer hospice services under a health benefits plan for which it is the payor when it is providing those services under a health benefits plan;

12. A hospice program shall develop and maintain a quality assurance program that includes:
a. evaluation of services,
b. regular chart audits, and
c. organizational review; and

13. A hospice program shall be managed by an administrator meeting the requirements as set forth in Section 1-862 of this title.

B. A hospice team shall consist of, as a minimum, a physician, a registered nurse, and a social worker or counselor, each of whom shall be licensed as required by the laws of this state. The team may also include clergy and such volunteers as are necessary to provide hospice services. A registered nurse licensed pursuant to the laws of this state shall be employed by the hospice as a patient care coordinator to supervise and coordinate the palliative and supportive care for patients and families provided by a hospice team. Nothing in this section shall be construed as to require a hospice to employ a certified home health aide in the provision of hospice services so long as the hospice employs a certified nurse aide.

C. 1. An up-to-date record of the services given to the patient and family shall be kept by the hospice team. Records shall contain pertinent past and current medical, nursing, social, and such other information that is necessary for the safe and adequate care of the patient and the family. Notations regarding all aspects

of care for the patient and family shall be made in the record. When services are terminated, the record shall show the date and reason for termination.

2. Information received by persons employed by or providing services to a hospice, or information received by the State Department of Health through reports or inspection shall be deemed privileged and confidential information and shall not be disclosed to any person other than the patient or the family without the written consent of that patient, the patient's guardian or the patient's family.

D. 1. A hospice program shall have a clearly defined and organized governing body, which has autonomous authority for the conduct of the hospice program.

2. The hospice program shall have an administrator who shall be responsible for the overall coordination and administration of the hospice program.

Added by Laws 1991, c. 217, § 4, eff. Sept. 1, 1991. Amended by Laws 1997, c. 189, § 3, eff. Nov. 1, 1997; Laws 2015, c. 34, § 1, eff. Nov. 1, 2015; Laws 2017, c. 77, § 1, eff. Nov. 1, 2017.

§63-1-860.5. Department - Powers and duties.

The State Department of Health shall have the power and duty to:

1. Issue, renew, deny, modify, suspend and revoke first-year and permanent licenses for hospice programs pursuant to the provisions of the Oklahoma Hospice Licensing Act;

2. Establish and enforce standards and requirements for licensure of hospice programs and require the submission of, and to review, reports from any person establishing or operating a hospice program;

3. Establish and enforce construction standards and other requirements for hospice inpatient facilities; provided, however, such standards and requirements shall comply with current Medicare regulations for hospice inpatient facilities;

4. Establish a construction plan review fee for such facilities; provided, however, the amount of such fee shall not exceed the amount set by the Department for construction plan review fees for hospitals;

5. Enter upon any public or private property, with permission, for the purpose of inspecting and investigating conditions of the patients in a hospice or for the purpose of inspecting and investigating a hospice for compliance with the provisions of the Oklahoma Hospice Licensing Act, or the standards or requirements for licensure developed by the Department pursuant to the provisions of the Oklahoma Hospice Licensing Act;

6. Employ or designate personnel to conduct investigations and inspections, to make reports of the condition of hospices and the patients of such hospices, and to take necessary action pursuant to

the provisions of the Oklahoma Hospice Licensing Act to protect and safeguard the health, safety and welfare of patients of hospices;

7. Establish a procedure for receipt and investigation of complaints regarding a hospice or concerning the condition, care and treatment of a patient in the hospice;

8. Advise, consult and cooperate with other agencies of this state, the federal government, other states and interstate agencies, and with affected groups and political subdivisions to further the purposes of the provisions of the Oklahoma Hospice Licensing Act;

9. Develop and enforce rules subject to the approval of the State Board of Health to implement the provisions of the Oklahoma Hospice Licensing Act;

10. Establish and enforce penalties for violations of the provisions of the Oklahoma Hospice Licensing Act as authorized by the Board pursuant to the provisions of the Oklahoma Hospice Licensing Act; and

11. Exercise all incidental powers as necessary and proper for the administration of the Oklahoma Hospice Licensing Act.

Added by Laws 1991, c. 217, § 5, eff. Sept. 1, 1991. Amended by Laws 2003, c. 339, § 2, eff. Nov. 1, 2003; Laws 2005, c. 282, § 3, emerg. eff. June 6, 2005.

§63-1-860.6. First-year or permanent license - Application - Plan for delivery of services - Term and renewal of license - Conditional license.

A. No public or private agency or person shall establish, conduct or maintain a hospice program or hold itself out to the public as a hospice program without first obtaining a first-year or permanent license from the State Department of Health.

B. An application for a hospice program first-year or permanent license shall be filed on a form prescribed by the Department and shall be accompanied by:

1. The first-year or permanent license fee required by Section 1-860.15 of this title;

2. Documentation of complete disclosure for the applicant which shall include, but not be limited to, the name, mailing address and finding address of every stockholder with at least five percent (5%) ownership interest in the hospice program;

3. Satisfactory proof that the hospice program is in compliance with the provisions of the Oklahoma Hospice Licensing Act and any rules and minimum standards promulgated by the State Board of Health pursuant to the Oklahoma Hospice Licensing Act; and

4. Proof of sufficient financial ability to operate and conduct the hospice program in accordance with the requirements of the Oklahoma Hospice Licensing Act.

C. The initial application shall be accompanied by a plan for the delivery of home and inpatient hospice services to patients and their families. Such plan shall contain, but not be limited to:

1. The estimated average number of patients to be served monthly;

2. The geographic area in which hospice services will be available;

3. A listing of services which are or will be provided, either directly by the applicant or through contractual arrangements with existing health care providers;

4. Provisions for the implementation of hospice home care within three (3) months of licensure;

5. The name and qualifications of any existing or potential health care provider with whom the hospice program may enter into a contract;

6. The projected annual operating cost of the hospice program; and

7. The location and proposed construction drawings for any hospice inpatient facility operated by the hospice program. A licensed hospice program shall not operate more than one hospice inpatient facility.

D. Unless suspended or revoked, a first-year license issued for the operation of a hospice program shall expire automatically one (1) year from the date of issuance; provided, this provision shall not apply if the Department has not completed a follow-up survey of the hospice program. The Department may renew a first-year license for up to one (1) additional year beyond the expiration date if the applicant has complied with the provisions of the Oklahoma Hospice Licensing Act and the rules promulgated by the Board for the operation of a hospice program under a first-year license.

E. Unless suspended or revoked, a permanent license issued for the operation of a hospice program shall expire automatically one (1) year from the date of issuance. At least sixty (60) days prior to the expiration date, an application for license renewal shall be submitted to the Department on forms furnished by the Department. The license shall be renewed if the applicant has complied with the provisions of the Oklahoma Hospice Licensing Act and all rules promulgated by the Board pursuant to the provisions of the Oklahoma Hospice Licensing Act. The application for license renewal shall be accompanied by an update of the plan for delivery of hospice services only if information contained in the plan submitted pursuant to subsection C of this section is no longer applicable.

F. A hospice program for which a revocation or suspension proceeding is pending at the time of license renewal may be issued a conditional license effective until final disposition by the Department of such proceeding. If judicial relief is sought from

the final disposition, the court having jurisdiction may issue a conditional permit for the duration of the judicial proceeding.

G. The license shall:

1. Be displayed in a conspicuous place inside the hospice program office;

2. Be valid only in the possession of the person or public agency to which it is issued;

3. Not be subject to sale, assignment, or other transfer, voluntary or involuntary;

4. Not be valid for any hospice program other than the hospice program for which the license was originally issued; and

5. Restrict the number of patients in a hospice inpatient facility to the Department-approved occupancy level for each facility.

H. Any person who, prior to January 1, 1991, provided hospice services to any patient shall be entitled to operate as a hospice program pursuant to the provisions of the Oklahoma Hospice Licensing Act without making application and obtaining a license pursuant to the provisions of the Oklahoma Hospice Licensing Act for one (1) year after September 1, 1991, provided such person otherwise complies with the provisions of the Oklahoma Hospice Licensing Act and all rules promulgated by the Board pursuant to the act. Thereafter any person providing hospice services shall make application, obtain a license, and comply with the provisions of the Oklahoma Hospice Licensing Act and all rules promulgated by the Board pursuant to the act.

Added by Laws 1991, c. 217, § 6, eff. Sept. 1, 1991. Amended by Laws 1992, c. 236, § 3, emerg. eff. May 19, 1992; Laws 1996, c. 231, § 1, eff. July 1, 1996; Laws 2003, c. 339, § 3, eff. Nov. 1, 2003; Laws 2005, c. 282, § 4, emerg. eff. June 6, 2005.

§63-1-860.7. Patient care when patient unable to pay.

A hospice shall not discontinue or diminish care provided to a patient already in its care because of the patient's inability to pay for the care.

Added by Laws 1991, c. 217, § 7, eff. Sept. 1, 1991.

§63-1-860.8. Inspections and investigations.

Any duly authorized officer or employee of the Department shall have the right to conduct such inspections and investigations as are necessary in order to determine the state of compliance with the provisions of the Oklahoma Hospice Licensing Act and with the rules and regulations in force pursuant hereto. The right of inspection shall also extend to any person who the Department has reason to believe is offering or advertising hospice service without a license. Any application for a license or renewal thereof made pursuant to the Oklahoma Hospice Licensing Act shall constitute

authorization for any inspection of the hospice for which the license is sought in order to facilitate verification of the information submitted on or in connection with the application.
Added by Laws 1991, c. 217, § 8, eff. Sept. 1, 1991.

§63-1-860.9. Denial, refusal to renew, suspension or revocation of license.

A. After notice and hearing pursuant to the provisions of Section 1-860.10 of this title, the State Department of Health may:

1. Deny a first-year or permanent license to an applicant who does not meet the requirements for licensure pursuant to the provisions of the Oklahoma Hospice Licensing Act;

2. Refuse to renew, suspend or revoke a first-year or permanent license to a hospice which is not in compliance with the provisions of the Oklahoma Hospice Licensing Act or with the rules promulgated by the State Board of Health pursuant to the provisions of the Oklahoma Hospice Licensing Act;

3. Deny, refuse to renew, suspend or revoke a first-year or permanent license to an applicant or hospice which has a history of noncompliance or incomplete or partial compliance with the provisions of the Oklahoma Hospice Licensing Act or with the rules promulgated by the Board pursuant to the Oklahoma Hospice Licensing Act, or for which there is other satisfactory evidence which demonstrates that the applicant or hospice is unlikely to provide care or treatment to the patients in the care of the hospice in a manner which warrants public trust;

4. Deny, refuse to renew, suspend or revoke a first-year or permanent license to an applicant or hospice which has insufficient financial or other resources to the extent that the applicant or hospice is incapable of ensuring or providing adequate care or treatment to the patients; or

5. Assess administrative penalties pursuant to Article II of the Administrative Procedures Act.

B. Any of the following actions by a hospice or any of its employees shall be grounds for action by the Department against a hospice:

1. A violation of the provisions of the Oklahoma Hospice Licensing Act or of any of the rules promulgated thereto; or

2. An intentional or negligent act materially affecting the health or safety of a patient.

Added by Laws 1991, c. 217, § 9, eff. Sept. 1, 1991. Amended by Laws 1996, c. 231, § 2, eff. July 1, 1996; Laws 2005, c. 282, § 5, emerg. eff. June 6, 2005.

§63-1-860.9a. Violations - Administrative fines.

A. Any person who has been determined by the State Department of Health to have violated any provision of the Oklahoma Hospice

Licensing Act or any rule or order of the State Board of Health issued pursuant thereto may be assessed an administrative fine of not less than Fifty Dollars ($50.00) nor more than One Thousand Dollars ($1,000.00) for each day that the violation continues. The maximum administrative fine shall not exceed Ten Thousand Dollars ($10,000.00) for any related series of violations that do not constitute immediate jeopardy to residents. A fine of not less than Five Hundred Dollars ($500.00) per day nor more than Two Thousand Five Hundred Dollars ($2,500.00) per day may be assessed for any violation constituting immediate jeopardy to residents.

B. The amount of the fine shall be assessed by the Department, pursuant to the provisions of subsection A of this section, after notice and hearing. In determining the amount of the fine, the Department shall include, but not be limited to, consideration of:

1. The nature, circumstances, and gravity of the violation;

2. The repetitive nature of the violation by the hospice or by other hospices operated by the same entity;

3. The previous degree of difficulty in obtaining compliance with the Oklahoma Hospice Licensing Act or the rules promulgated pursuant thereto; and

4. With respect to the person found to have committed the violation, the degree of culpability and evidence of a substantial show of good faith by such person in attempting to achieve compliance with the provisions of the Oklahoma Hospice Licensing Act.

C. Any license holder may elect to surrender the first-year or permanent license of such holder in lieu of such fine but shall be forever barred from obtaining a reissuance of the license or any other license issued pursuant to the Oklahoma Hospice Licensing Act. Added by Laws 1996, c. 231, § 3, eff. July 1, 1996. Amended by Laws 2005, c. 282, § 6, emerg. eff. June 6, 2005.

§63-1-860.10. Complaints - Notice - Hearing - Orders - Service of order or other instrument.

A. If upon inspection or investigation, or whenever the Department determines that there are reasonable grounds to believe that a hospice is operating in violation of the Oklahoma Hospice Licensing Act, or any rule promulgated pursuant to the Oklahoma Hospice Licensing Act, or any order of the Department pursuant to the Act, the Department shall give written notice to the alleged violator specifying the cause of complaint. Such notice shall require that the matters complained of be corrected within forty-five (45) days or that the alleged violator appear before the Department at a time and place specified in the notice and answer charges. The notice shall be delivered to the alleged violator in accordance with the provisions of the Administrative Procedures Act, Section 301 et seq. of Title 75 of the Oklahoma Statutes.

B. The Department shall give the notice specified by the provisions of subsection A of this section within ten (10) days of an inspection or investigation of the hospice if the Department determines that the hospice is in violation of the Oklahoma Hospice Licensing Act, the rules promulgated by the Board pursuant to the Oklahoma Hospice Licensing Act, or any order of the Department pursuant to the Act.

C. The Department shall afford the alleged violator an opportunity for a fair hearing within sixty (60) days of receipt of notice provided by subsection A of this section in accordance with the provisions of the Administrative Procedures Act, Section 301 et seq. of Title 75 of the Oklahoma Statutes. On the basis of the evidence produced at the hearing, the Department shall make findings of fact and conclusions of law and enter an order thereon. The Department shall give written notice of such order to the alleged violator and to such persons as shall have appeared at the hearing and made written request for notice of the order. If the hearing is held before any person other than the Department, such person shall transmit the record of the hearing together with recommendations for findings of fact and conclusions of law to the Department which shall thereupon enter its order. The Department may enter its order on the basis of such record or, before issuing its order, may require additional hearings or further evidence to be presented. The order of the Department shall become final and binding on all parties unless appealed to the Supreme Court as provided in the Administrative Procedures Act, Section 301 et seq. of Title 75 of the Oklahoma Statutes, within thirty (30) days after notice has been sent to the parties.

D. Except as otherwise expressly provided by law, any notice, order, or other instrument issued by or pursuant to authority of the Department may be served on any person affected thereby personally, by publication, or by mailing a copy of the notice, order, or other instrument by certified mail, return receipt requested, directed to the person affected at his last-known post office address as shown by the files or records of the Department. Proof of service shall be made as in the case of service of a summons or by publication in a civil action or may be made by the affidavit of the person who did the mailing. Such proof of service shall be kept on file in the Department.

E. The hearings authorized by this section may be conducted by the Department. The Department may designate hearing officers who shall have the power and authority to conduct such hearings in the name of the Department at any time and place. Such hearings shall be conducted in conformity with and records made thereof as provided by the provisions of the Administrative Procedures Act, Section 301 et seq. of Title 75 of the Oklahoma Statutes.

Added by Laws 1991, c. 217, § 10, eff. Sept. 1, 1991.

§63-1-860.11. Appeals.

A. 1. Final orders of the Department may be appealed to the Supreme Court of Oklahoma pursuant to this section and the Administrative Procedures Act, Section 301 et seq. of Title 75 of the Oklahoma Statutes, by any party directly affected or aggrieved by the order.

2. An appeal shall be commenced by filing with the clerk of the Supreme Court, within thirty (30) days from the date of the order or decision, a petition in error with a copy of the order or decision appealed from. The time limit prescribed herein for filing the petition in error may not be extended. The manner of perfection of the record of the proceedings to be reviewed and the time for its completion shall be in accordance with rules prescribed by the Supreme Court.

3. The appeal shall not stay the execution of any order or decision of the Department unless the Supreme Court, for cause shown, shall order that said decision or order be stayed pending such appeal pursuant to Section 319 of Title 75 of the Oklahoma Statutes.

4. The Court shall give great weight to findings made and inferences drawn by the Department on questions of fact. The Court may affirm the decision or remand the case for further proceedings. Additionally, the Court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the findings, inferences or conclusions are not supported by substantial evidence in the record.

B. If an appeal pursuant to subsection A of this section is not made by the person to whom such an order is directed within thirty (30) days after notice has been sent to the parties, the order of the Department shall become final and binding on all parties and shall be docketed with the district court in the county of the residence of the violator, or the district court in the county in which the violation occurred. The order shall be enforced in the same manner as an order of the district court.

Added by Laws 1991, c. 217, § 11, eff. Sept. 1, 1991.

§63-1-860.12. Attorney General - Equitable relief.

The Department may request the Attorney General to bring an action in a court of competent jurisdiction for equitable relief to redress or restrain a violation by any person of a provision of the Oklahoma Hospice Licensing Act or any rule promulgated thereto or order issued pursuant to the provisions of the Oklahoma Hospice Licensing Act.

Added by Laws 1991, c. 217, § 12, eff. Sept. 1, 1991.

§63-1-860.13. Repealed by Laws 2013, c. 229, § 99, eff. Nov. 1, 2013.

§63-1-860.14. Repealed by Laws 2013, c. 229, § 99, eff. Nov. 1, 2013, without reference to the amendment in Laws 2013, c. 229, § 57 which read as follows:

§63-1-860.14. Annual report on the improvement of hospice care.

The Department shall publish and distribute an annual report of its activities and any recommendations for the improvement of services and care and treatment to hospice patients on or before January 1 of each year to the Governor and to the Commissioner of Health.

§63-1-860.15. Fees.

A. The State Department of Health, subject to the approval of the State Board of Health, shall prescribe and publish in the manner established by its rules, fees in the amounts determined by the Board for the following:

1. Initial application fee;
2. First-year license fee;
3. Permanent license fee;
4. Renewal of permanent license fee; and
5. Late renewal fee charges.

B. Such fees may only be established or amended by the Board during such times as the Legislature is in session.

C. Fees specified in this section are not subject to the fee limitations provided in paragraph 2 of subsection A of Section 1-106.1 of this title.

Added by Laws 1991, c. 217, § 15, eff. Sept. 1, 1991. Amended by Laws 2003, c. 339, § 4, eff. Nov. 1, 2003; Laws 2005, c. 282, § 7, emerg. eff. June 6, 2005; Laws 2006, c. 187, § 1, eff. Nov. 1, 2006.

§63-1-860.16. Hospice Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the State Department of Health, to be designated the "Hospice Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Department, from any monies received as a result of fees received pursuant to the provisions of the Oklahoma Hospice Licensing Act and any monies appropriated to the fund by law. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department to effectuate the provisions of the Oklahoma Hospice Licensing Act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1991, c. 217, § 16, eff. Sept. 1, 1991. Amended by Laws 2012, c. 304, § 487.

§63-1-862. Continuing education requirements for administrators.

A. All administrators operating a hospice program in this state shall be required to complete eight (8) hours of continuing education each calendar year.

B. The State Board of Health shall promulgate rules concerning the qualifications of continuing education courses for administrators of hospice programs. Courses shall consist of a minimum of forty-five (45) minutes in length and may be completed either in person or online. Two (2) of the eight (8) hours shall be composed of ethics, and membership in a statewide organization relating to hospice care shall be considered as completion of one (1) hour of ethics credit each year. The Board may collaborate with statewide organizations specializing in the administration of hospice care to develop the qualifications provided for in this subsection.

C. A hospice program shall be responsible for maintaining records demonstrating its administrator has completed the required continuing education. The State Department of Health may request copies of such records at any time.

Added by Laws 2015, c. 34, § 2, eff. Nov. 1, 2015.

§63-1-865.1. Sheltered Workshop Act.

A. This act shall be known and may be cited as the "Sheltered Workshop Act".

B. The Sheltered Workshop Act allows individuals with developmental disabilities opportunities to participate in meaningful work or training activities. Each workshop will be licensed and provide a safe environment.

Added by Laws 2011, c. 65, § 1, eff. Nov. 1, 2011.

§63-1-865.2. Definitions.

As used in the Sheltered Workshop Act:

1. "Community services worker" means any person who:
   a. contracts with the Oklahoma Health Care Authority to provide specialized foster care, habilitation training specialist services, or homemaker services to persons with developmental disabilities,
   b. is not a licensed health professional, and
   c. is employed by or under contract with a community services provider to provide for compensation or as a volunteer the following:
      (1) health-related services,
      (2) training, or
      (3) supportive assistance;

2. “Contract” means the binding legal agreement to provide sheltered workshop services, entered into between the provider and the Developmental Disabilities Services Division of the Department of Human Services or the Oklahoma Health Care Authority;

3. “DDSD” means the Developmental Disabilities Services Division of the Department of Human Services;

4. “Department” means the Department of Human Services;

5. “Developmental disability” means a severely chronic disability of a person which:

a. is attributable to a physical or mental impairment or a combination of physical or mental impairments,

b. is manifested before the person attains the age of twenty-two (22) years,

c. is likely to continue indefinitely,

d. results in substantial functional limitations in three or more of the following areas of major life activity:

(1) self-care,

(2) receptive and expressive language,

(3) learning,

(4) mobility,

(5) self-direction,

(6) capacity for independent living, or

(7) economic self-sufficiency, and

e. reflects the need of the person for a combination and sequence of special interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated;

6. “Director” means the Director of Human Services;

7. “Licensee” means a person, corporation, partnership, limited liability company, or association operating a sheltered workshop which is licensed pursuant to the provisions of the Sheltered Workshop Act;

8. “Provider” means a person, corporation, partnership, limited liability company, association, or other entity that contracts with the Developmental Disabilities Services Division of the Department of Human Services or the Oklahoma Health Care Authority to operate a sheltered workshop for persons with developmental disabilities;

9. “Service recipient” means a person participating in the sheltered workshop; and

10. “Sheltered workshop” means a facility, or any portion thereof, operated by a nonprofit organization, corporation, partnership, limited liability company or association whose purpose is to provide meaningful work or training activities to individuals with developmental disabilities and holds a current certificate under Section 14c of the Fair Labor Standards Act by the Wage and Hour Division, U.S. Department of Labor.

Added by Laws 2011, c. 65, § 2, eff. Nov. 1, 2011.

§63-1-865.3. Department of Human Services – Powers and duties – Sheltered workshops.

A. The Department of Human Services shall have the power and duty to:

1. Enforce any provision of the Sheltered Workshop Act;

2. Issue, renew, deny, modify, suspend, and revoke licenses for sheltered workshops pursuant to the provisions of the Sheltered Workshop Act; provided, however, providers of sheltered workshop services that have a contract with the Developmental Disabilities Services Division of the Department of Human Services or the Oklahoma Health Care Authority to provide sheltered workshop services as of November 1, 2011, shall be deemed to be licensed, subject to the continuing requirements of the Sheltered Workshop Act;

3. Establish and enforce standards and requirements for licensure and operation of sheltered workshops that are subject to the provisions of the Sheltered Workshop Act and require the submission of, and to review, reports from any person establishing or operating a sheltered workshop;

4. Enter upon any public or private property for the purpose of inspecting and investigating conditions of the sheltered workshop for compliance with the provisions of the Sheltered Workshop Act, or the standards and requirements for licensure and operation of sheltered workshops developed by the Department pursuant to the provisions of the Sheltered Workshop Act;

5. Employ or designate personnel to conduct investigations and inspections, to make reports of the condition of sheltered workshops, and to take necessary action pursuant to the provisions of the Sheltered Workshop Act to protect and safeguard the health, safety, and welfare of service recipients;

6. Advise, consult, and cooperate with other agencies of this state, the federal government, other states and interstate agencies, and with affected groups and political subdivisions to further the purposes of the Sheltered Workshop Act;

7. Investigate, request or otherwise obtain the information necessary to determine the qualifications and background of an applicant for licensure or contract;

8. Provide the sheltered workshop thirty (30) days written notice that its license is to be suspended or revoked, and shall take action at the end of that time if the sheltered workshop remains out of compliance. However, if the health and safety of service recipients is threatened, the suspension or revocation shall be effective immediately and the sheltered workshop shall be closed;

9. Notify holders of suspended or revoked licenses that they shall be entitled to a hearing before Department licensure officials

if requested within ten (10) days of their notification. The hearing shall be held at least ten (10) days before final action is taken and conducted pursuant to the Administrative Procedures Act; and

10. Reinstate suspended licenses if deficiencies are corrected within a time frame established by the Department.

B. The Department of Human Services shall develop rules establishing minimum standards for sheltered workshops. These standards, at minimum, shall regulate:

1. Physical plant expectations to include physical facilities, ventilation, and accessibility;

2. Staffing requirements;

3. Staff training;

4. Staff qualifications; and

5. Service recipient records.

Added by Laws 2011, c. 65, § 3, eff. Nov. 1, 2011.

§63-1-865.4. License renewal – Application requirements.

A. A license shall expire twelve (12) months from the date of issuance, unless revoked, and may be renewed annually by the Department of Human Services pursuant to the provisions of the Sheltered Workshop Act. All licenses shall be on a form prescribed by the Director of Human Services, and shall include, but not be limited to, the kind of program the licensee is certified to operate, the date the license was issued, and the expiration date of the license. The provisions of the license shall require that the license shall:

1. Not be transferable or assignable except as authorized by the provisions of the Sheltered Workshop Act;

2. Be available on the licensed premises; and

3. Be issued only for the premises named in the application, and may be renewed for twelve-month periods upon application and inspection, pursuant to the provisions of the Sheltered Workshop Act.

B. An application shall be under oath and shall contain, but not be limited to, the following information:

1. The name and address of the applicant or licensee. If the applicant or licensee is a firm or partnership, the name and address of each member thereof shall be included in the application. If the applicant or licensee is a firm, partnership, limited liability company, or corporation, the name and address of the firm, partnership, limited liability company, or corporation and the name and address of each member of the firm, major member of the limited liability company or manager, major partner of the partnership, or officer, major stockholder and registered agent of the corporation shall be included in the application;

2. The name and address of the applicant or licensee if the applicant or licensee is not the provider and is acting as agent for the provider of sheltered workshop services or licensee;

3. The name and location of the sheltered workshop for which a license is sought;

4. The name and administrator of the sheltered workshop;

5. The number for whom services are to be provided; and

6. A description of the program and the staffing pattern for providing supports. In the case of an application for an initial license, such description may be shown as the projected program and staffing pattern.

C. 1. An applicant or licensee shall be twenty-one (21) years of age or older and of reputable and responsible character. In addition, the applicant or licensee shall have appropriate business or professional experience.

2. No person who is ineligible for employment as a community services worker in accordance with Section 1025.2 of Title 56 of the Oklahoma Statues shall be eligible to be licensed or to receive a contract to become a community services provider. If the applicant or licensee is a firm, partnership, limited liability company, or corporation, the applicant shall not be eligible to be licensed or to receive a contract if any member of the firm, any major member of the limited liability company or manager, any major partner of the partnership, or any officer or major stockholder of the corporation is ineligible for employment as a community services worker in accordance with Section 1025.2 of Title 56 of the Oklahoma Statutes.

D. The application for a license or renewal of a license shall be accompanied by a statement of ownership which shall include the following:

1. The name, address, telephone number, occupation or business activity, business address, and business telephone number of the owner of the sheltered workshop and of every person who owns the building in which the sheltered workshop is located. If the owner is a partnership, limited liability company, or corporation, the name and address of each partner, major member of the limited liability company, and stockholder with an ownership interest of five percent (5%) or more shall be included in the statement; and

2. The name and address of any other sheltered workshop in which the owner has a full or partial financial interest or, if the applicant or licensee is a partnership, limited liability company, or corporation, any other sheltered workshop in which the partnership, limited liability company, or corporation has a full or partial financial interest. The statement shall indicate whether any other sheltered workshop wherein a full or partial financial interest is held would, if located in this state, be required to be licensed.

E. The Director or designee shall issue and renew licenses for sheltered workshops which comply with the provisions of the Sheltered Workshop Act and the standards and rules pursuant thereto.
Added by Laws 2011, c. 65, § 4, eff. Nov. 1, 2011.

§63-1-865.5. Sheltered workshop conditional license.

A. The Department of Human Services may issue a conditional license to any sheltered workshop if the Department finds that a violation exists in such sheltered workshop. The issuance of a conditional license shall revoke any license held by the sheltered workshop issued pursuant to the Sheltered Workshop Act.

B. Prior to the issuance of a conditional license, the Department shall review and approve a written plan of correction. The Department shall specify the violations which prevent issuance of a regular license and shall establish a time schedule for correction of the deficiencies. Retention of the license shall be conditional on meeting the requirements of the plan of correction. In the alternative or in addition to a conditional license, the Director of the Department of Human Services may withhold vendor payments due to a sheltered workshop under its programs until such time as the corrections are made or a plan of correction for all deficiencies is approved by the Department.

C. Written notice of the decision to issue a conditional license shall be sent to the sheltered workshop together with the proposed plan of correction. The notice shall inform the sheltered workshop of its right to an informal conference prior to issuance of the conditional license and its right to a full hearing.

D. If the sheltered workshop desires to have an informal conference it shall, within four (4) working days of receipt of notice, send a written request for an informal conference to the Department. The Department shall, within four (4) working days from the receipt of the request, hold an informal conference. Following the conference, the Department may affirm or overrule its previous decision, or modify the terms of the conditional license and plan of correction. The conditional license may be issued after the informal conference or after the time for requesting an informal conference has expired, prior to any further hearing.
Added by Laws 2011, c. 65, § 5, eff. Nov. 1, 2011.

§63-1-865.6. Sheltered workshop license - Transfer.

A. Except as provided in this section, a license to operate a sheltered workshop subject to the provisions of the Sheltered Workshop Act is not transferable. Operation of a sheltered workshop may only be transferred:

1. With the prior written approval of the Director of the Developmental Disabilities Services Division of the Department of Human Services or designee; and

2. From the provider or licensee named in the application to another provider who has a current license or is deemed licensed in accordance with the requirements of the Sheltered Workshop Act.

B. The transferor shall remain responsible for the operation of the sheltered workshop until the transfer is complete. The transferor shall remain liable for all penalties assessed which are imposed for violations occurring prior to transfer of operation. Any citation, problems identified by the Developmental Services Division prior to the transfer, or outstanding deficiencies remaining after the transfer are the responsibility of the transferee to correct.

Added by Laws 2011, c. 65, § 6, eff. Nov. 1, 2011.

§63-1-865.7. Sheltered workshop inspection - Notice.

A. Every sheltered workshop shall be inspected at least annually by a duly appointed representative of the Department of Human Services pursuant to rules promulgated by the Sheltered Workshop Act.

B. The Department shall inspect, survey, and evaluate each sheltered workshop to determine compliance with applicable licensure and program requirements and standards no less than annually and at any time the Department deems necessary.

C. Any inspection, investigation, survey, or evaluation may be conducted without prior notice. Any licensee or applicant for a license shall be deemed to have given consent to any duly authorized employee or agent of the Department to enter and inspect the sheltered workshop in accordance with the provisions of the Sheltered Workshop Act. Refusal to permit such entry or inspection shall constitute grounds for the denial, nonrenewal, suspension or revocation of a license.

D. The Department shall maintain a log, updated at least monthly and available for public inspection, which shall at a minimum detail:

1. The name of the sheltered workshop and date of inspection, investigation, survey, or evaluation;

2. Any deficiencies, lack of compliance, or violation noted at the inspection, investigation, survey, or evaluation;

3. The date a notice of violation, license denial, nonrenewal, suspension, or revocation was issued or other enforcement action occurred;

4. Proposed dates for the resolution of deficiencies;

5. The date corrections were completed, as verified by an inspection; and

6. If the inspection or investigation was made pursuant to the receipt of a complaint, the date such complaint was received and the date the sheltered workshop was notified of the results of the inspection or investigation.

Added by Laws 2011, c. 65, § 7, eff. Nov. 1, 2011.

§63-1-865.8. Criminal history records – Criminal background check - Confidentiality.

A. Providers or licensees are required to conduct a search of criminal history records and the Oklahoma Department of Human Services Community Services Worker Registry (Registry) prior to permanent employment of any community services worker. The provider or licensee shall not hire, contract with, or use as a volunteer, a person whose name is listed in the Registry or who has a criminal background if the Oklahoma State Bureau of Investigation search reveals that the applicant has been convicted, pled guilty, or pled nolo contendere to misdemeanor assault and battery or any felony. The provider or licensee shall immediately cancel any temporary employment arrangement with a person whose name is listed in the Registry or whose background check reveals disqualifying violations of law. If a provider or licensee requests a waiver, the community service worker shall not work directly with service recipients until the provider receives a written decision by the Department.

B. At the request of a provider or licensee, a criminal background check search may be conducted on any person employed by the employer, including those persons excluded in subsection A of this section, at any time during the period of employment of such person. If the results of a criminal background check reveal the person has been convicted, pled guilty, or pled nolo contendere to misdemeanor assault and battery or any felony, the provider or licensee shall immediately terminate the person's employment or contract.

C. All criminal records received by the employer are confidential and are for the exclusive use of the Department and the employer which requested the information. Except upon court order, or with the written consent of the person being investigated, the records shall not be released or otherwise disclosed to any other person or agency. These records shall be destroyed after one (1) year from the end of employment of the person to whom such records relate.

Added by Laws 2011, c. 65, § 8, eff. Nov. 1, 2011.

§63-1-870. Legislative statement of need.

The Oklahoma State Legislature hereby finds and declares that there is an inadequate range of community-based services for frail elderly and disabled adults and that there is an urgent need to establish, support and regulate a community-based system of quality adult day care programs to:

1. Provide a protective social environment which may include health remedial, restorative and social services designed to maintain maximum independence and to prevent premature or

inappropriate institutionalization of functionally impaired elderly or disabled adults;

2. Provide periods of relief for family caregivers, sometimes called respite care, to enable them to continue caring for an impaired person at home; and

3. Enable family caregivers to continue gainful employment.

Added by Laws 1989, c. 192, § 1, eff. Nov. 1, 1989.

§63-1-871. Short title.

Section 2 through 9 of this act shall be known and may be cited as the "Adult Day Care Act".

Added by Laws 1989, c. 192, § 2, eff. Nov. 1, 1989.

§63-1-872. Definitions.

As used in the Adult Day Care Act:

1. "Adult day care center" or "center" means a facility which provides basic day care services to unrelated impaired adults for more than four (4) hours in a twenty-four-hour period. A center shall be a distinct entity, either freestanding or a separate program of a larger organization. A center shall have a separately verifiable staff, space, budget and participant record system. The terms "adult day care center" or "center" shall not include retirement centers and senior citizen centers;

2. "Basic day care services" means supervised health, social supportive, and recreational services in a structured daytime program which serves functionally impaired adults who continue to live in their own homes, usually with the aid of family care givers;

3. "Department" means the State Department of Health; and

4. "Participant" means any person attending an adult day care center.

Added by Laws 1989, c. 192, § 3, eff. Nov. 1, 1989. Amended by Laws 1996, c. 104, § 1, eff. Nov. 1, 1996; Laws 1998, c. 319, § 1, eff. Nov. 1, 1998.

§63-1-873. Licensure requirements and standards - Centers required to be licensed.

A. The State Board of Health, with the advice of the Long-Term Care Facility Advisory Board, created pursuant to Section 1-1923 of this title, shall define minimum adult day care licensure requirements and rules including standards for:

1. Health and social services which may be provided to participants;

2. The range of services to be provided by a center based on the type of participants to be served;

3. Staff to participant ratios;

4. Staff and volunteer qualifications;

5. Staff training;

6. Food services;
7. Participant records and care plans;
8. Antidiscrimination policies;
9. Sanitary and fire standards; and
10. Any other requirements necessary to ensure the safety and well-being of frail elderly and disabled adults.

B. Centers to be licensed shall include all adult day care centers. Sheltered workshops and senior recreational centers which do not receive participant fees for services are not required to be licensed. It shall be unlawful to operate a center without first obtaining a license for such operation as required by the Adult Day Care Act, regardless of other licenses held by the operator. Organizations operating more than one center shall obtain a license for each site.

C. The license for operation of a center shall be issued by the State Department of Health. The license shall:
1. Not be transferable or assignable;
2. Be posted in a conspicuous place on the licensed premises;
3. Be issued only for the premises named in the application; and
4. Expire twelve (12) months from the date of issuance, provided an initial license shall expire one hundred eighty (180) days after the date of issuance. Licenses may be issued for a period of more than twelve (12) months, but not more than twenty-four (24) months, for the licensing period immediately following November 1, 2011, in order to permit an equitable distribution of license expiration dates to all months of the year.

D. A center shall meet the safety, sanitation and food service standards of the State Department of Health.

E. Local health, fire and building codes relating to adult day care centers shall be classified as an education use group.

F. The issuance or renewal of a license after notice of a violation has been sent shall not constitute a waiver by the State Department of Health of its power to subsequently revoke the license or take other enforcement action for any violations of the Adult Day Care Act committed prior to issuance or renewal of the license.
Added by Laws 1989, c. 192, § 4, eff. Nov. 1, 1989. Amended by Laws 1996, c. 104, § 2, eff. Nov. 1, 1996; Laws 2000, c. 48, § 1, emerg. eff. April 14, 2000; Laws 2011, c. 105, § 34, eff. Nov. 1, 2011.

§63-1-874. Application for license - Renewal - Proof of compliance with law.

A. An applicant for a license to operate an adult day care center must file an application on a form approved by the State Department of Health and pay an initial license fee which shall be determined by the Department.

B. Applications for license renewal must be filed at least forty-five (45) days before the expiration date of the current license on a form approved by the Department and a license renewal fee must be paid which shall be determined by the Department. The annual license renewal fee shall not exceed Seventy-five Dollars ($75.00). Revenue generated by the collection of license fees shall be deposited into the Department revolving fund, and shall be used to help finance the costs associated with the licensing of such center.

C. The applicant must provide evidence of compliance with the requirements of all applicable federal, state and local laws and regulations. In addition to other requirements, an applicant shall provide a statement of ownership and a financial statement.
Added by Laws 1989, c. 192, § 8, eff. Nov. 1, 1989.

§63-1-875. Inspection by State Department of Health.

The State Department of Health shall at least annually and whenever it deems necessary inspect each adult day care center to determine compliance with the Adult Day Care Act and rules and regulations promulgated thereto.

Any licensee or applicant for a license shall be deemed to have given consent to any duly authorized employee or agent of the Department to inspect and enter the home in accordance with the Adult Day Care Act or rules promulgated thereto. Refusal to permit such entry or inspection may constitute grounds for the denial, nonrenewal, suspension or revocation of a license.
Added by Laws 1989, c. 192, § 6, eff. Nov. 1, 1989.

§63-1-876. Denial, suspension, non-renewal or revocation of license - notice - Hearing - Reinstatement of suspended license.

A. The State Department of Health may deny, suspend, deny renewal or revoke the license of an applicant or a licensed adult day care center which fails to comply with the licensing requirements and rules and regulations specified by the provisions of the Adult Day Care Act.

B. The Department shall give a center thirty (30) days' written notice that its license is to be suspended or revoked, and shall take action at the end of that time if the center is still out of compliance. However, if the health and safety of participants is threatened, the suspension or revocation shall be effective immediately, and the center closed.

C. Holders of suspended or revoked licenses shall be entitled to a hearing before Department licensure officials if requested within ten (10) days of their notification. The hearing shall be held at least ten (10) days before final action is taken and conducted pursuant to the Administrative Procedures Act.

D. Suspended licenses may be reinstated if deficiencies are corrected within a time frame established by the Department.
Added by Laws 1989, c. 192, § 7, eff. Nov. 1, 1989.

§63-1-877. Discontinuance of operation of a center - Notification of participants and Department - Surrender of license.

A. If an adult day care center ceases operations, the center shall notify the participants in writing of its intention to do so at least thirty (30) days prior to the effective date of closure unless the Department has ordered immediate closure, which would require immediate participant notification. If ceasing operations for any reason other than license revocation, the center shall also notify the Department of its intention to do so at least thirty (30) days prior to the effective date of closure.

B. Immediately upon discontinuance of operations of a center, the owner-operator shall surrender the license to the Department and the license shall be canceled.
Added by Laws 1989, c. 192, § 8, eff. Nov. 1, 1989.

§63-1-878. Unlawful operation or misrepresentation - Penalties - Misdemeanor - Prosecution - Civil actions - Remedies.

A. It shall be unlawful to operate an adult day care center without possessing a current, valid license issued pursuant to the provisions of the Adult Day Care Act. It shall be unlawful for any holder of a license issued pursuant to the provisions of the Adult Day Care Act to advertise or hold out to the public that it holds a license for a center other than that for which it actually holds a license. It shall be unlawful for any individual or entity to advertise or hold out to the public that it provides adult day care services without first possessing a current, valid license issued pursuant to the provisions of the Adult Day Care Act or the Continuum of Care and Assisted Living Act.

B. Any person who has been determined by the State Department of Health to have violated any provision of the Adult Day Care Act or any rule or order issued pursuant thereto may be liable for an administrative penalty of not more than Five Hundred Dollars ($500.00) for each day that such violation continues.

C. The amount of the penalty shall be assessed by the Department pursuant to the provisions of subsection B of this section, after notice and hearing. In determining the amount of the penalty, the Department shall include but not be limited to, consideration of the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, the effect on the ability of the person to continue to do business, and any show of good faith in attempting to achieve compliance with the provisions of the Adult Day Care Act.

D. Any license holder may elect to surrender such license in lieu of such fine, but shall be forever barred from obtaining a reissuance of such license.

E. Any person who violates any of the provisions of the Adult Day Care Act, upon conviction, shall be guilty of a misdemeanor. Each day upon which such violation occurs shall constitute a separate violation.

F. 1. The Attorney General or the district attorney of the appropriate district court of Oklahoma may bring an action in a court of competent jurisdiction for the prosecution of a violation by any person of a provision of the Adult Day Care Act or any rule or order issued pursuant thereto.

2. Enforcement of any action for equitable relief to redress or restrain a violation by any person of a provision of the Adult Day Care Act or for an injunction or recovery of any administrative or civil penalty assessed pursuant to the provisions of the Adult Day Care Act may be brought by:

a. the district attorney of the appropriate district court of the State of Oklahoma,

b. the Attorney General on behalf of the State of Oklahoma in the appropriate district court of the State of Oklahoma, or

c. the Department on behalf of the State of Oklahoma in the appropriate district court of the State of Oklahoma, or as otherwise authorized by law.

3. The court has jurisdiction to determine such action, and to grant the necessary or appropriate relief, including but not limited to, mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

Added by Laws 1989, c. 192, § 9, eff. Nov. 1, 1989. Amended by Laws 1998, c. 319, § 2, eff. Nov. 1, 1998.

§63-1-879.1. Repealed by Laws 2007, c. 93, § 7, eff. Nov. 1, 2007.

§63-1-879.2. Alzheimer's Research Advisory Council - Powers, duties and responsibilities.

The Alzheimer's Research Advisory Council shall:

1. Provide advice and make recommendations to the State Department of Health and other state agencies regarding Alzheimer's and related dementia issues and/or programs funded or coordinated by, but not limited to, the Department of Mental Health and Substance Abuse Services, the Department of Human Services, the State Department of Health, and the Department of Veterans Affairs;

2. Develop a plan for research relating to Alzheimer's disease and related dementias that addresses and interfaces with existing plans and requires involvement by one or more state agencies;

3. Examine the continuation and possible expansion of services provided through the existing autopsy network currently in operation at the Oklahoma Medical Research Foundation and the University of Oklahoma College of Medicine and provide specific recommendations including funding alternatives to the State Department of Health, no later than March 1, 1991;

4. Review the need for a statewide voluntary registry in order to conduct epidemiology studies for health planning and research purposes;

5. Recommend specific innovation service delivery models that address the unique needs of multi-cultural populations, including but not limited to ethnic sensitive practices, and culturally relevant programming; and

6. Submit before November 1 of each year to the State Department of Health, the Governor and the Oklahoma State Legislature a report, with copies to appropriate state agencies, summarizing the activities of the Alzheimer's Advisory Research Council for the past year and indicating short-term and long-term plans and recommendations for the coming years.

Added by Laws 1990, c. 207, § 2, operative July 1, 1990.

§63-1-879.2a. Short title.

This act shall be known and may be cited as the "Alzheimer's Disease Special Care Disclosure Act".

Added by Laws 1998, c. 147, § 1, eff. Nov. 1, 1998.

§63-1-879.2b. Definitions.

As used in the Alzheimer's Disease Special Care Disclosure Act:

1. "Alzheimer's disease special care" means care that is provided to persons with a diagnosis of probable Alzheimer's disease or related disorders by an entity that provides such care in a special unit or under a special program designed to prevent or limit access to areas outside the designated unit or program; and

2. "Department" means the State Department of Health.

Added by Laws 1998, c. 147, § 2, eff. Nov. 1, 1998.

§63-1-879.2c. Required disclosure.

A. 1. Pursuant to rules promulgated under the provisions of the Alzheimer's Disease Special Care Disclosure Act, any facility including, but not limited to, a nursing facility, residential care facility, assisted living facility, adult congregate living facility, adult day care center, or a continuum of care facility retirement community that advertises, markets, or otherwise promotes itself as providing care or treatment to persons with Alzheimer's disease or related disorders in a special unit or under a special program shall disclose the type of care or treatment provided that

distinguishes it as being especially applicable to or suitable for such persons.

2. The disclosure shall be made to:

a. the state licensing agency,

b. any person seeking placement on behalf of a person with Alzheimer's disease or related disorders within an Alzheimer's disease special care unit, and

c. the State Long-Term Care Ombudsman.

3. The State Department of Health shall examine all such disclosures in the Department's records as part of the facility's license renewal process to verify accuracy. The disclosure shall be made prior to the facility or entity entering into any agreement to provide care.

B. The information disclosed as required by this section shall include the following areas:

1. A written description of the Alzheimer's disease special care unit's overall philosophy and mission as it relates to the needs of residents with Alzheimer's disease or related disorders;

2. The process and criteria for placement in, or transfer or discharge from, the unit;

3. The process used for assessment, establishment, and implementation of a patient plan of care, including the method by which the plan evolves and is responsive to changes in the condition of the patient;

4. Staff-to-resident ratios, staff training and continuing education commensurate with Alzheimer's disease residents' needs for increased care and supervision;

5. The physical environment and design features appropriate to support the functioning of cognitively impaired adult residents;

6. The types and frequency of resident activities;

7. The involvement of families in care planning and other aspects of care, and the availability of family support programs; and

8. The fees for care and any additional fees.

C. The Department, with equal opportunity for input from consumer and provider representatives, shall develop a standardized disclosure form and shall review the information submitted on the disclosure form by the facility or other entity to verify the accuracy of the information reported. Any significant change in the information initially submitted by the facility or other entity shall be reported to the Department at the time the change is made.

D. The provisions of this section shall not be construed to preclude a nursing facility without an Alzheimer's disease special care unit from admitting a person with Alzheimer's disease or related disorders.

E. The Department, with equal opportunity for input from consumer and provider representatives, shall promulgate rules to

effectuate the provisions of the Alzheimer's Disease Special Care Disclosure Act.
Added by Laws 1998, c. 147, § 3, eff. Nov. 1, 1998.

§63-1-879.3. Core Neuropathology Laboratory.

A. The State Department of Health shall contract with the University of Oklahoma Health Sciences Center, if authorized by the University of Oklahoma Board of Regents, for the development and enhancement of a Core Neuropathology Laboratory.

B. The Core Neuropathology Laboratory shall be:

1. equipped with sufficient state-of-the-art equipment and adequate personnel to allow quality diagnosis and efficient handling of the autopsy specimens; and

2. provided supplies for diagnostic studies for educational programs and for service to the public.

Added by Laws 1990, c. 207, § 3, operative July 1, 1990.

§63-1-879.4. Repealed by Laws 1994, c. 283, § 22, eff. Sept. 1, 1994.

§63-1-880.1. Short title.

Sections 18 through 28 of this act shall be known and may be cited as the "Psychiatric and Chemical Dependency Facility Certificate of Need Act".
Added by Laws 1989, c. 227, § 18.

§63-1-880.2. Public policy - Purpose.

The Legislature hereby declares that it is the public policy of the State of Oklahoma that the offering and development of psychiatric and drug dependency services should be made in a planned, orderly and economical manner consistent with and appropriate to services needed by people in various regions, districts or localities in the State of Oklahoma, and that it is essential to the realization of this public policy that the offering and development of such services in this state be made in accordance with the needs for such services. It is the purpose of the Legislature in enacting this act to further this public policy by providing for the submittal of plans and applications, and by prohibiting the offering, development or change of existing services prior to the issuance of a certificate of need by the State Department of Health.
Added by Laws 1989, c. 227, § 19.

§63-1-880.3. Definitions.

For purposes of this act:

1. "Act" means the Psychiatric and Chemical Dependency Facility Certificate of Need Act;

2. "Board" means the State Board of Health;
3. "Commissioner" means the Commissioner of Health; and
4. "Department" means the State Department of Health.
Added by Laws 1989, c. 227, § 20.

§63-1-880.4. Department - Powers and duties - Participation in federal programs - Collection of monthly data

A. The State Department of Health shall have the power and duty to:

1. Issue, renew, deny, modify, suspend and revoke certificates of need;
2. Establish and enforce standards and requirements for certificates of need;
3. Require the submission of, and to review reports from any person requesting or obtaining a certificate of need;
4. Employ or designate personnel necessary to implement the provisions of this act;
5. Report to the district attorney having jurisdiction or the Attorney General any act committed by any person which may constitute a misdemeanor pursuant to the provisions of this act;
6. Advise, consult and cooperate with other agencies of this state, the federal government, other states and interstate agencies, and with affected groups and political subdivisions to further the purposes of the provisions of this act;
7. Develop and enforce rules and regulations subject to the approval of the Board to implement the provisions of this act;
8. Investigate, request or otherwise obtain the information necessary to determine the qualifications and background of an applicant for a certificate of need;
9. Establish administrative penalties for violations of the provisions of this act as authorized by the Board;
10. Institute and maintain or intervene in any action or proceeding where deemed necessary by the Department pursuant to this act;
11. Develop and administer plans for services, including manpower, facilities and other resources;
12. Develop and publish, once every four (4) years, a Quadrennial State Health Plan, following guidelines and procedures adopted by the Board, which specifies the method of adoption of the plan document, its format, provisions for developing and publishing plan amendments and the role of the State Department of Health and the Alcohol, Drug Abuse and Community Mental Health Planning and Coordination Boards of each mental health catchment area in its development;
13. Establish and administer criteria and standards for the delineation and approval of areas and regions for planning purposes;

14. Promote and maintain plans for providing services in the State of Oklahoma; and

15. Exercise all incidental powers as necessary and proper for the administration of this act.

B. The State Department of Health shall be the single state agency to participate in federal programs for planning and to apply for and administer federal funds for planning, provided, that this act, and any other law vesting planning functions in any other state agency, shall not apply to planning functions vested by law in the Department ofMental Health and the Department of Human Services.

C. The Department shall establish forms and provide for the collection of monthly data necessary for the computation of occupancy rates from licensed psychiatric and chemical dependency facilities which do not provide services to Medicaid recipients. Data shall include licensed bed capacity, average daily census, days on which beds were reserved for residents temporarily absent, and the number, if any, of semi-private units rented as private rooms.
Added by Laws 1989, c. 227, § 21.

§63-1-880.5. Certificate of need required.

Except as otherwise provided by Section 1-880.6 of this title, no psychiatric or chemical dependency facility or unit shall be developed or offered unless a certificate of need therefor has been issued. No governmental entity shall approve any grant of funds, issue any debentures or issue or renew any license for the operation of a facility, nor shall any third-party purchasers, licensed or operated by this state, issue reimbursement for services provided to its insurers or clients, unless the certificate of need as provided in this act has been obtained.
Added by Laws 1989, c. 227, § 22. Amended by Laws 1991, c. 241, § 2, eff. Sept. 1, 1991.

§63-1-880.6. Application for certificate of need - Exemptions.

A. Every entity desiring to establish a new psychiatric or chemical dependency service or to acquire, lease or expand an existing service whether through construction or conversion of facilities, shall make application to the State Department of Health for a certificate of need in such form and accompanied by such information, including a complete list of stockholders, partners, and owners, and any other information, as the Board shall prescribe.

B. The provisions of the Psychiatric and Chemical Dependency Facility Certificate of Need Act shall not apply to any hospital as defined by Section 1-710 of this title licensed by the State Department of Health on or before December 31, 1990, which has:

1. Construction cost overruns or capital expenditures for completion of originally approved beds or completion of previously constructed and shelled space arising out of and based only upon the

original certificate of need issued by the Commissioner for said construction, when such construction costs or capital expenditures do not or will not increase the approved number of beds, allow conversion of bed use shall not be deemed new construction or increase pricing structure for treatment or services; or

2. Negotiated a contract with an agency of this state, the federal government or a Native American nation duly recognized by the federal government that specifies the number of beds and their uses. A hospital provided for by paragraph 2 of this subsection shall be exempt from the certificate of need required by the Psychiatric and Chemical Dependency Facility Certificate of Need Act for the purposes specified in the contract. This exemption shall not apply to Medicare or Medicaid contracts or contracts for inpatient services for children or adolescents.

C. The Commissioner of Health is authorized to grant a certificate of need if the entity applying for the certificate has filed a notice on a form prescribed by the State Department of Health which shall include, but not be limited to:

1. The name and location of the entity;

2. The name and address of each person having an ownership interest in the entity;

3. The nature of the acquisition, expansion, addition or conversion, whether by sale, lease or other arrangement;

4. The parties to the sale, lease or other arrangement;

5. The size of the acquisition, expansion, addition or conversion;

6. The approximate cost of the acquisition, expansion, addition or conversion; and

7. The projected date of completion.

D. The Commissioner of Health shall be notified, on a form prescribed by the State Department of Health, of the following:

1. Any decrease in the number of beds of a hospital, facility or hospital unit; and

2. Any change in the designation for a continuum of care in psychiatric or chemical dependency treatment.

E. Psychiatric and chemical dependency service for which a certificate of need is required shall include:

1. Any capital investment or lease of Five Hundred Thousand Dollars ($500,000.00) or more, including predevelopment activities such as arrangements and commitments for financing, architectural designs, plans, working drawings, specifications and site acquisition; provided, that this dollar limit shall not apply to a change in bed capacity;

2. Acquisition of a facility by purchase, lease, donation or through transfer of stock or corporate merger. If the Department finds that a proposed acquisition is consistent with the criteria and standards for review of such projects, then the Department shall

issue a certificate of need. If the Department finds that the proposed acquisition is not consistent with the criteria, the project will be referred to the Commissioner of Health for final determination. The Department's determination to approve the proposed acquisition or to refer it to the Commissioner shall be made no later than fifteen (15) days following the day the application is determined to be complete and review ready, or the proposed acquisition shall be automatically approved. Proposed acquisitions shall be reviewed against standards adopted by the Department which relate only to the acquirer's capability to operate a facility; or

3. Inpatient psychiatric and chemical dependency services for persons under eighteen (18) years of age offered or provided by a hospital or other health care facility, including but not limited to any conversion of existing beds, any increase in bed capacity and any new beds for the purpose of offering or providing said services, regardless of any capital or other costs of the project.

a. The State Board of Health shall provide by rule for the temporary emergency use of beds ordinarily used for adult patients as psychiatric or chemical dependency beds for children or adolescents.

b. Any application to establish or operate inpatient psychiatric or drug or alcohol treatment services for persons under eighteen (18) years of age shall include the establishment, operation and maintenance of a community-based service program or a day treatment program, as those terms are defined by Section 1101 of Title 10 of the Oklahoma Statutes, as an integral part of the total project.

F. Promptly upon receipt of any such application, the Department shall examine and transmit the application to reviewers it may select to determine whether the application is complete. Once the Department has determined that the application is complete, it shall notify affected parties and other reviewing bodies and cause a thorough investigation to be made of the need for and appropriateness of such expanded psychiatric or chemical dependency service. The investigation made pursuant to an application for a certificate of need shall include the following:

1. The adequacy of psychiatric and chemical dependency services in relation to an optimal target ratio of psychiatric or chemical dependency beds to the population;

2. The availability of services which may serve as alternatives or substitutes;

3. The adequacy of financial resources for the new or expanded services and for the continued operation thereof;

4. The availability of sufficient manpower to properly staff and operate the proposed new or expanded service; and

5. Any other matter which the Department deems appropriate.

G. Each application for a certificate of need applied for pursuant to the provisions of this section except for those applications filed by state agencies shall be accompanied by an application fee in an amount established by the Department.

Added by Laws 1989, c. 227, § 23. Amended by Laws 1989, c. 345, § 2, eff. Oct. 1, 1989; Laws 1991, c. 241, § 3, eff. Sept. 1, 1991; Laws 1994, c. 82, § 1, eff. Sept. 1, 1994.

§63-1-880.7. Findings as to necessity - Certain capital expenditures exempted - Criteria for approval of application - Reconsideration of determination.

A. Except as provided in subsection B of this section or Section 1-880.6 of this title no certificate of need shall be issued by the State Department of Health unless, after investigation, the Department makes the following findings:

1. The action proposed in the application for such certificate of need is necessary and desirable in order to provide the services required in the locality to be served;

2. The proposed action can be economically accomplished and maintained; and

3. The proposed action will contribute to the orderly development of services in the locality.

B. 1. An application for a certificate of need shall not be required for a capital expenditure to eliminate or prevent imminent safety hazards as defined by federal, state or local fire, building or life safety codes or regulations, or to comply with state licensure standards, or to comply with accreditation standards, compliance with which is required to receive reimbursements under Title XVIII of the Social Security Act or payments under a state plan for medical assistance approved under Title XIX of such act.

2. Approval under this subsection shall cover only the capital expenditure to eliminate or prevent the hazards or to comply with standards described herein.

C. Any application seeking a certificate of need for the construction of a psychiatric or chemical dependency facility in replacement of an existing facility shall be reviewed by the Department and shall be granted a certificate of need if the application meets the following criteria:

1. The replacement facility involves no increase in licensed beds; and

2. A plan for the use of the facility to be replaced is provided which assures that its use will be discontinued upon licensure of the replacement facility.

D. When the Department completes its investigation and makes a determination to issue or deny a certificate of need, it shall provide written findings to the applicant, other reviewers and to

other persons upon their request. The certificate of need shall establish the maximum capital expenditure for the project. The Department shall adopt rules and regulations concerning the time in which a decision must be made by the Department on an application.

E. Any person may request a reconsideration of a Department determination for good cause shown, the grounds for which shall be established by the Department by rule. A request for reconsideration shall be filed within thirty (30) days of the Department determination. The hearing thereupon shall be conducted within thirty (30) days following the receipt of request. Written findings shall be issued within forty-five (45) days of such hearing.

F. The State Department of Health shall conduct a study to determine the number and location of all inpatient and residential psychiatric services and chemical dependency services within the state that are offered or provided for persons under eighteen (18) years of age and maintain a current listing, updated monthly, of the facilities offering said services, the number of beds at each facility, and the occupancy rate at each facility.

Added by Laws 1989, c. 227, § 24. Amended by Laws 1991, c. 241, § 4, eff. Sept. 1, 1991.

§63-1-880.8. Appeal of final determination.

Any final determination by the State Department of Health under this act may be appealed by the applicant, or any other aggrieved party under the Administrative Procedures Act, Sections 301 through 326 of Title 75 of the Oklahoma Statutes; provided, that the venue for such appeal shall be in Oklahoma County or in the county in which the facility at issue in the application is located. The decision of the Department shall be upheld by the court unless it is arbitrary or capricious or is not in accordance with applicable law.

Added by Laws 1989, c. 227, § 25. Amended by Laws 1994, c. 48, § 3, eff. Sept. 1, 1994.

§63-1-880.9. Term of validity of certificate - Time for submitting plans and specifications - Time for construction or modification of structure - Time for acquisition - Effective dates of deadlines.

A. A certificate of need issued pursuant to the provisions of this act for the construction or establishment of a new psychiatric or chemical dependency service or the expansion or change of an existing service shall be valid for a period of six (6) months during which time the applicant shall submit to the State Department of Health the plans and specifications for the facility to be constructed or modified; however, the Department may extend such time by a period not to exceed six (6) months for extraordinary circumstances beyond the control of the applicant. If no such plans and specifications are submitted and approved within the time

required by this section, then such certificate shall be null and void. If plans and specifications are submitted, the Department shall approve or disapprove such plans and specifications within forty-five (45) business days of the filing or such plans and specifications shall be presumed to be approved. If the Department disapproves the plans and specifications, such disapproval shall include a detailed statement of the corrections needed. The holder of the certificate must resubmit corrected plans and specifications within forty-five (45) business days of disapproval. Failure to resubmit shall render the certificate void. The applicant must begin construction or modification of the structure within two (2) months following the approval of the plans and specifications and must proceed to complete the structure or modifications within twelve (12) months of the approval or the certificate will be canceled. However, the Department may extend such completion day by a period not to exceed six (6) months for good cause, provided that such extension shall not apply to an applicant who has been previously granted a six (6) months' extension for completion of plans and specifications.

B. A certificate of need issued pursuant to the provisions of this act for the acquisition of a psychiatric or chemical dependency facility shall be valid for a period of six (6) months by which time the acquisition must be finalized, provided that the Department may extend such final date by a period not to exceed three (3) months for good cause.

C. Pending the appeal of an order granting a certificate of need in the district or Supreme Court, the effective dates of deadlines for submitting plans, filing reports, completion of the project and other requirements related to such project shall commence on the date of a final judicial determination of any such appeal, and any certificate of need which has been approved by the Department shall remain in effect pending such appeal. The effective date of the issuance of a certificate of need shall be the date of a final judicial determination of any such appeal. The provisions of this subsection shall have prospective and retrospective application.

Added by Laws 1989, c. 227, § 26.

§63-1-880.10. Decision granting or denying certificate of need for psychiatric or chemical dependency facility - Written findings of fact, conclusions of law and explanations required.

The State Department of Health is hereby directed, with respect to any decision granting or denying a certificate of need for a new psychiatric or chemical dependency facility, to issue in writing findings of fact, conclusions of law, and explanations of any other pertinent considerations, including precedents, upon which such decision is based. The Department shall be allowed forty-five (45)

days within which to issue a formal order and opinion to the applicant and any parties opposed to the application after the conclusion of the hearing, or after the submission of additional evidence or briefs requested by the Department.
Added by Laws 1989, c. 227, § 27.

§63-1-880.11. Violations - Penalties.

Any person who offers or develops or begins to offer or develop a psychiatric or chemical dependency facility or an addition thereto without having first obtained a certificate of need, as provided by this act, shall be deemed guilty of a misdemeanor, and upon conviction shall be punishable by payment of a fine of not less than One Hundred Dollars ($100.00) and not more than Five Hundred Dollars ($500.00). If the State Department of Health, through one of its agents or representatives, notifies in writing, through certified mail, return receipt requested, the person who has unlawfully commenced the offering or development of a psychiatric or chemical dependency facility to cease and desist, then each day that such person continues such offering or development shall be a separate offense. If any person continues to offer or develop such service after the issuance of a cease and desist order, the Department shall seek an injunction to prohibit the continued offering or development.
Added by Laws 1989, c. 227, § 28.

§63-1-880.12. Payment or acceptance of payment for securing or soliciting patients for psychiatric or chemical dependency facility.

A. 1. Any person who intentionally or knowingly pays to or accepts anything of value from any person, firm, association of persons, partnership, or corporation for securing or soliciting patients for any psychiatric or chemical dependency facility in this state shall be guilty of a misdemeanor, and upon conviction shall be punishable by payment of a fine of not less than Five Hundred Dollars ($500.00) and not more than Two Thousand Dollars ($2,000.00).

2. In addition to any other penalties or remedies provided by law:

a. a violation of this section shall be grounds for disciplinary action by the state agency licensing, certifying, or registering such professional or provider, and

b. the state agency licensing, certifying, or registering such professional or provider may institute an action to enjoin a violation or potential violation of this section. The action for an injunction shall be in addition to any other action, proceeding, or remedy authorized by law.

B. This section shall not be construed to prohibit:

1. Advertising, except that advertising which:

a. is false, misleading or deceptive,

b. advertises professional superiority or the performance of a professional service in a superior manner, and

c. is not readily subject to verification;

2. Remuneration for advertising, marketing or other services that are provided for the purpose of securing or soliciting patients, provided the remuneration is:

a. set in advance,

b. consistent with the fair market value of the services, and

c. not based on the volume or value of any patient referrals or business otherwise generated between the parties; and

3. Any payment, business arrangements, or payments practice not prohibited by 42 U.S.C., Section 1320a-7b(b), or any regulations promulgated pursuant thereto.

C. This section shall not apply to licensed insurers, including but not limited to, group hospital service corporations, or health maintenance organizations which reimburse, provide, offer to provide, or administer hospital, medical, dental, or other health-related benefits under a health benefits plan for which it is the payor when it is providing those services under a health benefits plan.

D. For purposes of this section:

1. "Health or mental health care professional" means any person who offers or provides counseling or health or mental health care under a license, certification or registration issued pursuant to Title 59 of the Oklahoma Statutes, and any drug and alcohol counselor certified by a private professional organization or association that offers drug and alcohol certification; and

2. "Health care provider" means any hospital or related institution offering or providing outpatient or inpatient psychiatric or chemical dependency care licensed pursuant to Section 1-702 of Title 63 of the Oklahoma Statutes, or private facility offering inpatient or outpatient psychiatric or chemical dependency care licensed or certified pursuant to Title 43A of the Oklahoma Statutes.

Added by Laws 1992, c. 356, § 1, emerg. eff. June 4, 1992.

§63-1-890.1. Short title.

Sections 1 through 7 of this act shall be known and may be cited as the "Continuum of Care and Assisted Living Act".

Added by Laws 1997, c. 223, § 1, emerg. eff. May 20, 1997.

§63-1-890.2. Definitions.

As used in the Continuum of Care and Assisted Living Act:

1. "Assisted living center" means any home or establishment offering, coordinating or providing services to two or more persons who:

a. are domiciled therein,

b. are unrelated to the operator,

c. by choice or functional impairments, need assistance with personal care or nursing supervision,

d. may need intermittent or unscheduled nursing care,

e. may need medication assistance, and

f. may need assistance with transfer and/or ambulation;

2. "Board" means the State Board of Health;

3. "Commissioner" means the Commissioner of Health;

4. "Continuum of care facility" means a home, establishment or institution providing nursing facility services as defined in Section 1-1902 of this title and one or both of the following:

a. assisted living center services as defined in the Continuum of Care and Assisted Living Act, and

b. adult day care center services as defined in Section 1-872 of this title; and

5. "Department" means the State Department of Health.

Added by Laws 1997, c. 223, § 2, emerg. eff. May 20, 1997. Amended by Laws 2007, c. 347, § 1, eff. Nov. 1, 2007; Laws 2009, c. 53, § 1, eff. Nov. 1, 2009.

§63-1-890.3. Promulgation of rules - Contents - Other applicable acts.

A. The State Board of Health shall promulgate rules necessary to implement the provisions of the Continuum of Care and Assisted Living Act. Such rules shall include, but shall not be limited to:

1. A uniform comprehensive resident screening instrument to measure the needs and capabilities of residents in all settings and to determine appropriate placements of residents;

2. Physical plant requirements meeting construction and life safety codes, with provisions accommodating resident privacy and independence in assisted living centers and in assisted living components of continuum of care facilities based on the variable capabilities of residents;

3. Staffing levels responsive to the variable needs of residents, with provisions for sharing of staff between components in a continuum of care facility;

4. Standards for measuring quality outcomes for residents;

5. Provisions for individualized services chosen by and designed for each resident;

6. Provisions to prohibit facility staff from disclosing a resident's financial information to third parties without written

consent of the resident or the designated representative of the resident;

7. Procedures for inspections and investigations of licensed entities to ensure compliance with the Continuum of Care and Assisted Living Act and rules promulgated by the Board;

8. Enumeration of resident rights and responsibilities to be observed by each facility and its staff. Such resident rights shall include the freedom of choice regarding any personal attending physicians and all other providers of medical services and supplies without a financial penalty or fee charged by the assisted living center;

9. Provisions for a surety bond or deposit from each applicant in an amount sufficient to guarantee that obligations to residents will be performed, with provisions for reduction or waiver of the surety bond or deposit when the assets of the applicant or its contracts with other persons are sufficient to reasonably ensure the performance of its obligations;

10. Provisions for the development of a consumer guide or similar resource to be posted on the Internet website of the State Department of Health to assist individuals and families in understanding the services provided by assisted living centers and to compare and select a facility; and

11. Provisions for posting results of routine inspections and any complaint investigations of each assisted living center on the Internet website of the Department. Such information shall be regularly updated to include the facility's plan of correction and to indicate when a violation of a licensing regulation was corrected by the facility.

B. The nursing care service of a continuum of care facility shall be subject to the requirements, procedures and remedies set out in the Nursing Home Care Act, including provisions relating to resident rights.

C. The adult day care component of a continuum of care facility shall be subject to requirements and procedures specified under the Adult Day Care Act.

Added by Laws 1997, c. 223, § 3, emerg. eff. May 20, 1997. Amended by Laws 2009, c. 53, § 2, eff. Nov. 1, 2009; Laws 2012, c. 199, § 1, eff. Nov. 1, 2012; Laws 2015, c. 31, § 1, eff. Nov. 1, 2015.

§63-1-890.4. Application to establish or license a continuum of care facility or assisted living center.

A. Each application for establishment of a continuum of care facility or assisted living center shall be accompanied by a nonrefundable application fee. The State Board of Health shall develop a sliding fee scale not to exceed One Thousand Dollars ($1,000.00) for each application, except that any facility operated by the Oklahoma Department of Veterans Affairs shall be exempt from

the fee. The scale shall be based upon the bed capacity of the continuum of care facilities or assisted living centers.

B. Each application for an initial license, or annual renewal of the license, to operate a continuum of care facility or assisted living center shall be accompanied by a license fee of Ten Dollars ($10.00) for each bed included in the maximum bed capacity at such facility or center, except that any facility operated by the Oklahoma Department of Veterans Affairs shall be exempt from this fee. Each application for an initial or renewal license for a continuum of care facility that includes an adult day care component shall be accompanied by an additional license fee in an amount to be determined by the Board, but not to exceed Seventy-five Dollars ($75.00), except that any facility operated by the Oklahoma Department of Veterans Affairs shall be exempt from the fee.

C. Each application to establish or license a continuum of care facility or assisted living center shall be on a form approved by the Commissioner to include, but not be limited to, the following:

1. Disclosure of the applicant's identity and background in the operation of continuum of care and assisted living services; and

2. Evidence of the adequacy of the applicant's financial resources and ability to ensure adequate staffing.

Added by Laws 1997, c. 223, § 4, emerg. eff. May 20, 1997. Amended by Laws 1998, c. 31, § 1, eff. July 1, 1998; Laws 2013, c. 183, § 2, emerg. eff. April 29, 2013.

§63-1-890.5. License required.

No person shall establish, operate or maintain a continuum of care facility or assisted living center, or use in its name, logo, contracts, or literature the phrase "continuum of care facility" or "assisted living", nor imply that it is a continuum of care facility or assisted living center, nor hold itself out to be a continuum of care facility or assisted living center, unless that person first obtains a license as required by the Continuum of Care and Assisted Living Act.

Added by Laws 1997, c. 223, § 5, emerg. eff. May 20, 1997.

§63-1-890.6. Application of act - Bans on admission - Penalties.

A. The Continuum of Care and Assisted Living Act shall not apply to residential care homes, adult companion homes, domiciliary care units operated by the Department of Veterans Affairs, the private residences of persons with developmental disabilities receiving services provided by the Developmental Disabilities Services Division of the Department of Human Services or through the Home- and Community-Based Waiver or the Alternative Disposition Plan Waiver of the Oklahoma Health Care Authority, or to hotels, motels, boardinghouses, rooming houses, a home or facility approved and annually reviewed by the United States Department of Veterans

Affairs as a medical foster home in which care is provided exclusively to three or fewer veterans, or other places that furnish board or room to their residents. The Continuum of Care and Assisted Living Act shall not apply to facilities not charging or receiving periodic compensation for services rendered and not receiving any county, state or federal assistance.

B. The State Commissioner of Health may ban admissions to, or deny, suspend, refuse to renew or revoke the license of, any continuum of care facility or assisted living center which fails to comply with the Continuum of Care and Assisted Living Act or rules promulgated by the State Board of Health.

C. Any person who has been determined by the Commissioner to have violated any provision of the Continuum of Care and Assisted Living Act or any rule promulgated hereunder shall be liable for an administrative penalty of not more than Five Hundred Dollars ($500.00) for each day that the violation occurs.

D. 1. The State Department of Health shall develop a classification system of violations, taking into consideration the recommendations of the Long-Term Care Facility Advisory Board pursuant to Section 1-1923 of this title, which shall gauge the severity of the violation and specify graduated penalties based on:

a. no actual harm with the potential for minimal harm,

b. no actual harm with the potential for more than minimal harm,

c. actual harm that is not immediate jeopardy, and

d. immediate jeopardy to resident health and safety.

2. Upon discovery of one or more violations, the Department shall provide a statement of deficiencies containing the violations. The continuum of care facility or assisted living center shall be required to correct these violations and submit a plan of correction that details how the facility or center will correct each violation, ensure that the violation will not occur in the future and a period to correct each violation not to exceed sixty (60) days.

3. No fine shall be assessed for any violation that is not classified as actual harm or immediate jeopardy, unless the continuum of care facility or assisted living center fails to correct the violation within the period set forth in the accepted plan of correction. Fines may be assessed at any time for any violations that are classified as actual harm or immediate jeopardy.

4. Any new violation unrelated to the original violation and not classified as actual harm or immediate jeopardy that is discovered upon a revisitation of a continuum of care facility or assisted living center shall constitute a new action and shall not be included in the original citation or assessment of fines or penalties; provided, that a preexisting violation not corrected in compliance with the approved plan of correction shall be considered still in effect.

E. If a continuum of care facility's failure to comply with the Continuum of Care and Assisted Living Act or rules involves nursing care services, the Commissioner shall have authority to exercise additional remedies provided under the Nursing Home Care Act. If a continuum of care facility's failure to comply with the Continuum of Care and Assisted Living Act or rules involves adult day care services, then the Commissioner shall have authority to exercise additional remedies provided under the Adult Day Care Act.

F. In taking any action to deny, suspend, deny renewal, or revoke a license, or to impose an administrative fee, the Commissioner shall comply with requirements of the Administrative Procedures Act.

Added by Laws 1997, c. 223, § 6, eff. July 1, 1998. Amended by Laws 1999, c. 214, § 3, eff. Nov. 1, 1999; Laws 2012, c. 12, § 2, emerg. eff. April 5, 2012; Laws 2016, c. 240, § 1, eff. Nov. 1, 2016.

§63-1-890.7. Repealed by Laws 2003, c. 16, § 1.

§63-1-890.8. Provision of home care, nursing, hospice and private services - Plan of accommodation for certain disabled residents.

A. Residents of an assisted living center may receive home care services and intermittent, periodic, or recurrent nursing care through a home care agency under the provisions of the Home Care Act.

B. Residents of an assisted living center may receive hospice home services under the provisions of the Oklahoma Hospice Licensing Act.

C. Nothing in the foregoing provisions shall be construed to prohibit any resident of an assisted living center from receiving such services from any person who is exempt from the provisions of the Home Care Act.

D. The assisted living center shall monitor and assure the delivery of those services. All nursing services shall be in accordance with the written orders of the personal or attending physician of the resident.

E. A resident of an assisted living center or the family or legal representative of the resident shall be required to disclose any third-party provider of medical services or supplies prior to service delivery.

F. Any third-party provider of medical services or supplies shall comply with the provisions of subsection D of this section.

G. Notwithstanding the foregoing provisions, a resident of an assisted living center, or the family or legal representative of the resident, may privately contract or arrange for private nursing services under the orders and supervision of the personal or attending physician of the resident, private monitoring, private

sitters or companions, personal domestic servants, or personal staff.

H. If a resident of an assisted living center develops a disability or a condition that is consistent with the facility's discharge criteria:

1. The personal or attending physician of a resident, a representative of the assisted living center, and the resident or the designated representative of the resident shall determine by and through a consensus of the foregoing persons any reasonable and necessary accommodations, in accordance with the current building codes, the rules of the State Fire Marshal, and the requirements of the local fire jurisdiction, and additional services required to permit the resident to remain in place in the assisted living center as the least restrictive environment and with privacy and dignity;

2. All accommodations or additional services shall be described in a written plan of accommodation, signed by the personal or attending physician of the resident, a representative of the assisted living center and the resident or the designated representative of the resident;

3. The person or persons responsible for performing, monitoring and assuring compliance with the plan of accommodation shall be expressly specified in the plan of accommodation and shall include the assisted living center and any of the following:

a. the personal or attending physician of the resident,

b. a home care agency,

c. a hospice, or

d. other designated persons.

The plan of accommodation shall be reviewed at least quarterly by a licensed health care professional;

4. If the parties identified in paragraph 1 of this subsection fail to reach a consensus on a plan of accommodation, the assisted living center shall give written notice to the resident, the legal representative or the resident or such persons as are designated in the resident's contract with the assisted living center, of the termination of the residency of the resident in the assisted living center in accordance with the provisions of the resident's contract with the assisted living center. Such notice shall not be less than thirty (30) calendar days prior to the date of termination, unless the assisted living center or the personal or attending physician of the resident determines the resident is in imminent peril or the continued residency of the resident places other persons at risk of imminent harm;

5. If any party identified in paragraph 1 of this subsection determines that the plan of accommodation is not being met, such party shall notify the other parties and a meeting shall be held between the parties within ten (10) business days to re-evaluate the plan of accommodation; and

6. Any resident aggrieved by a decision to terminate residency may seek injunctive relief in the district court of the county in which the assisted living center is located. Such action shall be filed no later than ten (10) days after the receipt of the written notice of termination.

I. Nothing in this section shall be construed to abrogate an assisted living center's responsibility to provide care for and oversight of a resident.

Added by Laws 2007, c. 347, § 2, eff. Nov. 1, 2007. Amended by Laws 2008, c. 22, § 1, eff. Nov. 1, 2008; Laws 2013, c. 248, § 1, eff. Nov. 1, 2013.

§63-1-891. Supervision of nurse aide trainees.

Any assisted living facility that employs an individual who is in nurse aide training shall ensure that such individual is supervised by no less than a consulting nurse licensed to practice in this state.

Added by Laws 1999, c. 418, § 2, emerg. eff. June 10, 1999.

§63-1-894. Quality of care fees – Assessment upon repeal of federal requirements.

Upon repeal of a United States Congress or federal Health Care Financing Administration requirement to assess a quality of care fee, upon all licensed nursing home beds, such fee shall only be assessed upon nursing facilities that have a Medicaid contract with the state.

Added by Laws 2000, c. 340, § 25, eff. July 1, 2000.

§63-1-895. Informal dispute resolution panel.

A. Upon written request to the State Department of Health, an assisted living center as defined in the Continuum of Care and Assisted Living Act may choose to participate in an informal dispute resolution panel to be offered by the State Department of Health as an alternative to the informal dispute resolution process outlined in Sections 1-1914.3 through 1-1914.10 and Sections 1-1914.13 through 1-1914.16 of Title 63 of the Oklahoma Statutes.

B. The State Department of Health shall appoint the informal dispute resolution panel, to be comprised of the following impartial members:

1. A licensed administrator currently working in the assisted living industry;

2. A health professional currently working in an assisted living center;

3. Two representatives from the aging and disabled community who do not represent a state agency; and

4. A representative from the State Department of Health with experience in assisted living center surveys.

Added by Laws 2013, c. 50, § 1, eff. Nov. 1, 2013.

§63-1-899.1. Repealed by Laws 2002, c. 112, § 5, eff. Dec. 31, 2002.

§63-1-901. Definitions.

A. "Bottled water" means any water, including water to which chemicals or other substances may have been added, which is placed in bottles or other containers to be sold or offered for sale for drinking, culinary or other domestic purposes involving a likelihood of the water being ingested by human beings.

B. "Bottled water plant" means any place, premises, or structure, including water supply, facilities and equipment, used in the treatment or processing of the water or the filling of containers in the preparation of bottled water.

Added by Laws 1963, c. 325, art. 9, § 901, operative July 1, 1993. Amended by Laws 1993, c. 145, § 309, eff. July 1, 1993.

§63-1-902. Renumbered as § 2-6-701 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-903. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§63-1-904. Renumbered as § 2-6-303 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-905. Renumbered as § 2-4-201 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-906. Renumbered as § 2-6-305 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-907. Renumbered as § 2-6-304 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-908. Renumbered as § 2-6-401 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-909. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§63-1-909A. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§63-1-910. Renumbered as § 2-6-403 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-911. Renumbered as § 2-6-302 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-912. Renumbered as § 2-6-601 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-913. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§63-1-914. Cooperation in clearing area and controlling malaria.

All persons impounding any body of water for public use shall cooperate with the State Department of Health in clearance of the area and the measures necessary to control malaria.

Laws 1963, c. 325, art. 9, § 914, operative July 1, 1963.

§63-1-915. Bottled water - Plants - Sale or distribution - Permits required.

Any person desiring to operate a bottled water plant, or to sell or distribute bottled water, in Oklahoma shall make application to the State Commissioner of Health for a permit, and obtain a valid permit prior to the operation of the bottled water plant or the distribution and sale of bottled water. Application for such permit shall be on a form supplied by the Commissioner and shall contain such information as the Commissioner deems necessary to his determination that the operation of the bottled water plant or sale of bottled water will in no manner be injurious or hazardous to the health or safety of the people of the state. Each application for a permit and permit renewal shall be accompanied by the proper fee in the amount specified in the following section. The fee paid and permit issued shall be for the particular bottled water plant to be operated and shall not be transferred to another person or location.

Laws 1963, c. 325, art. 9, § 915, operative July 1, 1963.

§63-1-916. Fees for permits.

The fee for the issuance of a permit, and for each renewal of such permit, to operate a bottled water plant shall be Twenty-five Dollars ($25.00). All permits and permit renewals shall expire on June 30 of each year following the date of issue.

Laws 1963, c. 325, art. 9, § 916, operative July 1, 1963.

§63-1-917. Standards for bottled water plants.

All bottled water plants shall comply with the following standards of sanitation and safety:

(1) The source of water supply shall be structurally protected to prevent contamination and shall provide such treatment as necessary to insure the water to be bacteriologically and chemically safe for drinking purposes.

(2) The bottled water plant shall be maintained in a clean and sanitary condition and shall be in good repair and of such construction that will facilitate maintenance in a sanitary condition. Rooms used for bottling and bottle washing shall be well lighted and adequately ventilated. All necessary precautions shall be taken to protect against the entrance of rodents and insects.

(3) All bottles and containers shall be thoroughly cleaned and given approved bactericidal treatment prior to filling. Facilities and methods of filing bottles or containers shall be such as to minimize the possibility of contamination.

(4) Adequate and convenient handwashing and toilet facilities shall be provided and maintained in a sanitary condition.

(5) All bottles or containers shall be plainly labeled as to contents and shall show the name and address of the bottled water plant. No medicinal claims or misleading information shall be permitted on the label.

Laws 1963, c. 325, art. 9, § 917, operative July 1, 1963.

§63-1-918. Standards, rules and regulations.

The State Board of Health shall formulate, and after public hearing adopt reasonable rules and regulations establishing minimum standards of compliance for carrying out the provisions of the preceding section, and such additional rules and regulations as it deems necessary to protect the health and safety of the public in the sale of bottled water.

Laws 1963, c. 325, art. 9, § 918.

§63-1-919. Plans for bottled water plants.

Before any bottled water plant is hereafter constructed, reconstructed, or extensively altered, properly prepared plans therefor shall be approved by the State Commissioner of Health.

Laws 1963, c. 325, art. 9, § 919, operative July 1, 1963.

§63-1-931. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§63-1-932. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§63-1-933. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§63-1-935. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§63-1-1001. Repealed by Laws 1996, c. 51, § 9, eff. July 1, 1996.

§63-1-1001.1. Short title.

This act shall be known and may be cited as the "Oklahoma Bedding Regulation Act".

Added by Laws 1996, c. 51, § 1, eff. July 1, 1996.

§63-1-1001.2. Application of act - Exceptions.

The Oklahoma Bedding Regulation Act shall apply to all persons engaged in the business of manufacturing, repairing, renovating, germicidally treating, leasing, selling or offering to sell items of bedding. The Oklahoma Bedding Regulation Act shall not apply to:

1. Individuals who make, repair, renovate, or germicidally treat bedding for their own personal use;

2. An individual or individuals, not a corporation, who make, repair, renovate or sanitize quilts, comforters or pillow covers, including decorative pillows; or

3. Any person who offers for sale or sells goods, wares or merchandise to the highest bidder or offers for sale or sells goods, wares or merchandise at a high price and then offers the same at successive lower prices until a buyer is secured.

Added by Laws 1996, c. 51, § 2, eff. July 1, 1996.

§63-1-1001.3. Definitions.

As used in the Oklahoma Bedding Regulation Act:

1. "Bedding" means any mattress, upholstered spring, sleeping bag, pad, comforter, cushion, pillow and any other item used principally for sleeping. The term "bedding" also includes dual purpose furniture such as studio couches, futons and sofa beds;

2. "Mattress" includes padding or cushioning material which is used in conjunction with water bed liners, bladders or cylinders, but does not include water bed liners, bladders or cylinders;

3. "Itinerant vendor" means a person who sells bedding from a movable conveyance;

4. "Manufacture" means the making of bedding out of new or recycled materials;

5. "New material" means any material or article that has not been used for any other purpose;

6. "Previously used material" means any material which previously has been used for any purpose other than for the manufacture of bedding;

7. "Recycled material" means materials which have previously been used for purposes other than as a component of bedding or bedding materials, and which can be used, after processing, for bedding materials. Such processing shall result in a sanitary material which can be used safely as a bedding material without the germicidal treatment used for secondhand materials. Properly recycled materials shall be considered new materials;

8. "Renovate" means the reworking or remaking of used bedding or the making of bedding from previously used materials;

9. "Sanitize" means germicidal treatment of secondhand bedding or previously used materials to be used in renovating for the

destruction of pathogenic microorganisms and arthropods and the removal of dirt and filth;

10. "Secondhand bedding" means any bedding of which prior use has been made as bedding;

11. "Sell" or "sold" means to sell, offer to sell, give away in connection with a sale, a sale's promotion or sale by consignment; or possess with intent to sell, deliver or consign in sale; and

12. "Commissioner" means the Commissioner of Health.

Added by Laws 1996, c. 51, § 3, eff. July 1, 1996.

§63-1-1001.4. Unlawful actions.

Unless otherwise provided by law, it shall be unlawful to:

1. Sell, lease, manufacture, renovate or repair bedding without the proper permit from the Commissioner;

2. Manufacture, sell or deliver, lease, hold or offer for sale any bedding or bedding material unless it is labeled in accordance with rules promulgated pursuant to the provisions of the Oklahoma Bedding Regulation Act;

3. Alter, mutilate, destroy, obliterate, or remove the whole or any part of the labeling of, or the doing of any other act with respect to, bedding or bedding materials, if such act is done while such article is held for sale and results in such article being mislabeled or unlabeled;

4. Distribute or knowingly receive in commerce any bedding, or bedding material, that is mislabeled, unlabeled or has been manufactured, renovated, held or transported under unsanitary conditions;

5. Disseminate any false or misleading advertisement;

6. Refuse to permit entry or inspection, or to permit the taking of a sample, as authorized by Section 8 of this act;

7. Remove or dispose of a detained or embargoed article in violation of Section 6 of this act;

8. Forge, counterfeit, simulate, or falsely represent, or without proper authority use any mark, stamp, tag, label, or other identification device authorized or required by rules promulgated under the provisions of the Oklahoma Bedding Regulation Act;

9. Sell or lease any renovated bedding or secondhand bedding, or any portions thereof, unless it is sanitized and labeled in accordance with rules promulgated pursuant to the provisions of the Oklahoma Bedding Regulation Act;

10. Renovate into bedding or bedding material any discarded materials obtained from dump grounds, junk yards, or hospitals within or without the State of Oklahoma; and

11. Remove or dispose of any detained or embargoed article by sale or otherwise without such permission.

Added by Laws 1996, c. 51, § 4, eff. July 1, 1996.

§63-1-1001.5. Promulgation of rules.

The State Board of Health shall promulgate rules for:

1. Examinations of bedding manufactured, renovated, held, leased, sold or offered for sale in Oklahoma;

2. The disposal of bedding determined to be unsafe for human use;

3. The label requirements on bedding and bedding materials;

4. The sanitation of renovated or secondhand bedding, or bedding materials;

5. The sanitation standards for facilities or vehicles where bedding or bedding materials are manufactured, renovated, held, leased, transported, sold or offered for sale in Oklahoma;

6. The defining of categories and limitations of bedding permits;

7. The establishment of an annual permit fee;

8. Reporting requirements which may include bedding article registration fees;

9. The procedure to apply for or renew a bedding permit; and

10. Prescribing means, methods and practices to implement the provisions of the Oklahoma Bedding Regulation Act.

Added by Laws 1996, c. 51, § 5, eff. July 1, 1996.

§63-1-1001.6. Embargo of unlawful bedding.

A. Whenever a duly authorized agent of the State Department of Health finds, or has probable cause to believe, that any bedding or bedding material is in an unsanitary condition, mislabeled, or unlabeled within the meaning of the Oklahoma Bedding Regulation Act, or any rule promulgated pursuant thereto, such agent shall affix to such bedding or bedding material a tag or other appropriate marking, giving notice that such article is or is suspected of being unsanitary, mislabeled or unlabeled and has been detained or embargoed, and warning all persons not to remove or dispose of such bedding article by sale or otherwise until permission for removal or disposal is given by such agent.

B. 1. The Department shall have twenty (20) days from the time an article is embargoed in which to make a final determination as to its unsanitary condition or improper labeling. Failure to find the article to be in an unsanitary condition, mislabeled or unlabeled within such time shall result in the embargo being lifted. When such agent has found that an article so detained or embargoed is not in an unsanitary condition or mislabeled, such agent shall remove the tag or other marking.

2. When the Department has found an article to be in an unsanitary condition, mislabeled or unlabeled as provided herein, the Department shall immediately file an administrative proceeding with the Commissioner of Health for an order for the destruction of the embargoed articles. This administrative proceeding shall be

conducted pursuant to Article II of the Administrative Procedures Act and shall continue the embargo period until further order of the Commissioner.

3. Any person whose interest is affected adversely by an embargo imposed under the terms of the Oklahoma Bedding Regulation Act may intervene in this administrative proceeding and may present evidence to rebut the Department's determination that such bedding articles are in an unsanitary condition, mislabeled or unlabeled.

C. 1. Except as otherwise provided by this subsection, if the Commissioner finds that a detained or embargoed article is in an unsanitary condition, mislabeled or unlabeled, such article shall, after entry of the decree, be destroyed at the expense of the claimant thereof, under the supervision of such agent, and all court costs and fees, the costs of the supervision by such agent, and storage and other proper expenses shall be taxed against the claimant of such article or his agent.

2. If the unsanitary, mislabeled or unlabeled bedding or bedding materials can be corrected by an approved sanitization process or proper labeling of the article, the Commissioner, after entry of findings that such bedding articles can be properly sanitized or labeled and after such costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that such article shall be so labeled or processed, has been executed, may by order direct that such article be delivered to the claimant thereof for such labeling or processing under the supervision of an agent of the Department.

3. The expense of such supervision shall be paid by the claimant. Such bond shall be returned to the claimant of the article on representation by the Department to the Commissioner that the article is no longer in violation of the Oklahoma Bedding Regulation Act, or any rule promulgated pursuant to the provisions of the Oklahoma Bedding Regulation Act, and that the expenses of such supervision have been paid.

4. Any final order of the Commissioner of Health may be appealed to the district court in Oklahoma County pursuant to Article II of the Administrative Procedures Act.

Added by Laws 1996, c. 51, § 6, eff. July 1, 1996.

§63-1-1001.7. Permits.

A. Each person engaged in the business of selling, leasing, manufacturing, renovating or repairing any bedding shall have obtained an annual permit from the Commissioner to sell or lease bedding, or an annual permit from the Commissioner to manufacture, renovate or repair bedding. Each person shall pay for such permit a fee to be fixed by the State Board of Health. Unless otherwise provided by rule by the Board, each such permit shall expire on the 30th day of June following its issuance. It is the intent of the

Legislature that any fees authorized by this section shall not exceed the fees in effect on January 1, 1995, for the regulation of bedding and bedding materials.

B. Each person who sells renovated or secondhand bedding or bedding materials on a consignment basis as an auctioneer, itinerant vendor or broker shall obtain a permit under subsection A of this section. The renovated or secondhand bedding or bedding materials shall be sanitized by a person who holds a permit pursuant to subsection C of this section before it is sold to the public. The provisions of this section shall not apply to the sale of bedding at a private sale by a person not in the business of selling bedding or to an auctioneer at private auction at the individual's residence.

C. 1. No person shall be considered to have qualified to apply an acceptable sanitization process until such process has been registered with the Commissioner and determined to be in compliance with the rules, after which a permit shall then be issued by the Commissioner which indicates an approved sanitization process. Every person to whom a permit has been issued shall keep such permit conspicuously posted on the premises of his place of business.

2. Holders of permits to apply a sanitization process shall be required to keep an accurate record of all materials which have been subjected to a sanitization process, including the source of the material, the date of treatment, the type and time of treatment, and the label identification number, and such records shall be available for inspection at any reasonable time by authorized representatives of the Commissioner. Such records shall be maintained for a period of time to be adopted by rule by the Board.

D. Pursuant to the Oklahoma Administrative Procedures Act:

1. The Commissioner shall suspend or revoke or may refuse to issue or renew any permit issued in accordance with the Oklahoma Bedding Regulation Act upon proof of violation of any of the provisions of the Oklahoma Bedding Regulation Act, or any rule promulgated thereto; and

2. Any person whose permit has been revoked shall be ineligible for a bedding permit for one (1) year. An application for a permit to sell, lease, manufacture, repair or renovate bedding or bedding material by such person following the one-year revocation shall be subject to provisions as set forth in an initial permit.

Added by Laws 1996, c. 51, § 7, eff. July 1, 1996.

§63-1-1001.8. Inspections.

A. The Commissioner or duly authorized agent shall have access at all reasonable hours to any factory, warehouse, wholesale or retail establishment in which bedding or bedding material is manufactured, processed, packed, sold, leased or held for introduction into commerce, or to enter any vehicle being used to

transport, sell, lease or hold such bedding or bedding material in commerce, for the purpose:

1. Of inspecting such factory, warehouse, establishment, or vehicle to determine if any of the provisions of this article are being violated; and

2. To secure samples or specimens of any bedding or bedding material after paying or offering to pay for such sample.

B. It shall be the duty of the Commissioner to make or cause to be made examination of samples secured under the provisions of this section to determine whether or not any provision of the Oklahoma Bedding Regulation Act, or any rule promulgated under the provisions of the Oklahoma Bedding Regulation Act, is being violated.

Added by Laws 1996, c. 51, § 8, eff. July 1, 1996.

§63-1-1002. Repealed by Laws 1996, c. 51, § 9, eff. July 1, 1996.

§63-1-1002.1. Short title.

This act shall be known and may be cited as the "Whitney Starks Act".

Added by Laws 1998, c. 102, § 1, eff. July 1, 1998.

NOTE: Editorially renumbered from § 1-0002.1 to provide consistency in numbering.

§63-1-1002.2. Rules establishing requirements for retailers of bunk beds.

The State Board of Health shall promulgate rules establishing requirements for retailers of bunk beds which shall include, but not be limited to, requirements that:

1. Each set of bunk beds must be posted with an indelible warning which conforms with American Society for Testing and Materials Voluntary Standards or U.S. Consumer Product Safety Commission Standards; and

2. No retailer shall sell a set which does not limit the space between the lower edge of the guard rail and the upper edge of the bed frame of the upper bunk bed to three and one-half (3 1/2) inches or less.

Added by Laws 1998, c. 102, § 2, eff. July 1, 1998.

NOTE: Editorially renumbered from § 1-0002.2 to provide consistency in numbering.

§63-1-1002.3. Fines.

Any retailer violating the provisions of paragraph 1 or 2 of Section 2 of this act shall be subject to an administrative fine by the State Department of Health of not more than Five Hundred Dollars ($500.00) per violation. Each set of bunk beds sold which does not conform to the provisions of paragraph 1 or 2 of Section 2 of this act shall be considered a violation. The monies from the

administrative fine shall be collected by the Department and deposited in the Public Health Special Fund pursuant to Section 1-107 of Title 63 of the Oklahoma Statutes.
Added by Laws 1998, c. 102, § 3, eff. July 1, 1998.
NOTE: Editorially renumbered from § 1-0002.3 to provide consistency in numbering.

§63-1-1002.4. Application of act.
The provisions of the Whitney Starks Act shall apply to any bunk bed sold on or after November 1, 1998.
Added by Laws 1998, c. 102, § 4, eff. July 1, 1998.
NOTE: Editorially renumbered from § 1-0002.4 to provide consistency in numbering.

§63-1-1003. Repealed by Laws 1996, c. 51, § 9, eff. July 1, 1996.

§63-1-1004. Repealed by Laws 1996, c. 51, § 9, eff. July 1, 1996.

§63-1-1005. Repealed by Laws 1996, c. 51, § 9, eff. July 1, 1996.

§63-1-1006. Repealed by Laws 1996, c. 51, § 9, eff. July 1, 1996.

§63-1-1007. Repealed by Laws 1996, c. 51, § 9, eff. July 1, 1996.

§63-1-1008. Repealed by Laws 1996, c. 51, § 9, eff. July 1, 1996.

§63-1-1009. Renumbered as § 2-6-801 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-1010. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§63-1-1011. Health nuisances - Removal - Collection of cost of removal.
(a) The local health officer and, if authorized by appropriate ordinance of the city, the city health officer shall have such authority as to any private premises within the corporate limits of the city, and shall have the authority to order the owner or occupant of any private premises in the county to remove from such premises, at his own expense, any source of filth, cause of sickness, condition conducive to the breeding of insects or rodents that might contribute to the transmission of disease, or any other condition adversely affecting the public health, within twenty-four (24) hours, or within such other time as might be reasonable, and a failure to do so shall constitute a misdemeanor. Such order shall be in writing and may be served personally on the owner or occupant of the premises, or authorized agent thereof, or a copy thereof may

be left at the last usual place of abode of such owner, occupant or agent, if known and within the state. If the premises are unoccupied and the residence of such owner, occupant or agent is unknown, or is without the state, such order may be served by posting a copy thereof on the premises, or by publication in at least one issue of a newspaper having a general circulation in the county. In the event of any conflict between the city health officer and the local health officer of the county, the county shall prevail.

(b) If such order is not complied with, the local health officer of the county or of the city may cause the order to be executed and complied with, and the cost thereof shall be certified to the county clerk, who shall add the same to the ad valorem taxes assessed against the property, and such cost shall be a lien against the property, until paid, and shall be collected in the same manner as ad valorem taxes against the property, and when collected shall be paid to the local health officer, county or city, or successor thereof, issuing the order, for reimbursement of the funds used to pay such cost.

(c) Cities and towns may enact ordinances providing for proceedings similar to those authorized by the foregoing provisions of this section, by city and town officials, and the cost of removing or abating any such nuisances may be added to municipal utility bills and collected in the same manner as such bills.
Laws 1963, c. 325, art. 10, § 1011; Laws 1968, c. 298, § 1, emerg. eff. May 3, 1968.

§63-1-1013. Definition of public bathing place.

The term "public bathing place," as used in the following sections of this article, includes all entirely artificially constructed wading pools, swimming pools, bathhouses used collectively by a number of persons for wading, swimming, recreative, or therapeutic bathing, together with all sanitary facilities, bathing suits, buildings, equipment, and appurtenances pertaining to such bathing places; provided, that such term shall not apply to those public or semipublic baths where the main object is the external cleansing of the body, to bathing places maintained by an individual for the use of family and friends, or to bathing places owned or managed by a group or association of the owners of thirty or fewer homes, the use of which is limited to the homeowner group and their nonpaying guests. The term “public bathing place” does not include spray pads or spray grounds. As used in this section, “spray pads or spray grounds” mean interactive recreation areas intended for use by children in which the water is supplied by a system of sprays and is not allowed to accumulate above ground.

Added by Laws 1963, c. 325, art. 10, § 1013, operative July 1, 1963. Amended by Laws 1995, c. 54, § 1, eff. July 1, 1995; Laws 2010, c. 382, § 1, eff. Nov. 1, 2010.

§63-1-1013.1. Annual license for public bathing places – Fees.

No person, municipality, as defined by paragraph 5 of Section 1-102 of Title 11 of the Oklahoma Statutes, or entity shall engage in or continue the operation of a public bathing place, as defined by Section 1-1013 of Title 63 of the Oklahoma Statutes, until an annual license has been obtained from the State Commissioner of Health for each such public bathing place. Each such operator shall pay an annual fee for such license to be fixed by the State Board of Health. Unless otherwise provided by rules promulgated by the Board, each such license shall expire one (1) year following the date of issue. No such license shall be transferable, and application for such license shall be made upon forms prescribed by the Commissioner. Each application for such license shall be accompanied by the applicant's certification that the public bathing place for which the license is sought is in compliance with the provisions of Section 1-1017 of Title 63 of the Oklahoma Statutes, and no license shall be issued or renewed for such public bathing place until after such certification of compliance has been received by the Commissioner. Provided, municipalities of five thousand (5,000) population or less, shall not be charged more than Fifty Dollars ($50.00) for such fee.

Added by Laws 2004, c. 420, § 2, eff. Nov. 1, 2004.

§63-1-1013.2. Revocation of public bathing place license.

The State Commissioner of Health may suspend or revoke a public bathing place license on any of the following grounds:

1. Violation of any of the provisions of this act or State Board of Health rules promulgated pursuant thereto;

2. Permitting, aiding or abetting the commission of any illegal act in or on the premises of the licensed public bathing place; or

3. Conduct or practices by the owner, management or any employee of the public bathing place deemed by the Commissioner to be detrimental to the health, safety or welfare of any person.

Added by Laws 2004, c. 420, § 3, eff. Nov. 1, 2004.

§63-1-1014. Standards and rules for public bathing places.

The State Commissioner of Health shall have supervision of the sanitation, healthfulness, safety and design of public bathing places, and shall enforce all rules promulgated and adopted by the State Board of Health for carrying out the provisions of this act. The Board is hereby authorized to promulgate and adopt reasonable standards and rules pertaining to the design, construction, safety, sanitation, and sanitary operation of public bathing places and to

establish fees, as it may deem necessary to effectively carry out the provisions of this act.
Added by Laws 1963, c. 325, art. 10, § 1014, operative July 1, 1963. Amended by Laws 2004, c. 420, § 4, eff. Nov. 1, 2004.

§63-1-1015. Sanitation and safety.

(a) All public bathing places shall be maintained in a sanitary and safe condition, and all owners, managers, operators, and other attendants in charge of any public bathing place shall be responsible for the sanitation and safety of such places during the season or seasons when the public bathing place is in use.

(b) The water in a public bathing place shall, at all times during the season or seasons when the bathing place is in use, be of a safe and sanitary quality, in accordance with standards that shall be established by the State Board of Health, on turbidity, chemical content, pH value, bacterial content, and such other factors which the Board deems necessary for the protection of the health and safety of the public.

(c) All bathing suits and towels used by, and maintained for the use of, the public shall be thoroughly washed, sterilized, rinsed, and thoroughly dried each time they are used.

(d) All persons known or suspected of being infected with any transmissible condition of a communicable disease shall be excluded from the pool.

(e) A complete system of artificial lighting shall be provided for all sections of public bathing places which are to be used at night, but underwater lighting in the pool shall not be required.

(f) All interior sections or rooms of public bathing places shall be properly ventilated.
Laws 1963, c. 325, art. 10, § 1015.

§63-1-1016. Construction and finish - Toilet facilities - Drinking fountains - Hot and cold water - Lavatories and Showers - Design and operation requirements - Equipment.

The materials of construction and finish used throughout the premises of a public bathing place shall be such as will provide easily cleanable surfaces with due consideration being given to the safety of the patrons of such places. Requirements regarding toilet facilities, drinking fountains, hot and cold water supplies, lavatories, and showers may be included in standards adopted by the State Board of Health. The design of public bathing places shall be based on modern public health engineering practices and shall at least comply with the minimum design and operation requirements for the health and safety of patrons as set forth herein, and to this end the State Commissioner of Health shall cause to be printed for free distribution to architects, engineers, and others standards outlining in detail such minimum requirements. The equipment of

public bathing places shall be such as to minimize accidents and to provide for the health and safety of the patrons of public bathing places.
Laws 1963, c. 325, art. 10, § 1016.

§63-1-1016A. Procedure for use of public restrooms.
All restrooms located within buildings in the State of Oklahoma built with public funds and which are accessible from corridors intended for general public travel, and which are constructed for public use, shall be available to the general public for their inspection and use, unless public restrooms are available on the same floor of said building. Said public restrooms shall be clearly labeled by signs designating the same as public restrooms. The provisions of this act shall not apply to public buildings used as educational institutions.
Laws 1975, c. 275, § 1, emerg. eff. June 5, 1975.

§63-1-1016B. Penalty.
Every person who shall have control of a public restroom located within a building built with public funds and who shall knowingly violate this act shall be deemed guilty of a misdemeanor.
Laws 1975, c. 275, § 2, emerg. eff. June 5, 1975.

§63-1-1017. Plans and specifications.
No public bathing place shall be constructed, added to or changed unless plans and specifications therefor, prepared by a licensed professional engineer, shall have been approved by the State Commissioner of Health and a permit therefor shall have been issued by the Commissioner for such purpose. Such plans and specifications shall be accompanied by an application for a permit, and both the plans and specifications and the application shall bear the signature of the person for whom the work is to be done.
Laws 1963, c. 325, art. 10, § 1017.

§63-1-1018. Examinations and investigations.
The State Commissioner of Health, or his authorized representative, or the local health officer, may at all reasonable times enter all parts of the premises of a public bathing place to make examination and investigation to determine the sanitary conditions of such places and whether legal requirement and the rules and regulations of the State Board of Health are being violated.
Laws 1963, c. 325, art. 10, § 1018.

§63-1-1019. Records.

The operating management of any public bathing place shall keep such records of operation pertaining to sanitation as the State Board of Health may specify.
Laws 1963, c. 325, art. 10, § 1019.

§63-1-1020. Noncompliance with law.
Any public bathing place constructed, operated or maintained contrary to the foregoing provisions of this article is hereby declared to be a public nuisance dangerous to public health, but may be permitted to operate upon a compliance with such provisions.
Laws 1963, c. 325, art. 10, § 1020.

§63-1-1020.1. Reinspection of public bathing place found to be public nuisance - Fees.
Each public bathing place that has been declared, as a result of an examination or investigation conducted pursuant to the provisions of Section 1-1018 of Title 63 of the Oklahoma Statutes, to be a public nuisance pursuant to the provisions of Section 1-1020 of Title 63 of the Oklahoma Statutes shall be subject to reinspection. For each such reinspection performed, the operator of such public bathing place subject to reinspection shall pay to the State Department of Health a reinspection fee to be fixed by the State Board of Health. The reinspection fee shall be paid prior to a determination by the State Commissioner of Health, an authorized representative or the local health officer that the public bathing place is in compliance with the provisions of this act.
Added by Laws 2004, c. 420, § 5, eff. Nov. 1, 2004.

§63-1-1021. Permanently out-of-service public bathing places.
A. Public bathing places that are permanently out of service shall be deemed to be public nuisances.
B. A public bathing place is permanently out of service when it is removed from use with no intention of being reopened.
C. A public bathing place other than a wading pool will be presumed to be permanently out of service when:
1. An indoor public bathing place has not been in use for ninety (90) consecutive days;
2. An outdoor public bathing place has not been in use at any time during the period extending from June 1 to September 1 of the same year.
D. Closure or securing of a permanently out-of-service public bathing place shall be required immediately upon being presumed permanently out of service. Closure is to be completed by filling in the public bathing place with earthen material or by covering the facility with solid, rigid, weight-supporting material to make it level with the surrounding area. Securing is to be completed by

constructing or utilizing an existing barrier adequate to prevent entry by unauthorized persons.

E. Municipalities shall be allowed to secure public bathing places which are out of service and have not been secured in accordance with the requirements of this section, and may charge the costs thereof against the taxes of the owner.

Added by Laws 1989, c. 177, § 3, operative July 1, 1989.

§63-1-1101. Definitions.

For the purposes of this article:

(a) The term "food" means (1) articles used for food or drink for man, (2) chewing gum, and (3) articles used for components of any such article.

(b) The term "label" means a display of written, printed or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this article that any word, statement, or other information appearing on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if there be any, of the retail package of such article, or is easily legible through the outside container or wrapper.

(c) The term "immediate container" does not include package liners.

(d) The term "labeling" means all labels and other written, printed or graphic matter (1) upon an article or any of its containers or wrappers, or (2) accompanying such article.

(e) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, then in determining whether the labeling or advertisement is misleading there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates, under the conditions of use prescribed in the labeling or advertisement thereof, or under such conditions of use as are customary or usual.

(f) The term "advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food.

(g) The term "contaminated with filth" applies to any food not securely protected from dust, dirt, and, as far as may be necessary by all reasonable means, from all foreign or injurious contaminations.

(h) The provisions of this article regarding the selling of food shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article, and the supplying or applying of any such articles in the conduct of any food establishment.

(i) The term "Federal Act" means the Federal Food, Drug, and Cosmetic Act.

Laws 1963, c. 325, art. 11, § 1101.

§63-1-1102. Acts prohibited.

The following acts and the causing thereof within the State of Oklahoma are hereby prohibited:

(a) the manufacture, sale, or delivery, holding or offering for sale of any food that is adulterated or misbranded.

(b) the adulteration or misbranding of any food.

(c) the receipt in commerce of any food that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

(d) the sale of food, or the offer to sell it, or its receipt into commerce, in capped glass containers, or perishable or flexible containers such as, but not limited to, paper cardboard containers, when the container has been damaged by fire or water.

(e) the sale, delivery for sale, holding for sale, or offering for sale of any article in violation of Section 1-1111 of the title.

(f) the dissemination of any false advertisement.

(g) the refusal to permit entry or inspection, or to permit the taking of a sample, as authorized by Section 1-1115 of the title.

(h) the giving of a guaranty or undertaking which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the food.

(i) the removal or disposal of a detained or embargoed article in violation of Section 1-1105 of this title.

(j) the alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of or the doing of any other act with respect to a food, if such act is done while such article is held for sale and results in such article being misbranded.

(k) forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label, or other identification devise authorized or required by reasonable rules and regulations promulgated under the provisions of this title.

(l) the sale, offer to sell, dispense or release into commerce of any food or confection under a name, label or brand when the

name, label or brand either precisely or by slang term or popular usage, is the name, label or brand of a controlled dangerous drug or a controlled dangerous substance by law.
Laws 1963, c. 325, art. 11, § 1102; Laws 1973, c. 114, § 1.

§63-1-1103. Injunctions authorized.

In addition to the remedies hereinafter provided, the State Commissioner of Health is hereby authorized to apply to the district court for, and such court shall have jurisdiction upon hearing and for cause shown to grant, a temporary or permanent injunction restraining any person from violating any of the provisions of the preceding section of this article, irrespective of whether or not there exists an adequate remedy at law.

Laws 1963 C. 325, Art. 11, Sec. 1103.

§63-1-1104. Violations - Punishment.

(a) Any person who violates any of the provisions of Section 1102 of this article shall be guilty of a misdemeanor, and shall on conviction thereof be subject to imprisonment for not more than thirty (30) days, or a fine of not more than One Hundred Dollars ($100.00), or both such imprisonment and fine; but if the violation is committed after a conviction of such person under this section has become final, such person shall be subject to imprisonment for not more than six (6) months, or a fine of not more than Five Hundred Dollars ($500.00), or both such imprisonment and fine.

(b) No person shall be subject to the penalties of subsection (a) of this section for having violated Section 1102(a) or (c) of this article if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the article, to the effect that such article is not adulterated or misbranded within the meaning of this article, designating this article.

(c) No publisher, radiobroadcast or television licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which a false advertisement relates, shall be liable under this section by reason of the dissemination by him of such false advertisement, unless he has refused on the request of the State Commissioner of Health or his duly-authorized agent to furnish the Commissioner the name and post office address of the manufacturer, packer, distributor, seller, or advertising agency residing in the United States who caused him to disseminate such advertisement.
Laws 1963, c. 325, art. 11, § 1104.

§63-1-1105. Embargo authorized - Nuisances.

(a) Whenever a duly-authorized agent of the State Commissioner of Health finds, or has probable cause to believe, that any food is

adulterated, or so misbranded as to be dangerous or fraudulent, within the meaning of this article, he shall affix to such article a tag or other appropriate marking, giving notice that such article is, or is suspected of being, adulterated or misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by such agent or the court. It shall be unlawful for any person to remove or dispose of such detained or embargoed article by sale or otherwise without such permission for a period of fifteen (15) days after such tag or other marking has been affixed thereto.

(b) When an article detained or embargoed has been found by such agent to be adulterated or misbranded, he shall petition the district court in whose jurisdiction the article is detained or embargoed for condemnation of such article. When such agent has found that an article so detained or embargoed is not adulterated or misbranded, he shall remove the tag or other marking.

(c) If the court finds that a detained or embargoed article is adulterated or misbranded, such article shall, after entry of the decree, be destroyed at the expense of the claimant thereof, under the supervision of such agent, and all court costs and fees, and storage and other proper expenses shall be taxed against the claimant of such article or his agent; provided, that when the adulteration or misbranding can be corrected by proper labeling or processing of the article, the court, after entry of the decree and after such costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that such article shall be so labeled or processed, has been executed, may by order direct that such article be delivered to the claimant thereof for such labeling or processing under the supervision of an agent of the State Commissioner of Health. The expense of such supervision shall be paid by the claimant. Such bond shall be returned to the claimant of the article on representation to the court by the Commissioner that the article is no longer in violation of this article and that the expenses of such supervision have been paid.

(d) Whenever the State Commissioner of Health or any of his authorized agents shall find in any room, building, vehicle of transportation or other structure any meat, seafood, poultry, vegetable, fruit or other perishable articles which are unsound, or contain any filthy, decomposed or putrid substances, or that may be poisonous or deleterious to health or otherwise unsafe, the same being hereby declared to be a nuisance, the Commissioner, or his authorized agent, shall forthwith condemn or destroy the same, or in any other manner render the same unsalable as human food.
Laws 1963, c. 325, art. 11, § 1105.

§63-1-1106. Prosecution for violations.

It shall be the duty of each district attorney to whom the State Commissioner of Health reports any violation of this article to cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law. Amended by Laws 1986, c. 121, § 1, emerg. eff. April 10, 1986.

§63-1-1107. Discretion in prosecution.

Nothing in this article shall be construed as requiring the State Commissioner of Health to report, for the institution of proceedings under this article, minor violations, whenever the Commissioner believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning. Laws 1963, c. 325, art. 11, § 1107.

§63-1-1108. Rules and regulations - Definitions - Standards.

Whenever in the judgment of the State Board of Health such action will promote honesty and fair dealing in the interest of consumers, the Board shall promulgate reasonable rules and regulations fixing and establishing for any food or class of food a reasonable definition and standard of identity, and/or reasonable standard of quality and/or fill of container. In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted the Board shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label. The definitions and standards so promulgated shall conform so far as practicable to the definitions and standards promulgated under authority of the Federal Act.
Laws 1963, c. 325, art. 11, § 1108.

§63-1-1109. Adulterated food.

A food shall be deemed to be adulterated:

(a) (1) if it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such food shall not be considered adulterated under this clause if the quantity of such substance in such food does not ordinarily render it injurious to health; or (2) if it bears or contains any added poisonous or added deleterious substance which is unsafe within the meaning of Section 1112 of this article; or (3) if it consists in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; or (4) if it has been produced, prepared, packed, or held under insanitary conditions whereby it may have been rendered diseased, unwholesome, or injurious to health; or (5) if it is the product of a diseased animal or an animal which has died otherwise than by slaughter, or that has been fed upon the uncooked offal from a slaughterhouse; or (6) if its container is

composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

(b) (1) if any valuable constituent has been in whole or in part omitted or abstracted therefrom; or (2) if any substance has been substituted wholly or in part therefor; or (3) if damage or inferiority has been concealed in any manner; or (4) if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength or make it appear better or of greater value than it is.

(c) if it is confectionery and it bears or contains any alcohol or nonnutritive article of substance except harmless coloring, harmless flavoring, harmless resinous glaze not in excess of four-tenths of one percent (4/10 of 1%), harmless natural wax not in excess of four-tenths of one percent (4/10 of 1%), harmless natural gum and pectin; provided, that this paragraph shall not apply to any confectionery by reason of its containing less than one-half of one percent (1/2 of 1%) of volume of alcohol derived solely from the use of flavoring extracts, or to any chewing gum by reason of its containing harmless nonnutritive masticatory substances.

(d) if it bears or contains a coal tar color other than one from a batch which has been certified under authority of the Federal Act. Laws 1963, c. 325, art. 11, § 1109.

§63-1-1110. Misbranding of food.

A food shall be deemed to be misbranded:

(a) if its labeling is false or misleading in any particular.

(b) if it is offered for sale under the name of another food.

(c) if it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "Imitation" and immediately thereafter the name of the food imitated.

(d) if its container is so made, formed, or filled as to be misleading.

(e) if in package form, unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided, that under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by reasonable rules and regulations prescribed by the State Board of Health.

(f) if any word, statement, or other information required by or under authority of this article to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(g) if it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by reasonable rules and regulations as provided by Section 1108 of this article, unless (1) it conforms to such definition and standard, and (2) its label bears the name of the food specified in the definition and standard, and, insofar as may be required by such reasonable rules and regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food.

(h) if it purports to be or is represented as:

(1) a food for which a standard of quality has been prescribed by reasonable rules and regulations as provided by Section 1108 of this article, and its quality falls below such standard, unless its label bears, in such manner and form as such reasonable rules and regulations specify, a statement that it falls below such standard; or

(2) a food for which a standard or standards of fill of container have been prescribed by reasonable rules and regulations as provided by Section 1108 of this article, and it falls below the standard of fill or container applicable thereto, unless its label bears, in such manner and form as such reasonable rules and regulations specify, a statement that it falls below such standard.

(i) if it is not subject to the provisions of paragraph (g) of this section, unless it bears labeling clearly giving (1) the common or usual name of the food, if any there be, and (2) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each; provided, that to the extent that compliance with the requirements of clause (2) of this paragraph is impractical or results in deception or unfair competition, exemptions shall be established by reasonable rules and regulations promulgated by the State Board of Health; and provided, further, that the requirements of clause (2) of this paragraph shall not apply to any carbonated beverage, the ingredients of which have been fully and correctly disclosed to the extent prescribed by said clause (2) to the Board in an affidavit.

(j) if it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the State Board of Health determines to be, and by reasonable rules and regulations prescribed, as necessary in order to fully inform purchasers as to its value for such uses.

(k) if it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided, that to the extent that compliance with the requirements of this paragraph is impracticable, exemptions shall be

established by reasonable rules and regulations promulgated by the State Board of Health.
Laws 1963, c. 325, art. 11, § 1110.

§63-1-1111. Permits authorized.

(a) Whenever the State Board of Health finds after investigation that the distribution in the State of Oklahoma of any class of food may, by reason of contamination with microorganisms during manufacture, processing, or packing thereof in any locality, be injurious to health, and that such injurious nature cannot be adequately determined after such articles have entered commerce, it then, and in such case only, shall promulgate reasonable rules and regulations providing for the issuance, to manufacturers, processors, or packers of such class of food in such locality, of permits to which shall be attached such conditions governing the manufacture, processing, or packing of such class of food, for such temporary period of time, as may be necessary to protect the public health; and after the effective date of such reasonable rules and regulations, and during such temporary period, no person shall introduce or deliver for introduction into commerce any such food manufactured, processed, or packed by any such manufacturer, processor, or packer unless such manufacturer, processor, or packer holds a permit issued by the State Commissioner of Health as provided by such reasonable rules and regulations.

(b) The State Commissioner of Health is authorized to suspend immediately upon notice any permit issued under authority of this section if it is found that any of the conditions of the permit have been violated. The holder of a permit so suspended shall be privileged at any time to apply for the reinstatement of such permit, and the Commissioner shall, immediately after prompt hearing and an inspection of the establishment, reinstate such permit if it is found that adequate measures have been taken to comply with and maintain the conditions of the permit, as originally issued, or as amended.

(c) Any officer or employee duly designated by the State Commissioner of Health shall have access to any factory or establishment, the operator of which holds a permit from the Commissioner, for the purpose of ascertaining whether or not the conditions of the permit are being complied with, and denial of access for such inspection shall be ground for suspension of the permit until such access is freely given by the operator.
Laws 1963, c. 325, art. 11, § 1111.

§63-1-1112. Adding substances to food.

Any poisonous or deleterious substance added to any food, except where such substance is required in the production thereof or cannot be avoided by good manufacturing practice, shall be deemed to be

unsafe for purposes of the application of clause (2) of Section 1109(a) of this article, but when such substance is so required or cannot be so avoided, the State Board of Health shall promulgate reasonable rules and regulations limiting the quantity therein or thereon to such extent as the Board finds necessary for the protection of public health, and any quantity exceeding the limits so fixed shall also be deemed to be unsafe for purposes of the application of clause (2) of Section 1109(a) of this article. While such reasonable rules and regulations are in effect limiting the quantity of any such substance in the case of any food, such food shall not, by reason of bearing or containing any added amount of such substance, be considered to be adulterated within the meaning of clause (1) of Section 1109(a) of this article. In determining the quantity of such added substance to be tolerated in or on different articles of food, the Board shall take into account the extent to which the use of such substance is required or cannot be avoided in the production of each such article and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances.
Laws 1963, c. 325, art. 11, § 1112.

§63-1-1113. False advertising.

An advertisement of a food shall be deemed to be false if it is false or misleading in any particular.
Laws 1963, c. 325, art. 11, § 1113.

§63-1-1114. Rules and regulations - Enforcement.

(a) The authority to promulgate reasonable rules and regulations for the efficient enforcement of this article is hereby vested in the State Board of Health. The Board is hereby authorized to make the reasonable rules and regulations promulgated under this article conform, insofar as practicable, with those promulgated under the Federal Act.

(b) Hearings authorized or required by this Article shall be conducted by the State Board of Health or such officer, agent, or employee as the Board may designate for the purpose.

(c) Before promulgating any reasonable rules and regulations contemplated by Section 1108, Section 1110(j), or Section 1111 of this article, the Board shall give appropriate notice of the proposal and of the time and place for a hearing. The reasonable rules and regulations so promulgated shall become effective on a date fixed by the Board (which date shall not be prior to thirty (30) days after its promulgation). Such reasonable rules and regulations may be amended or repealed in the same manner as is provided for their adoption, except that in the case of reasonable rules and regulations amending or repealing any such reasonable rules and regulations the Board, to such an extent as it deems

necessary in order to prevent undue hardship, may disregard the foregoing provisions regarding notice, hearing, or effective date.
Laws 1963, c. 325, art. 11, § 1114.

§63-1-1115. Inspections.

The State Commissioner of Health or his duly-authorized agent shall have free access at all reasonable hours to any factory, warehouse, or establishment in which foods are manufactured, processed, packed, or held for introduction into commerce, or to enter any vehicle being used to transport or hold such foods in commerce after notice to the owner, or person in charge of such factory, warehouse, establishment, or vehicle, for the purpose:

(1) of inspecting such factory, warehouse, establishment or vehicle to determine if any of the provisions of this article are being violated, and

(2) to secure samples or specimens of any food after paying or offering to pay for such sample. It shall be the duty of the Commissioner to make or cause to be made examinations of samples secured under the provisions of this section to determine whether or not any provision of this article is being violated; provided, that a copy of the report thereof shall be furnished to the owner of such factory, warehouse, establishment, or vehicle upon written request to the Commissioner; and provided, further, that nothing in this article shall be construed to limit, modify, repeal or affect in any way the powers, duties or functions of the State Board of Agriculture.
Laws 1963, c. 325, art. 11, § 1115.

§63-1-1116. Publication of reports.

(a) The State Commissioner of Health may cause to be published from time to time reports summarizing all judgments, decrees, and court orders which have been rendered under this article, including the nature of the charge and the disposition thereof.

(b) The Commissioner may also cause to be disseminated such information regarding food as the Commissioner deems necessary in the interest of public health and the protection of the consumer against fraud. Nothing in this section shall be construed to prohibit the Commissioner from collecting, reporting, and illustrating the results of the investigation of the Commissioner.
Laws 1963, c. 325, art. 11, § 1116.

§63-1-1117. Conformity to federal requirements.

All reasonable rules, regulations, definitions and standards promulgated and/or adopted by the State Board of Health under the provisions of this article shall conform, insofar as practicable, to the reasonable rules, regulations, definitions and standards of the Federal Food and Drug Administration.

Laws 1963, c. 325, art. 11, § 1117.

§63-1-1118. Food establishment license - Exemptions - Fee-exempt license - Sanitation standards.

A. It shall be unlawful for any person to operate or maintain any establishment, stationary or otherwise, where food or drink is offered for sale, or sold, to the public, unless the person is the holder of a food establishment license issued for such purpose by the State Commissioner of Health or designee. A food establishment license shall not be required for:

1. A produce stand that offers only whole, uncut and unprocessed fresh fruits, melons, vegetables and legumes and/or whole uncracked and unprocessed nuts;

2. A manufacturer, wholesaler or broker of food licensed pursuant to Section 1-1119 of this title;

3. A kitchen in a private home if only food that does not require time and temperature control for safety is prepared for sale or service at a function such as a nonprofit civic, charitable or religious organization's bake sale;

4. An area where food that is prepared as specified in paragraph 3 of this subsection is sold or offered for human consumption;

5. A private home that receives catered or home-delivered food;

6. A hotel licensed pursuant to Section 1-1201 of this title which provides limited food service in compliance with rules promulgated by the State Board of Health;

7. A kitchen in a private home or in a bed and breakfast that prepares and offers food to guests, if the home is owner-occupied, the number of available guest bedrooms does not exceed three, and breakfast is the only meal offered;

8. A nonprofit civic, charitable or religious organization using unpaid individuals to prepare or serve food on its behalf, for occasional fund-raising events sponsored and conducted by the organization. For the purposes of this paragraph, an "occasional fund-raising event" shall be defined as an event that occurs four times a year or less;

9. Day care centers or family day care centers, and all other child care facilities as defined and licensed pursuant to the provisions of the Oklahoma Child Care Facilities Licensing Act;

10. Nursing facilities and specialized facilities, as defined in and licensed pursuant to the provisions of the Nursing Home Care Act, residential care homes as defined by the Residential Care Act, adult day care centers as defined by the Adult Day Care Act, and assisted living centers and continuum of care facilities licensed pursuant to the Continuum of Care and Assisted Living Act; and

11. Other establishments exempted from food establishment licensure pursuant to state law.

B. Each license shall expire one (1) year following the date of its issuance. The State Department of Health shall charge and collect for each such license an annual fee to be fixed by the State Board of Health.

1. The Board may provide by rule for a fee-exempt license for a food establishment operated by a nonprofit, civic, charitable or religious organization that uses unpaid persons to sell or offer food on a more frequent basis than the occasional fund-raising event. A fee-exempt license shall not expire but shall remain in full force and effect until affirmatively revoked, suspended, annulled or withdrawn by the Department in accordance with applicable law.

2. The Board may by rule also provide that licenses for establishments serving events of limited duration or operating on a seasonal basis shall extend only for the term of the event or season, and may by rule adjust the fees for such licenses accordingly.

C. The State Board of Health shall promulgate reasonable standards and rules for sanitation of establishments required to be licensed, which shall include the following: buildings, vehicles, and appurtenances thereto, including plumbing, ventilation and lighting; construction, cleanliness and bactericidal treatment of equipment and utensils; cleanliness, wholesomeness, storage and refrigeration of food and drink sold or served; cleanliness and hygiene of personnel; toilet facilities; disposal of waste; water supply; and other items deemed necessary to safeguard the health, comfort, and safety of customers.

Added by Laws 1963, c. 325, art. 11, § 1118, operative July 1, 1963. Amended by Laws 1965, c. 190, §§ 1, 2, emerg. eff. June 8, 1965; Laws 1986, c. 121, § 2, emerg. eff. April 10, 1986; Laws 1989, c. 345, § 7, eff. Oct. 1, 1989; Laws 1995, c. 230, § 7, eff. July 1, 1995; Laws 2015, c. 93, § 1, eff. Nov. 1, 2015.

§63-1-1119. License required - Manufacturers, wholesalers, brokers of foods and drugs - Exception.

A. Any manufacturer, wholesaler or broker of food or drugs doing business in the State of Oklahoma, or bringing into and offering for sale within the State of Oklahoma any article of food or drug, shall secure an annual license from the Commissioner of Health and shall pay for such license a fee, to be fixed by the State Board of Health. Unless otherwise provided by rule by the Board, each such license shall expire on the 30th day of June following its issuance.

B. Provided, that subsection A of this section shall not apply to:

1. Brokers who procure the shipment of articles of food or drugs into the State of Oklahoma directly to the wholesaler without

handling such products themselves, except that such brokers shall annually list their name and address with the State Department of Health; and

2. Any person who is licensed by the Board of Pharmacy to manufacture, make, produce, package, pack, prepare or sell, or offer for sale, at wholesale or retail, compressed medical gases.

Laws 1963, c. 325, art. 11, § 1119, operative July 1, 1963; Laws 1969, c. 187, § 1, emerg. eff. April 17, 1969; Laws 1989, c. 345, § 8, eff. Oct. 1, 1989; Laws 1992, c. 52, § 1, eff. Sept. 1, 1992.

§63-1-1120. Definitions.

For the purpose of Sections 1121 through 1134 of this article:

(a) the term "food" shall include any article used by man for food, drink, confection, ice or condiment, or which enters into the composition of the same, whether simple, blended, mixed or compounded.

(b) the term "frozen food locker plant" shall mean a location or establishment in which space in individual lockers is rented to persons for storage of frozen food and is equipped with a chill room, sharp freezing facilities and facilities for cutting, preparing, wrapping and packaging meats and meat products, fruit and vegetables.

(c) the term "branch frozen food locker plant" shall mean a location or establishment in which space in individual lockers is rented to persons for storage of frozen food after preparation for storage at a frozen food locker plant.

(d) the term "sharp frozen" shall mean the freezing of food in a room in which the temperature is zero degrees (0~F) Fahrenheit or below.

Laws 1963, c. 325, art. 11, § 1120.

§63-1-1121. License.

No person shall engage or continue in the operation of a frozen food locker plant or a branch frozen food locker plant until a license has been obtained from the State Commissioner of Health for each such location or establishment. Application for such license shall be made upon forms furnished by the Commissioner and shall contain items as to ownership, management, location, equipment, and other data concerning the business for which each license is desired.

Laws 1963, c. 325, art. 11, § 1121.

§63-1-1122. License fee.

The annual license fee for each such frozen food locker plant and each branch plant shall not exceed Fifteen Dollars ($15.00), to be fixed by the State Board of Health. Each such license shall

expire on June 30th of each year following the date of issue or renewal and no license shall be transferable.
Laws 1963, c. 325, art. 11, § 1122.

§63-1-1123. Examination of plant.

Upon receipt of an application for license for a new frozen food locker plant, or branch plant, the State Commissioner of Health shall require that, within thirty (30) days, an inspection be made of the locker plant or branch locker plant, its equipment, facilities, surrounding premises, slaughtering facilities, and similar items, and, if its operations, construction and equipment comply with the provisions of law and the authorized rules and regulations of the State Board of Health applicable to such plants, the Commissioner shall issue such license.
Laws 1963, c. 325, art. 11, § 1123.

§63-1-1124. Inspection and revocation of license.

Every frozen food locker plant or branch locker plant shall be subject to inspection at any reasonable hour by the State Commissioner of Health or his authorized representatives and such locker plants shall be maintained in a sanitary condition and conducted with strict regard to the influence of such conditions upon the food handled therein. The license shall be conspicuously displayed by the licensee in each locker plant, or branch locker plant.
Laws 1963, c. 325, art. 11, § 1124.

§63-1-1125. Storing of impure foods.

No article of food shall be stored in any frozen food locker plant unless it is in a proper condition for storage and meets all the requirements of food and food sanitation laws and rules established by the State Board of Health for the sanitary preparation of food products which are to be stored.
Laws 1963, c. 325, art. 11, § 1125.

§63-1-1126. Goods not intended for human consumption.

Goods not intended for human consumption shall not be stored in a frozen food locker plant except such items of animal or vegetable matter which may have been approved by the State Commissioner of Health.
Laws 1963, c. 325, art. 11, § 1126.

§63-1-1127. Construction of plant - Equipment.

(a) The floors, walls, and ceilings of locker plants and branch locker plants, including all food processing rooms, slaughtering facilities, and similar items, shall be of such construction and finish that they can be conveniently maintained in a clean and

sanitary condition. Walls and ceilings shall be well painted or finished in some other approved manner and shall be refinished as often as necessary. Washing facilities including hot and cold water shall be provided for proper cleansing of utensils and equipment. The lockers in any plant shall be so constructed as to protect the contents from contamination, deterioration, or injury. Lockers with perforated bottoms shall be provided with a suitable unperforated liner or tray.

(b) Any plant using a toxic gas refrigerant shall have at least one gas mask of a type approved by the State Commissioner of Health and shall keep the same where it will be readily accessible.

Laws 1963, c. 325, art. 11, § 1127.

§63-1-1128. Sanitation and cleanliness.

All rooms of a locker plant or branch locker plant shall at all times be maintained in a clean and sanitary condition. All equipment and utensils shall be clean when put into use and shall be thoroughly cleansed after each day's use and shall be so stored or protected as not to become contaminated. Lockers shall be thoroughly cleansed before they are leased or put into the possession of any patron. The premises and surroundings of locker plants and branch locker plants shall be maintained in a clean and sanitary condition. The food stored shall be protected from filth, flies, dust, dirt, insects, vermin and any other contamination and from any unclean or filthy practice in the handling thereof or caring therefor. No food shall be stored in such condition or in such manner as to cause injury to or deterioration of articles of food in adjacent lockers. Tobacco shall not be used in any room where food is processed or stored. Waste or offal incident to the slaughtering, cleaning, storing or preparation of any food for storage shall be promptly removed from the premises and disposed of in a sanitary manner.

No room or rooms used for the preparation, storage, display or sale of food or for the processing of food shall be used as a living room or sleeping room nor shall dogs, cats or other domestic animals be permitted in any such room.

Laws 1963, c. 325, art. 11, § 1128.

§63-1-1129. Water supply - Toilet facilities.

Locker plants shall have an ample water supply approved by the State Commissioner of Health. Locker plants or branch locker plants shall be provided with adequate toilets so located as to be readily accessible to employees and equipped with adequate hand washing fixtures or facilities, supplied with hot and cold water under pressure, soap and approved towel service. The doors of all toilet rooms shall be full length and self-closing and no toilet room shall open directly into any room in which foods are prepared, processed,

chilled, frozen or stored. Toilet facilities and rooms shall be kept in a clean and sanitary condition.
Laws 1963, c. 325, art. 11, § 1129.

§63-1-1130. Temperatures required.

The refrigeration system for a locker plant or branch locker plant shall be equipped with accurate and reliable controls for the automatic maintenance of uniform temperatures as required in the various refrigerated rooms and shall be of adequate capacity to provide, under extreme conditions of outside temperatures and under peak load conditions in the normal operations of the plant, the following temperatures in the several rooms, respectively:

Chill room

(a) Temperature of thirty-four degrees degrees above zero Fahrenheit (340F.) plus or minus two degrees (2 degrees) with a tolerance of five degrees Fahrenheit (50F.) for a reasonable time after fresh food is put in for chilling.

Sharp freeze room. Sharp freezing compartments

(b) Temperature of ten degrees below zero Fahrenheit (-100F.) or lower or temperature of zero degrees Fahrenheit or lower when forced air circulation is employed with a tolerance of five degrees Fahrenheit (50F.) for either type of installation for a reasonable time after fresh food is put in for freezing.

Locker room

(c) Temperature of not to exceed zero degrees Fahrenheit (00F.) with a tolerance of three degrees Fahrenheit (30F.) higher.

The foregoing temperatures shall not be construed as prohibiting such variations therefrom as may occur during short periods of time incidental to defrosting. For experimental purposes, the State Commissioner of Health, upon application in writing, may authorize for a limited and prescribed period the installation and use of refrigeration systems or methods which in the opinion of the Commissioner will result in improvement over present methods.

An accurate direct reading thermometer shall be provided in the chill room and in the sharp freeze room or compartment. An accurate self-registering or self-recording thermometer of a type approved by the Commissioner shall be provided in the locker room. The discs or other temperature records of such thermometer shall be kept at the plant and shall be preserved for at least one (1) year from the date of the recording. The thermometer in the locker room shall be placed in a position where it is readily observable by patrons.
Laws 1963, c. 325, art. 11, § 1130.

§63-1-1131. Inspection, wrapping, identification of stored food.

No food shall be placed in a locker for storage unless it has been sharp frozen at the plant, or else transferred from home freezer in solid frozen condition. No foods shall be placed in a

locker unless such foods have been inspected by the operator. No unwrapped meat or unwrapped or unpacked fruits or vegetables shall be placed in any locker. Only material suitable for the wrapping of meats that are to be frozen and stored shall be used. Each wrapped portion shall be marked or stamped with the correct locker number and date of wrapping.
Laws 1963, c. 325, art. 11, § 1131.

§63-1-1132. Warehousemen.
Persons who own or operate frozen food locker plants or branch locker plants shall not be construed to be warehousemen, nor shall receipts or other instruments issued by such persons in the ordinary conduct of their business be construed to be negotiable warehouse receipts.
Laws 1963, c. 325, art. 11, § 1132.

§63-1-1133. Storage lien.
Every lessor owning or operating a frozen food locker plant or branch plant shall have a lien upon all property of every kind in its possession for all reasonable charges and rents thereon and for the handling, keeping and caring for the same.
Laws 1963, c. 325, art. 11, § 1133.

§63-1-1134. State board of health.
For the purpose of carrying into effect the provisions of this article, the State Board of health shall promulgate reasonable rules and regulations relating to sanitation, conforming to the purpose and content of the foregoing provisions relating to frozen food locker plants.
Laws 1963, c. 325, art. 11, § 1134.

§63-1-1135. Repealed by Laws 2013, c. 2, § 3, eff. Nov. 1, 2013.

§63-1-1136. Repealed by Laws 2013, c. 2, § 3, eff. Nov. 1, 2013.

§63-1-1137. Repealed by Laws 2013, c. 2, § 3, eff. Nov. 1, 2013.

§63-1-1138. Repealed by Laws 2013, c. 2, § 3, eff. Nov. 1, 2013.

§63-1-1139. Repealed by Laws 2013, c. 2, § 3, eff. Nov. 1, 2013.

§63-1-1201. Hotels, motels, etc. - Licenses required - Rules and regulations.
(a) It shall be unlawful for any person to operate or maintain a hotel unless he shall have first obtained, and holds, a license issued for such purpose by the State Commissioner of Health. Unless otherwise provided by rule by the State Board of Health, each such

license shall expire on the 30th day of June next following its issuance, and the Commissioner shall charge and collect therefor an annual fee to be fixed by the Board of Health. The term "hotel" as used in this section shall mean and include any hotel, motel, tourist court, apartment house, rooming house, or other place where sleeping accommodations are furnished, or offered, for pay for transient guests, if four or more rooms are available therein for transient guests. This section shall apply to the operation of a hotel by a state board.

(b) The State Board of Health may adopt reasonable standards, rules and regulations for hotels as to the following: buildings and appurtenances thereto, including plumbing, ventilation and lighting; construction, cleanliness and bactericidal treatment of equipment and utensils; cleanliness and hygiene of personnel; toilet facilities; disposal of wastes; water supply; and any other items deemed necessary to safeguard the health, comfort and safety of guests accommodated therein.

Laws 1963, c. 325, art. 12, § 1201.

§63-1-1301.1. Renumbered as § 7-401 of Title 2 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994.

§63-1-1301.2. Renumbered as § 7-402 of Title 2 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994.

§63-1-1301.3. Renumbered as § 7-403 of Title 2 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994.

§63-1-1301.4. Renumbered as § 7-404 of Title 2 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994.

§63-1-1301.5. Renumbered as § 7-405 of Title 2 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994.

§63-1-1301.6. Renumbered as § 7-406 of Title 2 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994.

§63-1-1301.7. Renumbered as § 7-407 of Title 2 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994.

§63-1-1301.8. Renumbered as § 7-408 of Title 2 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994.

§63-1-1301.9. Renumbered as § 7-409 of Title 2 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994.

§63-1-1301.10. Renumbered as § 7-410 of Title 2 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994.

§63-1-1301.11. Renumbered as § 7-411 of Title 2 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994.

§63-1-1301.12. Renumbered as § 7-412 of Title 2 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994.

§63-1-1301.13. Renumbered as § 7-413 of Title 2 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994.

§63-1-1301.14. Renumbered as § 7-414 of Title 2 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994.

§63-1-1301.15. Renumbered as § 7-415 of Title 2 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994.

§63-1-1301.16. Renumbered as § 7-416 of Title 2 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994.

§63-1-1301.17. Renumbered as § 7-417 of Title 2 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994.

§63-1-1301.18. Renumbered as § 7-418 of Title 2 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994.

§63-1-1301.19. Renumbered as § 7-419 of Title 2 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994.

§63-1-1301.20. Renumbered as § 7-420 of Title 2 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994.

§63-1-1301.30. Short title.

This act may be cited as the "Mello-drink Products Act." Laws 1971, c. 96, § 1, operative July 1, 1971. Renumbered from Title 2, § 7-301 by Laws 1987, c. 206, § 97, operative July 1, 1987; Laws 1987, c. 236, § 205, emerg. eff. July 20, 1987.

§63-1-1301.31. Legislative intent.

It is the legislative intent of this act to enable a purchaser at retail level to distinguish between Mello-drink products and dairy products, by eliminating the deceptive practices in advertising and promoting Mello-drink products in their unaltered state, but it is not intended to regulate the use of or sale of such products by food establishments in the preparation of food.

Laws 1971, c. 96, § 2, operative July 1, 1971. Renumbered from Title 2, § 7-302 by Laws 1987, c. 206, § 97, operative July 1, 1987; Laws 1987, c. 236, § 205, emerg. eff. July 20, 1987.

§63-1-1301.32. Purpose of act.

Mello-drink products resemble milk products so closely that they lend themselves readily to substitution for and confusion with such milk products and in many cases cannot be distinguished from milk products by the ordinary consumer. The manufacture, sale, exchange, purveying, transportation, possession with intent to sell or offering for sale or exchange or purveyance of Mello-drink products creates a condition conducive to substitution, confusion, deception and fraud, and one which, if permitted to continue without some controls, tends to interfere with the orderly and fair marketing of foods essential to the well-being of the people of this state. It is hereby declared to be the purpose of this act to correct and eliminate the condition above referred to; to protect the public from products manufactured under unhealthy and unsanitary conditions; to protect the public from confusion, fraud and deception; to prohibit practices inimical to the general health and welfare; and to promote the orderly and fair marketing of essential foods.

Laws 1971, c. 96, § 3, operative July 1, 1971. Renumbered from Title 2, § 7-303 by Laws 1987, c. 206, § 97, operative July 1, 1987; Laws 1987, c. 236, § 205, emerg. eff. July 20, 1987.

§63-1-1301.33. Labeling and advertising.

A. Mello-drink products shall not be advertised, displayed for sale or sold in any manner or under any circumstances or conditions likely to mislead, deceive or confuse the public into believing such product is a milk product.

B. No wording commonly used or associated with or which may be associated with the production, sale, advertising, distribution or marketing of a milk product, whether in liquid, powdered, frozen or any other form, shall be used with or without additional descriptive words on any label, package or wrapping of any Mello-drink product or advertisement thereof, whether such use be by word, sound or other technique or device. These provisions shall not apply to food prepared in restaurants or cafeterias.

C. No picture or representation of the animal genus bovine or any other picture, symbol, mark, design or representation commonly associated with dairy farming or any other phase of the dairy industry or associated with the production, sale, advertising, distribution or marketing of milk products, whether in liquid, powdered, frozen or any other form, shall be used on any label, package or wrapping of any Mello-drink product or when advertising any Mello-drink product.

D. No Mello-drink product shall be advertised or labeled as pasteurized or homogenized unless the whole finished product has been pasteurized, homogenized or processed in a licensed manufacturing plant in accordance with the requirements of this act.
E. The label, package or wrapping of a Mello-drink product shall contain an accurate and complete listing of the ingredients preceded by the words "ingredients: vegetable oil beverage consisting of". The common name of each ingredient shall be listed in order of decreasing predominance, each accompanied by the percentage it represents of the whole product. Ingredients which represent less than one percent (1%) of the whole product shall be preceded by the words "consisting of less than one percent (1%)". The oil or fat contained in the product shall be listed by the common name given its specific type. If artificial coloring or flavoring has been added, the list of ingredients shall so state.
F. The label, package or wrapping of a Mello-drink product may contain statements and claims which are reasonable, relevant, truthful, complete and not deceptive or misleading, provided the label shall contain no statements or claims regarding milk products, except any necessary factual statement regarding any milk products which are ingredients of the Mello-drink product. The Department may require satisfactory proof of the compliance of any statement or claim with the provisions of this subsection. The Department may require such disclaimers be placed on the label, package or wrapping as it determines necessary to avoid confusion and deception of the public and as are consistent with other provisions of this act.
G. The Board shall by rule or regulation establish the size, including type size, and the location of all terms, pictures, symbols, marks, designs or other representations to be placed on the label, package or wrapping of a Mello-drink product so that the label, package or wrapping is not likely to mislead, deceive or confuse the public as to the true nature or character of the product. In no event shall the product name, Mello-drink, be less than twice the type size of any other term or representation contained on the label, package or wrapping. The name Mello-drink shall be prominently displayed to avoid confusion and no other term or representation shall appear on the same line or within the immediate area of the label, package or wrapping as the product name.
Laws 1971, c. 96, § 5, operative July 1, 1971. Amended by Laws 1987, c. 206, § 31, operative July 1, 1987; Laws 1987, c. 236, § 17, emerg. eff. July 20, 1987. Renumbered from Title 2, § 7-305 by Laws 1987, c. 206, § 97, operative July 1, 1987; Laws 1987, c. 236, § 205, emerg. eff. July 20, 1987.

§63-1-1301.34. Separate display.

A. Mello-drink products shall not be displayed for sale in the same units or counters as used for milk products, unless there is a partition separating said products. In no event shall Mello-drink products be intermixed or commingled with milk products, but shall be separately displayed.

B. Units or counters containing Mello-drink products or milk products shall be clearly labeled to avoid confusion.

Laws 1971, c. 96, § 6, operative July 1, 1971. Renumbered from Title 2, § 7-306 by Laws 1987, c. 206, § 97, operative July 1, 1987; Laws 1987, c. 236, § 205, eff. July 20, 1987.

§63-1-1301.35. Food establishments - notice.

A. No food establishment shall place before any patron or employee any Mello-drink product for use as beverage, unless any such Mello-drink product or products are clearly identified, in their original containers, as such or such identification shall be printed on each menu furnished to such patrons and employees, if not served in their original container, in legible type of such size as is used to denote the use of margarine on the menu.

B. No food establishment shall serve a Mello-drink product from a bulk dispenser or container of the type customarily used for or associated with or which may be associated with a milk product, unless the bulk dispenser or container is prominently labeled "Mello-drink product".

Laws 1971, c. 96, § 6, operative July 1, 1971. Renumbered from Title 2, § 7-306 by Laws 1987, c. 206, § 97, operative July 1, 1987; Laws 1987, c. 236, § 205, eff. July 20, 1987.

§63-1-1301.36. Registration.

A. Any person engaged in the manufacture of a Mello-drink product shall separately register each product with the Department as provided by this section.

B. Each application for a registered product shall be in such form as prescribed by the Department and shall be accompanied by a fee of Ten Dollars ($10.00). The application shall include the ingredients of the product, and the proposed label or labels for the product. The Department shall approve such application if it determines the product will comply or has complied with the provisions of this act. The information required by this subsection shall be kept current, and shall be amended within thirty (30) days of any change; provided, that the submission of containers for approval of minor informational changes on the label or changes in the promotional panel of the label shall not require the payment of any fee.

C. No Mello-drink product shall be sold unless it is registered with and approved by the Department.

D. In addition to any other penalty, the Department or its authorized agent may, after any hearing, revoke or suspend the registration of any Mello-drink product for violation of the provisions of this act.

E. All product registrations made pursuant to this section shall be confidential. No information contained in the application for any such registration, or in the registration, shall be divulged by the Department, except if necessary for the proper determination of any hearing before the Department or any court proceeding.

Laws 1971, c. 96, § 8, operative July 1, 1971. Amended by Laws 1987, c. 206, § 32, operative July 1, 1987; Laws 1987, c. 236, § 18, emerg. eff. July 20, 1987. Renumbered from Title 2, § 7-308 by Laws 1987, c. 206, § 97, operative July 1, 1987; Laws 1987, c. 236, § 205, emerg. eff. July 20, 1987.

§63-1-1301.37. License to manufacture.

A. The Department shall issue an annual license authorizing the manufacture of Mello-drink products. The license shall expire at the end of each fiscal year.

B. Each application for a license shall be in the form as prescribed by the Department and shall be accompanied by a fee of Fifteen Dollars ($15.00).

C. The Department shall issue a license to each applicant who satisfies the requirements of this act and the rules, regulations and orders adopted pursuant to this act.

D. It is unlawful and a misdemeanor to engage in the manufacture of Mello-drink products without a license for the current fiscal year. Each separate plant or place of manufacturing shall require a license.

E. The manufacture of Mello-drink products under unhealthful or insanitary conditions or any other violation of this act shall be grounds for revocation or suspension of the manufacturer's license.

F. It is unlawful and a misdemeanor for any person to sell, give away or deliver any Mello-drink product which has been produced in a plant that is in an insanitary condition, or that is handled by any carrier or any store or depot that is in an insanitary condition.

Laws 1971, c. 96, § 9, operative July 1, 1971. Amended by Laws 1987, c. 206, § 33, operative July 1, 1987; Laws 1987, c. 236, § 19, emerg. eff. July 20, 1987. Renumbered from Title 2, § 7-309 by Laws 1987, c. 206, § 97, operative July 1, 1987; Laws 1987, c. 236, § 205, emerg. eff. July 20, 1987.

§63-1-1301.38. Import license.

A. It is unlawful and a misdemeanor to import Mello-drink products into the State of Oklahoma without a license for such importation.

B. Each application for an import license shall be in the form as prescribed by the Department and shall be accompanied by a fee of Fifteen Dollars ($15.00).

C. In addition to an import license, each imported Mello-drink product must be registered and approved by the Department and otherwise meet the same requirements and standards as Mello-drink products manufactured in this state.

D. The application for product registration or the import license shall not be approved unless the provisions of this act and the rules, regulations and orders adopted pursuant to the provisions of this act are satisfied.

Laws 1971, c. 96, § 10, operative July 1, 1971. Amended by Laws 1987, c. 206, § 34, operative July 1, 1987; Laws 1987, c. 236, § 20, emerg. eff. July 20, 1987. Renumbered from Title 2, § 7-310 by Laws 1987, c. 206, § 97, operative July 1, 1987; Laws 1987, c. 236, § 205, emerg. eff. July 20, 1987.

§63-1-1301.39. Rules, regulations and orders - Waiver on exports.

A. The Department shall make and enforce all rules, regulations and orders that are necessary to carry out the purposes of this act, to protect the public health and welfare and to prevent deception or confusion among consumers; providing the Department shall not make any rules, regulations, or orders, regarding signs or statements to be used in food establishments, other than those specifically required in this act. The Department shall designate the various Mello-drink products in order to facilitate the adoption and enforcement of rules, regulations and orders.

B. The Board is hereby authorized and directed to establish, by regulations, the sanitary requirements for the processing, manufacturing, distribution and sale of Mello-drink products.

C. Notwithstanding any other provisions of this act to the contrary, the Board may by regulation waive any of the provisions of this act as they may apply to Mello-drink products manufactured for sale and distribution exclusively outside of this state; provided that the regulations contain provisions ensuring that the products will not be made available or sold to consumers in this state.

Laws 1971, c. 96, § 11, operative July 1, 1971. Amended by Laws 1987, c. 206, § 35, operative July 1, 1987; Laws 1987, c. 236, § 21, emerg. eff. July 20, 1987. Renumbered from Title 2, § 7-311 by Laws 1987, c. 206, § 97, operative July 1, 1987; Laws 1987, c. 236, § 205, emerg. eff. July 20, 1987.

§63-1-1301.40. Penalties.

A. Any person violating any provisions of this act or any rule, regulation or order adopted in accordance with its provisions is guilty of a misdemeanor punishable by a fine of not less than One Hundred Dollars ($100.00) nor more than One Thousand Dollars

($1,000.00) for each violation or by imprisonment in the county jail for not to exceed ninety (90) days, or both.

B. Upon failure or refusal of a person to comply with the provisions of this act or any rule, regulation or order adopted in accordance with its provisions, the Board or its authorized agent may file an action in the district court to restrain and enjoin the person from engaging in further acts violating the provisions of this act or any rule, regulation or order. The court shall proceed as in other actions for injunctions. Any person found to be in contempt of an injunctive order of the court shall be fined not less than One Hundred Dollars ($100.00) nor more than One Thousand Dollars ($1,000.00) or be imprisoned in the county jail for not to exceed ninety (90) days, or both, with each day constituting a separate contempt.

Laws 1971, c. 96, § 14, operative July 1, 1971. Renumbered from Title 2, § 7-314 by Laws 1987, c. 206, § 97, operative July 1, 1987; Laws 1987, c. 236, § 205, emerg. eff. July 20, 1987.

§63-1-1301.41. Deposit of funds.

All monies received by the Department for any purpose under this act shall be deposited to the Milk Inspection Revolving Fund.

Laws 1971, c. 96, § 15, operative July 1, 1971. Amended by Laws 1987, c. 206, § 36, operative July 1, 1987; Laws 1987, c. 236, § 22, emerg. eff. July 20, 1987. Renumbered from Title 2, § 7-315 by Laws 1987, c. 206, § 97, operative July 1, 1987; Laws 1987, c. 236, § 205, emerg. eff. July 20, 1987.

§63-1-1330. Short title - Oklahoma Honey Sales Act.

This act shall be known and may be cited as the "Oklahoma Honey Sales Act".

Added by Laws 2013, c. 20, § 1, eff. July 1, 2013.

§63-1-1331. Beekeepers - Exemptions from regulation and inspection.

A. Beekeepers with annual production of less than five hundred (500) gallons shall be exempt from regulation and inspection by the State Department of Health for the manufacture, sale, and distribution of honey and honeycomb products in Oklahoma if they meet the following requirements:

1. The beekeeper shall only sell or distribute honey or honeycomb produced from hives located wholly within the State of Oklahoma which are owned and managed by the beekeeper;

2. The honey, honeycomb, or combination thereof is raw and not blended with other products or otherwise adulterated. The honey may be in liquid or solid form or a combination of the two;

3. The honey or honeycomb shall only be sold or distributed in person to the end-use customer at the beekeeper's home, farmer's

markets, roadside stands, county fairs, or similar events; by the beekeeper or members of the beekeeper's immediate family; and

4. Honey products shall be labeled with the common food product name, net weight of the honey, the beekeeper's name, current ten (10) digit phone number, an address where the honey or honeycomb was produced, and shall include the statement, "Bottled or packaged in a facility not inspected by the Oklahoma Department of Health." The statement shall be in 10-point type or greater in a color that provides clear contrast to the background label.

B. No county, municipal corporation, consolidated government, or political subdivision of this state shall adopt or continue in effect any ordinance, rule, regulation, or resolution prohibiting, impeding, or restricting honey sales or distribution in compliance with this law.

Added by Laws 2013, c. 20, § 2, eff. July 1, 2013.

§63-1-1401. Definitions.

For the purposes of this article:

A. The term "drug" means:

1. Articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;

2. Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals;

3. Articles, other than food, intended to affect the structure or any function of the body of man or other animals; and

4. Articles intended for use as a component of any article specified in paragraphs 1, 2 and 3 of this subsection; but does not include devices or their components, parts or accessories.

B. The term "device", except when used in subsection K of this section and in subsection (i) of Section 1-1402, subsection (c) of Section 1-1409, and subsection (c) of Section 1-1411 of this title, means instruments, apparatus and contrivances, including their components, parts and accessories, intended:

1. For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or

2. To affect the structure or any function of the body of man or other animals.

C. The term "cosmetic" means:

1. Articles intended to be rubbed, poured, sprinkled or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness or altering the appearance; and

2. Articles intended for use as a component of any such articles, except that such term shall not include soap.

D. The term "official compendium" means authoritative compendia as identified by the Secretary of the United States Department of Health and Human Services.

E. The term "label" means a display of written, printed or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this article that any word, statement, or other information appear on the label shall not be considered to be complied with unless such work, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper.

F. The term "immediate container" does not include package liners.

G. The term "labeling" means all labels and other written, printed or graphic matter:

1. Upon an article or any of its containers or wrappers; or

2. Accompanying such article.

H. If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, then, in determining whether the labeling or advertisement is misleading, there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under such conditions of use as are customary or usual.

I. The term "advertisement" means all representations disseminated in any manner or by any means, other than labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of drugs, devices, or cosmetics.

J. The representation of a drug, in its labeling or advertisement, as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or such other use as involves prolonged contact with the body.

K. The term "contaminated with filth" applies to any drug, device, or cosmetic not securely protected from dust, dirt, and, as far as may be necessary by all reasonable means, from all foreign or injurious contaminations.

L. The provisions of this article regarding the selling of drugs, devices, or cosmetics shall be considered to include the manufacture, production, processing, packing, exposure, offer,

possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article, and the supplying or applying of any such article in the conduct of any drug or cosmetic manufacturing establishment.

M. The term "Federal Act" means the Federal Food, Drug, and Cosmetic Act, as amended.

Added by Laws 1963, c. 325, art. 14, § 1401, operative July 1, 1963. Amended by Laws 2010, c. 157, § 1, eff. Nov. 1, 2010.

§63-1-1402. Acts prohibited.

The following acts and the causing thereof within the State of Oklahoma are hereby prohibited:

(a) The manufacture, sale, or delivery, holding or offering for sale of any drug, device, or cosmetic that is adulterated or misbranded.

(b) The adulteration or misbranding of any drug, device, or cosmetic.

(c) The receipt in commerce of any drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

(d) The dissemination of any false advertisement.

(e) The refusal to permit entry or inspection, or to permit the taking of a sample, as authorized by Section 1414 of this article.

(f) The giving of a guaranty or undertaking which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the drug, device or cosmetic.

(g) The removal or disposal of a detained or embargoed article in violation of Section 1405 of this article.

(h) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to, a drug, device, or cosmetic, if such act is done while such article is held for sale and results in such article being adulterated or misbranded.

(i) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label, or other identification device authorized or required by regulations promulgated under the provisions of this article.

Laws 1963, c. 325, art. 14, § 1402.

§63-1-1403. Injunction.

In addition to the remedies hereinafter provided, the Commissioner is hereby authorized to apply to the district court for, and such court shall have jurisdiction upon hearing and for cause shown to grant, a temporary or permanent injunction restraining any person from violating any of the provisions of the

preceding sections of this article, irrespective of whether or not there exists an adequate remedy at law.
Laws 1963, c. 325, art. 14, § 1403.

§63-1-1404. Violations - Penalties - Exemptions.

(a) Any person who violates any of the provisions of Section 1402 of this article shall be guilty of a misdemeanor, and shall on conviction thereof be subject to imprisonment for not more than thirty (30) days, or a fine of not more than One Hundred Dollars ($100.00), or both such imprisonment and fine; but if the violation is committed after a conviction of such person under this section has become final, such person shall be subject to imprisonment for not more than six (6) months, or a fine of not more than Five Hundred Dollars ($500.00), or both such imprisonment and fine.

(b) No person shall be subject to the penalties of subsection (a) of this section, for having violated Section 1402(a) or (c) of this article, if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the article, to the effect that such article is not adulterated or misbranded within the meaning of this article, designating this article.

(c) No publisher, radiobroadcast or television licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which a false advertisement relates, shall be liable under this section by reason of the dissemination by him of such false advertisement, unless he has refused, on the request of the State Commissioner of Health, or his duly-authorized agent, to furnish the Commissioner the name and post office address of the manufacturer, packer, distributor, seller, or advertising agency residing in the United States who caused him to disseminate such advertisement.
Laws 1963, c. 325, art. 14, § 1404.

§63-1-1405. Embargo.

(a) Whenever a duly-authorized agent of the State Commissioner of Health finds, or has probable cause to believe, that any drug, device, or cosmetic is adulterated, or so misbranded as to be dangerous or fraudulent, within the meaning of this article, he shall, upon approval and authorization of the Commissioner, affix to such article a tag or other appropriate marking, giving notice that such article is, or is suspected of being, adulterated or misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by such agent or the court. It shall be unlawful for any person to remove or dispose of such detained or embargoed article by sale or otherwise without such permission.

(b) The Commissioner shall have twenty (20) days from the time an article is embargoed in which to make a final determination as to its adulteration or misbranding. Failure to find the article to be adulterated or misbranded within such time shall result in the embargo being void and lifted. When the Commissioner has found an article to be adulterated or misbranded as provided herein, he shall immediately petition the district court in whose jurisdiction the article is detained or embargoed for condemnation of such article. When such agent has found that an article so detained or embargoed is not adulterated or misbranded, he shall remove the tag or other marking. Any person whose interest is affected adversely by an embargo imposed under the terms of this article may appeal direct from a ruling of the Commissioner to the district court in whose jurisdiction the article is embargoed, and a trial de novo shall be had in such court on the question of adulteration or misbranding.

(c) If the court finds that a detained or embargoed article is adulterated or misbranded, such article shall, after entry of the decree, be destroyed at the expense of the claimant thereof, under the supervision of such agent, and all court costs and fees, and storage and other proper expenses shall be taxed against the claimant of such article or his agent; provided, that when the adulteration or misbranding can be corrected by proper labeling or processing of the article, the court, after entry of the decree and after such costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that such article shall be so labeled or processed, has been executed, may by order direct that such article be delivered to the claimant thereof for such labeling or processing under the supervision of an agent of the Commissioner. The expense of such supervision shall be paid by the claimant. Such bond shall be returned to the claimant of the article on representation to the court by the Commissioner that the article is no longer in violation of this article, and that the expenses of such supervision have been paid.

(d) Whenever the Commissioner or any of his authorized agents shall find in any room, building, vehicle of transportation or other structure any perishable drugs, devices or cosmetics which are unsound, or contain any filthy, decomposed or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe, the same being hereby declared to be a nuisance, the Commissioner, or his authorized agent, shall forthwith condemn or destroy the same, or in any other manner render the same unsalable.

Laws 1963, c. 325, art. 14, § 1405.

§63-1-1406. Prosecution for violations.

It shall be the duty of each district attorney to whom the Commissioner of Health reports any violation of this act to cause

appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law.
Laws 1963, c. 325, art. 14, § 1406, operative July 1, 1963; Laws 1992, c. 52, § 2, eff. Sept. 1, 1992.

§63-1-1407. Minor violations.

Nothing in this article shall be construed as requiring the State Commissioner of Health to report, for the institution of proceedings under this article, minor violations of this article, whenever the Commissioner believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning.
Laws 1963, c. 325, art. 14, § 1407.

§63-1-1408. Adulteration of drugs and devices.

A drug or device shall be deemed to be adulterated:

1. If it consists in whole or in part of any filthy, putrid or decomposed substance;

2. If it has been produced, prepared, packed or held under unsanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health;

3. If it is a drug and its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

4. If it is a drug and it bears or contains, for purposes of coloring only, a coal tar color other than one from a batch certified under the authority of the Federal Food, Drug and Cosmetic Act, 21 U.S.C., Section 301 et seq.;

5. If it purports to be or is represented as a drug the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in such compendium. Such determination as to strength, quality or purity shall be made in accordance with the tests or methods of assay set forth in such compendium, or, in the absence of or inadequacy of such tests or methods of assay, those prescribed under authority of the federal act. No drug defined in an official compendium shall be deemed to be adulterated under this paragraph because it differs from the standard of strength, quality or purity therefor set forth in such compendium, if its difference in strength, quality or purity from such standard is plainly stated on its label. Whenever a drug is recognized in both the United States Pharmacopoeia and the Homoeopathic Pharmacopoeia of the United States it shall be subject to the requirements of the United States Pharmacopoeia unless it is labeled and offered for sale as a homoeopathic drug, in which case it shall be subject to the provisions of the Homoeopathic Pharmacopoeia of the United States and not to those of the United States Pharmacopoeia;

6. If it is not subject to the provisions of paragraph 2 of this section and its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess;

7. If it is a drug and any substance has been:

a. mixed or packed therewith so as to reduce its quality or strength, or

b. substituted wholly or in part therefor; or

8. If it is sold or offered for sale and is not lawfully marketed under the federal act for the purpose for which, and in the form in which, it is sold or offered for sale, unless the drug or device has been exempted from the requirements of this paragraph by the Commissioner of Health, or if the drug is compounded by a registered pharmacist pursuant to a prescription by a licensed practitioner.

Laws 1963, c. 325, art. 14, § 1408, operative July 1, 1963; Laws 1992, c. 52, § 3, eff. Sept. 1, 1992.

§63-1-1409. Misbranding of drugs and devices.

A drug or device shall be deemed to be misbranded:

(a) if its labeling is false or misleading in any particular.

(b) if in package form unless it bears a label containing:

(1) the name and place of business of the manufacturer of any prescription drug or device and the packer or distributor; and the name and place of business of the manufacturer, packer or distributor of any nonprescription drug or device. Manufacturer, as used herein, shall mean the person or firm which has mixed, tableted, encapsulated or otherwise prepared the drug in the form in which it is offered for sale to pharmacies.

(2) an accurate statement of the quantity of the contents in terms of weight, measure or numerical count; provided that under this clause reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the State Board of Health.

(c) if any word, statement, or other information required by or under authority of this article to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(d) if it is for use by man and contains any quantity of the narcotic or hypnotic substance alpha-eucaine, barbituric acid, betaeucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marihuana, morphine, opium, paraldehyde, peyote, or sulphonmethane; or any chemical derivative of such substance, which derivative has been by the State Commissioner of Health, after investigation, found to be, and by regulations under this article

designated as, habit forming, unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement "Warning-May Be Habit Forming."

(e) if it is a drug and is not designated solely by a name recognized in an official compendium unless its label bears:

(1) the common or usual name of the drug, if such there be; and

(2) in case it is fabricated from two or more ingredients, the common or usual name of each active ingredient, including the kind, quantity and proportion of any alcohol, and also including, whether active or not, the name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetphenetidin, antipyrine, atropine, hyoscine, hyoscyamine, arsenic digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein; provided, that to the extent that compliance with the requirements of this clause is impracticable, exemptions shall be established by regulations promulgated by the Board.

(f) unless its labeling bears:

(1) adequate directions for use, and

(2) such adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form, as are necessary for the protection of users; provided, that where any requirement of clause (1) of this paragraph, as applied to any drug or device, is not necessary for the protection of the public health, the Board shall promulgate regulations exempting such drug or device from such requirements.

(g) if it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein; provided, that the method of packing may be modified with the consent of the Board. Whenever a drug is recognized in both the United States Pharmacopoeia, and the Homeopathic Pharmacopoeia of the United States, it shall be subject to requirements of the United States Pharmacopoeia with respect to packaging and labeling unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the Homeopathic Pharmacopoeia of the United States, and not to those of the United States Pharmacopoeia.

(h) if it has been found by the Commissioner to be a drug liable to deterioration, unless it is packaged in such form and manner, and its label bears a statement of such precautions, as the Board shall by regulations require as necessary for the protection of public health. No such regulation shall be established for any

drug recognized in an official compendium until the Commissioner shall have informed the appropriate body charged with the revision of such compendium of the need for such packaging or labeling requirements and such body shall have failed within a reasonable time to prescribe such requirement.

(i) if it is a drug and its container is so made, formed, or filled as to be misleading; if it is an imitation of another drug; or if it is offered for sale under the name of another drug.

(j) if it is dangerous to health when used in the dosage or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof.

(k) if it is a drug intended for use by man which:

(1) is a habit-forming drug to which paragraph (d) of this section applies; or

(2) because of its toxicity or other potentiality for harmful effect, or the method of use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a physician, dentist or veterinarian; or

(3) is limited by an effective application under Section 505 of the Federal Act to use under professional supervision by a physician, dentist or veterinarian, unless it is dispensed only:

(i) upon a written prescription of a physician, dentist or veterinarian, or

(ii) upon the oral prescription of a physician, dentist or veterinarian which is reduced promptly to writing and filed by the pharmacist, or

(iii) by refilling any such written or oral prescription if such refilling is authorized by the prescriber either in the original prescription or by oral order which is promptly reduced to writing and filed by the pharmacist; provided, that any drug dispensed by filling or refilling a written or oral prescription of a physician, dentist, or veterinarian shall be exempt from the requirements of this section, except paragraphs (a) and (i), if the drug bears a label containing the name and address of the dispenser, the serial number and date of the prescription or its filling, the name of the prescriber, and, if stated in the prescription, the name of the patient, and the directions for use and cautionary statements, if any, contained in such prescription. This exemption shall not apply to any drug dispensed in the course of the conduct of a business of dispensing drugs, pursuant to diagnosis by mail.

(l) if the packaging, name or appearance of a prescription drug product is deceptively similar to or would cause unnecessary confusion with competitive, chemically-similar drug products which have a previously established or substantial position in the marketplace.

Laws 1963, c. 325, art. 14, § 1409; Laws 1976, c. 181, § 1, eff. Jan. 1, 1977.

§63-1-1410. Adulteration of cosmetics.

A cosmetic shall be deemed to be adulterated:

(a) if it bears or contains any poisonous or deleterious substance which may render it injurious to users under the conditions of use prescribed in the labeling or advertisement thereof, or under such conditions of use as are customary or usual. Provided, that this provision shall not apply to coal tar hair dye, the label of which bears the following legend conspicuously displayed thereon: "Caution-This product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying directions should first be made. This product must not be used for dyeing the eyelashes or eyebrows; to do so may cause blindness", and the labeling of which bears adequate directions for such preliminary testing. For the purposes of this paragraph and paragraph (e) the term "hair dye" shall not include eyelash dyes or eyebrow dyes.

(b) if it consists in whole or in part of any filthy, putrid, or decomposed substance.

(c) if it has been produced, prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health.

(d) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

(e) if it is not a hair dye and it bears or contains a coal tar color other than one from a batch which has been certified under authority of the Federal Act.

Laws 1963, c. 325, art. 14, § 1410.

§63-1-1411. Misbranding of cosmetics.

A cosmetic shall be deemed to be misbranded:

(a) if its labeling is false or misleading in any particular.

(b) if in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided that under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established by regulations prescribed by the State Board of Health.

(c) if any word, statement, or other information required by or under authority of this article to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and

understood by the ordinary individual under customary conditions of purchase and use.

(d) if its container is so made, formed, or filled as to be misleading.

Laws 1963, c. 325, art. 14, § 1411.

§63-1-1412. Advertisements - False or misleading.

(a) An advertisement of a drug, device, or cosmetic shall be deemed to be false if it is false or misleading in any particular.

(b) For the purposes of this article, the advertisement of a drug or device representing it to have any effect in albuminuria, appendicitis, arteriosclerosis, blood poison, bone disease, Bright's disease, cancer, carbuncles, cholecystitis, diabetes, diphtheria, dropsy, erysipelas, gallstone, heart and vascular diseases, high blood pressure, mastoiditis, measles, meningitis, mumps, nephritis, otitis media, paralysis, pneumonia, poliomyelitis (infantile paralysis), prostate gland disorders, pyelitis, scarlet fever, sexual impotence, sinus infection, smallpox, tuberculosis, tumors, typhoid, uremia, or sexually transmitted infection (STI) shall also be deemed to be false, except that no advertisement not in violation of subsection (a) of this section shall be deemed to be false under this subsection if it is disseminated only to members of the medical, dental, or veterinary professions, or appears only in scientific periodicals of those professions, or is disseminated only for the purpose of public health education by persons not commercially interested, directly or indirectly, in the sale of drugs or devices; provided, that whenever the State Commissioner of Health determines that an advance in medical science has made any type of self-medication safe as to any of the diseases named above, the State Board of Health shall by regulation authorize the advertisement of drugs having curative or therapeutic effect for such disease, subject to such conditions and restrictions as the Board and the Commissioner may deem necessary in the interests of public health; provided, that this subsection shall not be construed as indicating that self-medication for disease other than those named herein is safe or efficacious.

Added by Laws 1963, c. 325, art. 14, § 1412, operative July 1, 1963.
Amended by Laws 2011, c. 105, § 35, eff. Nov. 1, 2011.

§63-1-1413. Regulations - Hearings - Notice.

(a) The authority to promulgate regulations for the efficient enforcement of this article is hereby vested in the State Board of Health, which is hereby authorized to make regulations promulgated under this article conform, insofar as practicable, with those promulgated under the Federal Act.

(b) Hearings authorized or required by this article shall be conducted by the State Commissioner of Health or such officer,

agent, or employee as the Commissioner may designate for the purpose.

(c) Before promulgating any regulations contemplated by Section 1409(d), (e), (f), (g), (h), and (k) or 1412(b), the Board shall give appropriate notice of the proposal and of the time and place for a hearing. The regulation so promulgated shall become effective on a date fixed by the Board (which date shall not be prior to twenty (20) days after its promulgation). Such regulation may be amended or repealed in the same manner as is provided for its adoption, except that in the case of a regulation amending or repealing such regulation the Board, to such extent as it deems necessary in order to prevent undue hardship, may disregard the foregoing provisions regarding notice, hearing or effective date.
Laws 1963, c. 325, art. 14, § 1413.

§63-1-1414. Inspections.

The State Commissioner of Health or his duly-authorized agent shall have free access at all reasonable hours to any factor, warehouse, or establishment in which drugs, devices, or cosmetics are manufactured, processed, packed, or held for introduction into commerce, or to enter any vehicle being used to transport or hold such drugs, devices, or cosmetics in commerce, for the purpose: (1) of inspecting such factory, warehouse, establishment, or vehicle to determine if any of the provisions of this article are being violated, and (2) to secure samples or specimens of any drug, device, or cosmetic after paying or offering to pay for such sample. It shall be the duty of the Commissioner to make or cause to be made examination of samples secured under the provisions of this section to determine whether or not any provision of this article is being violated.
Laws 1963, c. 325, art. 14, § 1414.

§63-1-1415. Publication of reports and information.

(a) The State Commissioner of Health may cause to be published, from time to time, reports summarizing all judgments, decrees, and court orders which have been rendered under this article, including the nature of the charge and the disposition thereof.

(b) The Commissioner may also cause to be disseminated such information regarding drugs, devices, and cosmetics as the Commissioner deems necessary in the interest of public health and the protection of the consumer against fraud. Nothing in this section shall be construed to prohibit the Commissioner from collecting, reporting, and illustrating the results of the investigations of the Commissioner.
Laws 1963, c. 325, art. 14, § 1415.

§63-1-1430. Forced implantation of microchip or permanent mark prohibited.

A. No person, state, county, or local governmental entity or corporate entity may require an individual to undergo the implanting of a microchip or permanent mark of any kind or nature upon the individual.

B. The State Department of Health may impose a fine not to exceed Ten Thousand Dollars ($10,000.00) on any person who violates this act. Each day of continued violation shall constitute a separate offense.

Added by Laws 2008, c. 337, § 1, eff. Nov. 1, 2008.

§63-1-1440. Recodified as § 5-4.1 of Title 2 by Laws 2017, c. 85, § 3, eff. Nov. 1, 2017.

§63-1-1440.1. Recodified as § 5-4.2 of Title 2 by Laws 2017, c. 85, § 4, eff. Nov. 1, 2017.

§63-1-1440.2. Recodified as § 5-4.3 of Title 2 by Laws 2017, c. 85, § 5, eff. Nov. 1, 2017.

§63-1-1440.3. Recodified as § 5-4.4 of Title 2 by Laws 2017, c. 85, § 6, eff. Nov. 1, 2017.

§63-1-1440.4. Recodified as § 5-4.5 of Title 2 by Laws 2017, c. 85, § 6, eff. Nov. 1, 2017.

§63-1-1440.5. Recodified as § 5-4.6 of Title 2 by Laws 2017, c. 85, § 6, eff. Nov. 1, 2017.

§63-1-1450. Legislative findings – Short title.

A. The Legislature hereby finds that:

1. There is, in addition to cosmetic reasons, a growing need for medical micropigmentation in the treatment of clinical conditions or traumas such as cancer, surgery, and burns;

2. Medical micropigmentation is being performed in Oklahoma; and

3. Oklahoma law does not provide sufficient regulation of medical micropigmentation to assure the protection of the public.

Therefore, there is a need to provide legislation to enable the appropriate entities to regulate persons performing medical micropigmentation on the citizens of this state.

B. Sections 1 through 9 of this act shall be known and may be cited as the "Oklahoma Medical Micropigmentation Regulation Act".

Added by Laws 2001, c. 384, § 1, emerg. eff. June 4, 2001.

§63-1-1451. Definitions.

As used in the Oklahoma Medical Micropigmentation Regulation Act:

1. "Licensing board" means the Oklahoma State Board of Medical Licensure and Supervision, the State Board of Osteopathic Examiners and/or the Board of Dentistry;

2. "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 repigmentation of areas involving reconstructive surgery or trauma.

Medical micropigmentation shall not include placing on the body any pictures, images, numbers, signs, letters of the alphabet, or designs. Medical micropigmentation shall not be construed to be included in the definition of tattooing as provided in Section 841 of Title 21 of the Oklahoma Statutes; and

3. "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,
   b. osteopathic medicine by the State Board of Osteopathic Examiners pursuant to the Oklahoma Osteopathic Medicine Act, or
   c. dentistry by the Board of Dentistry pursuant to the State Dental Act.

Added by Laws 2000, c. 142, § 1, emerg. eff. April 28, 2000. Amended by Laws 2000, c. 330, § 1, emerg. eff. June 5, 2000; Laws 2001, c. 384, § 2, emerg. eff. June 4, 2001. Renumbered from § 841.5 of Title 21 by Laws 2001, c. 384, § 12, emerg. eff. June 4, 2001.

§63-1-1452. Authorized personnel - Supervision.

On and after May 1, 2002, medical micropigmentation may only be performed in a physician's office by:

1. A physician as defined by the Oklahoma Medical Micropigmentation Regulation Act;

2. A person licensed to practice registered nursing by the Oklahoma Board of Nursing who holds a current certificate issued by the State Commissioner of Health pursuant to the provisions of the Oklahoma Medical Micropigmentation Regulation Act while working under supervision of a physician. The level of supervision shall be

determined by the physician in whose office medical micropigmentation is being performed; and

3. A person who holds a current certificate issued by the State Commissioner of Health pursuant to the provisions of the Oklahoma Medical Micropigmentation Regulation Act while working under supervision of a physician. The level of supervision shall be determined by the physician in whose office medical micropigmentation is being performed.

Added by Laws 2001, c. 384, § 3, emerg. eff. June 4, 2001. Amended by Laws 2003, c. 384, § 2, eff. Nov. 1, 2003

§63-1-1453. Certification.

A. It shall be unlawful for any person to perform medical micropigmentation or to represent himself or herself as a person authorized to perform medical micropigmentation:

1. Without having first complied with the provisions of the Oklahoma Medical Micropigmentation Regulation Act; or

2. Unless otherwise authorized to perform medical micropigmentation pursuant to the Oklahoma Medical Micropigmentation Regulation Act.

B. The State Board of Health, giving consideration to the recommendations of the Consumer Protection Licensing Advisory Council created in Section 44 of this act, shall promulgate rules to implement the provisions of the Oklahoma Medical Micropigmentation Regulation Act. The rules shall include rules of practice for medical micropigmentation training requirements and the establishment of criteria for the certification of persons authorized to perform medical micropigmentation.

C. The State Board of Medical Licensure and Supervision, the State Board of Osteopathic Examiners and the Board of Dentistry may each promulgate rules relating to the performance of micropigmentation in physician offices by those physicians subject to their licensing authority. Such rules shall comply with the Oklahoma Medical Micropigmentation Regulation Act.

Added by Laws 2001, c. 384, § 4, emerg. eff. June 4, 2001. Amended by Laws 2013, c. 229, § 62, eff. Nov. 1, 2013.

§63-1-1454. Restrictions for certification - Application.

A. On and after May 1, 2002, except for a physician, any person intending to perform medical micropigmentation in this state shall first be certified by the State Department of Health.

B. The State Commissioner of Health shall not issue a certificate or renew a certificate to perform medical micropigmentation to a person who has:

1. Been convicted of or pled guilty or nolo contendere to a felony or a misdemeanor involving moral turpitude in any federal, state, territory, or District of Columbia court;

2. Been determined to have engaged in unprofessional conduct as defined by the rules promulgated by the State Board of Health;

3. Made a materially false or fraudulent statement in an application or other document relating to certification pursuant to the provisions of the Oklahoma Medical Micropigmentation Regulation Act; or

4. Had a health-related license, certificate, or permit suspended, revoked or not renewed or had any other disciplinary action taken, or had an application for a health-related license, certificate, or permit refused by a federal, state, territory, or District of Columbia regulatory authority for intentionally falsifying information.

C. In order to qualify for certification, an applicant shall:

1. Have received a high school diploma or its equivalent;

2. Be at least twenty-one (21) years of age; and

3. Have submitted a completed application to the Department in such form as required by the Department which shall include a notarized copy of:

a. the certificate of birth of the applicant,

b. the applicant’s driver license or other similar form of identification,

c. other professional credentials, if applicable, and

d. proof, in such form as the Department determines appropriate, of the satisfactory completion of a program of training and testing approved by the Department as specified in Section 6 of this act.

D. Upon meeting the requirements of the Oklahoma Medical Micropigmentation Regulation Act and rules promulgated pursuant thereto, the State Commissioner of Health shall issue a certificate to perform medical micropigmentation to the applicant.

Added by Laws 2001, c. 384, § 5, emerg. eff. June 4, 2001.

§63-1-1455. Training and testing - Certification by reciprocity.

A. The State Board of Health, giving consideration to the recommendations of the Consumer Protection Licensing Advisory Council created in Section 44 of this act, and in cooperation with the Oklahoma Department of Career and Technology Education, may adopt a curriculum of required courses and establish by rule the types of courses to be offered. The complete program of instruction approved by the State Board of Health in theory and clinical training shall consist of at least three hundred (300) hours or the equivalent of competency-based instruction.

B. 1. In order to provide the State Department of Health confirmation of each applicant's competency, written theory and clinical tests shall be administered by the Oklahoma Department of Career and Technology Education.

2. Applicants otherwise qualified to practice medical micropigmentation as determined by the State Department of Health pursuant to the Oklahoma Medical Micropigmentation Regulation Act may be certified to perform medical micropigmentation without taking or completing the program of instruction specified by this section if the applicant obtains a passing score for both the written theory and clinical tests. Not later than January 1, 2002, the State Board of Health shall promulgate rules to implement the provisions of this paragraph.

3. The State Board of Health, giving consideration to the recommendations of the Consumer Protection Licensing Advisory Council created in Section 44 of this act, shall set, by rule, a minimum passing score for both written theory and clinical tests.

C. The Oklahoma Department of Career and Technology Education may provide training and shall provide testing programs required by this section for anyone qualified to apply for a certificate pursuant to the provisions of Section 1-1454 of this title. The training and testing programs shall meet the standards established pursuant to the provisions of this section. The State Department of Health may approve training programs that meet the standards established pursuant to the provisions of this act.

D. After the initial training program offered pursuant to subsection C of this section, the Oklahoma Department of Career and Technology Education may provide a complete curriculum for the training and testing of applicants for certification as deemed needed by the Oklahoma Department of Career and Technology Education.

E. The State Department of Health 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.

Added by Laws 2001, c. 384, § 6, emerg. eff. June 4, 2001. Amended by Laws 2003, c. 384, § 3, eff. Nov. 1, 2003; Laws 2013, c. 229, § 63, eff. Nov. 1, 2013.

§63-1-1456. Repealed by Laws 2013, c. 229, § 99, eff. Nov. 1, 2013.

§63-1-1457. Fees - Effective period for certification.

A. Certificates to perform medical micropigmentation shall be valid for one (1) year from the date of issuance.

B. Fees for certification to perform medical micropigmentation as promulgated by the State Board of Health shall not exceed:

Application for Certification	$500.00
Annual Renewal of Certification	$100.00
Reinstatement of Certification	$375.00
Replacement of Certificate	$125.00

C. The State Board of Health shall make recommendations to the Legislature as to the proper and necessary fees for the regulation of the performance of medical micropigmentation pursuant to the Oklahoma Medical Micropigmentation Regulation Act.

D. All fees collected pursuant to the provisions of this section shall be deposited in the Public Health Special Fund and shall be used in implementing the provisions of the Oklahoma Medical Micropigmentation Regulation Act. Excess funds shall be available to the State Department of Health for expenditures pursuant to Section 1-107 of Title 63 of the Oklahoma Statutes.

E. Every person holding a current certificate to perform medical micropigmentation shall display the certificate in a conspicuous place in the area where medical micropigmentation is being performed.

Added by Laws 2001, c. 384, § 8, emerg. eff. June 4, 2001. Amended by Laws 2006, c. 141, § 4, eff. Nov. 1, 2006.

§63-1-1458. Violations - Application.

A. Upon receipt of a complaint by a licensing board relating to a violation of the Oklahoma Medical Micropigmentation Regulation Act or any rules promulgated thereto, the licensing board shall cause an investigation to be made. If during the investigation, the licensing board determines that the alleged violation of the Oklahoma Medical Micropigmentation Regulation Act or any rules promulgated thereto may have been committed by any person other than a physician or any other person subject to the licensing board's regulatory authority, the licensing board shall immediately notify the Oklahoma State Department of Health.

B. 1. Upon receipt of a complaint by the Department or upon receipt of notice pursuant to subsection A of this section relating to an alleged violation of the Oklahoma Medical Micropigmentation Regulation Act or rules promulgated thereto which involve the practice of micropigmentation in the office of a physician, the Department shall:

a. notify the appropriate licensing board of the complaint and request a joint inspection, or

b. refer the complaint to the appropriate licensing board for investigation.

2. The licensing boards shall give priority to investigations of complaints for which the Department has requested a joint inspection.

C. 1. If a person other than a physician, after proper notice and hearing as provided in the Administrative Procedures Act, is

found to have violated one or more provisions of the Oklahoma Medical Micropigmentation Regulation Act, the State Department of Health may impose one or more of the following penalties:

a. suspend or revoke a certificate,
b. seek injunctive relief,
c. reprimand the certificate holder,
d. place a certificate holder on probation for a specified period of time,
e. deny renewal of a certificate,
f. require a special quality review of the certificate holder, subject to such procedures as the Department by rule deems appropriate,
g. require the person or entity to pay all costs incurred as a result of hearings conducted regarding actions of the subject of the hearing including, but not limited to, investigation costs, hearing officer costs, renting of special facilities costs, and court reporter costs, or
h. in addition to any criminal penalty imposed pursuant to the Oklahoma Medical Micropigmentation Regulation Act, assess an administrative penalty not to exceed Ten Thousand Dollars ($10,000.00).

2. Any physician alleged to have violated the Oklahoma Medical Micropigmentation Regulation Act or rules promulgated by the licensing board thereto shall be subject to penalties established pursuant to law by the licensing board which has authority to regulate the physician.

B. In addition to the penalties provided for in subsection A of this section, the Department may request the district attorney to bring an action in the district court for the prosecution of any person for a violation of any provision of the Oklahoma Medical Micropigmentation Regulation Act, or order issued or rules promulgated pursuant thereto.

C. Upon application in writing and upon good cause, the Department may reinstate a certificate which has been revoked or suspended or may modify the certificate when reinstated. A person whose certificate has been revoked or suspended may not reapply for reinstatement during the time period set by the Department which shall not exceed five (5) years.

D. 1. Administrative penalties assessed by the Department under the provisions of the Oklahoma Medical Micropigmentation Regulation Act shall be imposed and enforced pursuant to the Administrative Procedures Act and may be enforced in district court as authorized by the Administrative Procedures Act.

2. All monies, excluding costs, collected from administrative penalties authorized in this section, shall be deposited pursuant to Section 1-1701.1B of Title 63 of the Oklahoma Statutes.

E. Any person convicted of violating the provisions of the Oklahoma Medical Micropigmentation Regulation Act or orders issued or rules promulgated pursuant thereto shall be guilty of a misdemeanor punishable by imprisonment in the county jail not to exceed ninety (90) days, a fine of not more than One Thousand Dollars ($1,000.00), or by both such fine and imprisonment. Each day upon which such violation occurs shall constitute a separate violation.

F. The provisions of this section shall apply to:

1. Any person certified to perform medical micropigmentation pursuant to the Oklahoma Medical Micropigmentation Regulation Act and who is alleged to be in violation of the Oklahoma Medical Micropigmentation Regulation Act or rule or order issued pursuant thereto; and

2. Any person who does not hold a certificate or is not authorized to practice medical micropigmentation pursuant to the Oklahoma Medical Micropigmentation Regulation Act and is practicing or holding himself or herself as authorized to practice medical micropigmentation.

Added by Laws 2001, c. 384, § 9, emerg. eff. June 4, 2001.

§63-1-1501. Occupational diseases - Reports - Detection and prevention - Agreements.

(a) The State Board of Health shall design and provide suitable forms for reporting occupational diseases and illnesses, provide appropriate instructions for their use, and furnish them without charge to all licensed physicians. Such reports shall not be admissible in evidence in any court or in any proceedings before the State Industrial Court.

(b) The State Board of Health shall designate by list, or generally define, those diseases or illnesses which should be reported and request all physicians of this state to cooperate in the reporting of such diseases.

(c) The State Commissioner of Health shall utilize all available facilities, laboratory, equipment and personnel in a joint program with the State Commissioner of Labor, and industrial and employee organizations, to detect and prevent conditions leading to industrial diseases and occupational health hazards.

(d) The State Commissioner of Health may enter into agreements with other agencies of this state for the purpose of carrying out the provisions of this section, and securing uniformity of regulations pertaining to occupational diseases.

Laws 1963, c. 325, art. 15, § 1501.

§63-1-1501.1. Diagnostic X-Ray Facility Act - Short title.

Sections 313 through 316 of this act shall be known and may be cited as the Diagnostic X-Ray Facility Act.

Added by Laws 1993, c. 145, § 312, eff. July 1, 1993.

§63-1-1502. Definitions.

As used in the Diagnostic X-Ray Facility Act:

1. "Diagnostic x-ray facility" means the use of an x-ray system(s) by a facility in any procedure that involves irradiation of any part of a human or animal body for the purpose of diagnosis; and

2. "X-ray system" means an assemblage of components for the controlled production of x-rays. It includes minimally an x-ray high-voltage generator, an x-ray control, a tube housing assembly, a beam-limiting device, and the necessary supporting structures. Additional components which function with the system are considered integral parts of the system.

Added by Laws 1963, c. 325, art. 15, § 1502, operative July 1, 1963. Amended by Laws 1968, c. 208, § 1, emerg. eff. April 22, 1968; Laws 1990, c. 233, § 1, eff. Sept. 1, 1990; Laws 1993, c. 145, § 313, eff. July 1, 1993.

§63-1-1503. Diagnostic x-ray systems - Official state agency - Healing arts practitioners.

A. The State Department of Health is hereby designated as the official agency of the State of Oklahoma for all regulatory activities pertaining to health and safety in the use of diagnostic x-ray systems, and shall act as the coordinating agency for the purpose of cooperating with other states, the United States Public Health Service and other federal agencies in the administration of programs relating to diagnostic x-ray systems, available to the State of Oklahoma under federal laws; and it shall encourage, participate in, and conduct studies, investigations, training, research and demonstrations relating to constructive uses of diagnostic x-ray systems and the prevention and control of its associated harmful effects or unnecessary exposure, the effects to health on exposure to x-rays, and related problems.

B. Nothing in the Diagnostic X-Ray Facility Act shall interfere with the doctor-patient relationship of any licensed member of the healing arts; nor shall anything in the Diagnostic X-Ray Facility Act prohibit a licensed practitioner of the healing arts, or an individual under the direction of such licensed practitioner, from using x-rays or other sources of radiation and/or fluoroscopes for diagnostic, research or treatment purposes, as authorized under the Practitioner's Licensing Act, provided the radiation devices and the related facilities of the practitioner shall comply with the rules and regulations promulgated under the provisions of the Diagnostic X-Ray Facility Act.

Added by Laws 1963, c. 325, art. 15, § 1503, operative July 1, 1963. Amended by Laws 1963, c. 326, § 1, emerg. eff. June 18, 1963; Laws

1968, c. 208, § 2, emerg. eff. April 22, 1968; Laws 1990, c. 233, § 2, eff. Sept. 1, 1990; Laws 1993, c. 145, § 314, eff. July 1, 1993.

§63-1-1504. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§63-1-1504.1. Repealed by Laws 2013, c. 229, § 99, eff. Nov. 1, 2013.

§63-1-1505. Rules for diagnostic x-ray facilities.

The State Board of Health shall have the authority, giving consideration to the recommendations of the Consumer Protection Licensing Advisory Council created in Section 44 of this act, to adopt reasonable rules for diagnostic x-ray facilities on the following: establishment of standards for safe levels of protection against radiation; maintenance and submission of records; determination, prevention and control of radiation hazards; reporting of radiation accidents; handling, storage and registration of diagnostic x-ray systems; periodic inspections of diagnostic x-ray facilities; review and approval of plans, and issuance and revocation of permits, for the use of diagnostic x-ray systems; prevention and control of any significant associated harmful effects of exposure to x-rays; and other items deemed necessary for the protection of the public health and safety in diagnostic x-ray facilities. Such rules shall be consistent with nationally recognized standards, which may be included by reference in the promulgated rules.

Added by Laws 1963, c. 325, art. 15, § 1505, operative July 1, 1963. Amended by Laws 1968, c. 208, § 3, emerg. eff. April 22, 1968; Laws 1993, c. 145, § 316, eff. July 1, 1993; Laws 2013, c. 229, § 64, eff. Nov. 1, 2013.

§63-1-1508. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§63-1-1509. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§63-1-1510. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§63-1-1511. Noise control and abatement - Studies.

The State Department of Health is hereby authorized to encourage, participate in, conduct studies, investigations, training, research and demonstrations relating to:

1. The control or abatement of noise,
2. The detection and measurement of noise,

3. The effects on health resulting from exposure to noise, and4. The co
intended purposes.
Laws 1971, c. 264, § 1, emerg. eff. June 17, 1971.

§63-1-1512. State Department of Health as official agency.

The State Department of Health is hereby designated as the official agency of the State of Oklahoma for all activities pertaining to the abatement and control of noise, and shall utilize such personnel, equipment, laboratories, and other resources as it shall have or which shall be made available through state appropriated funds, federal grants or from other sources to operate the noise abatement and control program authorized under the provisions of this act.
Laws 1971, c. 264, § 2, emerg. eff. June 17, 1971.

§63-1-1513. Cooperation with federal agencies.

The State Department of Health shall cooperate with other states, the United States Department of Health, Education and Welfare and other federal agencies in the administration of programs relating to the control and abatement of noise which have been or may be initiated under federal laws.
Laws 1971, c. 264, § 3, emerg. eff. June 17, 1971.

§63-1-1514. State agencies and local government to cooperate with Department.

It shall be the duty of all state agencies and departments, and city, county and other units of local government to cooperate with the State Department of Health in carrying out the purposes and intent of this act.
Laws 1971, c. 264 § 4, emerg. eff. June 17, 1971.

§63-1-1515. Clean Air in Restaurants Act - Restaurant rebate program.

A. This section shall be known and may be cited as the "Clean Air in Restaurants Act".

B. The Legislature hereby finds:

1. Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution;

2. Reliable studies have shown that breathing secondhand smoke is a cause of disease, including lung cancer, in healthy nonsmokers. At special risk are elderly people, children, people with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease; and

3. Health hazards induced by breathing secondhand smoke include lung cancer, respiratory infection, decreased exercise tolerance,

decreased respiratory function, bronchoconstriction, and bronchospasm.

C. 1. The State Department of Health is hereby authorized to implement a rebate program for the purpose of reimbursing persons or entities that own restaurants located in this state for expenses incurred prior to November 1, 2010, in complying with the requirements imposed by subsection J of Section 1247 of Title 21 of the Oklahoma Statutes. The rebate shall be equal to fifty percent (50%) of the original expenditure, minus depreciation costs, and shall only be disbursed if the restaurant converts to a completely smoke-free environment no later than January 1, 2013.

2. The Department shall be required to utilize the proceeds generated by the Tobacco Prevention and Cessation Revolving Fund in funding the rebate program and shall promulgate such rules as are necessary to implement the provisions of the program.

Added by Laws 2010, c. 217, § 1, eff. Nov. 1, 2010.

§63-1-1521. Short title.

This act shall be known and may be cited as the "Smoking in Public Places and Indoor Workplaces Act".

Added by Laws 1987, c. 151, § 1, eff. Nov. 1, 1987. Amended by Laws 2003, S.J.R. No. 21, § 2, eff. Sept. 1, 2003.

§63-1-1522. Definitions.

As used in this act:

1. "Educational facility" means a building owned, leased or under the control of a technology center school district or a public or private college or university;

2. "Health facility" means an entity which provides health services, including, but not limited to, hospitals, nursing homes, long-term care facilities, kidney disease treatment centers, health maintenance organizations and ambulatory treatment centers;

3. "Indoor workplace" means any indoor place of employment or employment-type service for or at the request of another individual or individuals, or any public or private entity, whether part-time or full-time and whether for compensation or not. Such services shall include, without limitation, any service performed by an owner, employee, independent contractor, agent, partner, proprietor, manager, officer, director, apprentice, trainee, associate, servant or volunteer. An indoor workplace includes work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias, hallways, any other spaces used or visited by employees, and all space between a floor and ceiling that is predominantly or totally enclosed by walls or windows, regardless of doors, doorways, open or closed windows, stairways, or the like. The provisions of this section shall apply to such indoor workplace at any given time, whether or not work is being performed;

4. "Meeting" means a meeting as defined in the Oklahoma Open Meeting Act;

5. "Public body" means a public body as defined in the Oklahoma Open Meeting Act;

6. "Public place" means any enclosed indoor area where individuals other than employees are invited or permitted;

7. "Restaurant" means any eating establishment regardless of seating capacity;

8. "Smoking" means the carrying by a person of a lighted cigar, cigarette, pipe or other lighted smoking device; and

9. "Stand-alone bar", "stand-alone tavern", and "cigar bar" mean an establishment that derives more than sixty percent (60%) of its gross receipts, subject to verification by competent authority, from the sale of alcoholic beverages and low-point beer and no person under twenty-one (21) years of age is admitted, except for members of a musical band employed or hired as provided in paragraph 2 of subsection B of Section 537 of Title 37 of the Oklahoma Statutes and that is not located within, and does not share any common entryway or common indoor area with, any other enclosed indoor workplace, including a restaurant.

Added by Laws 1987, c. 151, § 2, eff. Nov. 1, 1987. Amended by Laws 2003, S.J.R. No. 21, § 3, eff. Sept. 1, 2003; Laws 2015, c. 259, § 5.

§63-1-1523. Smoking in certain places prohibited - Exemptions.

A. Except as specifically provided in the Smoking in Public Places and Indoor Workplaces Act, no person shall smoke in a public place, in any part of a zoo to which the public may be admitted, whether indoors or outdoors, in an indoor workplace, in any vehicle providing public transportation, at a meeting of a public body, in a nursing facility licensed pursuant to the Nursing Home Care Act, or in a child care facility licensed pursuant to the Oklahoma Child Care Facilities Licensing Act. A nursing facility licensed pursuant to the Nursing Home Care Act may designate smoking rooms for residents and their guests. Such rooms shall be fully enclosed, directly exhausted to the outside, and shall be under negative air pressure so that no smoke can escape when a door is opened and no air is recirculated to nonsmoking areas of the building. Commercial airport operators may prohibit the use of lighted tobacco in any area that is open to or used by the public whether located indoors or outdoors, provided that the outdoor area is within one hundred seventy-five (175) feet from an entrance.

B. 1. Except as otherwise provided in paragraph 2 of this subsection, a technology center school district which offers an early childhood education program or in which children in grades kindergarten through twelve are educated shall prohibit smoking, the use of snuff, chewing tobacco or any other form of tobacco product

in the educational facility buildings and on the grounds of the facility by all persons including, but not limited to, full-time, part-time, and contract employees, during the hours of 7:00 a.m. to 4:00 p.m., during the school session, or when class or any program established for students is in session.

2. A technology center school district may designate smoking areas outside of buildings, away from general traffic areas and completely out of sight of children under eighteen (18) years of age, for use by adults attending training courses, sessions, meetings or seminars.

3. A technology center school district or college or university may designate smoking areas outside the educational facility buildings for the use of adults during certain activities or functions, including, but not limited to, athletic contests.

4. Smoking shall be prohibited in an educational facility as defined in the 24/7 Tobacco-free Schools Act and as provided for in Section 1210.213 of Title 70 of the Oklahoma Statutes.

C. Nothing in this section shall be construed to prohibit educational facilities from having more restrictive policies regarding smoking and the use of other tobacco products in the buildings or on the grounds of the facility.

D. A private residence is not a "public place" within the meaning of the Smoking in Public Places and Indoor Workplaces Act except that areas in a private residence that are used as a licensed child care facility during hours of operation are "public places" within the meaning of the Smoking in Public Places and Indoor Workplaces Act.

E. Smoking is prohibited in all vehicles owned by the State of Oklahoma and all of its agencies and instrumentalities.

F. Veterans centers operated by this state pursuant to the provisions of Section 221 et seq. of Title 72 of the Oklahoma Statutes shall be designated nonsmoking effective January 1, 2015, at which time veterans centers may establish outdoor designated smoking areas for resident veterans only. Smoking shall only be allowed in designated outdoor smoking areas.

G. An employer not otherwise restricted from doing so may elect to provide smoking rooms where no work is performed except for cleaning and maintenance during the time the room is not in use for smoking, provided each smoking room is fully enclosed and exhausted directly to the outside, in such manner that no smoke can drift or circulate into a nonsmoking area. No exhaust from a smoking room shall be located within fifteen (15) feet of any entrance, exit or air intake. If smoking is to be permitted in any space exempted in subsection H of this section or in a smoking room pursuant to subsection I of this section, such smoking space must either occupy the entire enclosed indoor space or, if it shares the enclosed space with any nonsmoking areas, the smoking space shall be fully

enclosed, exhausted directly to the outside with no air from the smoking space circulated to any nonsmoking area, and under negative air pressure so that no smoke can drift or circulate into a nonsmoking area when a door to an adjacent nonsmoking area is opened. Air from a smoking room shall not be exhausted within fifteen (15) feet of any entrance, exit or air intake.

H. The Smoking in Public Places and Indoor Workplaces Act shall not prohibit smoking in:

1. Stand-alone bars, stand-alone taverns or cigar bars;

2. The room or rooms where licensed charitable bingo games are being operated, but only during the hours of operation of such games;

3. Up to twenty-five percent (25%) of the guest rooms at a hotel or other lodging establishment;

4. Retail tobacco stores predominantly engaged in the sale of tobacco products and accessories and in which the sale of other products is merely incidental and in which no food or beverage is sold or served for consumption on the premises;

5. Workplaces where only the owner or operator of the workplace, or the immediate family of the owner or operator, performs any work in the workplace, and the workplace has only incidental public access;

6. Workplaces occupied exclusively by one or more smokers, if the workplace has only incidental public access. "Incidental public access" means that a place of business has only an occasional person, who is not an employee, present at the business to transact business or make a delivery. It does not include businesses that depend on walk-in customers for any part of their business;

7. Private offices occupied exclusively by one or more smokers;

8. Workplaces within private residences, except that smoking shall not be allowed inside any private residence that is used as a licensed child care facility during hours of operation;

9. A facility operated by a post or organization of past or present members of the Armed Forces of the United States which is exempt from taxation pursuant to Sections 501(c)(8), 501(c)(10) or 501(c)(19) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(8), 501(c)(10) or 501(c)(19), when such facility is utilized exclusively by its members and their families and for the conduct of post or organization nonprofit operations except during an event or activity which is open to the public;

10. Any outdoor seating area of a restaurant; provided, smoking shall not be allowed within fifteen (15) feet of any exterior public doorway or any air intake of a restaurant; and

11. Medical research or treatment centers, if smoking is integral to the research or treatment.

I. Notwithstanding any other provision of the Smoking in Public Places and Indoor Workplaces Act, until March 1, 2006, restaurants

may have designated smoking and nonsmoking areas or may be designated as being a totally nonsmoking area. Beginning March 1, 2006, restaurants shall be totally nonsmoking or may provide nonsmoking areas and designated smoking rooms. Food and beverage may be served in such designated smoking rooms which shall be in a location which is fully enclosed, directly exhausted to the outside, under negative air pressure so smoke cannot escape when a door is opened, and no air is recirculated to nonsmoking areas of the building. No exhaust from such room shall be located within twenty-five (25) feet of any entrance, exit or air intake. Such room shall be subject to verification for compliance with the provisions of this subsection by the State Department of Health.
Added by Laws 1987, c. 151, § 3, eff. Nov. 1, 1987. Amended by Laws 1989, c. 232, § 1, eff. Nov. 1, 1989; Laws 1994, c. 137, § 14, eff. July 1, 1994; Laws 1995, c. 274, § 51, eff. Nov. 1, 1995; Laws 2000, c. 229, § 1, eff. Nov. 1, 2000; Laws 2001, c. 188, § 1, emerg. eff. May 7, 2001; Laws 2002, c. 96, § 2, eff. July 1, 2002; Laws 2003, S.J.R. No. 21, § 4, eff. Sept. 1, 2003; Laws 2007, c. 70, § 2, eff. Nov. 1, 2007; Laws 2012, c. 30, § 2, eff. Nov. 1, 2012; Laws 2014, c. 167, § 2, eff. Nov. 1, 2014; Laws 2015, c. 259, § 6; Laws 2017, c. 110, § 2, eff. Nov. 1, 2017.

§63-1-1524. Repealed by Laws 2003, S.J.R. No. 21, § 7, eff. Sept. 1, 2003.

§63-1-1525. Measures to prevent smoking in nonsmoking areas.

The state or local governmental agency or the person who owns or operates a public place shall, at a minimum, do the following in order to prevent smoking in public places:

1. Post conspicuous signs at entrances to and in prominent locations within places where smoking is prohibited which state that smoking is prohibited or that the indoor environment is free of tobacco smoke; and

2. Ask smokers to refrain from smoking upon observation of anyone violating the provisions of Section 1-1521 et seq. of this title.

Added by Laws 1987, c. 151, § 5, eff. Nov. 1, 1987. Amended by Laws 2003, S.J.R. No. 21, § 5, eff. Sept. 1, 2003; Laws 2017, c. 369, § 3.

§63-1-1526. Rules and regulations.

The State Board of Health shall promulgate rules necessary to implement the provisions of the Smoking in Public Places and Indoor Workplaces Act. Such rules shall not impose liability on the owner or operator of any facility for the violation of a provision of the Smoking in Public Places and Indoor Workplaces Act by another person who is not an employee of such owner or operator.

Added by Laws 1987, c. 151, § 6, eff. Nov. 1, 1987. Amended by Laws 1991, c. 168, § 10, eff. July 1, 1991; Laws 2003, S.J.R. No. 21, § 6, eff. Sept. 1, 2003.

§63-1-1526.1. Administrative fines - Nursing facilities and employees - Child care facilities.

In addition to any other penalties authorized by law, the State Board of Health or the Department of Human Services, whichever is the appropriate entity, shall impose administrative fines against nursing facilities, employees of nursing facilities, or both, and child care facilities for violations of Section 1-1521 et seq. of Title 63 of the Oklahoma Statutes, in accordance with this section. If after a hearing in accordance with the Administrative Procedures Act, Section 250 et seq. of Title 75 of the Oklahoma Statutes, the appropriate entity as specified in this section shall find any person to be in violation of subsection A of Section 14 of this act, such person shall be subject to an administrative penalty of Fifty Dollars ($50.00) for the first offense within a one-year period, One Hundred Dollars ($100.00) for the second offense within a one-year period, and Two Hundred Dollars ($200.00) for a third or subsequent offense within a one-year period.

Added by Laws 1994, c. 137, § 16, eff. July 1, 1994.

§63-1-1527. Legislative intent.

The State Legislature by adopting this act intends to preempt any other regulation promulgated to control smoking in public places and to standardize laws that governmental subdivisions may adopt to control smoking. Cities and towns may enact and enforce laws prohibiting and penalizing conduct under provisions of this act, but the provisions of such laws shall be the same as provided in this act and the enforcement provisions under such laws shall not be more stringent than those of this act; provided, however, that cities and towns shall be authorized to enact laws restricting smoking on properties owned or operated by the respective governing bodies. Nothing in this section shall be construed as to prevent county or municipal governments, at the discretion of the respective governing bodies, from prohibiting smoking in or on property owned or operated by the respective governing bodies.

Added by Laws 1987, c. 151, § 7, eff. Nov. 1, 1987. Amended by Laws 2013, c. 187, § 2, eff. Nov. 1, 2013.

§63-1-1528. Smoking in motor vehicles whre children are present.

The State Department of Health and the Tobacco Settlement Endowment Trust shall work together to inform the public about the dangers of smoking in motor vehicles where children are present.

Added by Laws 2017, c. 369, § 4.

§63-1-1529. Use of tobacco products prohibited on all properties owned, leased or contracted for use by the state.

The use of any tobacco product shall be prohibited on any and all properties owned, leased or contracted for use by the State of Oklahoma, including but not limited to all buildings, land and vehicles owned, leased or contracted for use by agencies or instrumentalities of the State of Oklahoma. Provided, these prohibitions shall not apply to the Oklahoma Veterans Centers.
Added by Laws 2017, c. 369, § 5.

§63-1-1530. Development of strategies to prevent tobacco use by minors.

The Oklahoma State Department of Health and the Department of Mental Health and Substance Abuse Services shall work together to develop new and innovative strategies to prevent tobacco use by minors.
Added by Laws 2017, c. 369, § 6.

§63-1-1531. Smoking cessation fee.

A. Smoking remains the number one preventable cause of death in Oklahoma, killing more people than AIDS, alcohol, car accidents, illegal drugs, murders and suicides combined. Eighty-eight thousand Oklahoma children alive today will die prematurely of smoking-related illnesses. Increasing the price point of cigarettes is the single most effective strategy to reduce cigarette consumption by deterring children and adolescents from taking up smoking, by reducing the overall consumption of cigarettes by an estimated 26,000,000 cigarette packs in the first year, by reducing the prevalence of adult smoking by an estimated five percent (5%), by preventing an estimated 28,000 kids today from becoming adult smokers, and by reducing health-related disparities among income groups over time. For the reasons stated and in furtherance of the stated purpose of this act, there shall be assessed by the Oklahoma Tax Commission a smoking cessation fee on cigarettes, to be remitted by every wholesaler, as provided in subsection B of this section.

B. The fee provided in this subsection shall be One Dollar and fifty cents ($1.50) per twenty (20) cigarette package, and a proportionate rate on fractions thereof.

C. Beginning on the effective date of this act, and all subsequent years, the smoking cessation fee provided by this section shall be apportioned by the Oklahoma Tax Commission and transmitted to the State Treasurer, who shall deposit the same in the State Treasury to the credit of the following funds in the following percentages:

a. One Million Dollars ($1,000,000.00) to the ABLE Commission Revolving Fund created in Section 567 of Title 37 of the Oklahoma Statutes for the purpose of

enhanced enforcement of the provisions of Section 600.13 of Title 37 of the Oklahoma Statutes, and

b. all amounts in excess of One Million Dollars ($1,000,000.00) to the credit of the Health Care Enhancement Fund created in Section 8 of this act.

D. For purposes of this section "cigarette" and "wholesaler" shall have the same meaning as in Section 301 of Title 68 of the Oklahoma Statutes.

E. The Oklahoma Tax Commission shall promulgate rules as needed to implement the provisions of this section.

Added by Laws 2017, c. 369, § 7.

§63-1-1532. Health Care Enhancement Fund.

There is hereby created in the State Treasury a fund to be designated the "Health Care Enhancement Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of monies received pursuant to Section 7 of this act and any monies designated to the fund by law. All monies accruing to the credit of the fund shall be appropriated at the discretion of the Legislature for the purpose of enhancing the health of Oklahomans.

Added by Laws 2017, c. 369, § 8.

§63-1-1601. Definitions.

For the purposes of this article:

(a) The term "hazardous substance" means:

(1) a. any substance or mixture of substances intended or suitable for household use which (1) is toxic, (2) is corrosive, (3) is an irritant, (4) is a strong sensitizer, (5) is flammable, or (6) generates pressure through decomposition, heat, or other means, if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children.

b. any substances which the State Board of Health by regulation finds, pursuant to the provisions of Section 1602(a), meet the requirements of subparagraph 1.a. of this paragraph.

c. any radioactive substance, if, with respect to such substance as used in a particular class of article or as packaged, the Board determines by regulation that the substance is sufficiently hazardous to require labeling in accordance with this article in order to protect the public health.

(2) The term "hazardous substance" shall not apply (1) to economic poisons subject to the provisions of 2 O.S.1961, Section 3-63; (2) to foods subject to the provisions of Article 11 of this Code; (3) to drugs and cosmetics subject to the provisions of Article 14 of this Code; (4) to substances intended for use as fuels

when stored in containers and used in heating, cooking, or refrigeration system of a house.

(3) The term "hazardous substance" shall not include any source material, special nuclear material, or by-product material as defined in the Act of Congress known as the Atomic Energy Act of 1954, as amended, and regulations issued pursuant thereto by the Atomic Energy Commission.

(b) The term "toxic" shall apply to any substance (other than a radioactive substance) which has the capacity to produce personal injury or illness to man through ingestion, inhalation, or absorption through any body surface.

(c) (1) The term "highly toxic" means any substance which falls within any of the following categories: a. produces death within fourteen (14) days in half or more than half of a group of ten or more laboratory white rats each weighing between two hundred (200) and three hundred (300) grams, at a single dose of fifty (50) milligrams or less per kilogram of body weight, when orally administered; or b. produces death within fourteen (14) days in half or more than half of a group of ten or more laboratory white rats each weighing between two hundred (200) and three hundred (300) grams, when inhaled continuously for a period of one (1) hour or less at an atmospheric concentration of two hundred (200) parts per million by volume or less of gas or vapor or two (2) milligrams per liter by volume or less of mist or dust, provided such concentration is likely to be encountered by man when the substance is used in any reasonably foreseeable manner; or c. produces death within fourteen (14) days in half or more than half of a group of ten or more rabbits tested in a dosage of two hundred (200) milligrams or less per kilogram of body weight, when administered by continuous contact with the bare skin for twenty-four (24) hours or less.

(2) If the Board finds that available data on human experience with any substance indicates results different from those obtained on animals in the above-named dosages or concentrations, the human data shall take precedence.

(d) The term "corrosive" means any substance which in contact with living tissue will cause destruction of tissue by chemical action; but shall not refer to action on inanimate surfaces.

(e) The term "irritant" means any substance not corrosive within the meaning of the preceding subparagraph which on immediate, prolonged, or repeated contact with normal living tissue will induce a local inflammatory reaction.

(f) The term "strong sensitizer" means a substance which will cause on normal living tissue through an allergic or photodynamic process a hypersensitivity which becomes evident on reapplication of the same substance and which is designated as such by the Board. Before designating any substance as a strong sensitizer, the Board, upon consideration of the frequency of occurrence and severity of

the reaction, shall find that the substance has a significant potential for causing hypersensitivity.

(g) The term "extremely flammable" shall apply to any substance which has a flash point at or below twenty degrees Fahrenheit (20F.) as determined by the Tagliabue Open Cup Tester, and the term "flammable" shall apply to any substance which has a flash point of above twenty degrees (20) to and including eighty (80) (80F.) degrees Fahrenheit, as determined by the Tagliabue Open Cup Tester; except that the flammability of solids and of the contents of self-pressurized containers shall be determined by methods found by the Board to be generally applicable to such materials or containers, respectively, and established by regulations issued by the Board, which regulations shall also define the terms "flammable" and "extremely flammable" in accord with such methods.

(h) The term "radioactive substance" means a substance which emits ionizing radiation.

(i) The term "label" means a display of written, printed, or graphic matter upon the immediate container of any substance; and a requirement made by or under authority of this article that any word, statement, or other information appearing on the label shall not be considered to be complied with unless such word, statement, or other information also appears (1) on the outside container or wrapper, if any there be, unless it is easily legible through the outside container or wrapper, and (2) on all accompanying literature where there are directions for use, written or otherwise.

(j) The term "immediate container" does not include package liners.

(k) The term "misbranded package" or "misbranded package of a hazardous substance" means a hazardous substance in a container intended or suitable for household use which, except as otherwise provided by or pursuant to Section 1602, fails to bear a label:

(1) Which states conspicuously (a) the name and place of business of the manufacturer, packer, distributor, or seller; (b) the common or usual name or the chemical name (if there be no common or usual name) of the hazardous substance or of each component which contributes substantially to its hazard, unless the Board by regulation permits or requires the use of a recognized generic name; (c) the signal word "DANGER" on substances which are extremely flammable, corrosive, or highly toxic; (d) the signal word "WARNING" or "CAUTION" on all other hazardous substances; (e) an affirmative statement of the principal hazard or hazards, such as "Flammable," "Vapor Harmful," "Causes Burns," "Absorbed Through Skin," or similar wording descriptive of the hazard; (f) precautionary measures describing the action to be followed or avoided, except when modified by regulation of the Board pursuant to Section 1602; (g) instruction, when necessary or appropriate, for first aid treatment; (h) the word "Poison" for any hazardous substance which is defined

as "Highly Toxic" by subsection (c) (1); (i) instructions for handling and storage of packages which require special care in handling or storage; and (j) the statement "Keep out of the reach of children" or its practical equivalent, and

(2) On which any statements required under subparagraph (1) of this paragraph are located prominently and are in the English language in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the label.

Laws 1963, c. 325, art. 16, § 1601.

§63-1-1602. Regulations - State Board of Health.

(a) Whenever in the judgment of the Board such action will promote the objectives of this article by avoiding or resolving uncertainty as to its application, the Board may by regulation declare to be a hazardous substance, for the purposes of this article, any substance or mixture of substances which it finds meets the requirements of subparagraph (1) a. of Section 1601(a).

(b) If the Board finds that the requirements of section 1601(k)(1) are not adequate for the protection of the public health and safety in view of the special hazard presented by any particular hazardous substance, it may by regulation establish such reasonable variations or additional label requirements as it finds necessary for the protection of the public health and safety; and any container of such hazardous substance intended or suitable for household use which fails to bear a label in accordance with such regulations shall be deemed to be a misbranded package of a hazardous substance.

(c) If the Board finds that, because of the size of the package involved or because of the minor hazard presented by the substance contained therein, or for other good and sufficient reasons, full compliance with the labeling requirements otherwise applicable under this article is impracticable or is not necessary for the adequate protection of the public health and safety, the Board shall promulgate regulations exempting such substance from these requirements to the extent it determines to be consistent with adequate protection of the public health and safety.

(d) The Board may exempt from the requirements established by or pursuant to this Article any container of a hazardous substance with respect to which the Board finds that adequate requirements satisfying the purposes of this article have been established by or pursuant to any other state law.

Laws 1963, c. 325, art. 16, § 1602.

§63-1-1603. Acts prohibited.

The following acts and the causing thereof are hereby prohibited:

(a) the introduction or delivery for introduction into commerce of any misbranded package of a hazardous substance.

(b) the alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the label of, or the doing of any other act with respect to, a hazardous substance, if such act is done while the substance is in commerce, or while the substance is held for sale (whether or not the first sale) after shipment in commerce, and results in the hazardous substance being in a misbranded package.

(c) the receipt in commerce of any misbranded package of a hazardous substance and the delivery or proffered delivery thereof for pay or otherwise.

(d) the giving of a guarantee or undertaking referred to in Section 1604(b) (2) which guarantee or undertaking is false, except by a person who relied upon a guarantee or undertaking to the same effect signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the hazardous substance.

(e) the failure to permit entry or inspection as authorized by Section 1609 or to permit access to and copying of any record as authorized by Section 1610.

(f) the introduction or delivery for introduction into commerce, or the receipt in commerce and subsequent delivery or proffered delivery for pay or otherwise, of a hazardous substance in a reused food, drug, or cosmetic container or in a container which, though not a reused container, is identifiable as a food, drug, or cosmetic container by its labeling or by other identification. The reuse of a food, drug, or cosmetic container as a container for a hazardous substance shall be deemed to be an act which results in the hazardous substance being in a misbranded package.

(g) the use by any person to his own advantage, or revealing other than to the State Commissioner of Health or officers or employees of the State Department of Health, or to the courts when relevant in any judicial proceeding under this article, of any information acquired under authority of Section 1609 concerning any method of process which as a trade secret is entitled to protection. Laws 1963, c. 325, art. 16, § 1603.

§63-1-1604. Violations - Penalties - Exemptions.

(a) Any person who violates any of the provisions of Section 1603 shall be guilty of a misdemeanor and shall on conviction thereof be subject to a fine of not more than Five Hundred Dollars ($500.00), or to imprisonment for not more than ninety (90) days, or both; but for offenses committed with intent to defraud or mislead, or for second and subsequent offenses, the penalty shall be imprisonment for not more than one year, or a fine of not more than

Three Thousand Dollars ($3,000.00), or both such imprisonment and fine.

(b) No person shall be subject to the penalties of subsection (a) of this section (1) for having violated Section 1603(c), if the receipt, delivery, or proffered delivery of the hazardous substance was made in good faith, unless he refuses to furnish, on request of an officer or employee duly designated by the State Commissioner of Health, the name and address of the person from whom he purchased or received such hazardous substance, and copies of all documents, if any there be, pertaining to the delivery of the hazardous substance to him; or (2) for having violated Section 1603(a), if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the hazardous substance, to the effect that the hazardous substance is not in misbranded packages within the meaning of that term in this article; or (3) for having violated subsection (a) or (c) of Section 1603 in respect of any hazardous substance shipped or delivered for shipment for export to any foreign country, in a package marked for export on the outside of the shipping container and labeled in accordance with the specifications of the foreign purchaser and in accordance with the laws of the foreign country, but, if such hazardous substance is sold or offered for sale in domestic commerce, this clause shall not apply.

Laws 1963, c. 325, art. 16, § 1604.

§63-1-1605. Embargo.

(a) Whenever a duly authorized agent of the State Commissioner of Health finds, or has probable cause to believe, that any hazardous substance is so misbranded as to be dangerous or fraudulent, within the meaning of this article, he shall affix to such article a tag or other appropriate marking, giving notice that such article is, or is suspected of being, misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by such agent or the court.

(b) When an article detained or embargoed has been found by such agent to be misbranded, he shall petition the district court in whose jurisdiction the article is detained or embargoed for condemnation of such article. When such agent has found that an article so detained or embargoed is not misbranded, he shall remove the tag or other marking.

(c) If the court finds that a detained or embargoed article is misbranded, such article shall, after entry of the decree, be destroyed at the expense of the claimant thereof, under the supervision of such agent, and all court costs and fees, and storage and other proper expenses, shall be taxed against the claimant of

such article or his agent; provided, that when the misbranding can be corrected by proper labeling or processing of the article, the court, after entry of the decree and after such costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that such article shall be so labeled or processed, has been executed, may by order direct that such article be delivered to the claimant thereof for such labeling or processing under the supervision of an agent of the Commissioner. The expense of such supervision shall be paid by the claimant. Such bond shall be returned to the claimant of the article on representation to the court by the Commissioner that the article is no longer in violation of this article, and that the expenses of such supervision have been paid.
Laws 1963, c. 325, art. 16, § 1605.

§63-1-1606. Prosecutions for violations.
It shall be the duty of each district attorney to whom the State Commissioner of Health reports any violation of this article to cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law. Before any violation of this article is reported to any district attorney for the institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views before the Commissioner or his designated agent, either orally or in writing, in person, or by attorney, with regard to such contemplated proceeding.
Laws 1963, c. 325, art. 16, § 1606.

§63-1-1607. Injunction.
In addition to the remedies hereinafter provided, the Commissioner is hereby authorized to apply to the district court for, and such court shall have jurisdiction upon hearing and for cause shown to grant, a temporary or permanent injunction restraining any person from violating any provision of Section 1603 of this article, irrespective of whether or not there exists an adequate remedy at law.
Laws 1963, c. 325, art. 16, § 1607.

§63-1-1608. Rules and regulations.
The authority to promulgate reasonable rules and regulations for the efficient enforcement of this article is hereby vested in the State Board of Health, which is hereby authorized to make reasonable rules and regulations promulgated under this article conform, insofar as practicable, with those promulgated under the Federal Hazardous Substances Labeling Act.
Laws 1963, c. 325, art. 16, § 1608.

§63-1-1609. Right of access - Inspections.

The State Commissioner of Health or his duly-authorized agent shall have free access at all reasonable hours to any factory, warehouse, or establishment in which hazardous substances as defined in this article are manufactured, processed, packed, or held for introduction into commerce, or to enter any vehicle being used to transport or hold such product in commerce after notice to the owner or person in charge of such factory, warehouse, establishment, or vehicle, for the purpose:

(1) of inspecting such factory, warehouse, establishment or vehicle to determine if any of the provisions of this article are being violated, and

(2) to secure samples or specimens of any product, after paying or offering to pay for such sample. The Commissioner shall make, or cause to be made, such examination as he deems necessary.

Laws 1963, c. 325, art. 16, § 1609.

§63-1-1610. Inspections of records.

For the purpose of enforcing the provisions of this Article, carriers engaged in commerce, and persons receiving hazardous substances in commerce or holding such products so received, shall upon the request of an officer or employee duly designated by the State Commissioner of Health permit such officer or employee, at reasonable times, to have access to and to copy all records showing the movement in commerce of any hazardous substance or the holding thereof during or after such movement, and the quantity, shipper, and consignee thereof; and it shall be unlawful for any such carrier or person to fail to permit such access to and copying of any such records so requested when such request is accompanied by a statement in writing specifying the nature or kind of hazardous substance to which such request relates; provided, that evidence obtained under this section shall not be introduced in a criminal prosecution of the person from whom obtained.

Laws 1963, c. 325, art. 16, § 1610.

§63-1-1611. Publication of reports and information.

(a) The State Commissioner of Health may cause to be published, from time to time, reports summarizing all judgments, decrees, and court orders which have been rendered under this Article, including the nature of the charge and the disposition thereof.

(b) The Commissioner may also cause to be disseminated information regarding hazardous substances which, in the opinion of the Commissioner, involve imminent danger to health. Nothing in this section shall be construed to prohibit the Commissioner from collecting, reporting, and illustrating the results of the investigations of the Commissioner.

Laws 1963, c. 325, art. 16, § 1611, operative July 1, 1963.

§63-1-1701. Penalties for violation of act - Injunctive relief.

A. Unless otherwise provided in the Oklahoma Public Health Code:

1. Any person who willfully fails or refuses to comply with, or violates, a lawful order of the State Board of Health or the State Commissioner of Health, or his duly authorized representative, or of a local health officer, or who violates the terms and conditions of a quarantine or embargo, shall, upon conviction, be guilty of a misdemeanor, and upon conviction thereof may be punished by a fine of not to exceed One Hundred Dollars ($100.00), or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment;

2. Any person who fails or refuses to make or file a report, or to file a certificate, or to keep a record, that is required by the provisions of this Code, or by rules of the State Board of Health, or the State Commissioner of Health, or who gives false information in or for such report, certificate or record, shall, upon conviction, be guilty of a misdemeanor, and upon conviction thereof may be punished by a fine of not more than Two Hundred Dollars ($200.00);

3. Any person who gives false information in an application for a license or permit, or to the Commissioner or a local health officer, shall, upon conviction, be guilty of a misdemeanor, and upon conviction thereof may be punished by a fine of not more than Two Hundred Dollars ($200.00);

4. Any person who does any act for which a license or permit is required by the provisions of this Code, and who is not at the time the holder of such a license or permit, shall, upon conviction, be guilty of a misdemeanor, and upon conviction thereof may be punished by a fine of not more than Five Hundred Dollars ($500.00), or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment; and

5. Any person who does any act that is made unlawful or a misdemeanor by the provisions of this Code, or who violates any of the other provisions of this Code, or any standard, rule or regulation authorized by this Code, shall, upon conviction, be guilty of a misdemeanor, and upon conviction thereof may be punished by a fine of not more than Two Hundred Dollars ($200.00), or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

B. 1. Notwithstanding the penalties provided for in this section, district courts may also grant injunctive relief to prevent a violation of, or to compel a compliance with, any of the provisions of this Code or any rule or order issued pursuant to this Code.

2. Any action for injunctive relief to redress or restrain a violation by any person of any provision of this Code, any rule or order issued pursuant to this Code, or recovery of any administrative or civil penalty assessed pursuant to Section 1-1701.1A of this title may be filed and prosecuted by:

a. the district attorney in the appropriate district court of the State of Oklahoma, or

b. the Department on behalf of the State of Oklahoma in the appropriate district court of the State of Oklahoma, or as otherwise authorized by law.

3. As used in this subsection, the term "this Code" includes Section 1-101 et seq. of this title and those statutes codified in Title 59 of the Oklahoma Statutes for the regulation of professions and occupations for which the Department issues a license.

Added by Laws 1963, c. 325, art. 17, § 1701, operative July 1, 1963. Amended by Laws 1981, c. 277, § 4, emerg. eff. June 26, 1981; Laws 1992, c. 201, § 5, eff. July 1, 1992; Laws 1993, c. 145, § 310, eff. July 1, 1993.

§63-1-1701.1A. Violation of rules, regulations or standards - Orders - Penalties.

A. In addition to any other remedies provided for by law, the Department, pursuant to rules and regulations, may issue a written order to any person whom the Department has reason to believe is presently in violation of any standards or rules promulgated by the State Board of Health and to whom the Department has served, no less than fifteen (15) days previously, a written notice of violation of such standards or rules. The fifteen-day notice period may be reduced as, in the opinion of the Department, may be necessary to render the order reasonably effectual.

B. The written order may require compliance with such standards or rules immediately or within a specified time period or both. The order may also assess an administrative fine for each day or part of a day that such person fails to comply with the order.

C. Any order issued pursuant to this section shall state with specificity the nature of the violation. Any penalty assessed in the order shall not exceed Ten Thousand Dollars ($10,000.00) per day of noncompliance with the order. In assessing such a penalty, the Department shall consider the seriousness of the violation and any efforts to comply with applicable requirements.

D. Any order issued pursuant to the provisions of this section shall become a final order unless, no later than fifteen (15) days after the order is served, the person or persons named therein request an administrative hearing. Upon such request the Department shall promptly conduct the hearing. The Department shall dismiss such proceedings where compliance with the order is demonstrated. A final order following a hearing may assess an administrative fine of

an amount based upon consideration of the evidence but not exceeding the amount stated in the written order.

E. Such orders and hearings are subject to the Administrative Procedures Act.

Added by Laws 1986, c. 148, § 2, emerg. eff. April 29, 1986. Amended by Laws 1990, c. 196, § 1, emerg. eff. May 10, 1990; Laws 1992, c. 215, § 19, emerg. eff. May 15, 1992; Laws 1993, c. 145, § 311, eff. July 1, 1993.

§63-1-1701.1B. Collection of fines - Limiting construction of act.

A. Administrative fines collected by the Department pursuant to Section 2 of this act shall be paid into the Public Health Special Fund.

B. Nothing in this act shall be construed as amending the provisions of Sections 1-833, 1-839 or 1-2012.2 of Title 63 of the Oklahoma Statutes.

Added by Laws 1986, c. 148, § 3, emerg. eff. April 29, 1986.

§63-1-1701.2. Administrative warrants.

The Department may apply to and obtain from a judge of the district court, an administrative warrant as necessary to enforce access to premises for investigation, inquiry and inspection under the provisions of the Public Health Code and the rules and regulations promulgated by the State Board of Health.

Added by Laws 1990, c. 196, § 2, emerg. eff. May 10, 1990.

§63-1-1702. Renewal of license or permit - Grace period - Renewal fee - Penalty fee - Prohibited renewal.

The holder of any renewable license or permit issued under the provisions of this Code shall be entitled to thirty (30) days after the expiration date thereof in which to renew the same, without penalty; and if he fails to pay the renewal fee within such thirty-day period, he shall, unless otherwise provided in this Code, be required to pay the renewal fee plus a penalty fee in an amount as promulgated by the State Board of Health by rule. Such penalty fee shall not exceed the amount of the renewal fee. In the case of any renewal fee which shall exceed Ten Thousand Dollars ($10,000.00), the penalty fee shall be one and one-half percent (1.5%) per month of the outstanding balance of the renewal fee. The Board may promulgate rules which prohibit the renewal of a license or permit which has expired by more than ninety (90) days.

Laws 1963, c. 325, art. 17, § 1702, operative July 1, 1963; Laws 1969, c. 199, § 1, emerg. eff. April 18, 1969; Laws 1992, c. 201, § 6, eff. July 1, 1992.

§63-1-1703. Old licenses continued in effect.

Any license heretofore issued by the State Commissioner of Health, State Board of Health or the State Department of Health that has not expired when this Code becomes effective shall remain valid for the purpose issued, and it shall not be necessary for the holder thereof to obtain another license required by this Code for a similar purpose, until the term for which the former license was issued has expired, unless such license is revoked or suspended for cause as provided in this Code.
Laws 1963, c. 325, art. 17, § 1703.

§63-1-1704. Status of employees under Merit System not changed.
This act, or the repeal of any law by this act, shall not change or affect the status, rights, and privileges accrued to employees of the State Commissioner of Health under the State Merit System of Personnel Administration when this act becomes effective. For the purposes of 74 O.S.1961, Sections 801 - 839, the position of State Commissioner of Health established by 63 O.S.1961, Sec. 1.2 and the position of State Commissioner of Health provided for by this Code shall be deemed to be a single continuing agency of the state government, and persons employed by the former Commissioner and continuing as employees of the latter Commissioner shall be entitled to the same status, rights, and privileges under such statutes that they would have had if the former position had remained in existence.
Laws 1963, c. 325, art. 17, § 1704.

§63-1-1707. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§63-1-1708. Malpractice insurance on doctors and nurses in health departments - Liability.
The State Commissioner of Health may purchase, with public funds, insurance to protect the public against malpractice of doctors and nurses employed by the State Department of Health full time, and to indemnify such doctors and nurses in connection therewith; and the director of any county, district or cooperative department of health may purchase, with public funds, insurance to protect the public against malpractice of doctors and nurses employed full time by such department and to indemnify such doctors and nurses in connection therewith. This section shall not be construed to make the state or a county, or any of the aforesaid departments of health, liable for damages resulting from such malpractice.
Laws 1963, c. 299, § 1.

§63-1-1708.1A. Short title.

Sections 1-1708.1A through 1-1708.1G of this title and Sections 22, 23 and 24 of this act shall be known and may be cited as the "Affordable Access to Health Care Act".
Added by Laws 2003, c. 390, § 1, eff. July 1, 2003. Amended by Laws 2004, c. 368, § 20, eff. Nov. 1, 2004.

§63-1-1708.1B. Legislative findings - Purpose.

A. FINDINGS: The Oklahoma Legislature finds:

1. EFFECT ON HEALTH CARE ACCESS AND COSTS. That the medical liability system in this state is a mechanism for resolving claims of medical liability and compensating injured patients which affects patient access to health care services; and

2. EFFECT ON STATE SPENDING. That the medical liability litigation system existing in this state has an effect on the amount, distribution, and use of state funds because of:

a. the large number of individuals who receive health care benefits under programs operated or financed by the state through the Oklahoma Health Care Authority, and

b. the large number of Oklahoma health care providers needed to provide services for which the state makes payment through the Oklahoma Health Care Authority.

B. PURPOSE. It is the purpose of the Affordable Access to Health Care Act to implement reasonable, comprehensive, and effective medical liability reforms designed to:

1. Improve the availability of health care services;

2. Lower the cost of medical liability insurance;

3. Ensure that persons with meritorious health care injury claims receive fair and adequate compensation; and

4. Improve the fairness and cost-effectiveness of this state's current medical liability system to resolve disputes over, and provide compensation for, medical liability.

Added by Laws 2003, c.390, § 2, eff. July 1, 2003.

§63-1-1708.1C. Definitions.

As used in the Affordable Access to Health Care Act, the following words, terms, or phrases shall have the following meanings, unless the context otherwise clearly indicates:

1. "Health care provider" means any person or other entity who is licensed pursuant to the provisions of Title 59 or Title 63 of the Oklahoma Statutes, or pursuant to the laws of another state, to render health care services in the practice of a profession or in the ordinary course of business;

2. "Health care services" means any services provided by a health care provider, or by an individual working for or under the supervision of a health care provider, that relate to the diagnosis,

assessment, prevention, treatment or care of any human illness, disease, injury or condition;

3. "Medical liability action" means any civil action involving, or contingent upon, personal injury or wrongful death brought against a health care provider based on professional negligence;

4. "Noneconomic damages" means all subjective, nonmonetary losses including, but not limited to, pain, suffering, inconvenience, mental anguish, emotional distress, loss of enjoyment of life, loss of society and companionship, loss of consortium, injury to reputation and humiliation; provided, however, "noneconomic damages" do not include exemplary damages, as defined in Section 9.1 of Title 23 of the Oklahoma Statutes;

5. "Professional negligence" means a negligent act or omission to act by a health care provider in the rendering of health care services, provided that such services are within the scope of services for which the health care provider is licensed, certified, or otherwise authorized to render by the laws of this state, and which are not within any restriction imposed by a hospital or the licensing agency of the health care provider; and

6. "Qualified expert" means a health care provider who has knowledge of standards of care for the diagnosis, assessment, prevention, treatment or care of the illness, disease, injury or condition involved in the medical liability action. In a case involving a claim for negligent credentialing or corporate negligence, a "qualified expert" means a physician or administrator who has or has had responsibility for credentialing or served on a medical staff committee involved in a credentialing process at the licensed health care entity.

Added by Laws 2003, c.390, § 3, eff. July 1, 2003.

§63-1-1708.1D. Medical liability actions - Evidence.

A. In every medical liability action, the court shall admit evidence of payments of medical bills made to the injured party, unless the court makes the finding described in paragraph B of this section.

B. In any medical liability action, upon application of a party, the court shall make a determination whether amounts claimed by a health care provider to be a payment of medical bills from a collateral source is subject to subrogation or other right of recovery. If the court makes a determination that any such payment is subject to subrogation or other right of recovery, evidence of the payment from the collateral source and subject to subrogation or other right of recovery shall not be admitted.

Added by Laws 2003, c.390, § 4, eff. July 1, 2003.

§63-1-1708.1E. Repealed by Laws 2013, 1st Ex.Sess., c. 12, § 6.

NOTE: Laws 2009, c. 228, § 87, which originally repealed this section, was held unconstitutional by the Oklahoma Supreme Court in the case of Douglas v. Cox Retirement Properties, Inc., 2013 OK 37, 302 P.2d 789 (Okla. 2013).

§63-1-1708.1F-1. Noneconomic damages – Hard cap limit – Exception – Applicability and termination of section.

A. Except as provided in subsection B or D of this section, in any medical liability action not provided for in Section 1-1708.1F of Title 63 of the Oklahoma Statutes, the amount of noneconomic damages awarded shall not exceed the hard cap amount of Three Hundred Thousand Dollars ($300,000.00), regardless of the number of actions brought with respect to the personal injury, provided:

1. The defendant has made an offer of judgment pursuant to Section 1101.1 of Title 12 of the Oklahoma Statutes; and

2. The amount of the verdict awarded to the plaintiff is less than one and one-half (1 1/2) times the amount of the final offer of judgment.

B. The dollar amount prescribed by subsection A of this section shall be adjusted annually based upon any positive increase in the Consumer Price Index that measures the average changes in prices of goods and services purchased by urban wage earners and clerical workers' families and single workers living alone (CPI-W) for the preceding calendar year. The adjustment required by this subsection shall be made on April 1 of each year or not later than thirty (30) days after the date upon which the Bureau of Labor Statistics releases the CPI-W inflationary data for the preceding calendar year, whichever date first occurs. No adjustment to the dollar amount prescribed by this section shall be made for any year in which there is a decline in the Consumer Price Index.

C. As used in this section, "noneconomic damages" means only mental pain and suffering, inconvenience, mental anguish, emotional distress, loss of society and companionship, loss of consortium, injury to reputation and humiliation; provided, however, noneconomic damages do not include exemplary damages, as provided for in Section 9.1 of Title 23 of the Oklahoma Statutes.

D. If nine or more members of the jury find by clear and convincing evidence that the defendant committed negligence or if nine or more members of the jury find by a preponderance of the evidence that the conduct of the defendant was willful or wanton, the limits on noneconomic damages provided for in subsection A of this section shall not apply; provided, however, the judge must, before submitting such determination to the jury, make a threshold determination that there is evidence from which the jury could reasonably make the findings set forth in the case.

E. If the jury returns a verdict that is greater than Three Hundred Thousand Dollars ($300,000.00) and is less than one and one-

half (1 1/2) times the amount of the final offer of judgment, the court shall submit to the jury an additional form of verdict. The additional form of verdict shall be substantially as follows:

"1. Do you find by a preponderance of the evidence that the conduct of the defendant was willful or wanton? If nine or more of you answer in the affirmative, then return this verdict form in open court. If less than nine of you answer in the affirmative, then answer the following question.

2. Do you find by clear and convincing evidence that the defendant was negligent? If this question is answered affirmatively, then return this verdict form in open court. If less than nine of you find negligence by clear and convincing evidence, then answer the following question.

3. Of the amount returned in the verdict, what amount of your verdict is for economic damages and what amount is for noneconomic damages?"

F. Nothing in this section shall apply to an action brought for wrongful death.

G. The provisions of this section shall apply only to actions that accrue on or after November 1, 2004.

H. This section of law shall terminate on November 1, 2010.

Added by Laws 2004, c. 368, § 22, eff. Nov. 1, 2004.

§63-1-1708.1F. Medical liability actions - Damages.

A. Except as provided in subsection B of this section, in any medical liability action in which the health care services at issue were provided for:

1. Pregnancy or labor and delivery, including the immediate post-partum period; or

2. Emergency care in the emergency room of a hospital or as follow-up to the emergency care services provided in the emergency room;

the amount of noneconomic damages awarded shall not exceed Three Hundred Thousand Dollars ($300,000.00), regardless of the number of parties against whom the action is brought or the number of actions brought with respect to the personal injury.

B. Where the judge finds by clear and convincing evidence that the defendant committed negligence in one of the types of cases enumerated in subsection A of this section, the court shall articulate its findings into the record out of the presence of the jury and shall lift the noneconomic damage cap.

C. Nothing in this section shall apply to any nursing facility or nursing home licensed pursuant to Section 1-1903 of this title or the owners, operators, officers, agents or employees of such entities.

D. Nothing in this section shall apply to a medical liability action brought for wrongful death.

E. This section of law shall terminate on November 1, 2010.
Added by Laws 2003, c. 390, § 6, eff. July 1, 2003. Amended by Laws 2004, c. 368, § 21, eff. Nov. 1, 2004.

§63-1-1708.1G. Repealed by Laws 2009, c. 228, § 87, eff. Nov. 1, 2009.

§63-1-1708.1H. Statements, conduct, etc. expressing apology, sympathy, etc. – Admissibility – Definitions.

A. In any medical liability action, any and all statements, affirmations, gestures, or conduct expressing apology, sympathy, commiseration, condolence, compassion, or a general sense of benevolence which are made by a health care provider or an employee of a health care provider to the plaintiff, a relative of the plaintiff, or a representative of the plaintiff and which relate solely to discomfort, pain, suffering, injury, or death as the result of the unanticipated outcome of the medical care shall be inadmissible as evidence of an admission of liability or as evidence of an admission against interest.

B. For purposes of this section, unless context otherwise requires, "relative" means a spouse, parent, grandparent, stepfather, child, grandchild, brother, sister, half-brother, half-sister or spouse's parents. The term includes said relationships that are created as a result of adoption. "Representative" means a legal guardian, attorney, person designated to make decisions on behalf of a patient under a durable power of attorney or health care proxy, or any person recognized in law or custom as an agent for the plaintiff.
Added by Laws 2004, c. 368, § 23, eff. Nov. 1, 2004.

§63-1-1708.1I. Expert witnesses – Qualifications.

A. The court shall apply the criteria specified in subsection B of this section in determining whether an expert is qualified to offer expert testimony on the issue of whether the defendant health care provider departed from accepted standards of health care but may depart from those criteria if, under the circumstances, the court determines that there is good reason to admit the expert's testimony. The court shall state on the record the reason for admitting the testimony if the court departs from the criteria.

B. In determining whether a witness is qualified on the basis of training or experience, the court shall consider whether, at the time the claim arose or at the time the testimony is given, the witness:

1. Is licensed to practice medicine or has other substantial training or experience, in any area of health care relevant to the claim; and

2. Is actively practicing or retired from practicing health care in any area of health care services relevant to the claim.

C. This section shall not prevent a health care provider who is a defendant, or an employee of the defendant health care provider, from qualifying as an expert.

Added by Laws 2004, c. 368, § 24, eff. Nov. 1, 2004.

§63-1-1709. Information concerning condition and treatment of patients - Restrictions - Exemption from liability - Review committees.

Any authorized person, hospital, sanatorium, nursing home or rest home, or other organization may provide information, interviews, reports, statements, memoranda or other data relating to the condition and treatment of any person to any of the following for use in the course of studies for the purpose of reducing morbidity or mortality: The State Board of Health; the Oklahoma State Medical Association, or any committee or allied society thereof; the American Medical Association, or other national organization approved by the State Board of Health, or any committee or allied medical society thereof; any in-hospital staff committee; or a city-county health department. No liability for damages or other relief shall arise or be enforced against any authorized person, institution or organization by reason of having provided such information or material, or by reason of having released or published the findings and conclusions of such groups to advance medical research and medical education, or by reason of having released or published generally a summary of such studies. The recipients shall use or publish such information or material only for the purpose of advancing medical research or medical education in the interest of reducing morbidity or mortality, except that a summary of such studies may be released by any such group for general publication. In all events, the identity of any person whose condition or treatment has been studied shall be confidential and shall not be revealed under any circumstances. Any information furnished shall not contain the name of the person upon whom information is furnished and shall not violate the confidential relationship of patient and doctor. All information, interviews, reports, statements, memoranda, or other data furnished by reason of this section, and any findings or conclusions resulting from such studies, are declared to be privileged communications which may not be used or offered or received in evidence in any legal proceeding of any kind or character, and any attempt to use or offer any such information, interviews, reports, statements, memoranda or other data, findings or conclusions, or any part thereof, unless waived by the interested parties, shall constitute prejudicial error in any such proceeding. Physicians and others appointed to hospital utilization review committees for the purpose of determining the

optimum use of hospital services shall be immune from liability with respect to decisions made as to such utilization and actions thereunder so long as such physicians or others act in good faith; provided, however, that nothing in this section shall be construed to relieve any patient's personal physician of any liability which he may have in connection with the treatment of such patient.
Added by Laws 1963, c. 13, § 1. Amended by Laws 1968, c. 215, § 1, emerg. eff. April 23, 1968; Laws 2009, c. 276, § 2, eff. Nov. 1, 2009.

§63-1-1709.1. Peer review information.

A. As used in this section:

1. "Credentialing or recredentialing data" means:
   a. the application submitted by a health care professional requesting appointment or reappointment to the medical staff of a health care entity or requesting clinical privileges or other permission to provide health care services at a health care entity,
   b. any information submitted by the health care professional in support of such application,
   c. any information, unless otherwise privileged, obtained by the health care entity during the credentialing or recredentialing process regarding such application, and
   d. the decision made by the health care entity regarding such application;

2. "Credentialing or recredentialing process" means any process, program or proceeding utilized by a health care entity to assess, review, study or evaluate the credentials of a health care professional;

3. "Health care entity" means:
   a. any hospital or related institution offering or providing health care services under a license issued pursuant to Section 1-706 of this title,
   b. any ambulatory surgical center offering or providing health care services under a license issued pursuant to Section 2660 of this title,
   c. the clinical practices of accredited allopathic and osteopathic state medical schools, and
   d. any other entity directly involved in the delivery of health care services that engages in a credentialing or peer review process;

4. "Health care professional" means any person authorized to practice allopathic medicine and surgery, osteopathic medicine, podiatric medicine, optometry, chiropractic, psychology, dentistry or a dental specialty under a license issued pursuant to Title 59 of the Oklahoma Statutes;

5. "Peer review information" means all records, documents and other information generated during the course of a peer review process, including any reports, statements, memoranda, correspondence, record of proceedings, materials, opinions, findings, conclusions and recommendations, credentialing data and recredentialing data, but does not include:

a. the medical records of a patient whose health care in a health care entity is being reviewed,

b. incident reports and other like documents regarding health care services being reviewed, regardless of how the reports or documents are titled or captioned,

c. the identity of any individuals who have personal knowledge regarding the facts and circumstances surrounding the patient's health care in the health care entity,

d. factual statements regarding the patient's health care in the health care entity from any individuals who have personal knowledge regarding the facts and circumstances surrounding the patient's health care, which factual statements were generated outside the peer review process,

e. the identity of all documents and raw data previously created elsewhere and considered during the peer review process, or

f. copies of all documents and raw data previously created elsewhere and considered during the peer review process, whether available elsewhere or not; and

6. "Peer review process" means any process, program or proceeding, including a credentialing or recredentialing process, utilized by a health care entity or county medical society to assess, review, study or evaluate the credentials, competence, professional conduct or health care services of a health care professional.

B. 1. Peer review information shall be private, confidential and privileged except that a health care entity or county medical society shall be permitted to provide relevant peer review information to the state agency or board which licensed the health care professional who provided the health care services being reviewed in a peer review process or who is the subject of a credentialing or recredentialing process, with notice to the health care professional.

2. Nothing in this section shall be construed to abrogate, alter or affect any provision in the Oklahoma Statutes which provides that information regarding liability insurance of a health care entity or health care professional is not discoverable or admissible.

C. In any civil action in which a patient or patient's legal representative has alleged that the patient has suffered injuries resulting from negligence by a health care professional in providing health care services to the patient in a health care entity, factual statements, presented during a peer review process utilized by such health care entity, regarding the patient's health care in the health care entity from individuals who have personal knowledge of the facts and circumstances surrounding the patient's health care shall not be subject to discovery.

D. 1. In any civil action in which a patient or patient's legal representative has alleged that the health care entity was independently negligent as a result of permitting the health care professional to provide health care services to the patient in the health care entity, the credentialing and recredentialing data, and the recommendations made and action taken as a result of any peer review process utilized by such health care entity regarding the health care professional prior to the date of the alleged negligence shall be subject to discovery pursuant to the Oklahoma Discovery Code.

2. Any information discovered pursuant to this subsection:

a. shall not be admissible as evidence until a judge or jury has first found the health care professional to have been negligent in providing health care services to the patient in such health care entity, and

b. shall not at any time include the identity or means by which to ascertain the identity of any other patient or health care professional.

E. No person involved in a peer review process may be permitted or required to testify regarding the peer review process in any civil proceeding or disclose by responses to written discovery requests any peer review information.

Added by Laws 1999, c. 180, § 1, eff. Nov. 1, 1999. Amended by Laws 2000, c. 354, § 1, emerg. eff. June 6, 2000; Laws 2002, c. 156, § 3, eff. Nov. 1, 2002; Laws 2004, c. 558, § 2, emerg. eff. June 9, 2004; Laws 2013, 1st Ex.Sess., c. 5, § 2, emerg. eff. Sept. 10, 2013; Laws 2013, 1st Ex.Sess., c. 5, § 3, emerg. eff. Sept. 10, 2013; Laws 2014, c. 294, § 1, eff. Nov. 1, 2014.

NOTE: Laws 2009, c. 228, § 28 was held unconstitutional by the Oklahoma Supreme Court in the case of Douglas v. Cox Retirement Properties, Inc., 2013 OK 37, 302 P.2d 789 (Okla. 2013) and repealed by Laws 2013, 1st Ex.Sess., c. 5, § 1, emerg. eff. Sept. 10, 2013.

§63-1-1710. Retirement system.

If, pursuant to the laws of Oklahoma or of any charter provision or ordinance of a city which participates in a city-county, county, district, or cooperative health department, as authorized by the Oklahoma Public Health Code, a retirement system is established for

the employees of a participating city, the employees of the city-county, county, district, or cooperative health department may be included in that retirement system on the same basis applicable to employees of the participating city, provided the applicable Board of Health so recommends and the State Commissioner of Health, the board of county commissioners, and the governing body of the city which created and operates such health department approve. Nothing otherwise provided by law shall operate to prohibit the appropriation of county funds for the payment of the pro rata share of the contribution to be made to the city or county retirement fund on behalf of the employees of the applicable health department. In the event funds become available for public health purposes pursuant to the provisions of Section 9a, Article X of the Oklahoma Constitution and 63 O.S.Supp.1963, Sections 1-223 through 1-226, the contribution on behalf of the employees of the applicable health department may be paid from such funds; provided further, that an employee of the city-county, county, district, or cooperative health department shall not participate in more than one of the city, county, or state retirement systems.
1965, c. 102, § 1, emerg. eff. May 12, 1965.

§63-1-1712. Failure to comply with or breach of certain federal laws inadmissible.

A health care provider's failure to comply with or a health care provider's breach of the federal Patient Protection and Affordable Care Act (Public Law 111-148) consolidating the amendment made by Title X of the Act and the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152) and any regulation, program, guideline or other provision established by such, shall not be admissible, used to determine the standard of care, or the legal basis for a presumption of negligence in any medical liability action in this state.
Added by Laws 2014, c. 416, § 1, eff. Nov. 1, 2014.

§63-1-1750. Rules and regulations.

The State Board of Health has the power and duty to issue rules and regulations, not inconsistent with the laws of this state or of the federal government, which are necessary or useful to regulate in the public interest the practice of fitting and dealing hearing aids and licensing qualified individuals for the practice.
Laws 1980, c. 230, § 1, eff. July 1, 1980.

§63-1-1751. License fees.

Fees for licenses issued by the State Board of Health to practice the fitting and dealing of hearing aids shall be set by the State Board of Health at rates not less than the following schedule:

Application for a Temporary Permit $ 15.00

Examination Fee	35.00
Renewal of a License	50.00
Renewal within thirty-day grace period	75.00
Renewal after expiration	100.00

Any fee schedule changes must be submitted to the Legislature for approval or rejection under the Administrative Procedures Act. Applicants for examinations shall be responsible for the full cost of examinations, re-examinations, and background checks relating to licensing and certification.

Added by Laws 1980, c. 230, § 2, eff. July 1, 1980. Amended by Laws 2015, c. 15, § 1, eff. Nov. 1, 2015.

§63-1-1752. Abolition of Board of Hearing Aid Dealers and Fitters.

The Board of Hearing Aid Dealers and Fitters is hereby abolished. All unexpended funds within the Hearing Aid Dealers' and Fitters' Licensing Fund, property, records and any outstanding financial obligation and encumbrance of the Board of Hearing Aid Dealers and Fitters are hereby transferred to the State Department of Health.

Laws 1980, c. 230, § 3, eff. July 1, 1980.

§63-1-1753. Repealed by Laws 2013, c. 229, § 99, eff. Nov. 1, 2013.

§63-1-1754. Renewal of permit or license.

As a condition for renewal of a permit to practice, the Board shall require certificate and license holders to furnish evidence of participation in continuing education in the practice of fitting and dealing in hearing aids and related devices. The Board may adopt reasonable rules and regulations regarding such continuing education.

Laws 1980, c. 230, § 5, eff. July 1, 1980.

§63-1-1801. Renumbered as § 2-5-101 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-1802. Renumbered as § 2-5-102 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-1803. Renumbered as § 2-5-103 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-1804. Repealed by Laws 1992, c. 215, § 21, emerg. eff. May 15, 1992.

§63-1-1804.1. Renumbered as § 2-5-104 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-1805. Repealed by Laws 1992, c. 215, § 21, emerg. eff. May 15, 1992.

§63-1-1805.1. Renumbered as § 2-5-105 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-1806. Repealed by Laws 1992, c. 215, § 21, emerg. eff. May 15, 1992.

§63-1-1806.1. Renumbered as § 2-5-106 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-1807. Repealed by Laws 1992, c. 215, § 21, emerg. eff. May 15, 1992.

§63-1-1807.1. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§63-1-1808. Repealed by Laws 1992, c. 215, § 21, emerg. eff. May 15, 1992.

§63-1-1808.1. Renumbered as § 2-5-107 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-1809. Renumbered as § 2-5-108 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-1810. Renumbered as § 2-5-109 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-1811. Renumbered as § 2-5-110 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-1812. Renumbered as § 2-5-111 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-1813. Renumbered as § 2-5-112 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-1814. Renumbered as § 2-5-113 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-1815. Renumbered as § 2-5-114 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-1816. Renumbered as § 2-5-115 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-1817. Renumbered as § 2-5-116 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-1818. Renumbered as § 2-5-117 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-1819. Renumbered as § 2-5-118 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-1900.1. Long-Term Care Reform and Accountability Act of 2001.

A. This act shall be known and may be cited as the "Long-Term Care Reform and Accountability Act of 2001".

B. The purpose of the Long-Term Care Reform and Accountability Act of 2001 shall be to design, develop and implement policies and procedures that improve the quality of care provided in this state's long-care delivery system for the elderly and disabled. The purpose of the Long-Term Care Reform and Accountability Act of 2001 shall be accomplished through a series of initiatives.

Added by Laws 2001, c. 428, § 1, emerg. eff. June 5, 2001.

§63-1-1900.2. Waiver of Nursing Home Care Act provisions and rules.

A. It is the intent of the Legislature to foster the development of resident autonomy, individualization and culture change in nursing facilities licensed by the State Department of Health.

B. The Commissioner of Health is authorized to waive any provision of the Nursing Home Care Act and any rules promulgated pursuant thereto, provided:

1. The waiver will not cause the State of Oklahoma to fail to comply with any applicable requirements established by the Centers for Medicare and Medicaid Services;

2. The waiver is granted to allow a nursing facility to satisfy the spirit of a statutory or administrative requirement by alternative means;

3. The waiver will not adversely affect the health, safety or welfare of any resident of a nursing facility; and

4. The waiver is in support of a deinstitutionalization model that restores individuals to a self-contained residence in the community that is designed like a private home and houses no more than twelve individuals.

C. The State Board of Health shall promulgate rules and establish procedures necessary to implement the waiver process established by this section.

Added by Laws 2007, c. 28, § 1.

§63-1-1901. Short title.

This act shall be known and may be cited as the "Nursing Home Care Act".
Laws 1980, c. 241, § 1, eff. Oct. 1, 1980.

§63-1-1902. Definitions.

As used in the Nursing Home Care Act:

1. "Abuse" means the willful infliction of injury, unreasonable confinement, intimidation or punishment, with resulting physical harm, impairment or mental anguish;

2. "Access" means the right of a person to enter a facility to communicate privately and without unreasonable restriction when invited to do so by a resident. The state or local "ombudsman", as that term is defined by the Aging Services Division of the Department of Human Services pursuant to the Older Americans' Act, 42 U.S.C.A., Section 3001 et seq., as amended, and a case manager employed by the Department of Mental Health and Substance Abuse Services or one of its contract agencies shall have right of access to enter a facility, communicate privately and without unreasonable restriction with any resident who consents to the communication, to seek consent to communicate privately and without restriction with any resident, and to observe all areas of the facility that directly pertain to the patient care of the resident without infringing upon the privacy of the other residents without first obtaining their consent;

3. "Administrator" means the person licensed by the State of Oklahoma who is in charge of a facility. An administrator must devote at least one-third (1/3) of such person's working time to on-the-job supervision of the facility; provided that this requirement shall not apply to an administrator of an intermediate care facility for the mentally retarded with sixteen or fewer beds (ICF-MR/16), in which case the person licensed by the state may be in charge of more than one ICF-MR/16 facility, if such facilities are located within a circle that has a radius of not more than fifteen (15) miles, the total number of facilities and beds does not exceed six facilities and sixty-four beds, and each ICF-MR/16 facility is supervised by a qualified mental retardation professional. The facilities may be free-standing in a community or may be on campus with a parent institution. The ICF-MR/16 may be independently owned and operated or may be part of a larger institutional operation;

4. "Advisory Board" means the Long-Term Care Facility Advisory Board;

5. "Adult companion home" means any home or establishment, funded and certified by the Department of Human Services, which provides homelike residential accommodations and supportive assistance to three or fewer mentally retarded or developmentally disabled adults;

6. "Board" means State Board of Health;

7. "Commissioner" means State Commissioner of Health;

8. "Department" means the State Department of Health;

9. "Facility" means a nursing facility and a specialized home; provided this term shall not include a residential care home or an adult companion home;

10. "Nursing facility" means a home, an establishment or an institution, a distinct part of which is primarily engaged in providing:

a. skilled nursing care and related services for residents who require medical or nursing care,

b. rehabilitation services for the rehabilitation of injured, disabled, or sick persons, or

c. on a regular basis, health-related care and services to individuals who because of their mental or physical condition require care and services beyond the level of care provided by a residential care home and which can be made available to them only through a nursing facility.

"Nursing facility" does not mean, for purposes of Section 1-851.1 of this title, a facility constructed or operated by an entity described in paragraph 7 of subsection B of Section 6201 of Title 74 of the Oklahoma Statutes or the nursing care component of a continuum of care facility, as such term is defined under the Continuum of Care and Assisted Living Act, to the extent that the facility constructed or operated by an entity described in paragraph 7 of subsection B of Section 6201 of Title 74 of the Oklahoma Statutes contains such a nursing care component;

11. "Specialized facility" means any home, establishment, or institution which offers or provides inpatient long-term care services on a twenty-four-hour basis to a limited category of persons requiring such services, including but not limited to a facility providing health or habilitation services for mentally retarded or developmentally disabled persons, but does not mean, for purposes of Section 1-851.1 of this title, a facility constructed or operated by an entity described in paragraph 7 of subsection B of Section 6201 of Title 74 of the Oklahoma Statutes or the nursing care component of a continuum of care facility, as such term is defined under the Continuum of Care and Assisted Living Act, to the extent that the facility constructed or operated by an entity described in paragraph 7 of subsection B of Section 6201 of Title 74 of the Oklahoma Statutes contains such a nursing care component;

12. "Residential care home" means any home, establishment, or institution licensed pursuant to the provisions of the Residential Care Act other than a hotel, motel, fraternity or sorority house, or college or university dormitory, which offers or provides residential accommodations, food service, and supportive assistance to any of its residents or houses any resident requiring supportive

assistance. The residents shall be persons who are ambulatory and essentially capable of managing their own affairs, but who do not routinely require nursing care; provided, the term "residential care home" shall not mean a hotel, motel, fraternity or sorority house, or college or university dormitory, if the facility operates in a manner customary to its description and does not house any person who requires supportive assistance from the facility in order to meet an adequate level of daily living;

13. "Licensee" means the person, a corporation, partnership, or association who is the owner of the facility which is licensed by the Department pursuant to the provisions of the Nursing Home Care Act;

14. "Maintenance" means meals, shelter, and laundry services;

15. "Neglect" means failure to provide goods and/or services necessary to avoid physical harm, mental anguish, or mental illness;

16. "Owner" means a person, corporation, partnership, association, or other entity which owns a facility or leases a facility. The person or entity that stands to profit or lose as a result of the financial success or failure of the operation shall be presumed to be the owner of the facility. Notwithstanding the foregoing, any nonstate governmental entity that has acquired and owns or leases a facility and that has entered into an agreement with the Oklahoma Health Care Authority to participate in the nursing facility supplemental payment program ("UPL Owner") shall be deemed the owner of such facility and shall be authorized to obtain management services from a management services provider ("UPL Manager"), and to delegate, allocate and assign as between the UPL Owner and UPL Manager, compensation, profits, losses, liabilities, decision-making authority and responsibilities, including responsibility for the employment, direction, supervision and control of the facility's administrator and staff;

17. "Personal care" means assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision of the physical and mental well-being of a person, who is incapable of maintaining a private, independent residence, or who is incapable of managing his person, whether or not a guardian has been appointed for such person;

18. "Resident" means a person residing in a facility due to illness, physical or mental infirmity, or advanced age;

19. "Representative of a resident" means a court-appointed guardian or, if there is no court-appointed guardian, the parent of a minor, a relative, or other person, designated in writing by the resident; provided, that any owner, operator, administrator or employee of a facility subject to the provisions of the Nursing Home Care Act, the Residential Care Act, or the Group Homes for the Developmentally Disabled or Physically Handicapped Persons Act shall not be appointed guardian or limited guardian of a resident of the

facility unless the owner, operator, administrator or employee is the spouse of the resident, or a relative of the resident within the second degree of consanguinity and is otherwise eligible for appointment; and

20. "Supportive assistance" means the service rendered to any person which is less than the service provided by a nursing facility but which is sufficient to enable the person to meet an adequate level of daily living. Supportive assistance includes but is not limited to housekeeping, assistance in the preparation of meals, assistance in the safe storage, distribution, and administration of medications, and assistance in personal care as is necessary for the health and comfort of such person. Supportive assistance shall not include medical service.

Added by Laws 1980, c. 241, § 2, eff. Oct. 1, 1980. Amended by Laws 1981, c. 182, § 1; Laws 1984, c. 128, § 2, eff. Nov. 1, 1984; Laws 1987, c. 98, § 22, emerg. eff. May 20, 1987; Laws 1989, c. 330, § 6, eff. Nov. 1, 1989; Laws 1990, c. 51, § 126, emerg. eff. April 9, 1990; Laws 1990, c. 337, § 17; Laws 1991, c. 127, § 1, emerg. eff. April 29, 1991; Laws 1993, c. 159, § 16, eff. July 1, 1993; Laws 1995, c. 230, § 8, eff. July 1, 1995; Laws 1996, c. 118, § 1, eff. Nov. 1, 1996; Laws 1997, c. 292, § 10, eff. July 1, 1997; Laws 2004, c. 436, § 10, emerg. eff. June 4, 2004; Laws 2016, c. 288, § 1, eff. July 1, 2016.

NOTE: Laws 1989, c. 227, § 29 repealed by Laws 1990, c. 337, § 26.

§63-1-1903. License required - Exemptions - Practice of healing arts not authorized – Application of act to facilities not receiving public funds.

A. No person shall establish, operate, or maintain in this state any nursing facility without first obtaining a license as required by the Nursing Home Care Act.

B. The Nursing Home Care Act shall not apply to residential care homes, assisted living facilities or adult companion homes which are operated in conjunction with a nursing facility, a home or facility approved and annually reviewed by the United States Department of Veterans Affairs as a medical foster home in which care is provided exclusively to three or fewer veterans, or to hotels, motels, boarding houses, rooming houses, or other places that furnish board or room to their residents.

C. Each Oklahoma Veterans Center nursing facility licensed pursuant to the provisions of this section shall be regulated as an existing nursing facility for the purposes of meeting state and federal standards.

D. Certificate of need review shall not be required for any addition, deletion, modification or new construction of current or future State Veterans Center nursing facilities.

E. The Nursing Home Care Act shall not authorize any person to engage in any manner in the practice of the healing arts or the practice of medicine, as defined by law.

F. The Nursing Home Care Act shall not apply to a facility which is not charging or receiving periodic compensation for services rendered, and not receiving any county, state, or federal assistance.

Added by Laws 1980, c. 241, § 3, eff. Oct. 1, 1980. Amended by Laws 1984, c. 128, § 3, eff. Nov. 1, 1984; Laws 1987, c. 98, § 23, emerg. eff. May 20, 1987; Laws 1991, c. 127, § 2, emerg. eff. April 29, 1991; Laws 1993, c. 234, § 2, eff. July 1, 1993; Laws 1993, c. 360, § 7, eff. July 1, 1993; Laws 2003, c. 89, § 1, emerg. eff. April 15, 2003; Laws 2012, c. 12, § 3, emerg. eff. April 5, 2012; Laws 2013, c. 379, § 1, emerg. eff. May 29, 2013.

NOTE: Laws 1993, c. 159, § 17 repealed by Laws 1993, c. 360, § 16, emerg. eff. June 10, 1993.

§63-1-1904. Licensure and certification - Purpose - Procedure - Violations - Applications.

A. The State Department of Health shall establish a comprehensive system of licensure and certification for facilities in accordance with the Nursing Home Care Act for the purposes of:

1. Protecting the health, welfare and safety of residents;

2. Assuring the accountability for reimbursed care provided in certified facilities participating in a federal or state health program as provided by or through the Oklahoma Health Care Authority; and

3. Assuring consistent application of uniform inspection protocols.

B. The licensing and certification procedures and standards provided in this act, or by rules of the State Board of Health, shall be no less than provided in statute and rules currently governing nursing facilities.

C. It shall be unlawful and upon conviction thereof, punishable as a misdemeanor for any person to operate, manage or open a facility unless such operation and management shall have been approved and regularly licensed as hereinafter provided.

D. Before an initial license shall be issued pursuant to the Nursing Home Care Act to operate and manage a facility, the applicant shall provide the following:

1. An application on a form provided by the Department containing, at a minimum, the following information:

a. the name and address of the applicant, if an individual, and that the applicant is not less than twenty-one (21) years of age, of reputable and responsible character, and in sound physical and mental health; and if a firm, partnership, or

association, of every member thereof; and in the case of a corporation, the name and address thereof and of its officers and its registered agent and like evidence for officers, as submitted for an individual,

b. the name and location of the facility for which a license is sought,

c. the name and address of the person or persons under whose management or supervision the facility will be conducted, and a copy of the written agreement between the manager and the applicant,

d. the name and address of any other person holding an interest of at least five percent (5%) in the ownership, operation or management of the facility,

e. the number and type of residents for which maintenance, personal care, specialized or nursing facility services are to be provided, and

f. a projected staffing pattern for providing patient care;

2. A statement from the unit of local government having zoning jurisdiction over the facility's location stating that the location of the facility is not in violation of a zoning ordinance; and

3. Documentation that the administrator is the holder of a current license as a Nursing Home Administrator issued by the Oklahoma State Board of Examiners for Nursing Home Administrators.

E. Before issuing an initial license, the Department shall find that the individual applicant, or the corporation, partnership or other entity, if the applicant is not an individual, is a person responsible and suitable to operate or to direct or participate in the operation of a facility by virtue of financial capacity, appropriate business or professional experience, a record of compliance with lawful orders of the Department and lack of revocation of a license during the previous five (5) years. In determining the applicant's responsibility and suitability to operate or to direct or participate in the operation of a facility, the Department may also consider the applicant's record of suspensions, receivership, administrative penalties, or noncompliance with lawful orders of this Department or of other departments of other states with similar responsibilities.

Added by Laws 1980, c. 241, § 4, eff. Oct. 1, 1980. Amended by Laws 1987, c. 98, § 25, emerg. eff. May 20, 1987; Laws 1991, c. 127, § 3, emerg. eff. April 29, 1991; Laws 2000, c. 340, § 14, eff. July 1, 2000; Laws 2002, c. 230, § 3, eff. Nov. 1, 2002.

§63-1-1905. Application fee - Form and display of license - Renewal - Transfer of ownership or operation of facility - Conditional license - Liability of transferor - Unannounced inspections.

A. An application for a license, or renewal thereof, to operate a facility shall be accompanied by a fee of Ten Dollars ($10.00) for each bed per year included in the maximum bed capacity at such facility, except that any facility operated by the Oklahoma Department of Veterans Affairs shall be exempt from the fee. All licenses shall be on a form prescribed by the State Commissioner of Health, which shall include, but not be limited to, the maximum bed capacity for which it is granted and the date the license was issued. The license shall:

1. Not be transferable or assignable;

2. Be posted in a conspicuous place on the licensed premises;

3. Be issued only for the premises named in the application; and

4. Expire three (3) years from the date of issuance, provided an initial license shall expire one hundred eighty (180) days after the date of issuance. Licenses may be issued for a period of more than twelve (12) months, but not more than thirty-six (36) months, for the license period immediately following the effective date of this provision in order to permit an equitable distribution of license expiration dates.

B. The fee for a license amendment to reflect an increase in bed capacity shall be prorated based on the number of days remaining in the licensure period and the change in the number of beds, except that any facility operated by the Oklahoma Department of Veterans Affairs shall be exempt from the fee.

C. The issuance or renewal of a license after notice of a violation has been sent shall not constitute a waiver by the State Department of Health of its power to rely on the violation as the basis for subsequent license revocation or other enforcement action under this act arising out of the notice of violation.

D. 1. When transfer of ownership or operation of a facility is proposed, the transferee shall notify the Department of the transfer and apply for a new license at least thirty (30) days prior to final transfer.

2. The transferor shall remain responsible for the operation of the facility until such time as a license is issued to the transferee.

3. The license granted to the transferee shall be subject to the plan of correction submitted by the previous owner and approved by the Department and any conditions contained in a conditional license issued to the previous owner. If there are outstanding violations and no approved plan of correction has been implemented, the Department may issue a conditional license and plan of correction as provided in this act.

4. The transferor shall remain liable for all penalties assessed against the facility which are imposed for violations occurring prior to transfer of ownership.

E. Nursing and specialized facilities, as defined and licensed pursuant to the Nursing Home Care Act shall be surveyed through an unannounced inspection at least once every fifteen (15) months, with a statewide average survey cycle of twelve (12) months.
Added by Laws 1980, c. 241, § 5, eff. Oct. 1, 1980. Amended by Laws 1991, c. 127, § 4, emerg. eff. April 29, 1991; Laws 1993, c. 269, § 12, eff. Sept. 1, 1993; Laws 1995, c. 230, § 9, eff. July 1, 1995; Laws 2011, c. 105, § 36, eff. Nov. 1, 2011; Laws 2013, c. 183, § 3, emerg. eff. April 29, 2013; Laws 2016, c. 288, § 2, eff. Nov. 1, 2016.

§63-1-1906. Issuance and renewal of licenses - Initial license - Denial of application - Notice of denial - Suspension or revocation - Administrative penalties - Effective date of nonrenewal or revocation - Application following revocation.

A. The State Commissioner of Health shall issue and renew licenses for the operation of facilities which are found to comply with the provisions of the Nursing Home Care Act, and standards and rules of the State Board of Health.

B. For any new facility or for any facility that has undergone a transfer of ownership or operation the State Department of Health shall issue only an initial license. An initial license shall be valid for one hundred eighty (180) days unless sooner suspended or revoked under this act. Prior to the termination of an initial license, the Department shall fully and completely inspect the facility and, if the facility meets the applicable requirements for licensure, shall issue a license under this act. If the Department finds that the facility does not meet the requirements for licensure but has made substantial progress toward meeting those requirements, the initial license may be extended once for a period not to exceed one hundred twenty (120) days from the expiration date of the initial license.

C. An application for a license may be denied for any of the following reasons:

1. Failure to meet any of the minimum standards set forth by this act or by rules promulgated by the Board under this act;

2. Conviction of the applicant, or of any member of an applicant that is a firm, partnership or association or, if a corporation, the conviction of the corporation or any of its officers or a majority stockholder, or of a person designated to manage or supervise a facility, of a felony, meaning a crime that would have a bearing on the operation of a nursing home, the conviction to be shown by a certified copy of the record of the court of conviction, if the Department determines, after investigation, that such applicant has not been sufficiently rehabilitated to warrant the public trust, or other satisfactory evidence that the moral character of the applicant, or

administrator, or manager, or supervisor of the facility is not reputable;

3. Personnel insufficient in number or unqualified by training or experience properly to care for the proposed number and type of residents to be determined by standards set by the Department with the standards not being less than those set by federal statute; or

4. Insufficient financial or other resources that would render a facility incapable of providing adequate patient care.

D. Immediately upon the denial of any application or reapplication for a license under this act, the Department shall notify the applicant in writing. Notice of denial shall include a clear and concise statement of the violations on which denial is based and notice of the opportunity for a hearing. If the applicant desires to contest the denial of a license, it shall provide written notice to the Department of a request for a hearing within ten (10) days after receipt of the notice of denial and the Department shall commence the hearing.

E. The Commissioner may suspend or revoke a license on any of the following grounds:

1. Violation of any of the provisions of this act or the rules, regulations and standards issued pursuant thereto;

2. Permitting, aiding or abetting the commission of any illegal act in a licensed facility;

3. Conduct of practices deemed by the Commissioner to be detrimental to the welfare of the patients or residents of a facility;

4. Insufficient financial or other resources that would render a facility incapable of providing adequate patient care; or

5. The facility has closed.

F. 1. The Department, after notice to the applicant or licensee, may suspend, revoke, refuse to renew a license or assess administrative penalties in any case in which the Department finds that there has been a substantial failure to comply with this act or the rules promulgated by the Board under this act;

2. Notice under this section shall include a clear and concise statement of the violations on which the nonrenewal, revocation or administrative penalty is based, the statute or rule violated and notice of the opportunity for a hearing;

3. If a facility desires to contest the nonrenewal or revocation of a license or the assessment of administrative penalties, the facility shall, within ten (10) days after receipt of notice under paragraph 2 of this section, notify the Commissioner in writing of its request for a hearing. Upon receipt of the request the Commissioner shall send notice to the facility and hold a hearing;

4. The effective date of nonrenewal or revocation of a license by the Commissioner shall be any of the following:

a. until otherwise ordered by the district court, revocation is effective on the date set by the Commissioner in the notice of revocation, or upon final action after hearing, whichever is later,

b. until otherwise ordered by the district court, nonrenewal is effective on the date of expiration of any existing license, or upon final action after hearing, whichever is later, or

c. the Department may extend the effective date of license revocation or expiration in any case in order to permit orderly removal and relocation of residents.

G. A new application, following revocation, shall be considered by the Commissioner on receipt of evidence that the conditions upon which revocation was based have been corrected; and a new license may then be granted after proper inspection has been made and all provisions of this act have been complied with, and the rules, regulations and standards of the Board have been satisfied.

H. The Department may suspend, for a period not to exceed three (3) years, the license of a facility that has temporarily closed or ceased operations for remodeling, renovation, replacement or relocation, or that has closed or ceased operations pending a change of ownership, operator or management.

1. The facility shall provide periodic reports to the Department not less than once every six (6) months demonstrating the facility's progress towards reopening.

2. The Department may extend the period of suspension upon a demonstration of extenuating or unusual circumstances, a clear showing of good faith efforts to proceed towards the reopening of the facility, and a determination by the Department that a continuation of the period of suspension poses no harm to the public.

3. Whenever, after receipt of a six-month report, the Department determines that there has been no progress towards reopening the facility, no demonstration of extenuating or unusual circumstances or clear showing of good faith efforts to proceed towards the reopening of the facility, the Department may initiate a proceeding to revoke the license of the facility.

4. At or before the conclusion of the suspension period, the facility shall meet applicable requirements for licensure and shall reopen, or the license shall expire.

5. Any closed facility that has a suspended license on the effective date of this act may be issued a suspended license for a period not to exceed three (3) years from the effective date of this act.

Added by Laws 1980, c. 241, § 6, eff. Oct. 1, 1980. Amended by Laws 1987, c. 98, § 26, emerg. eff. May 20, 1987; Laws 1991, c. 127, § 5,

emerg. eff. April 29, 1991; Laws 2002, c. 230, § 4, eff. Nov. 1, 2002.

§63-1-1907. Repealed by Laws 1991, c. 127, § 13, emerg. eff. April 29, 1991.

§63-1-1908. Fire safety standards - Vendor payments.

A. No facility shall be licensed to operate or continue to operate unless, in addition to compliance with other current licensure requirements, the building is of one-hour fire resistant construction and approved by the Department and the State Fire Marshal. If the building is not of one-hour fire resistant construction in addition to the other current licensure requirements, the facility must be approved by the State Department of Health and the State Fire Marshal. In addition, the facility must have an approved automatic sprinkler system, as rated and approved by the National Fire Protection Association Standards.

B. Each facility that proposes an increase in beds, whether through new construction or modification, shall submit construction plans to the Department for review prior to the start of construction. The Department may assess a fee for such review in an amount not more than two one-hundredths percent (0.02%) or One Thousand Dollars ($1,000.00), whichever is the least amount, per project of the total construction cost of the facility or modification. The maximum fee for plan review for a ten-bed or ten percent (10%) expansion project authorized under subsection C of Section 1-852 of this title shall be One Thousand Dollars ($1,000.00). The State Board of Health shall promulgate rules for submission and resubmission of construction plans to ensure the timely review of such plans by the Department.

C. The Department of Human Services and the Oklahoma Health Care Authority shall not make a vendor payment to any individual or facility on behalf of any person for medical care rendered in the form of nursing service outside such person's home, unless such individual or facility holds a current nursing facility, continuum of care facility, assisted living, or adult day care license issued by the Commissioner or other state agency authorized to issue such license.

Added by Laws 1980, c. 241, § 8, eff. Oct. 1, 1980. Amended by Laws 1997, c. 223, § 8, emerg. eff. May 20, 1997; Laws 2004, c. 436, § 11, emerg. eff. June 4, 2004.

§63-1-1908.1. Funding source for temporary managers, state monitors or receivers – Nursing Facility Administrative Penalties Fund.

A. The Oklahoma Health Care Authority shall amend the state Medicaid plan to provide a funding source for payment of temporary managers, state monitors or receivers in facilities certified to

provide long-term care services under Medicaid, upon request of the State Department of Health, pursuant to 42 U.S.C.A., Section 1396r(h)(z).

B. There is hereby created in the State Treasury a revolving fund for the State Department of Health to be designated the "Nursing Facility Administrative Penalties Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the State Department of Health from administrative penalties imposed under the Nursing Home Care Act. Monies collected as a result of administrative penalties imposed under the Nursing Home Care Act shall be deposited into the fund. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Department for the protection of health or property of residents of nursing and specialized nursing facilities that have been placed under temporary managers, state monitors or receivers requested by the Department, including, but not limited to, the following purposes:

1. Relocation expenses incurred by the Department, in the event of closure of a facility;

2. Maintenance of facility operation pending correction of deficiencies or closure, such as temporary management, state monitor or receivership, in the event that the revenues of the facility are insufficient; or

3. The costs associated with informational meetings held by the Department with residents, family members, and interested parties in an affected community where the Department proceeds with appointment of a temporary manager, state monitor or receivership petition.

Added by Laws 1995, c. 230, § 10, eff. July 1, 1995. Amended by Laws 2002, c. 230, § 5, eff. Nov. 1, 2002.

§63-1-1909. Documents and papers required to be displayed.

Every long-term care facility as defined by Section 3 of this act shall conspicuously post for display in an area of its offices accessible to residents, employees and visitors the following:

1. Its current license;

2. A description, provided by the State Department of Health, of complaint procedures established under this act and the name, address and telephone number of a person authorized by the Department to receive complaints. A copy of the complaint procedure shall also be given to each resident or in certain cases, the court appointed guardian;

3. A copy of any order pertaining to the facility issued by the Department or a court which is currently in effect;

4. A copy of any notification from the local law enforcement authority of the registration of any person residing in the facility who is required to register pursuant to the provisions of the Sex

Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act; and

5. A list of the material available for public inspection under Section 1-1910 of this title.

Added by Laws 1980, c. 241, § 9, eff. Oct. 1, 1980. Amended by Laws 2005, c. 465, § 1, emerg. eff. June 9, 2005.

§63-1-1910. Records required to be retained for public inspection.

A facility shall retain the following for public inspection:

1. A complete copy of every inspection report of the facility received from the Department during the past three (3) years;

2. A copy of every order pertaining to the facility issued by the Department or a court during the past three (3) years;

3. A description of the services provided by the facility and the rates charged for those services and items for which a resident may be separately charged;

4. A copy of the statement of ownership;

5. A record of personnel who are licensed, certified or registered and employed or retained by the facility who are responsible for patient care; and

6. A complete copy of the most recent inspection report of the facility received from the Department.

Laws 1980, c. 241, § 10, eff. Oct. 1, 1980.

§63-1-1911. Inspections - Meetings - Reports - Departmental files.

A. 1. Every building, institution, or establishment for which a license has been issued, including any facility operated by the Oklahoma Department of Veterans Affairs, shall be periodically inspected by a duly appointed representative of the State Department of Health, pursuant to rules promulgated by the State Board of Health with the advice and counsel of the Long-Term Care Facility Advisory Board, created in Section 1-1923 of this title.

2. Inspection reports shall be prepared on forms prescribed by the Commissioner with the advice and counsel of the Advisory Board.

B. 1. The Department, whenever it deems necessary, shall inspect, survey, and evaluate every facility, including any facility operated by the Oklahoma Department of Veterans Affairs, to determine compliance with applicable licensure and certification requirements and standards. All inspections of facilities shall be unannounced. The Department may have as many unannounced inspections as it deems necessary.

2. The Department shall conduct at least one unannounced inspection per calendar year of all nursing facilities operated by the Oklahoma Department of Veterans Affairs.

3. Any employee of the State Department of Health who discloses to any unauthorized person, prior to an inspection, information regarding an unannounced nursing home inspection required pursuant

to the provisions of this section shall, upon conviction thereof, be guilty of a misdemeanor. In addition, such action shall be construed to be a misuse of office and punishable as a violation of rules promulgated by the Ethics Commission.

4. a. The Department may periodically visit a facility for the purpose of consultation and may notify the facility in advance of such a visit. An inspection, survey, or evaluation, other than an inspection of financial records or a consultation visit, shall be conducted without prior notice to the facility.

b. One person shall be invited by the Department from a statewide organization of the elderly to act as a citizen observer in unannounced inspections. The individual may be a state or local ombudsman as defined by the Aging Services Division of the Department of Human Services, acting pursuant to the provisions of the Older Americans Act of 1965, Public Law No. 89-73, 42 U.S.C.A., Section 3001 et seq., as amended.

c. The citizen observer shall be reimbursed for expenses in accordance with the provisions of the State Travel Reimbursement Act.

d. An employee of a state or unit of a local government agency, charged with inspecting, surveying, and evaluating facilities, who aids, abets, assists, conceals, or conspires with a facility administrator or employee in violation of the provisions of the Nursing Home Care Act shall be guilty, upon conviction thereof, of a misdemeanor and shall be subject to dismissal from employment.

C. The Department shall hold open meetings, as part of its routine licensure survey, in each of the licensed facilities to advise and to facilitate communication and cooperation between facility personnel and the residents of facilities in their mutual efforts to improve patient care. Administrators, employees of the facility, residents, residents' relatives, friends, residents' representatives, and employees from appropriate state and federal agencies shall be encouraged to attend these meetings to contribute to this process.

D. 1. The Department shall require periodic reports and shall have access to books, records, and other documents maintained by the facility to the extent necessary to implement the provisions of the Nursing Home Care Act and the rules promulgated pursuant thereto.

2. Any holder of a license or applicant for a license shall be deemed to have given consent to any authorized officer, employee, or agent of the Department to enter and inspect the facility in accordance with the provisions of the Nursing Home Care Act.

Refusal to permit said entry or inspection, except for good cause, shall constitute grounds for remedial action or administrative penalty or both such action and penalty as provided in the Nursing Home Care Act.

E. The Department shall maintain a file on each facility in the state. All conditions and practices not in compliance with applicable standards shall be specifically stated. If a violation is corrected or is subject to an approved plan of correction, such action shall be contained in the file. Upon receiving a written request for a copy of the file documents, the Department shall send a copy of the document to any person making the written request. The Department may charge a reasonable fee for copying costs.
Added by Laws 1980, c. 241, § 11, eff. Oct. 1, 1980. Amended by Laws 1984, c. 39, § 1, operative July 1, 1984; Laws 1987, c. 98, § 24, emerg. eff. May 20, 1987; Laws 1991, c. 127, § 6, emerg. eff. April 29, 1991; Laws 1995, c. 230, § 11, eff. July 1, 1995; Laws 2000, c. 340, § 15, eff. July 1, 2000; Laws 2013, c. 379, § 2, emerg. eff. May 29, 2013.

§63-1-1912. Notice of violation and right to hearing – Emergency orders - Appeal.

A. The State Department of Health shall promptly serve a notice of violation upon a licensee whenever, upon inspection or investigation, the Department determines that:

1. The facility is in violation of the Nursing Home Care Act, any rule promulgated thereunder, or applicable federal certification criteria; or

2. The financial condition of the facility poses an immediate risk to the proper operation of the facility or to the health, safety or welfare of the residents of the facility.

B. Each notice of violation shall be prepared in writing and shall specify the nature of the violation, and the statutory provision, rule or standard alleged to have been violated. The notice of violation shall inform the licensee of its obligation to file a plan of correction within ten (10) working days of receipt of the notice of violation. In the case of a specialized facility for persons with mental retardation, the Department shall offer the licensee an informal opportunity comparable to the process offered to Medicaid-certified nursing facilities pursuant to 42 CFR 488.331, in order to dispute the alleged violations.

C. The Department shall notify the licensee of its intent to take any remedial action, impose administrative penalties, place a monitor or temporary manager in the facility, issue a conditional license, or suspend or revoke a license. The Department shall also inform the licensee of the right to an informal dispute resolution, hearing, or both.

D. Whenever the Department finds that an emergency exists requiring immediate action to protect the health, safety or welfare of any resident of a facility licensed pursuant to the provisions of the Nursing Home Care Act, the Department may, without notice of hearing, issue an order stating the existence of such an emergency and requiring that action be taken as deemed necessary by the Department to meet the emergency. The order shall be effective immediately. Any person to whom such an order is directed shall comply with such order immediately but, upon application to the Department, shall be afforded a hearing within ten (10) business days of receipt of the application. On the basis of such hearing, the Department may continue the order in effect, revoke it, or modify it. Any person aggrieved by such order continued after the hearing provided in this subsection may appeal to the district court in Oklahoma County within thirty (30) days. Such appeal when docketed shall have priority over all cases pending on the docket, except criminal cases. For purposes of this subsection, the State Board of Health shall define by rule the term "emergency" to include, but not be limited to, a life-endangering situation.

E. Within thirty (30) days of receipt of a plan of correction by the State Department of Health from any facility operated by the Oklahoma Department of Veterans Affairs, the State Department of Health shall submit the results of the inspection, including a list of deficiencies in the condition or operation of the facility and recommendations for corrective measures in the form of a written report to the person immediately responsible for the administration of the facility inspected, to the Oklahoma Department of Veterans Affairs, to the Governor, to the Speaker of the House of Representatives, and to the President Pro Tempore of the Senate.

F. At the conclusion of an inspection, survey, or investigation, the survey team's observations and preliminary findings shall be discussed in an exit conference with the facility personnel. During the exit conference, the facility shall be provided with the opportunity to discuss and supply additional information that they believe is pertinent to the preliminary findings. The following shall be provided to the facility:

1. A written list containing preliminary areas of potential noncompliance with state requirements based on findings during the survey, inspection or investigation. The information provided should be adequate to notify staff of surveyor concerns regarding preliminary findings that indicate actual harm or substandard quality of care; and

2. Any additional noncompliance with state requirements determined during the review of field notes or in preparation of the final survey report will be communicated to the facility personnel by email or phone before issuing the final survey report.

Added by Laws 1980, c. 241, § 12, eff. Oct. 1, 1980. Amended by Laws 1991, c. 127, § 7, emerg. eff. April 29, 1991; Laws 1995, c. 230, § 12, eff. July 1, 1995; Laws 2002, c. 230, § 6, eff. Nov. 1, 2002; Laws 2005, c. 460, § 1, eff. Nov. 1, 2005; Laws 2013, c. 379, § 3, emerg. eff. May 29, 2013; Laws 2014, c. 251, § 1, eff. Nov. 1, 2014.

§63-1-1913. Repealed by Laws 1991, c. 127, § 13, emerg. eff. April 29, 1991.

§63-1-1914. Plan of correction of violations to be submitted - Report of correction - Petition for time extension - Contest of department action.

A. A facility shall have ten (10) working days after receipt of notice of violation in which to prepare and submit a plan of correction. The plan of correction shall include a fixed time period, not to exceed sixty (60) days within which the violations are to be corrected. The Department may extend this period where correction involves substantial structural improvement. If the Department rejects a plan of correction, it shall send notice of the rejection and the reason for the rejection to the facility. The facility shall have ten (10) working days after receipt of the notice of rejection in which to submit a modified plan. If the modified plan is not timely submitted, or if the modified plan is rejected, the Department shall impose a plan of correction which the facility shall follow.

B. If the violation has been corrected prior to submission and approval of a plan of correction, the facility may submit a report of correction in place of a plan of correction.

C. Upon a licensee's written request, the Department shall determine whether to grant a licensee's request for an extended correction time. Such request shall be served on the Department prior to expiration of the correction time originally approved. The burden of proof shall be on the licensee to show good cause for not being able to comply with the original correction time approved.

D. If a facility desires to contest any Department action under this section, it shall send a written request for an informal dispute resolution, hearing or both to the Department within ten (10) working days of receipt of notice of the contested action and the Department shall commence the informal dispute resolution or hearing.

Added by Laws 1980, c. 241, § 14, eff. Oct. 1, 1980. Amended by Laws 1995, c. 230, § 13, eff. July 1, 1995; Laws 2005, c. 460, § 2, eff. Nov. 1, 2005.

§63-1-1914.1. Remedies for violations - Considerations in determining appropriate remedy.

A. For violations of the Nursing Home Care Act, the rules promulgated thereto, or Medicare/Medicaid certification regulations:

1. The State Department of Health shall seek remedial action against a licensee, owner or operator of a facility and may, after notice and opportunity for a hearing, impose the remedy most likely to:

a. gain and ensure continued compliance with the Nursing Home Care Act, the rules promulgated thereto, or federal certification standards or both rules and standards, or

b. provide for the financial operation of the facility that ensures the health, safety and welfare of the residents;

2. In the alternative or in addition to any remedial action, the State Commissioner of Health may direct the Oklahoma Health Care Authority to withhold vendor payments due to a facility under its programs until such time as the corrections are made;

3. The Department may deny, refuse to renew, suspend or revoke a license, ban future admissions to a facility, assess administrative penalties, or issue a conditional license; and

4. a. Pursuant to an investigation or inspection that reveals a willful violation of rules pertaining to minimum direct-care staffing requirements, the Commissioner shall notify the Oklahoma Health Care Authority and the Authority shall withhold as a penalty a minimum of twenty percent (20%) of the vendor payments due the facility under its programs for each day such violation continues.

b. The Commissioner shall impose an equivalent penalty amount under licensure standards for a facility that does not receive vendor payments under its program that is in willful violation of rules pertaining to minimum direct-care staffing requirements.

B. Whenever the Department takes remedial action against a facility because the financial condition of the facility has endangered or is at risk of endangering the proper operation of the facility or the health, safety or welfare of the residents of the facility, the Department shall also review the conditions of all other facilities in this state owned or operated by a person with a controlling interest as defined Section 1-851.1 of this title, and may take remedial action against the facilities as necessary or appropriate.

C. Remedial action as provided in subsection A or B of this section shall be based on current and past noncompliance or incomplete or partial compliance; repeated violations; or failure to substantially comply with the Nursing Home Care Act and rules

promulgated thereto. In determining the most appropriate remedy, the Department shall consider at least the following:

1. The nature, circumstances and gravity of the violations;

2. The repetitive nature of the violations at the facility or others operated by the same or related entities;

3. The previous degree of difficulty in obtaining compliance with the rules at the facility or others operated by the same or related entities; and

4. A clear demonstration of good faith in attempting to achieve and maintain continuing compliance with the provisions of the Nursing Home Care Act.

Added by Laws 1995, c. 230, § 14, eff. July 1, 1995. Amended by Laws 2000, c. 340, § 16, eff. July 1, 2000; Laws 2002, c. 230, § 7, eff. Nov. 1, 2002; Laws 2005, c. 460, § 3, eff. Nov. 1, 2005.

§63-1-1914.2. Temporary managers.

A. The State Commissioner of Health may place a qualified person in a facility as a temporary manager to assume operating control of the facility and to ensure that the health and safety of the residents of the facility are protected when any of the following conditions exist:

1. The conditions at the facility pose immediate jeopardy to the health and safety of the residents of the facility;

2. The facility is operating without a license;

3. The State Department of Health has suspended, revoked or refused to renew the existing license of the facility;

4. The financial condition of the facility poses an immediate risk to the proper operation of the facility or to the health, safety or welfare of the residents of the facility;

5. The facility has closed or has informed the Department that it intends to close and adequate arrangements for the relocation of residents have not been made at least thirty (30) days prior to closure; or

6. The Department has terminated certification status under Medicare/Medicaid.

B. The Department shall notify the owner or operator of the action taken, the reason or reasons why such action was taken, and the right of the owner or operator to have a hearing on the matter.

C. Any owner or operator subject to placement of a temporary manager may appeal such action by filing a petition for hearing with the district court within five (5) days of the appointment of a temporary manager. The court shall conduct the hearing within ten (10) days of the filing of such petition. On the basis of the hearing, the court may continue the order in effect, revoke it or modify it. The petition for hearing, when docketed, shall have priority over all cases pending on the docket except criminal cases.

D. All funds due or available to the facility from any source, to include funds held by a predecessor temporary manager of the facility, during the pendency of the temporary management shall be made available to the temporary manager who shall use the funds to ensure the health and safety of the residents of the facility. Unless prior written approval has been obtained from the Commissioner for such expenditure, any use of funds for a purpose other than to ensure the health and safety of the residents of the facility shall constitute a breach of the temporary manager's fiduciary duty and a violation of the Nursing Home Care Act.

E. The Commissioner shall establish qualifications for persons to be appointed as temporary managers and shall maintain a list of all such qualified persons. The Commissioner may appoint any person from the list to serve as a temporary manager, provided that the Commissioner shall not appoint any owner or affiliate of the facility as its temporary manager.

F. The temporary manager shall make provisions for the continued protection of the health and safety of all residents of the facility. The temporary manager appointed pursuant to the Nursing Home Care Act shall exercise those powers and shall perform those duties set out by the Commissioner in writing. The Commissioner shall provide for the temporary manager to have sufficient power and duties to ensure that the residents of the facility receive adequate care.

G. If funds are insufficient to meet the expenses of performing the powers and duties conferred on the temporary manager, the temporary manager may borrow the funds or contract for indebtedness as necessary; provided, any such indebtedness shall not be construed to be a debt of the state or made on behalf of the state. The State of Oklahoma is not liable, directly or indirectly, for any liability incurred by any temporary manager in the performance of the manager's official duties pursuant to law. The State Board of Health shall, by rule, establish a fund, to be drawn out of the discretionary funds of the Department, to assist temporary managers in the continuation of care of the residents of a facility where, in the judgment of the Commissioner, funds are not available from other sources; provided, any such advances by the Department shall be repaid by the temporary manager at the time the final account is rendered. If such advances are not repaid in full, any amount not repaid shall constitute a lien against any and all assets of any owner and shall also constitute a lien as provided in paragraph 4 of subsection L of this section.

H. The Commissioner shall set the compensation of the temporary manager, who shall be paid by the facility.

I. A temporary manager may be held liable in a personal capacity only for the manager's gross negligence, intentional acts

or breaches of fiduciary duty. The Commissioner may require a temporary manager to post a bond.

J. The Department shall issue a conditional license to a facility in which a temporary manager is placed. The duration of a license issued under this section is limited to the duration of the temporary managership.

K. The Commissioner shall require that the temporary manager report to the Department on a regular basis as to the progress of the facility in reaching substantial compliance with the Nursing Home Care Act and the rules promulgated thereto, and the establishment of mechanisms which will ensure the continued compliance of the facility.

L. 1. The Commissioner may release the temporary manager under any of the following circumstances:

a. the Commissioner determines that the facility is and will continue to be in substantial compliance with the Nursing Home Care Act and rules promulgated thereto,

b. a receiver or bankruptcy trustee is appointed,

c. the Commissioner appoints a new temporary manager,

d. a new owner, operator, or manager is licensed,

e. the Department, the temporary manager, or the receiver closes the facility through an orderly transfer of the residents, or

f. an administrative hearing or court order ends the temporary manager appointment.

2. a. Within thirty (30) days after release, the temporary manager shall render to the Department a complete accounting of all property of which the temporary manager has taken possession, of all funds collected, and of the expenses of the temporary managership, to include, if requested by the Department, copies of all documents supporting the reasonableness and necessity of such expenditures.

b. The rendition of such accounting may be extended only by order of the Commissioner for cause and shall in no event be extended more than one hundred twenty (120) days after release of the temporary manager.

c. Failure to timely render a complete final accounting in accordance with generally accepted accounting practices shall constitute a breach of the temporary manager’s fiduciary duties.

d. Upon a temporary manager’s default in the timely rendition of a complete final accounting, the Commissioner shall enter an order that the temporary manager is personally liable for all amounts or monies collected for which a final accounting is not made. Such order for disgorgement or remittance directed to

a temporary manager may be filed as a judgment in any district court in the State of Oklahoma, and shall not be dischargeable in bankruptcy or other insolvency proceeding.

3. After a complete accounting, and payment of reasonable expenses incurred as a result of the temporary managership, the Commissioner shall order payment of the surplus to the owner. If funds are insufficient to pay reasonable expenses incurred as a result of the temporary managership, the owner shall be liable for the deficiency. Any funds recovered from the owner shall be used to reimburse any unpaid expenses due and owing as a result of the temporary managership.

4. In order to protect the health, welfare and safety of the residents of any nursing facility for which a temporary manager has been appointed, the Department is authorized to provide the monies from any funds appropriated or otherwise made available to the Department to protect the residents of the nursing facility. The Department shall have a lien for any payment made pursuant to this section upon any beneficial interest, direct or indirect, of any owner in the following property:

a. the building in which the facility is located,
b. any fixtures, equipment or goods used in the operation of the facility,
c. the land on which the facility is located, or
d. the proceeds from any conveyance of property described in subparagraphs a, b, or c of this paragraph made by the owner prior to the order placing the temporary manager.

M. Nothing in the Nursing Home Care Act shall be deemed to relieve any owner, administrator or employee of a facility in which a temporary manager is placed of any civil or criminal liability incurred, or any duty imposed by law, by reason of acts or omissions of the owner, administrator or employee prior to the appointment of a temporary manager; provided, nothing contained in the Nursing Home Care Act shall be construed to suspend during the temporary managership any obligation of the owner, administrator or employee for payment of taxes or other operating and maintenance expenses of the facility or of the owner, administrator, employee or any other person for the payment of mortgages or liens.

N. The Commissioner may institute any legal proceeding to recover any monies or other thing of value determined to have been expended unnecessarily or in an excessive amount necessary for the maintenance of the health and safety of the residents of a facility, or that was expended in violation of the temporary manager’s fiduciary duties, or which expenditure was otherwise unlawful under state or federal law. Such legal proceeding for wrongful expenditure of these funds may be brought against the temporary

manager and against any other person or entity who receives such wrongful expenditure and who was not a bona fide vendor in good faith to the temporary manager, or who was not otherwise a bona fide recipient of such funds in good faith. Costs for such an action by the Department for funds wrongfully expended shall be awarded if the Department prevails, and shall include all court costs, interest at the statutory rate from and after the date of the wrongful expenditure, and a reasonable attorney fee. The temporary manager and the bad faith vendor/recipient shall be jointly and severally liable for all funds wrongfully expended and for all related litigation costs.
Added by Laws 1995, c. 230, § 15, eff. July 1, 1995. Amended by Laws 2002, c. 230, § 8, eff. Nov. 1, 2002; Laws 2005, c. 202, § 1.

§63-1-1914.3. Informal dispute resolution meeting.

A. An informal dispute resolution meeting may be conducted by the State Department of Health.

B. The State Department of Health shall assign all informal dispute resolutions to the unit or section charged with performing survey or inspection activity.
Added by Laws 2005, c. 460, § 4, eff. Nov. 1, 2005.

§63-1-1914.4. Definitions.

For purposes of this act:

1. "Deficiency" means a violation or alleged violation by a facility of applicable state or federal laws, rules, or regulations governing the operation or licensure of a facility;

2. "Deficiency identification number" means an alphanumeric designation of a deficiency by the State Department of Health that denotes the applicable state or federal rule, regulation, or law allegedly violated and that is used on the statement of deficiencies;

3. "Impartial decision maker" means an individual employed by or under contract with the State Department of Health to conduct an informal dispute resolution for the agency;

4. "Informal dispute resolution" means a nonjudicial process or forum before an impartial decision maker that provides a facility cited for deficiency with the opportunity to dispute a citation for deficiency;

5. "Party" means a facility requesting an informal dispute resolution, the State Department of Health, or both;

6. "State survey agency" means the State Department of Health, the federally designated state entity that performs Medicaid and Medicare surveys and inspections of Oklahoma facilities; and

7. "Statement of deficiencies" means a statement prepared by the State Department of Health citing the applicable state or

federal laws, rules, or regulations violated by a facility and the facts supporting the citation.
Added by Laws 2005, c. 460, § 5, eff. Nov. 1, 2005.

§63-1-1914.5. Written request for informal dispute resolution.

A. A facility that wishes to challenge a deficiency through the informal dispute resolution process shall make a written request to the State Department of Health within ten (10) calendar days of the receipt of the statement of deficiencies from the State Department of Health.

B. The written request for an informal dispute resolution shall include:

1. A list of all deficiencies that the facility wishes to challenge; and

2. A statement indicating whether the facility wants the informal dispute resolution to be conducted by telephone conference call, by record review of the impartial decision maker, or by a meeting in which the facility and the State Department of Health appear before the impartial decision maker.

C. A request for an informal dispute resolution shall not:

1. Stay any action for enforcement or imposition of remedies;

2. Affect or preclude the right of a facility to judicial or administrative appeal; or

3. Duplicate any procedures already held under the federal requirements for informal dispute resolution.
Added by Laws 2005, c. 460, § 6, eff. Nov. 1, 2005.

§63-1-1914.6. Informal dispute resolution - Impartial decision maker.

A. Upon receipt of a request for an informal dispute resolution from a facility, the State Department of Health shall assign the matter to an impartial decision maker.

B. The impartial decision maker shall:

1. Schedule a time and date for a meeting; and

2. Inform the parties of the time and date of the informal dispute resolution.

C. If the request for an informal dispute resolution includes a request by the facility for a meeting at which the facility may appear before the impartial decision maker, the impartial decision maker shall:

1. Arrange for facilities appropriate for conducting the meeting; and

2. Inform the parties of the location of the meeting.

D. Each party shall submit to the impartial decision maker all documentary evidence that the party believes has a bearing on or relevance to the deficiencies in dispute by the date specified by the impartial decision maker.

E. 1. If the request for an informal dispute resolution does not include a request by the facility for a meeting at which the facility may appear before the impartial decision maker, or upon agreement of the facility and the Department, the impartial decision maker may conduct the meeting by telephone conference call or by a review of documentary evidence submitted by the parties.

2. a. If the informal dispute resolution is conducted by record review, the impartial decision maker may request, and the facility shall provide, a written statement setting forth the facility's position on accepting, rejecting, or modifying each deficiency in dispute.

b. The written statement shall specify the documentary evidence that supports the position of the facility for each deficiency in dispute.

c. The facility shall provide its written statement to the impartial decision maker and the Department.

d. The Department shall then provide its written statement in rebuttal to the impartial decision maker and the facility.

Added by Laws 2005, c. 460, § 7, eff. Nov. 1, 2005.

§63-1-1914.7. Employment status of impartial decision maker.

The impartial decision maker in the informal dispute resolution process may be an individual employed by or under contract with the State Department of Health.

Added by Laws 2005, c. 460, § 8, eff. Nov. 1, 2005.

§63-1-1914.8. Informal dispute resolution - Procedure.

A. 1. In all informal dispute resolution cases except record review, the State Department of Health shall present the initial arguments.

2. The facility shall then present its arguments.

B. 1. The informal dispute resolution shall be limited to no more than two (2) hours in length, with each party being permitted one (1) hour to present its arguments.

2. However, the impartial decision maker may grant each party additional equal time for good cause as determined by the impartial decision maker.

C. 1. Rules of evidence or procedure shall not apply to the informal dispute resolution except as provided in this section.

2. The impartial decision maker may:

a. accept any information that the impartial decision maker deems material to the issue being presented, and

b. reject any information that the impartial decision maker deems immaterial to the issue being presented.

D. 1. The informal dispute resolution may not be recorded.

2. However, the impartial decision maker may make written or recorded notes of the arguments.

E. Only employees of the facility, attending physicians of residents of the facility at the time of the deficiency, pharmacists providing medications to residents of the facility at the time of the deficiency, and consultant pharmacists or nurse consultants utilized by the facility, or the medical director of the facility may appear or participate in the informal dispute resolution for, or on the behalf of, the facility.

F. Only employees of the Department may appear or participate at the meeting for, or on behalf of, the Department.

G. The State Long-Term Care Ombudsman, or designee, may appear at, or participate in, the meeting.

H. No party may be represented by an attorney.

Added by Laws 2005, c. 460, § 9, eff. Nov. 1, 2005.

§63-1-1914.9. Determinations - Impartial decision maker – State survey agency.

A. 1. Upon the conclusion of all arguments by the parties at the informal dispute resolution, the impartial decision maker shall issue a written statement of findings that shall be entitled "Determinations".

2. The determinations shall include:

a. a recitation of the deficiency identification numbers,

b. a statement of whether a disputed deficiency should remain, be removed, or be modified on the statement of deficiencies, and

c. the facts and persuasive arguments that support the finding of the impartial decision maker for each deficiency identification number.

B. 1. The determination of the impartial decision maker shall be provided to all parties.

2. The State Department of Health shall review the determination and shall issue a written document entitled "State Survey Agency Determination".

C. A state survey agency determination is not subject to appeal, reargument, or reconsideration.

D. The Department shall deliver a copy of the state survey agency determination to the facility and to the impartial decision maker.

E. 1. In accordance with the state survey agency determination, the Department shall issue an amended state of deficiencies if the state survey agency determination results in modification to any deficiencies cited in the original statement of deficiencies.

2. If the Department determines that amendments to the statement of deficiencies should result in changes to the scope or

severity assigned to any deficiency, the amended statement of deficiencies shall reflect the changes to the scope or severity of any cited deficiency.

F. The amended statement of deficiencies shall be provided to the facility.

Added by Laws 2005, c. 460, § 10, eff. Nov. 1, 2005.

§63-1-1914.10. Deficiencies.

A. The informal dispute resolution process is limited to deficiencies cited on a statement of deficiencies.

B. 1. If the impartial decision maker finds that matters not subject to informal dispute resolution are presented, the impartial decision maker shall strike all documentary evidence related to or presented for the purpose of disputing the matter not subject to informal dispute resolution.

2. The impartial decision maker may not include in the determination any matter not subject to informal dispute resolution.

Added by Laws 2005, c. 460, § 11, eff. Nov. 1, 2005.

§63-1-1914.11. Alternative informal dispute resolution - Definitions.

For purposes of Sections 3 through 8 of this act:

1. "Impartial decision-making panel" means a group of individuals who are qualified volunteers and employees or contractors with the State Department of Health and shall consist of five (5) members as follows:

a. two members shall be impartial representative volunteers who have experience in the operation of a long-term care setting, such as an administrator, operator or director of nursing,

b. one member shall be an employee of the Department who has experience in the survey process,

c. one member shall be a person representing the aging or disabled community, and

d. one member shall be an impartial person who is not employed by the Protective Health Services, Long-Term Care Division of the State Department of Health; and

2. "Alternative informal dispute resolution" means a nonjudicial process or forum before an impartial decision-making panel that provides a facility cited for deficiency with the opportunity to dispute a citation for deficiency within the pilot program established in Sections 3 through 8 of this act.

Added by Laws 2007, c. 347, § 3, eff. Nov. 1, 2007.

§63-1-1914.12. Alternative informal dispute resolution.

Upon written request, a long-term care facility may choose to participate in an informal dispute resolution panel to be offered by

the State Department of Health as an alternative to the informal dispute resolution process outlined in Sections 1-1914.3 through 1-1914.10 of this title.
Added by Laws 2007, c. 347, § 4, eff. Nov. 1, 2007. Amended by Laws 2009, c. 56, § 1, eff. Nov. 1, 2009.

§63-1-1914.13. Request for alternative informal dispute resolution - Meeting with impartial decision-making panel.

A. Upon receipt of a request for an alternative informal dispute resolution from a facility, the State Department of Health shall assign the matter to an impartial decision-making panel.

B. The Department shall:

1. Schedule a time and date for a meeting; and

2. Inform the parties of the time and date of the alternative informal dispute resolution.

C. If the request for an alternative informal dispute resolution includes a request by the facility for a meeting at which the facility may appear before the decision-making panel, the Department shall:

1. Arrange for facilities appropriate for conducting the meeting; and

2. Inform the parties of the location of the meeting.

D. Each party shall submit to the impartial decision-making panel all documentary evidence that the party believes has a bearing on or relevance to the deficiencies in dispute by the date specified by the Department.

E. 1. If the request for an alternative informal dispute resolution does not include a request by the facility for a meeting at which the facility may appear before the impartial decision-making panel, or upon agreement of the facility and the Department, the impartial decision-making panel may conduct the meeting by telephone conference call or by a review of documentary evidence submitted by the parties.

2. a. If the alternative informal dispute resolution is conducted by record review, the impartial decision-making panel may request, and the facility shall provide, a written statement setting forth the facility's position on accepting, rejecting, or modifying each deficiency in dispute.

b. The written statement shall specify the documentary evidence that supports the position of the facility for each deficiency in dispute.

c. The facility shall provide its written statement to the impartial decision-making panel and the Department.

d. The Department shall then provide its written statement in rebuttal to the impartial decision-making panel and the facility.

Added by Laws 2007, c. 347, § 5, eff. Nov. 1, 2007.

§63-1-1914.14. Alternative informal dispute resolution - Procedure - Evidence.

A. 1. In all alternative informal dispute resolution cases except record review, the State Department of Health shall present the initial arguments.

2. The facility shall then present its arguments.

B. 1. The alternative informal dispute resolution shall be limited to no more than two (2) hours in length, with each party being permitted one (1) hour to present its arguments;

2. However, the impartial decision-making panel may grant each party additional equal time for good cause as determined by the impartial decision making-panel.

C. 1. Rules of evidence or procedure shall not apply to the alternative informal dispute resolution except as provided in this section.

2. The impartial decision-making panel may:

a. accept any information that the impartial decision-making panel deems material to the issue being presented, and

b. reject any information that the impartial decision-making panel deems immaterial to the issue being presented.

D. 1. The alternative informal dispute resolution may not be recorded.

2. However, the impartial decision-making panel may make written or recorded notes of the arguments.

E. Only employees of the facility, attending physicians of residents of the facility at the time of the deficiency, pharmacists providing medications to residents of the facility at the time of the deficiency, and consultant pharmacists or nurse consultants utilized by the facility, or the medical director of the facility, may appear or participate in the alternative informal dispute resolution for, or on the behalf of, the facility.

F. Only employees of the Department may appear or participate at the meeting for, or on behalf of, the Department.

G. The State Long-Term Care Ombudsman or designee, may appear at, or participate in, the meeting.

H. No party may be represented by an attorney.

Added by Laws 2007, c. 347, § 6, eff. Nov. 1, 2007.

§63-1-1914.15. Alternative informal dispute resolution - Determinations - State survey agency determination - Amended statement of deficiencies.

A. 1. Upon the conclusion of all arguments by the parties at the alternative informal dispute resolution, the impartial decision-making panel shall issue a written statement of findings that shall be entitled "Determinations".

2. The determinations shall include:

a. a recitation of the deficiency identification numbers,

b. a statement of whether a disputed deficiency should remain, be removed, or be modified on the statement of deficiencies, and

c. the facts and persuasive arguments that support the finding of the impartial decision-making panel for each deficiency identification number.

B. 1. The determination of the impartial decision-making panel shall be provided to all parties.

2. The State Department of Health shall review the determination and shall issue a written document entitled "State Survey Agency Determination".

C. A state survey agency determination is not subject to appeal, reargument, or reconsideration.

D. The Department shall deliver a copy of the state survey agency determination to the facility and to the impartial decision-making panel.

E. 1. In accordance with the state survey agency determination, the Department shall issue an amended state of deficiencies if the state survey agency determination results in modification to any deficiencies cited in the original statement of deficiencies.

2. If the Department determines that amendments to the statement of deficiencies should result in changes to the scope or severity assigned to any deficiency, the amended statement of deficiencies shall reflect the changes to the scope or severity of any cited deficiency.

F. The amended statement of deficiencies shall be provided to the facility.

Added by Laws 2007, c. 347, § 7, eff. Nov. 1, 2007.

§63-1-1914.16. Alternative informal dispute resolution - Limitation of matters.

A. The alternative informal dispute resolution process is limited to deficiencies cited on a statement of deficiencies.

B. 1. If the impartial decision-making panel finds that matters not subject to alternative informal dispute resolution are presented, the impartial decision-making panel shall strike all documentary evidence related to or presented for the purpose of

disputing the matter not subject to alternative informal dispute resolution.

2. The impartial decision-making panel may not include in the determination any matter not subject to alternative informal dispute resolution.

Added by Laws 2007, c. 347, § 8, eff. Nov. 1, 2007.

§63-1-1915. Repealed by Laws 1995, c. 230, § 21, eff. July 1, 1995.

§63-1-1916. Prohibited acts - Violations - Prosecution.

A. No person, including any person at any facility operated by the Oklahoma Department of Veterans Affairs, shall:

1. Intentionally fail to correct or interfere with the correction of a violation within the time specified on the notice or approved plan of correction under this act as the maximum period given for correction, unless an extension is granted and the corrections are made before expiration of extension;

2. Intentionally prevent, interfere with, or attempt to impede in any way the work of any duly authorized representative of the Department in the investigation and enforcement of this act;

3. Intentionally prevent or attempt to prevent any such representative from examining any relevant books or records in the conduct of official duties under this act;

4. Intentionally prevent or interfere with any such representative in the preserving of evidence of any violation of this act or the rules promulgated under this act;

5. Intentionally retaliate or discriminate against any resident or employee for contacting or providing information to any state official, or for initiating, participating in, or testifying in an action for any remedy authorized under this act;

6. Willfully file any false, incomplete or intentionally misleading information required to be filed under this act, or willfully fail or refuse to file any information; or

7. Open or operate a facility without a license.

B. A violation of this section is a misdemeanor.

C. The district attorney of the county in which the facility is located, or the Attorney General, may be requested by the Department to initiate prosecutions under this section.

Added by Laws 1980, c. 241, § 16, eff. Oct. 1, 1980. Amended by Laws 2013, c. 379, § 4, emerg. eff. May 29, 2013.

§63-1-1916.1. Violations - Penalties - Criteria for determination of amount of penalty - Appeal - Surrender of license.

A. Any person who has been determined by the State Department of Health to have violated any provision of the Nursing Home Care Act or any rule promulgated or order issued pursuant to the provisions of the Nursing Home Care Act, may be liable for an

administrative penalty for each day that said violation or violations continue to exist. Penalties of not less than Fifty Dollars ($50.00) per day or more than Three Thousand Dollars ($3,000.00) per day may be imposed for deficiencies that do not constitute immediate jeopardy to residents. Penalties of not less than Three Thousand Fifty Dollars ($3,050.00) per day or more than Ten Thousand Dollars ($10,000.00) per day may be imposed for deficiencies constituting immediate jeopardy to residents; provided, however, that specialized facilities for the developmentally disabled or nursing facilities licensed pursuant to this act, which do not participate in Medicaid or Medicare, shall be liable for the maximum penalty, not to exceed Ten Thousand Dollars ($10,000.00) for any related series of violations.

B. The amount of the penalty shall be assessed by the Department pursuant to the provisions of subsection A of this section, after notice and opportunity for hearing. Within ten (10) working days of the inspection documenting the violation, the facility may appeal this decision pursuant to Article II of the Administrative Procedures Act. In determining the amount of the penalty, the Department shall include, but not be limited to, consideration of the nature, circumstances and gravity of the violation, the repetitive nature of the violation at this facility or others operated by the same entity, the previous degree of difficulty in obtaining compliance with the rules, and, with respect to the person found to have committed the violation, the degree of culpability, the facility's financial condition and substantial show of good faith in attempting to achieve compliance with the provisions of the Nursing Home Care Act.

C. Any license holder may elect to surrender his license in lieu of said fine but shall be forever barred from obtaining a reissuance of the license or any other license issued pursuant to the Nursing Home Care Act.

Added by Laws 1989, c. 227, § 30, operative July 1, 1989. Amended by Laws 1991, c. 127, § 9, emerg. eff. April 29, 1991; Laws 1995, c. 230, § 16, eff. July 1, 1995.

§63-1-1916.2. Denial, refusal to renew, suspension or revocation of license.

The State Department of Health may deny, refuse to renew, suspend or revoke a license or assess administrative penalties to an applicant, licensee, or facility which has a history of noncompliance or incomplete or partial compliance with or repeated violations of the provisions of the Nursing Home Care Act or the standards, rules or regulations of the Board issued pursuant to the provisions of the Nursing Home Care Act or other satisfactory evidence which demonstrates that the applicant or licensee is unlikely to manage or operate a facility or to provide care or

treatment to the residents of a home in a manner which warrants public trust.
Added by Laws 1989, c. 227, § 31. Amended by Laws 1991, c. 127, § 10, emerg. eff. April 29, 1991.

§63-1-1917. State agencies to assist in carrying out provisions of act.

It shall be the duty of the Department of Human Services and the Director of the Oklahoma State Bureau of Investigation to assist the Commissioner in carrying out the provisions of this act insofar as the functions of these respective offices and departments are concerned with the health, welfare and safety of any person or persons cared for in facilities as defined herein.
Laws 1980, c. 241, § 17, eff. Oct. 1, 1980.

§63-1-1918. Rights and responsibilities - Violations - Penalties.

A. All principles enumerated in this section shall be posted in a conspicuous, easily accessible location in each facility. Each resident and personally appointed representative of the resident, if any, shall be verbally advised and provided a written copy of such principles prior to or upon admission to the facility. The facility shall ensure that its staff is familiar with and observes the rights and responsibilities enumerated in this section. The facility shall make available to each resident, upon reasonable request, a current written statement of such rights and responsibilities.

B. A statement of rights and responsibilities shall include, but not be limited to, the following:

1. Every resident's civil and religious liberties, including the right to independent personal decisions and knowledge of available choices, shall not be infringed upon and the facility shall encourage and assist in the exercise of these rights;

2. Every resident shall have the right to have private communications, including telephonic communications and visits and consultations with a physician or an attorney, and meetings of family and resident groups or any other person or persons of the resident's choice, and may send and promptly receive, unopened, the resident's personal mail;

3. a. Every resident shall have the right, without fear of reprisal or discrimination, to:

(1) present grievances with respect to treatment or care that is or fails to be furnished on behalf of the resident or others to:

(a) the facility's staff,

(b) the facility's administrator,

(c) the facility's attending physician,

(d) the resident's personal physician, if any,

(e) governmental officials, or

(f) any other person, and

(2) organize or to join with other residents or individuals within or outside of the facility to work for improvements in resident care.

b. The family of a resident shall have the right to meet in the facility with other residents' families.

c. Every resident shall have the right to prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents;

4. Every resident shall have the right to manage such resident's own financial affairs, unless the resident delegates the responsibility, in writing, to the facility. The resident shall have at least a quarterly accounting of any personal financial transactions undertaken in the resident's behalf by the facility during any period of time the resident has delegated such responsibilities to the facility;

5. Every resident shall have the right to receive adequate and appropriate medical care consistent with established and recognized medical practice standards within the community. Every resident, unless adjudged to be mentally incapacitated, shall be fully informed by the resident's attending physician of the resident's medical condition and advised in advance of proposed treatment or changes in treatment in terms and language that the resident can understand, unless medically contraindicated, and to participate in the planning of care and treatment or changes in care and treatment. Every resident shall have the right to refuse medication and treatment after being fully informed of and understanding the consequences of such actions unless adjudged to be mentally incapacitated;

6. Every resident shall receive respect and privacy in the medical care program of the resident. Case discussion, consultation, examination and treatment shall remain confidential and shall be conducted discreetly. Personal and medical records shall be confidential, and shall include such documentation or information so as to alert a health care provider or an emergency medical care facility of the existence of a directive to physicians or a living will;

7. Every resident shall have the right to reside and to receive services with reasonable accommodation of individual needs and preferences, except where the health or safety of the individual or other residents would be endangered;

8. a. Every resident shall be informed by the facility, at the time of admission, of the facility's policy regarding the provision of hospice services. The facility's policy shall:

(1) specify whether the facility provides hospice services, either directly or through contractual arrangements with other hospice providers,
(2) specify whether the facility permits hospice services to be provided in the facility by any other hospice services or only by hospice services contracted by the facility,
(3) provide that each resident shall receive a list of hospice services with which the facility contracts, and
(4) provide for complete disclosure to the resident of the facility's relationship with any hospice service that is the result of ownership or an ownership interest of five percent (5%) or more.

b. If the facility provides hospice services through contractual arrangements with hospice providers but does not contract with at least three entities providing hospice services within a fifty-mile radius of the facility, it shall, upon the request of a current facility resident, contract with additional hospice providers within a fifty-mile radius of the facility as necessary to provide the resident with a choice of three providers. This requirement shall cease to exist when the requesting resident is no longer living in the facility.

c. A facility shall, at the point that a resident requires hospice services, again inform the resident or the personally appointed representative of the resident, if any, verbally and in writing of the resident's right to hospice services pursuant to the facility's policy at the time of the resident's admission;

9. Every resident shall have the right to receive notice before the room or roommate of the resident in the facility is changed and if the resident has a telephone in his or her room, the resident must be informed of any charges to be incurred when moving;

10. Every resident shall have the right to retain and use personal clothing and possessions, unless medically contraindicated, and shall have the right to security in the storage and use of such clothing and possessions;

11. Every resident shall have the right to receive courteous and respectful care and treatment and a written statement of the services provided by the facility, including those required to be offered on an as-needed basis, and a statement of related charges, including any costs for services not covered under Medicare or Medicaid, or not covered by the facility's basic per diem rate;

12. Every resident shall be free from mental and physical abuse and neglect, as such terms are defined in Section 10-103 of Title 43A of the Oklahoma Statutes, corporal punishment, involuntary seclusion, and from any physical and chemical restraints imposed for purposes of discipline or convenience and not required to treat the resident's medical symptoms, except those restraints authorized in writing by a physician for a specified period of time or as are necessitated by an emergency where the restraint may only be applied by a physician, qualified licensed nurse or other personnel under the supervision of the physician who shall set forth in writing the circumstances requiring the use of restraint. Use of a chemical or physical restraint shall require the consultation of a physician within twenty-four (24) hours of such emergency;

13. Every resident shall receive a statement of the facility's regulations and an explanation of the resident's responsibility to obey all reasonable regulations of the facility and to respect the personal rights and private property of the other residents;

14. Every resident shall receive a statement that, should they be adjudicated incompetent and have no ability to be restored to legal capacity, the above rights and responsibilities shall be exercised by a court-appointed representative;

15. No resident shall be required to perform services for a facility;

16. Every resident shall have privacy for spousal visits. Every resident may share a room with the resident's spouse, if the spouse is residing in the same facility;

17. When a physician indicates it is appropriate, a facility shall immediately notify the resident's next of kin, or representative of the resident's death or when the resident's death appears to be imminent;

18. Every resident shall have the right to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility; and

19. Every resident shall have the right to examine, upon reasonable request, the results of the most recent survey of the facility conducted by the State Department of Health with respect to the facility and any plan of correction in effect with respect to the facility.

C. No licensed facility shall deny appropriate care on the basis of the resident's source of payment as defined in the regulations. Appropriate care shall not include duplication of services by a nursing home, hospice, or any combination of care providers.

D. Each facility shall prepare a written plan and provide appropriate staff training to implement each resident's rights as stated in this section.

E. Any person convicted of violating any provisions of this section shall be guilty of a misdemeanor, punishable by a fine of not less than One Hundred Dollars ($100.00), nor more than Three Hundred Dollars ($300.00), or imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

F. In addition to the penalties provided in this section, an action may be brought against an individual by any resident who is injured by any violation of this section, or who shall suffer injury from any person whose threats would cause a violation of this section if carried through, may maintain an action to prevent, restrain or enjoin a violation or threatened violation. If a violation or threatened violation of this section shall be established in any action, the court shall enjoin and restrain or otherwise prohibit the violation or threatened violation and assess in favor of the plaintiff and against the defendant the cost of the suit. If damages are alleged and proved in the action, the plaintiff shall be entitled to recover from the defendant the actual damages sustained by the plaintiff. If it is proved in an action that the defendant's conduct was willful or in reckless disregard of the rights provided by this section, punitive damages may be assessed.

G. Any employee of a state agency that inspects any nursing facility or special facility shall report any flagrant violations of this act or any other statute to the administrative head of the state agency, who shall immediately take whatever steps are necessary to correct the situation including, when appropriate, reporting the violation to the district attorney of the county in which the violation occurred.

H. Upon the death of a resident who has no sources of payment for funeral services, the facility shall immediately notify appropriate county officials who shall be responsible for funeral and burial procedures of the deceased in the same manner as with any indigent resident of the county.

Added by Laws 1980, c. 241, § 18, eff. Oct. 1, 1980. Amended by Laws 1981, c. 182, § 3; Laws 1982, c. 171, § 1; Laws 1991, c. 127, § 11, emerg. eff. April 29, 1991; Laws 1992, c. 173, § 1, emerg. eff. May 5, 1992; Laws 1996, c. 231, § 4, eff. July 1, 1996; Laws 2001, c. 393, § 3, emerg. eff. June 4, 2001; Laws 2002, c. 138, § 1, eff. Nov. 1, 2002; Laws 2003, c.390, § 8, eff. July 1, 2003; Laws 2018, c. 238, § 1, eff. Nov. 1, 2018.

§63-1-1918.1. Dispensation of certain drugs in bubble pack units - Pilot program.

A. The purpose of this section is to reduce expensive and unnecessary wastage of excess drugs dispensed to residents of nursing homes. In order to determine if the use of bubble pack

units and the return and reissuance of unadulterated drugs is cost-effective and administratively efficient there is hereby established a pilot program for dispensing and returning anti-ulcer and antiarthritics in bubble pack units. The pilot program shall terminate January 1, 1998.

B. For the purpose of this study, upon filling a prescription for residents of nursing facilities, a pharmacist shall dispense anti-ulcer and antiarthritics in bubble pack units when available.

C. Any prescription for anti-ulcer and antiarthritics dispensed by a pharmacist in bubble pack units for a resident of a nursing home that is unused and is unadulterated may be returned for credit to the issuing pharmacy. Such medication may be dispensed by the pharmacist to other nursing home patients. The Oklahoma Health Care Authority in concert with the State Board of Pharmacy shall promulgate permanent rules that will provide for the implementation of this subsection. The permanent rules shall be promulgated by the Board pursuant to the provisions of the Administrative Procedures Act.

D. The Oklahoma State Board of Health in concert with the State Board of Pharmacy shall promulgate rules to ensure the integrity of the collection of unadulterated anti-ulcer and antiarthritics within nursing facilities. The rules shall provide for a drug manifest form that shall accompany each shipment of unadulterated anti-ulcer and antiarthritics in bubble pack units from the nursing facility to the dispensing pharmacy.

E. The State Board of Health shall report the findings of the pilot program to the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the Governor by April 1, 1998.

F. For purposes of this section:

1. "Bubble pack units" means a sealed unit of use container packaged by a pharmacy or pharmaceutical manufacturer that bears the name of the drug, expiration date, and the name of the pharmacy dispensing the drug;

2. "Nursing facility" means a facility as defined by Section 1-1902 of Title 63 of the Oklahoma Statutes;

3. "Unadulterated" means medications that are properly stored, labeled and not past the expiration date; and

4. "Antiarthritics" means legend nonsteroidal anti-inflammatory drugs.

Added by Laws 1995, c. 299, § 1, eff. Sept. 1, 1995.

§63-1-1918.2. Renumbered as § 367.3 of Title 59 by Laws 2004, c. 374, § 9, emerg. eff. June 3, 2004.

§63-1-1918A. Repealed by Laws 2005, c. 108, § 4, eff. July 1, 2005.

§63-1-1918B. Intent of Legislature regarding nursing home residents' pain – Nursing homes to assess residents' pain – Rules and regulations regarding pain management.

A. It is the intent of the Legislature that pain experienced by nursing home residents be assessed and treated promptly, effectively, and for as long as pain persists.

B. On and after July 1, 2005, every nursing facility licensed pursuant to the Nursing Home Care Act shall, as a condition of licensure, include pain as an item to be assessed at the same time as vital signs are taken. The nursing facility shall ensure that pain assessment is performed in a consistent manner that is appropriate to the patient. The pain assessment shall be noted in the patient's chart in a manner consistent with other vital signs.

C. The State Board of Health shall promulgate rules, pursuant to recommendations issued by the State Advisory Council on Pain Management, for assessing and documenting pain.

Added by Laws 2004, c. 388, § 2, emerg. eff. June 3, 2004.

§63-1-1919. Person authorized to have access to facilities - Violations - Exemptions.

A. Any employee or agent of a public agency or any representative of a community legal services program or any member of a nonprofit community supported agency which provides health or social services to the elderly, or any member of a church group, association of older persons or community service club which provides volunteers for service to nursing home residents shall be permitted access at reasonable hours, which shall be 10:00 a.m. to 8:00 p.m., to any individual resident of any facility, if the purpose of such agency, program or organization includes rendering assistance to residents without charge, but only if there is neither a commercial purpose nor affect to such access and if the purpose is to do any of the following:

1. Visit, talk with and make personal, social and legal services available to all residents;

2. Inform residents of their rights and entitlements and their corresponding obligations, under federal and state laws, by means of educational materials and discussions in groups and with individual residents;

3. Assist residents in asserting their legal rights regarding claims for public assistance, medical assistance and Social Security benefits, as well as in all other matters in which residents are aggrieved. Assistance may include counseling and litigation; or

4. Engage in other methods of asserting, advising and representing residents so as to extend to them full enjoyment of their rights.

B. All persons entering a facility under this section shall promptly notify appropriate facility personnel of their presence.

They shall, upon request, produce identification to establish their identity. No such person shall enter the immediate living area of any resident without first identifying himself and then receiving permission from the resident to enter. The rights of other residents present in the room shall be respected. A resident may terminate at any time a visit by a person having access to the resident's living area under this section.

C. This section shall not limit the power of the Department or other public agency otherwise permitted or required by law to enter and inspect a facility.

D. Notwithstanding subsection A of this section, the administrator of a facility may refuse access to the facility to any person if the presence of that person in the facility would be injurious to the health and safety of a resident or would threaten the security of the property of a resident or the facility, or if the person seeks access to the facility for commercial purposes. Any person refused access to a facility may within ten (10) days request a hearing. In that proceeding, the burden of proof as to the right of the facility to refuse access under this section shall be on the facility.

E. This section shall not apply to any inspection team of the Department or any other agency.

Laws 1980, c. 241, § 19, eff. Oct. 1, 1980.

§63-1-1920. Protection of resident's funds.

To protect each resident's funds, the facility or home:

1. Shall reserve a portion of each resident's monthly income, in an amount not less than Twenty-five Dollars ($25.00), as a personal needs allowance for use by the resident, or for use on behalf of the resident by his guardian, or other representative designated by the resident;

2. Shall at the time of admission, provide each resident, or his representative, with a written statement explaining the resident's rights regarding personal funds and listing the services for which the resident will be charged, and obtain a signed acknowledgment from each resident or his representative that he has received the statement;

3. May accept funds from a resident for safekeeping and managing, if the facility or home receives written authorization from the resident or his guardian; such authorization shall be attested to by a witness who has no pecuniary interest in the facility or home or its operations, and who is not connected in any way to facility or home personnel or the administrator in any manner whatsoever;

4. Shall maintain and allow each resident and responsible party access to a written record of all financial arrangements and transactions involving the individual resident's funds;

5. Shall provide each resident, or his representative with a written itemized statement on request, of all financial transactions involving the resident's funds;

6. Shall keep any funds received from a resident for safekeeping in an account separate from the facility's or home's funds and shall maintain such funds as required by the Department of Human Services and federal regulations;

7. Shall return to the resident, upon written request by the resident or his guardian, if court-appointed, all or any part of the resident's funds given the facility or home for safekeeping, including the interest accrued from deposits;

8. Shall place any monthly allowance to which a resident is entitled in that resident's personal account, or give it to the resident, unless the facility or home has written authorization from the resident or the resident's guardian or if the resident is a minor, his parent, to handle it differently;

9. Unless otherwise provided by state law, upon the death of a resident, shall provide the administrator or executor of the resident's estate with a complete accounting of all the resident's personal property, including any funds of the resident being held by the facility or home; and

10. If the facility or home is sold, shall provide the buyer with a written verification by a public accountant of all residents' monies and properties being transferred, and obtain a signed receipt from the new owner.

Amended by Laws 1984, c. 128, § 4, eff. Nov. 1, 1984; Laws 1985, c. 135, § 8, emerg. eff. June 7, 1985.

§63-1-1921. Contracts - Provisions and procedures.

A. A written contract shall be executed between a person or his guardian or responsible party or if the resident is a minor, his parent, and a facility or its agent within one hundred twenty (120) days from the time a person is admitted to a facility, or at the expiration of the period of previous contract, or when the source of payment for the resident's care changes from private to public funds or from public to private funds; if a person is a resident of a facility on the effective date of this act and no legally enforceable contract exists, then a contract as described in this section shall be executed within sixty (60) days after the effective date of this act. If the facility receives or is to receive payment by the state or federal government, an individual contract with the nursing home is not required.

A resident shall not be discharged or transferred at the expiration of the term of a contract, except as provided in Sections 1-1926 through 1-1937 of this title.

B. The contract shall be executed between the resident or the resident's guardian or, if the resident is a minor, his parent or guardian and the licensee.

C. A copy of the contract shall be given to the resident or to the resident's representative at the time of the resident's admission to the facility.

D. A copy of the contract for a resident who is supported by nonpublic funds other than the resident's own funds shall be made available to the person providing the funds for the resident's support.

E. The contract shall be written in clear and unambiguous language and shall be printed in type no smaller than standard typewriter pica or elite type. The general form of the contract shall be prescribed by the Department.

F. The contract shall specify:

1. The term of the contract;

2. The services to be provided under the contract and the charges for the services;

3. The services that may be provided to supplement the contract and the charges for the services;

4. The sources liable for payments due under the contract;

5. The amount of deposit paid; and

6. The rights, duties and obligations of the resident, except that the specification of a resident's rights may be furnished on a separate document which complies with the requirements of Section 1-1918 of this title.

G. The contract shall designate the name of the resident's representative, if any.

H. The contract shall provide that if the resident dies or is compelled by a change in physical or mental health to leave the facility, the contract and all obligations under it shall terminate immediately. All charges shall be prorated as of the date on which the contract terminates, and, if any payments have been made in advance, the excess shall be refunded to the resident. This provision shall not apply to life-care contracts through which a facility agrees to provide maintenance and care for a resident throughout the remainder of his life or to continuing-care contract through which a facility agrees to supplement all available forms of financial support in providing maintenance and care for a resident throughout the remainder of his life.

Laws 1980, c. 241, § 21, eff. Oct. 1, 1980; Laws 1981, c. 182, § 5.

§63-1-1922. Residents' advisory council.

A. Each facility shall establish a residents' advisory council. The administrator shall designate a member of the facility staff to coordinate the establishment of, and render assistance to, said council.

B. The composition of the residents' advisory council shall be specified by Department regulation, but no employee or affiliate of a facility shall be a member of any such council.

C. The residents' advisory council shall meet at least once each month with the staff coordinator who shall provide assistance to said council in preparing and disseminating a report of each meeting as specified by the regulations to all residents, the administrator, and the staff.

D. Records of the residents' advisory council meetings shall be maintained in the office of the administrator.

E. The residents' advisory council shall communicate to the administrator the opinions and concerns of the residents. The council shall review procedures for implementing residents' rights, facility responsibilities and make recommendations for changes or additions which will strengthen the facility's policies and procedures as they affect residents' rights and facility responsibilities.

F. The residents' advisory council shall be forum for:

1. Obtaining and disseminating information;

2. Soliciting and adopting recommendations for facility programming and improvements; and

3. Early identification and recommendation of orderly resolution of problems.

G. The residents' advisory council may present complaints as provided in Section 1-1924 of this title on behalf of a resident to the Department.

Laws 1980, c. 241, § 22, eff. Oct. 1, 1980; Laws 1981, c. 182, § 6.

§63-1-1923. Long-Term Care Facility Advisory Board.

A. There is hereby re-created, to continue until July 1, 2020, in accordance with the provisions of the Oklahoma Sunset Law, a Long-Term Care Facility Advisory Board which shall be composed as follows:

1. The Governor shall appoint a twenty-seven-member Long-Term Care Facility Advisory Board which shall advise the State Commissioner of Health. The Advisory Board shall be comprised of the following persons:

a. one representative from the Office of the State Fire Marshal, designated by the State Fire Marshal,

b. one representative from the Oklahoma Health Care Authority, designated by the Administrator,

c. one representative from the Department of Mental Health and Substance Abuse Services, designated by the Commissioner of Mental Health and Substance Abuse Services,

d. one representative from the Department of Human Services, designated by the Director of Human Services,
e. one member who shall be a licensed general practitioner of the medical profession,
f. one member who shall be a general practitioner of the osteopathic profession,
g. one member who shall be a registered pharmacist,
h. one member who shall be a licensed registered nurse,
i. one member who shall be a licensed practical nurse,
j. three members who shall be of reputable and responsible character and sound physical and mental health and shall be operator-administrators of nursing homes which have current licenses issued pursuant to the Nursing Home Care Act and who shall have had five (5) years' experience in the nursing home profession as operator-administrators,
k. three members who shall be residential care home operator-administrators licensed pursuant to the provisions of the Residential Care Act,
l. three members who shall be adult day care facility owner-operators licensed pursuant to the provisions of the Adult Day Care Act,
m. three members who shall be continuum of care facility or assisted living center owner-operators licensed pursuant to the provisions of the Continuum of Care and Assisted Living Act, and
n. six members who shall be over the age of sixty-five (65) who shall represent the general public;

2. The designated representative from the Office of the State Fire Marshal, the designated representative from the Department of Mental Health and Substance Abuse Services, the designated representative from the Department of Human Services, and the designated representative from the State Department of Health shall serve at the pleasure of their designators;

3. The initial appointments of the Governor shall be for the following terms:

a. the initial term of the member of the medical profession shall be for a three-year term,
b. the initial term of the member of the osteopathic profession shall be for a three-year term,
c. the initial term of the registered pharmacist shall be for a two-year term,
d. the initial term of the licensed registered nurse shall be for a two-year term,
e. the initial term of the licensed practical nurse shall be for a one-year term,

f. of the initial terms for the twelve members who are licensed operator-administrators for facilities pursuant to the Nursing Home Care Act, residential care homes pursuant to the Residential Care Act, adult day care facilities pursuant to the Adult Day Care Act, and continuum of care facilities and assisted living centers pursuant to the Continuum of Care and Assisted Living Act, four shall be for one-year terms, four shall be for two-year terms, and four shall be for three-year terms; provided that representatives for each of the terms shall include one individual representing facilities subject to the provisions of the Nursing Home Care Act, one individual representing residential care homes subject to the Residential Care Act, one individual representing facilities subject to the provisions of the Adult Day Care Act, and one individual representing continuum of care facilities and assisted living centers subject to the provisions of the Continuum of Care and Assisted Living Act, and

g. the initial terms for the six members of the general public over the age of sixty-five (65) shall be for one-, two-, three-, four-, five- and six-year terms respectively; and

4. After the initial designations or appointments, the designated representative from the Office of the State Fire Marshal, the designated representative of the Oklahoma Health Care Authority, the designated representative of the Department of Human Services and the designated representative of the Department of Mental Health and Substance Abuse Services shall each serve at the pleasure of their designators. All other terms shall be for a three-year period. In case of a vacancy, the Governor shall appoint individuals to fill the remainder of the term.

B. The State Department of Health shall provide a clerical staff worker to perform designated duties of the Advisory Board. The Department shall also provide space for meetings of the Advisory Board.

C. The Advisory Board shall annually elect a chair, vice-chair and secretary-treasurer, shall meet at least quarterly, and may hold such special meetings as may be necessary. The members of the Advisory Board shall be reimbursed as provided for by the State Travel Reimbursement Act.

D. The Advisory Board shall have the power and duty to:

1. Serve as an advisory body to the Department for the development and improvement of services to and care and treatment of residents of facilities subject to the provisions of the Nursing Home Care Act, homes subject to the provisions of the Residential

Care Act and facilities subject to the provisions of the Adult Day Care Act;

2. Review, make recommendations regarding, and approve in its advisory capacity the system of standards developed by the Department;

3. Evaluate and review the standards, practices, and procedures of the Department regarding the administration and enforcement of the provisions of the Nursing Home Care Act, the Residential Care Act and the Adult Day Care Act, and the quality of services and care and treatment provided to residents of facilities and residential care homes and participants in adult day care centers. The Board may make recommendations to the Department as necessary and appropriate;

4. Evaluate and review financial accountability standards, policies and practices of residential care facilities regarding residents' funds for which the facility is the payee, and evaluate and review expenditures made on behalf of the resident by the facility to ensure that such funds are managed appropriately and in the best interests of the resident; and

5. Publish and distribute an annual report of its activities and any recommendations for the improvement of services and care and treatment to residents of facilities and residential care homes and participants in adult day care centers on or before January 1 of each year to the Governor, the State Commissioner of Health, the State Board of Health, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the chief administrative officer of each agency affected by the report.

Added by Laws 1980, c. 241, § 23, eff. Oct. 1, 1980. Amended by Laws 1984, c. 128, § 5, eff. Nov. 1, 1984; Laws 1986, c. 16, § 1, eff. July 1, 1986; Laws 1987, c. 98, § 27, emerg. eff. May 20, 1987; Laws 1989, c. 192, § 10, eff. Nov. 1, 1989; Laws 1989, c. 345, § 3, eff. Oct. 1, 1989; Laws 1990, c. 51, § 127, emerg. eff. April 9, 1990; Laws 1992, c. 109, § 1, emerg. eff. April 20, 1992; Laws 1995, c. 230, § 17, eff. July 1, 1995; Laws 1998, c. 42, § 1; Laws 2001, c. 17, § 1, eff. July 1, 2001; Laws 2004, c. 25, § 1; Laws 2010, c. 29, § 1; Laws 2014, c. 60, § 1.

§63-1-1923.1. Residents and Family State Council - Toll free hotline.

The State Department of Health shall:

1. Establish a Residents and Family State Council which shall be composed of fifteen (15) members who are, or who have been within the last twelve (12) months, residents, family members, resident volunteer representatives or guardians of residents of nursing facilities licensed pursuant to the Nursing Home Care Act, but shall not include persons representing residents in facilities for the developmentally disabled. The Council shall annually elect a chair

and vice-chair, and shall meet at least quarterly. Meetings shall be conducted in the various areas of the state with at least one meeting in each of the four quadrants of the state to allow for participation by family members and residents where possible. The members of the Council shall be reimbursed pursuant to the State Travel Reimbursement Act. The Council may present recommendations to the Long-Term Care Facility Advisory Board created in Section 1-1923 of this title and shall have the power and duty to advise the State Department of Health concerning the development and improvement of services to and care and treatment of residents of facilities subject to the provisions of the Nursing Home Care Act and make recommendations to the Department as necessary and appropriate. The members shall serve at the pleasure of the State Commissioner of Health; and

2. Establish a toll free, twenty-four-hour hotline for filing of complaints against facilities licensed pursuant to the provisions of the Nursing Home Care Act.

Added by Laws 1995, c. 230, § 18, eff. July 1, 1995. Amended by Laws 2013, c. 229, § 52, eff. Nov. 1, 2013.

§63-1-1924. Information which may be disclosed by department.

The following information is subject to disclosure to the public from the Department:

1. Information submitted under Section 40 of this act except information concerning the remuneration of personnel licensed, registered or certified by the Department and monthly charges for an individual private resident;

2. Records of license and certification inspections, surveys and evaluations of facilities, other reports of inspections, surveys and evaluations of resident care, and reports concerning a facility prepared pursuant to Titles XVIII and XIX of the Social Security Act, subject to the provisions of the Social Security Act; and

3. Complaints filed against a facility and complaint investigation reports, except that a complaint or complaint investigation report shall not be disclosed to a person other than the complainant or complainant's representative before it is disclosed to a facility as provided in Section 40 of this act and, further, except that a complainant or resident's name shall not be disclosed except as provided in Section 40 of this act.

Laws 1980, c. 241, § 24, eff. Oct. 1, 1980.

§63-1-1924.1. Notification of clergy upon impending death.

A. Nursing home personnel shall notify clergy of the faith of a patient, upon the impending death of the patient, when practicable.

B. The State Department of Health shall not use the provisions of subsection A of this section for any purpose relating to inspections or investigations.

Added by Laws 2008, c. 281, § 1, eff. Nov. 1, 2008.

§63-1-1925. Minimum standards for facilities.

The State Department of Health shall prescribe minimum standards for facilities. These standards shall regulate:

1. Location and construction of the facility, including plumbing, heating, lighting, ventilation, and other physical conditions which shall ensure the health, safety and comfort of residents and protection from fire hazards;

2. Number and qualifications of all personnel, including management and nursing personnel, having responsibility for any part of the care given to residents; specifically, the Department shall establish staffing ratios for facilities which shall specify the number of staff hours per resident of care that are needed for professional nursing care for various types of facilities or areas within facilities;

3. All sanitary conditions within the facility and its surroundings, including water supply, sewage disposal, food handling, and general hygiene, which shall ensure the health and comfort of residents;

4. Diet related to the needs of each resident based on sound nutritional practice and on recommendations which may be made by the physicians attending the resident;

5. Equipment essential to the health and welfare of the residents;

6. Minimum levels of supplies including, but not limited to, food and other perishables;

7. Minimum financial solvency standards to ensure the operation of facilities; and

8. A program of rehabilitation for those residents who would benefit from such programs.

Added by Laws 1980, c. 241, § 25, eff. Oct. 1, 1980. Amended by Laws 2002, c. 230, § 9, eff. Nov. 1, 2002.

§63-1-1925.1. Long-term care facilities - Visiting or residential animals.

The State Board of Health shall establish rules and regulations allowing the use of visiting or residential animals in selected long-term health care facilities in this state. Long-term health care facilities which want animals shall be required to apply to the State Department of Health for approval for residential animals. Such rules and regulations shall be established giving consideration to disease prevention, sanitation, prevention of injury to patients and animals, and other concerns deemed appropriate by the Board.

Added by Laws 1984, c. 52, § 1, eff. Nov. 1, 1984.

§63-1-1925.2. Reimbursements from Nursing Facility Quality of Care Fund - Staffing ratios - Name and title posting - Rule promulgation - Appeal - Nursing Facility Funding Advisory Committee.

A. The Oklahoma Health Care Authority shall fully recalculate and reimburse nursing facilities and intermediate care facilities for the mentally retarded (ICFs/MR) from the Nursing Facility Quality of Care Fund beginning October 1, 2000, the average actual, audited costs reflected in previously submitted cost reports for the cost-reporting period that began July 1, 1998, and ended June 30, 1999, inflated by the federally published inflationary factors for the two (2) years appropriate to reflect present-day costs at the midpoint of the July 1, 2000, through June 30, 2001, rate year.

1. The recalculations provided for in this subsection shall be consistent for both nursing facilities and intermediate care facilities for the mentally retarded (ICFs/MR), and shall be calculated in the same manner as has been mutually understood by the long-term care industry and the Oklahoma Health Care Authority.

2. The recalculated reimbursement rate shall be implemented September 1, 2000.

B. 1. From September 1, 2000, through August 31, 2001, all nursing facilities subject to the Nursing Home Care Act, in addition to other state and federal requirements related to the staffing of nursing facilities, shall maintain the following minimum direct-care-staff-to-resident ratios:

a. from 7:00 a.m. to 3:00 p.m., one direct-care staff to every eight residents, or major fraction thereof,

b. from 3:00 p.m. to 11:00 p.m., one direct-care staff to every twelve residents, or major fraction thereof, and

c. from 11:00 p.m. to 7:00 a.m., one direct-care staff to every seventeen residents, or major fraction thereof.

2. From September 1, 2001, through August 31, 2003, nursing facilities subject to the Nursing Home Care Act and intermediate care facilities for the mentally retarded with seventeen or more beds shall maintain, in addition to other state and federal requirements related to the staffing of nursing facilities, the following minimum direct-care-staff-to-resident ratios:

a. from 7:00 a.m. to 3:00 p.m., one direct-care staff to every seven residents, or major fraction thereof,

b. from 3:00 p.m. to 11:00 p.m., one direct-care staff to every ten residents, or major fraction thereof, and

c. from 11:00 p.m. to 7:00 a.m., one direct-care staff to every seventeen residents, or major fraction thereof.

3. On and after September 1, 2003, subject to the availability of funds, nursing facilities subject to the Nursing Home Care Act and intermediate care facilities for the mentally retarded with seventeen or more beds shall maintain, in addition to other state and federal requirements related to the staffing of nursing

facilities, the following minimum direct-care-staff-to-resident ratios:

a. from 7:00 a.m. to 3:00 p.m., one direct-care staff to every six residents, or major fraction thereof,

b. from 3:00 p.m. to 11:00 p.m., one direct-care staff to every eight residents, or major fraction thereof, and

c. from 11:00 p.m. to 7:00 a.m., one direct-care staff to every fifteen residents, or major fraction thereof.

4. Effective immediately, facilities shall have the option of varying the starting times for the eight-hour shifts by one (1) hour before or one (1) hour after the times designated in this section without overlapping shifts.

5. a. On and after January 1, 2004, a facility that has been determined by the State Department of Health to have been in compliance with the provisions of paragraph 3 of this subsection since the implementation date of this subsection, may implement flexible staff scheduling; provided, however, such facility shall continue to maintain a direct-care service rate of at least two and eighty-six one-hundredths (2.86) hours of direct-care service per resident per day.

b. At no time shall direct-care staffing ratios in a facility with flexible staff-scheduling privileges fall below one direct-care staff to every sixteen residents, and at least two direct-care staff shall be on duty and awake at all times.

c. As used in this paragraph, "flexible staff-scheduling" means maintaining:

(1) a direct-care-staff-to-resident ratio based on overall hours of direct-care service per resident per day rate of not less than two and eighty-six one-hundredths (2.86) hours per day,

(2) a direct-care-staff-to-resident ratio of at least one direct-care staff person on duty to every sixteen residents at all times, and

(3) at least two direct-care staff persons on duty and awake at all times.

6. a. On and after January 1, 2004, the Department shall require a facility to maintain the shift-based, staff-to-resident ratios provided in paragraph 3 of this subsection if the facility has been determined by the Department to be deficient with regard to:

(1) the provisions of paragraph 3 of this subsection,

(2) fraudulent reporting of staffing on the Quality of Care Report,

(3) a complaint and/or survey investigation that has determined substandard quality of care, or

(4) a complaint and/or survey investigation that has determined quality-of-care problems related to insufficient staffing.

b. The Department shall require a facility described in subparagraph a of this paragraph to achieve and maintain the shift-based, staff-to-resident ratios provided in paragraph 3 of this subsection for a minimum of three (3) months before being considered eligible to implement flexible staff scheduling as defined in subparagraph c of paragraph 5 of this subsection.

c. Upon a subsequent determination by the Department that the facility has achieved and maintained for at least three (3) months the shift-based, staff-to-resident ratios described in paragraph 3 of this subsection, and has corrected any deficiency described in subparagraph a of this paragraph, the Department shall notify the facility of its eligibility to implement flexible staff-scheduling privileges.

7. a. For facilities that have been granted flexible staff-scheduling privileges, the Department shall monitor and evaluate facility compliance with the flexible staff-scheduling staffing provisions of paragraph 5 of this subsection through reviews of monthly staffing reports, results of complaint investigations and inspections.

b. If the Department identifies any quality-of-care problems related to insufficient staffing in such facility, the Department shall issue a directed plan of correction to the facility found to be out of compliance with the provisions of this subsection.

c. In a directed plan of correction, the Department shall require a facility described in subparagraph b of this paragraph to maintain shift-based, staff-to-resident ratios for the following periods of time:

(1) the first determination shall require that shift-based, staff-to-resident ratios be maintained until full compliance is achieved,

(2) the second determination within a two-year period shall require that shift-based, staff-to-resident ratios be maintained for a minimum period of six (6) months, and

(3) the third determination within a two-year period shall require that shift-based, staff-to-resident ratios be maintained for a minimum period of twelve (12) months.

C. Effective September 1, 2002, facilities shall post the names and titles of direct-care staff on duty each day in a conspicuous place, including the name and title of the supervising nurse.

D. The State Board of Health shall promulgate rules prescribing staffing requirements for intermediate care facilities for the mentally retarded serving six or fewer clients and for intermediate care facilities for the mentally retarded serving sixteen or fewer clients.

E. Facilities shall have the right to appeal and to the informal dispute resolution process with regard to penalties and sanctions imposed due to staffing noncompliance.

F. 1. When the state Medicaid program reimbursement rate reflects the sum of Ninety-four Dollars and eleven cents ($94.11), plus the increases in actual audited costs over and above the actual audited costs reflected in the cost reports submitted for the most current cost-reporting period and the costs estimated by the Oklahoma Health Care Authority to increase the direct-care, flexible staff-scheduling staffing level from two and eighty-six one-hundredths (2.86) hours per day per occupied bed to three and two-tenths (3.2) hours per day per occupied bed, all nursing facilities subject to the provisions of the Nursing Home Care Act and intermediate care facilities for the mentally retarded with seventeen or more beds, in addition to other state and federal requirements related to the staffing of nursing facilities, shall maintain direct-care, flexible staff-scheduling staffing levels based on an overall three and two-tenths (3.2) hours per day per occupied bed.

2. When the state Medicaid program reimbursement rate reflects the sum of Ninety-four Dollars and eleven cents ($94.11), plus the increases in actual audited costs over and above the actual audited costs reflected in the cost reports submitted for the most current cost-reporting period and the costs estimated by the Oklahoma Health Care Authority to increase the direct-care flexible staff-scheduling staffing level from three and two-tenths (3.2) hours per day per occupied bed to three and eight-tenths (3.8) hours per day per occupied bed, all nursing facilities subject to the provisions of the Nursing Home Care Act and intermediate care facilities for the mentally retarded with seventeen or more beds, in addition to other state and federal requirements related to the staffing of nursing facilities, shall maintain direct-care, flexible staff-scheduling staffing levels based on an overall three and eight-tenths (3.8) hours per day per occupied bed.

3. When the state Medicaid program reimbursement rate reflects the sum of Ninety-four Dollars and eleven cents ($94.11), plus the increases in actual audited costs over and above the actual audited costs reflected in the cost reports submitted for the most current cost-reporting period and the costs estimated by the Oklahoma Health

Care Authority to increase the direct-care, flexible staff-scheduling staffing level from three and eight-tenths (3.8) hours per day per occupied bed to four and one-tenth (4.1) hours per day per occupied bed, all nursing facilities subject to the provisions of the Nursing Home Care Act and intermediate care facilities for the mentally retarded with seventeen or more beds, in addition to other state and federal requirements related to the staffing of nursing facilities, shall maintain direct-care, flexible staff-scheduling staffing levels based on an overall four and one-tenth (4.1) hours per day per occupied bed.

4. The Board shall promulgate rules for shift-based, staff-to-resident ratios for noncompliant facilities denoting the incremental increases reflected in direct-care, flexible staff-scheduling staffing levels.

5. In the event that the state Medicaid program reimbursement rate for facilities subject to the Nursing Home Care Act, and intermediate care facilities for the mentally retarded having seventeen or more beds is reduced below actual audited costs, the requirements for staffing ratio levels shall be adjusted to the appropriate levels provided in paragraphs 1 through 4 of this subsection.

G. For purposes of this subsection:

1. "Direct-care staff" means any nursing or therapy staff who provides direct, hands-on care to residents in a nursing facility; and

2. Prior to September 1, 2003, activity and social services staff who are not providing direct, hands-on care to residents may be included in the direct-care-staff-to-resident ratio in any shift. On and after September 1, 2003, such persons shall not be included in the direct-care-staff-to-resident ratio.

H. 1. The Oklahoma Health Care Authority shall require all nursing facilities subject to the provisions of the Nursing Home Care Act and intermediate care facilities for the mentally retarded with seventeen or more beds to submit a monthly report on staffing ratios on a form that the Authority shall develop.

2. The report shall document the extent to which such facilities are meeting or are failing to meet the minimum direct-care-staff-to-resident ratios specified by this section. Such report shall be available to the public upon request.

3. The Authority may assess administrative penalties for the failure of any facility to submit the report as required by the Authority. Provided, however:

a. administrative penalties shall not accrue until the Authority notifies the facility in writing that the report was not timely submitted as required, and

b. a minimum of a one-day penalty shall be assessed in all instances.

4. Administrative penalties shall not be assessed for computational errors made in preparing the report.

5. Monies collected from administrative penalties shall be deposited in the Nursing Facility Quality of Care Fund and utilized for the purposes specified in the Oklahoma Healthcare Initiative Act.

I. 1. All entities regulated by this state that provide long-term care services shall utilize a single assessment tool to determine client services needs. The tool shall be developed by the Oklahoma Health Care Authority in consultation with the State Department of Health.

2. a. The Oklahoma Nursing Facility Funding Advisory Committee is hereby created and shall consist of the following:

(1) four members selected by the Oklahoma Association of Health Care Providers,

(2) three members selected by the Oklahoma Association of Homes and Services for the Aging, and

(3) two members selected by the State Council on Aging.

The Chair shall be elected by the committee. No state employees may be appointed to serve.

b. The purpose of the advisory committee will be to develop a new methodology for calculating state Medicaid program reimbursements to nursing facilities by implementing facility-specific rates based on expenditures relating to direct care staffing. No nursing home will receive less than the current rate at the time of implementation of facility-specific rates pursuant to this subparagraph.

c. The advisory committee shall be staffed and advised by the Oklahoma Health Care Authority.

d. The new methodology will be submitted for approval to the Board of the Oklahoma Health Care Authority by January 15, 2005, and shall be finalized by July 1, 2005. The new methodology will apply only to new funds that become available for Medicaid nursing facility reimbursement after the methodology of this paragraph has been finalized. Existing funds paid to nursing homes will not be subject to the methodology of this paragraph. The methodology as outlined in this paragraph will only be applied to any new funding for nursing facilities appropriated above and beyond the funding amounts effective on January 15, 2005.

e. The new methodology shall divide the payment into two components:

(1) direct care which includes allowable costs for registered nurses, licensed practical nurses, certified medication aides and certified nurse aides. The direct care component of the rate shall be a facility-specific rate, directly related to each facility's actual expenditures on direct care, and

(2) other costs.

f. The Oklahoma Health Care Authority, in calculating the base year prospective direct care rate component, shall use the following criteria:

(1) to construct an array of facility per diem allowable expenditures on direct care, the Authority shall use the most recent data available. The limit on this array shall be no less than the ninetieth percentile,

(2) each facility's direct care base-year component of the rate shall be the lesser of the facility's allowable expenditures on direct care or the limit,

(3) other rate components shall be determined by the Oklahoma Nursing Facility Funding Advisory Committee in accordance with federal regulations and requirements, and

(4) rate components in divisions (2) and (3) of this subparagraph shall be re-based and adjusted for inflation when additional funds are made available.

3. The Department of Human Services shall expand its statewide toll-free, Senior-Info Line for senior citizen services to include assistance with or information on long-term care services in this state.

4. The Oklahoma Health Care Authority shall develop a nursing facility cost-reporting system that reflects the most current costs experienced by nursing and specialized facilities. The Oklahoma Health Care Authority shall utilize the most current cost report data to estimate costs in determining daily per diem rates.

J. 1. When the state Medicaid program reimbursement rate reflects the sum of Ninety-four Dollars and eleven cents ($94.11), plus the increases in actual audited costs, over and above the actual audited costs reflected in the cost reports submitted for the most current cost-reporting period, and the direct-care, flexible staff-scheduling staffing level has been prospectively funding at four and one-tenth (4.1) hours per day per occupied bed, the Authority may apportion funds for the implementation of the provisions of this section.

2. The Authority shall make application to the United States Centers for Medicare and Medicaid Service for a waiver of the uniform requirement on health-care-related taxes as permitted by Section 433.72 of 42 C.F.R.

3. Upon approval of the waiver, the Authority shall develop a program to implement the provisions of the waiver as it relates to all nursing facilities.

Added by Laws 2000, c. 340, § 4, eff. July 1, 2000. Amended by Laws 2001, c. 428, § 7, emerg. eff. June 5, 2001; Laws 2002, c. 22, § 22, emerg. eff. March 8, 2002; Laws 2002, c. 470, § 1, eff. July 1, 2002; Laws 2004, c. 294, § 1, emerg. eff. May 11, 2004; Laws 2005, c. 216, § 1, eff. Nov. 1, 2005.

NOTE: Laws 2001, c. 331, § 2 repealed by Laws 2002, c. 22, § 34, emerg. eff. March 8, 2002.

§63-1-1925.3. Repealed by Laws 2002, c. 112, § 10, eff. Dec. 31, 2002.

§63-1-1925.4. Disaster and emergency evacuation plans - Disclosure.

A. Upon admittance into the facility, nursing facilities and specialized facilities that do not have emergency power generators available or a written disaster plan on file during an emergency situation shall provide a written disclosure to any resident or resident's caregiver stating that the facility does not have either a generator available or a written disaster plan on file during an emergency situation.

B. All nursing facilities, assisted living centers, residential care homes and specialized facilities shall have an emergency evacuation plan in place. Such plan shall be coordinated and on file at the local emergency management agency. Such plan shall also be filed with the State Department of Health.

C. For purposes of this section, “assisted living center” shall have the same meaning as specified in Section 1-890.2 of Title 63 of the Oklahoma Statutes, and "nursing facility", “residential care home” and "specialized facility" shall have the same meaning as specified in Section 1-1902 of Title 63 of the Oklahoma Statutes.

D. The State Board of Health may promulgate rules as necessary to implement the provisions of this section, including, but not limited to, requirements for disclosure and enforcement.

Added by Laws 2012, c. 265, § 1, eff. Nov. 1, 2012.

§63-1-1926. Involuntary transfer or discharge of resident - Grounds.

A facility shall not involuntarily transfer or discharge a resident except for medical reasons, for the resident's safety or for the safety of other residents, or for nonpayment for the resident's stay, unless limited by the Federal Social Security Act.

Laws 1980, c. 241, § 26, eff. Oct. 1, 1980.

§63-1-1927. Notice of involuntary transfer or discharge.

Involuntary transfer or discharge of a resident from a facility shall be preceded by a minimum written notice of ten (10) days. The ten day requirement shall notapply in any of the following instances:

1. When an emergency transfer or discharge is mandated by the resident's health care needs and is in accordance with the written orders and medical justification of the attending physician; or

2. When the transfer or discharge is necessary for the physical safety of other residents as documented in the clinical record.

Added by Laws 1980, c. 241, § 27, eff. Oct. 1, 1980.

§63-1-1928. Rules and regulations for transfer of residents by facility or home.

The Department shall develop reasonable rules and regulations that establish appropriate criteria for the transfer of residents initiated by a facility or a residential care home, including notice and hearings if the resident is aggrieved by the decision. The primary purpose and emphasis of the departmental rules and regulations shall be the preservation of the health, welfare, and safety of the residents.

The process of developing these rules and regulations shall include the consideration of advice and comments from the Long-Term Care Facility Advisory Board, representatives of nursing homes, residential care homes, and representatives of statewide organizations for the elderly.

Amended by Laws 1984, c. 128, § 6, eff. Nov. 1, 1984; Laws 1987, c. 98, § 28, emerg. eff. May 20, 1987.

§63-1-1929. Rules and regulations for transfer of resident by Department.

The Department shall develop reasonable rules and regulations that establish appropriate criteria for the transfer of residents initiated by the Department in emergency situations, including notice and hearings if the resident is aggrieved by the decision. The primary purpose and emphasis of the departmental rules and regulations shall be the preservation of the health, welfare, and safety of the residents. In addition, the Department of Human Services shall cooperate with the Health Department and the Department of Mental Health and Substance Abuse Services to provide assistance in relocation of residents, to provide casework services, and in other ways to minimize the impact of the transfer on the residents.

In the development of these rules and regulations, the Department shall consider advice and comments from the Long-Term

Care Facility Advisory Board, representatives of the nursing home residential care home industries, and representatives of statewide organizations for the elderly.
Amended by Laws 1984, c. 128, § 7, eff. Nov. 1, 1984; Laws 1987, c. 98, § 29, emerg. eff. May 20, 1987; Laws 1990, c. 51, § 128, emerg. eff. April 9, 1990.

§63-1-1930. Voluntary closing of facility - Notice - Alternative placement of residents - Relocation assistance.

Any owner of a facility licensed under this act shall give ninety (90) days' notice prior to voluntarily closing a facility or closing any part of a facility, or prior to closing any part of a facility if closing such part will require the transfer or discharge of more than ten percent (10%) of the residents. Such notice shall be given to the Department, to any resident who must be transferred or discharged, to the resident's representative, and to a member of the resident's family, where practicable. Notice shall state the proposed date of closing and the reason for closing. The facility shall offer to assist the resident in securing an alternative placement and shall advise the resident on available alternatives. Where the resident is unable to choose an alternative placement and is not under guardianship, the Department shall be notified of the need for relocation assistance. The facility shall comply with all applicable laws and regulations until the date of closing, including those related to transfer or discharge of residents. The Department may place a relocation team in the facility if needed. Also, the Department may promulgate rules and regulations that establish criteria for the acceleration of the notice requirement if extraordinary circumstances warrant it.
Laws 1980, c. 241, § 30, eff. Oct. 1, 1980.

§63-1-1930.1. Notification of Department of certain events.

A. The owner of a nursing facility shall notify the State Department of Health within twenty-four (24) hours of the occurrence of any of the events specified in subsection B of this section. Such notification may be in written form. When initial notification to the Department is made by telephone or telephone facsimile, it shall be followed by a written confirmation within five (5) calendar days.

B. The occurrence of any of the following events shall require notification pursuant to the provisions of subsection A of this section:

1. The owner of a facility receives notice that a judgment or tax lien has been levied against the facility or any of the assets of the facility or the licensee;

2. A financial institution refuses to honor a check or other instrument issued by the owner, operator or manager to its employees for a regular payroll;

3. The supplies, including food items and other perishables, on hand in the facility fall below the minimum specified in the Nursing Home Care Act or rules promulgated thereto by the State Board of Health;

4. The owner, operator or manager fails to make timely payment of any tax of any governmental agency;

5. The filing of a bankruptcy petition under Title 7 or Title 11 of the United States Code or any other laws of the United States, by any person or entity with a controlling interest in the facility;

6. The appointment of a trustee by the bankruptcy court; and

7. The filing of a petition in any jurisdiction by any person seeking appointment of a receiver for the facility.

Added by Laws 2002, c. 230, § 10, eff. Nov. 1, 2002. Amended by Laws 2003, c. 429, § 1, emerg. eff. June 6, 2003.

§63-1-1930.2. Petition to place facility under control of receiver – Hearing - Emergency hearing - Ex parte receivership.

A. Whenever a determination is made that one of the following conditions exists, the State Commissioner of Health shall take whatever steps necessary to protect the health, welfare and safety of the residents including, if necessary, petitioning the court to place the facility under the control of a receiver to ensure that the residents receive adequate care:

1. The facility is operating without a license;

2. The State Department of Health has suspended, revoked or refused to renew the existing license of the facility;

3. The facility is closing or has informed the Department that it intends to close and adequate arrangements for relocation of residents have not been made at least thirty (30) days prior to closure;

4. An emergency exists, whether or not the Department has initiated revocation or nonrenewal procedures, if because of the unwillingness or inability of the licensee to remedy the emergency, the appointment of a receiver is necessary; or

5. It is necessary to ensure that the residents get adequate care in a situation in which the residents' health and safety are threatened.

B. The court shall hold a hearing within five (5) days of the filing of the petition. The petition and notice of the hearing shall be served on the owner, administrator or designated agent of the facility and the petition and notice of hearing shall be posted in a conspicuous place in the facility not later than three (3) days before the time specified for the hearing, unless a different time limit is fixed by order of the court. The court shall appoint a

receiver for a limited time period, not to exceed one hundred eighty (180) days, which shall automatically terminate the receivership unless extended by the court.

C. If a petition filed under this section alleges an emergency exists, the court may set the matter for hearing at the earliest possible time. The petitioner shall notify the licensee, administrator of the facility or registered agent of the licensee more than five (5) days prior to the hearing. Any form of written notice may be used. A receivership shall not be established ex parte by the court unless the Commissioner, under oath, has provided a statement that the Commissioner has personally determined that there is a life-endangering situation. A waiver of the five-day notice requirement may be approved by the court in life-endangering situations as determined and confirmed under oath, by the Commissioner.

Added by Laws 2002, c. 230, § 11, eff. Nov. 1, 2002.

§63-1-1930.3. Powers and duties of receiver – Liability - Limited duration license.

A. The court may appoint any qualified person as a receiver, except it shall not appoint any owner or affiliate of the facility which is in receivership as its receiver. The State Department of Health shall maintain a list of such persons to operate facilities which the court may consider.

B. The receiver shall make provisions for the continued health, safety and welfare of all residents of the facility.

C. A receiver appointed under this section shall exercise those powers and shall perform those duties set out by the court. These powers and duties may include those generally ascribed to receivers and receiverships and may also include the powers and duties of trustees under the 1978 Bankruptcy Code. The court shall provide for the receiver to have sufficient power and duties to ensure that the residents receive adequate care.

D. All funds due to the facility from any source during the pendency of the receivership shall be made available to the receiver who shall use the funds to assure the health and safety of the facility’s residents.

E. A receiver may be held liable in a personal capacity only for the receiver’s own gross negligence, intentional acts or breaches of fiduciary duty.

F. Other provisions of this section notwithstanding, the Department may issue a license to a facility placed in receivership. The duration of a license issued under this section is limited to the duration of the receivership.

Added by Laws 2002, c. 230, § 12, eff. Nov. 1, 2002.

§63-1-1930.4. Termination of receivership.

A. The court may terminate a receivership:

1. If the time period specified in the order appointing the receiver elapses and is not extended;

2. If the court determines that the receivership is no longer necessary because the conditions which gave rise to the receivership no longer exist or the State Department of Health grants the facility a new license; or

3. If all of the residents in the facility have been transferred or discharged.

B. 1. Within thirty (30) days after termination, the receiver shall give the court a complete accounting of all property of which the receiver has taken possession, of all funds collected, and of the expenses of the receivership.

2. If the operating funds exceed the reasonable expenses of the receivership, the court shall order payment of the surplus to the owner. If the operating funds are insufficient to cover the reasonable expenses of the receivership, the owner shall be liable for the deficiency.

3. The Department shall have a lien for any payment made to the receiver upon any beneficial interest, direct or indirect, of any owner in the following property:

a. the building in which the facility is located,

b. any fixtures, equipment or goods used in the operation of the facility,

c. the land on which the facility is located, or

d. the proceeds from any conveyance of property described in subparagraph a, b or c of this paragraph, made by the owner within one (1) year prior to the filing of the petition for receivership.

4. The receiver shall, within sixty (60) days after termination of the receivership, file a notice of any lien created under this section.

Added by Laws 2002, c. 230, § 13, eff. Nov. 1, 2002.

§63-1-1930.5. Liability of facility owner, administrator or employee notwithstanding receivership.

Notwithstanding the general rules of receiverships and trustees, nothing in Sections 10 through 13 of this act shall be deemed to relieve any owner, administrator or employee of a facility placed in receivership of any civil or criminal liability incurred, or any duty imposed by law, by reason of acts or omissions of the owner, administrator or employee prior to the appointment of a receiver; provided, that nothing contained in this act shall be construed to suspend during the receivership any obligation of the owner, administrator or employee for payment of taxes or other operating and maintenance expenses of the facility or of the owner, administrator, employee or any other person for the payment of

mortgage or liens. The owner shall retain the right to sell or mortgage any facility under receivership, subject to approval of the court which ordered the receivership.
Added by Laws 2002, c. 230, § 14, eff. Nov. 1, 2002.

§63-1-1931. Repealed by Laws 1995, c. 230, § 21, eff. July 1, 1995.

§63-1-1932. Repealed by Laws 1995, c. 230, § 21, eff. July 1, 1995.

§63-1-1933. Repealed by Laws 1995, c. 230, § 21, eff. July 1, 1995.

§63-1-1934. Repealed by Laws 1995, c. 230, § 21, eff. July 1, 1995.

§63-1-1935. Repealed by Laws 1995, c. 230, § 21, eff. July 1, 1995.

§63-1-1936. Repealed by Laws 1995, c. 230, § 21, eff. July 1, 1995.

§63-1-1937. Repealed by Laws 1995, c. 230, § 21, eff. July 1, 1995.

§63-1-1938. Repealed by Laws 1995, c. 230, § 21, eff. July 1, 1995.

§63-1-1939. Liability to residents - Injunctive and declaratory relief - Damages - Waiver of rights - Jury trial - Retaliation against residents - Immunity - Report of abuse or neglect and other serious incidents.

A. The owner and licensee are liable to a resident for any intentional or negligent act or omission of their agents or employees which injures the resident. In addition, any state employee that aids, abets, assists, or conspires with an owner or licensee to perform an act that causes injury to a resident shall be individually liable.

B. A resident may maintain an action under the Nursing Home Care Act for any other type of relief, including injunctive and declaratory relief, permitted by law.

C. Any damages recoverable under this section, including minimum damages as provided by this section, may be recovered in any action which a court may authorize to be brought as a class action. The remedies provided in this section, are in addition to and cumulative with any other legal remedies available to a resident. Exhaustion of any available administrative remedies shall not be required prior to commencement of suit hereunder.

D. Any waiver by a resident or the legal representative of the resident of the right to commence an action under this section, whether oral or in writing, shall be null and void, and without legal force or effect.

E. Any party to an action brought under this section shall be entitled to a trial by jury and any waiver of the right to a trial

by a jury, whether oral or in writing, prior to the commencement of an action, shall be null and void, and without legal force or effect.

F. A licensee or its agents or employees shall not transfer, discharge, evict, harass, dismiss or retaliate against a resident, a resident's guardian or an employee or agent who makes a report, brings, or testifies in, an action under this section, or files a complaint because of a report, testimony or complaint.

G. Any person, institution or agency, under the Nursing Home Care Act, participating in good faith in the making of a report, or in the investigation of such a report shall not be deemed to have violated any privileged communication and shall have immunity from any liability, civil or criminal, or any other proceedings, civil or criminal, as a consequence of making such report. The good faith of any persons required, or permitted to report cases of suspected resident abuse or neglect under this act shall be presumed.

H. A facility employee or agent who becomes aware of abuse, neglect or exploitation of a resident prohibited by the Nursing Home Care Act shall immediately report the matter to the facility administrator. A facility administrator who becomes aware of abuse, neglect, or exploitation of a resident shall immediately act to rectify the problem and shall make a report of the incident and its correction to the Department.

I. 1. The facility shall be responsible for reporting the following serious incidents to the Department within twenty-four (24) hours:

a. communicable diseases,

b. deaths by unusual occurrence, including accidental deaths or deaths other than by natural causes, and deaths that may be attributed to a medical device,

c. missing residents. In addition, the facility shall make a report to local law enforcement agencies within two (2) hours if the resident is still missing,

d. situations arising where a rape or a criminal act is suspected. Such situations shall also be reported to local law enforcement immediately. The facility shall make every effort to preserve the scene of the suspected rape or crime until local law enforcement has arrived, and

e. resident abuse, neglect and misappropriation of the property of a resident.

2. All other incident reports shall be made in accordance with federal law.

3. All initial written reports of incidents or situations shall be mailed to the Department within five (5) working days after the incident or situation. The final report shall be filed with the Department when the full investigation is complete.

Added by Laws 1980, c. 241, § 39, eff. Oct. 1, 1980. Amended by Laws 2003, c. 429, § 2, emerg. eff. June 6, 2003; Laws 2010, c. 221, § 1, eff. Nov. 1, 2010.

§63-1-1940. Violations declared public nuisance - Injunction - Complaints.

A. The operation or maintenance of a facility in violation of the Nursing Home Care Act or rules promulgated by the State Board of Health, pursuant thereto, is hereby declared a public nuisance, inimical to the public welfare.

B. The State Commissioner of Health or the Department of Human Services, in the name of the people of the state, through the Attorney General, or the district attorney of the county in which the facility is located, may, in addition to other remedies herein provided, bring action for an injunction to restrain such violation or to enjoin the future operation or maintenance of any such facility.

C. 1. Any person with personal knowledge or substantial specific information who believes that the Nursing Home Care Act, a rule promulgated thereto, or a federal certification rule applying to a facility may have been violated may file a complaint.

2. The complaint may be submitted to the State Department of Health, in writing, by telephone, or personally. An oral complaint shall be reduced to writing by the Department.

3. Any person who willfully or recklessly makes a false complaint or a report without a reasonable basis in fact for such a complaint, under the provisions of the Nursing Home Care Act, shall be liable in a civil suit for any actual damages suffered by a facility for any punitive damages set by the court or jury which may be allowed in the discretion of the court or jury when deemed proper by the court or jury.

4. The substance of the complaint shall be provided to the licensee, owner or administrator no earlier than at the commencement of the on-site inspection of the facility which takes place pursuant to the complaint.

5. Upon receipt of a complaint pursuant to this subsection, the Department shall determine whether the Nursing Home Care Act, a rule promulgated pursuant thereto, or a federal certification rule for facilities has been or is being violated and whether the Department has jurisdiction over the complaint area. If the Department does not have jurisdiction over the complaint area, the complaint shall not be investigated by the Department and notice of the decision not to investigate shall be given to the complainant. The complaint shall be immediately referred to the appropriate agency having jurisdiction over the complaint area. A report summarizing the complaint investigation shall be made in writing. The Department shall give priority to investigations of complaints which allege

continuing violations or which threaten the health and safety of residents.

6. In all cases, the Department shall inform the complainant of its findings within ten (10) working days of its determination unless otherwise indicated by the complainant. The complainant may direct the Department to send a copy of such findings to one other person. The notice of such findings shall include a copy of the written determination, the remedial action taken, if any, and the state licensure or federal certification, or both, on which the violation is listed.

D. 1. Upon receipt of a complaint submitted to the State Department of Health by the Department of Human Services or the Attorney General which alleges a violation of the Nursing Home Care Act, any rule promulgated thereto, or federal certification rules, and which also alleges that such violation is a serious threat to the health, safety and welfare of a resident of a nursing facility, the State Department of Health shall take immediate action to remedy the violation based upon the complaint of the Department of Human Services.

2. The Department of Human Services or the Attorney General as applicable shall be deemed a party pursuant to the Administrative Procedures Act for purposes of any complaint made by the Department of Human Services or the Attorney General as applicable to the State Department of Health for violations of the Nursing Home Care Act, rules promulgated thereto or federal certification rules.

a. Within thirty (30) days of receipt of a final investigative report submitted by the Department of Human Services or the Attorney General as applicable pursuant to this section, the State Department of Health shall provide the Department of Human Services with a written summary of any action taken pertaining to the complaint including, but not limited to, any inspection or actions which may be taken by the State Department of Health.

b. Whenever the Department of Human Services or the Attorney General as applicable believes that the conditions giving rise to a complaint alleging a serious threat to the health, safety and welfare of a resident of a nursing facility have not been adequately addressed, the Department of Human Services may request a hearing on the complaint as provided by Section 309 of Title 75 of the Oklahoma Statutes.

E. A written determination, notice of violation and remedial action taken concerning a complaint shall be available for public inspection at the facility.

F. The Department shall seek any remedial action provided under the Nursing Home Care Act for violations documented during complaint investigations.

G. The State Board of Health shall promulgate rules governing the receipt, investigation and resolution of complaints and reports of violations. The rules promulgated by the Board shall provide for the expeditious investigation and resolution of a complaint or report including, but not limited to:

1. An easily understood and readily accessible method of submitting complaints and reports regarding complaints;

2. Actions to be taken upon the receipt of a complaint or report of a complaint;

3. Establishing a priority for investigations of complaints. Specifically, the Department shall give higher priority to investigations of complaints which allege continuing violations or which threaten the health, safety or welfare of residents;

4. The timely investigation of the complaint or report of a complaint;

5. Written reports to the complainants or persons filing the complaint report;

6. Any necessary or appropriate remedial action as determined by the findings of the investigation;

7. The protection of the identity of the complainant, provided that the person is a current or past resident or resident's representative or designated guardian or a current or past employee of a facility;

8. Specific information to be included in investigative protocols which must include at a minimum an interview with:

a. the complainant,

b. the resident, if possible, and

c. any potential witness, collateral resource or affected resident; and

9. Any additional rules necessary for the timely and thorough investigation and resolution of complaints.

H. The Department is authorized to employ hearing officers, and hire attorneys to represent the Department and Commissioner to ensure that this and other laws pertaining to the Department are properly executed.

Added by Laws 1980, c. 241, § 40, eff. Oct. 1, 1980. Amended by Laws 1995, c. 230, § 19, eff. July 1, 1995; Laws 2000, c. 340, § 17, eff. July 1, 2000; Laws 2001, c. 379, § 1, emerg. eff. June 4, 2001. NOTE: Laws 2001, c. 393, § 4 repealed by Laws 2002, c. 22, § 34, emerg. eff. March 8, 2002.

§63-1-1941. Copies of complaints, inspection or survey results to Ombudsman Program of Special Unit on Aging.

All state agencies receiving complaints on, or conducting surveys or inspections of, nursing home facilities shall forward complete copies of complaints or of inspection or survey results to the Ombudsman Program of the Special Unit on Aging.
Laws 1980, c. 241, § 41, eff. Oct. 1, 1980.

§63-1-1942. Rules and regulations.
The Department shall have the power to adopt rules and regulations in furtherance of the purpose of this act.
Laws 1980, c. 241, § 42, eff. Oct. 1, 1980.

§63-1-1943. Application of Administrative Procedure Act.
The provisions of the Oklahoma Administrative Procedures Act shall apply to all administrative rules and procedures of the Department under this act.
Laws 1980, c. 241, § 43, eff. Oct. 1, 1980.

§63-1-1943.1. Administrator of record for multiple facilities.
The State Department of Health may authorize long-term care administrators to be the administrator of record for more than one facility, provided that the facilities are within a fifty-mile radius of each other, the sum total of the administrator's responsibility does not exceed more than one hundred twenty (120) occupied beds, and each facility retains an assistant administrator. This provision shall not apply to direct care staff.
Added by Laws 2007, c. 347, § 9, eff. Nov. 1, 2007.

§63-1-1944. Short title.
Sections 2 through 6 of this act shall be known and may be cited as the "Long-term Care Security Act".
Added by Laws 2005, c. 465, § 2, emerg. eff. June 9, 2005.

§63-1-1945. Definitions.
For purposes of the Long-term Care Security Act:
1. "Long-term care facility" means:
   a. a nursing facility, specialized facility, or residential care home as defined by Section 1-1902 of this title,
   b. an adult day care center as defined by Section 1-872 of this title,
   c. skilled nursing care provided in a distinct part of a hospital as defined by Section 1-701 of this title,
   d. an assisted living center as defined by Section 1-890.2 of this title,
   e. the nursing care component of a continuum of care facility as defined under the Continuum of Care and Assisted Living Act,

f. the nursing care component of a life care community as defined by the Long-term Care Insurance Act, or

g. a residential care home as defined by Section 1-820 of this title;

2. "Ombudsman" means the individual employed by the Department of Human Services as the State Long-Term Care Ombudsman;

3. "Nurse aide" means any person who provides, for compensation, nursing care or health-related services to residents in a nursing facility, a specialized facility, a residential care home, continuum of care facility, assisted living center or an adult day care center and who is not a licensed health professional. Such term also means any person who provides such services to individuals in their own homes as an employee or contract provider of a home health or home care agency, or as a contract provider of the Oklahoma Personal Care Program;

4. "Employer" means any of the following facilities, homes, agencies or programs which are subject to the provisions of Section 1-1947 of this title:

a. a nursing facility or specialized facility as such terms are defined in the Nursing Home Care Act,

b. a residential care home as such term is defined by the Residential Care Act,

c. an adult day care center as such term is defined in the Adult Day Care Act,

d. an assisted living center as such term is defined by the Continuum of Care and Assisted Living Act,

e. a continuum of care facility as such term is defined by the Continuum of Care and Assisted Living Act,

f. a home health or home care agency,

g. the Department of Human Services, in its capacity as an operator of any hospital or health care institution or as a contractor with providers under the Oklahoma Personal Care Program,

h. a hospice agency as such term is defined in the Oklahoma Hospice Licensing Act,

i. a Medicaid home- and community-based services waivered provider as defined in Section 1915(c) or 1915(i) of the Federal Social Security Act,

j. a staffing agency with a contracted relationship to provide staff with direct patient access to service recipients of one or more of the other employers listed in this paragraph, and

k. an independent contractor where the independent contractor has a contracted relationship to provide staff or services with direct patient access to service recipients for one or more of the employers listed in this paragraph;

5. "Home health or home care agency" means any person, partnership, association, corporation or other organization which administers, offers or provides health care services or supportive assistance for compensation to three or more ill, disabled, or infirm persons in the temporary or permanent residence of such persons, and includes any subunits or branch offices of a parent home health or home care agency;

6. "Bureau" means the Oklahoma State Bureau of Investigation;

7. "FBI" means the Federal Bureau of Investigation;

8. "Applicant" means an individual who applies for employment with an employer, applies to work as an independent contractor to an employer, applies to provide services to service recipients through the granting of clinical privileges by an employer, or applies to a nurse aide scholarship program;

9. "Direct patient access" means access to a service recipient of an employer, through employment, independent contract, or the granting of clinical privileges, in which the performance of duties involves, or may involve one-on-one contact with a service recipient of the employer on an ongoing basis. The term shall include access to a service recipient's property, medical information or financial information. The term does not include a volunteer unless the volunteer has duties that are equivalent to the duties of a direct patient access employee and those duties involve one-on-one contact with a service recipient of an employer, without line-of-sight supervision by employer staff;

10. "Independent contract" means a contract entered into by an employer with an individual who provides the contracted services independently or a contract entered into by an employer with an organization or agency that employs or contracts with an individual after complying with the requirements of this section to provide the contracted services to the employer on behalf of the organization or agency;

11. "Medicare" means benefits under the Federal Medicare Program established under Title XVIII of the Social Security Act, Title 42 of the United States Code, Sections 1395 to 1395hhh;

12. "Registry screening" means a review of those registries identified in subsection D of Section 1-1947 of this title;

13. "Department" means the State Department of Health;

14. "Nurse aide scholarship program" means a nurse aide training program operated under contract with the Oklahoma Health Care Authority for the purpose of providing free training to prospective nurse aides in exchange for employment in a SoonerCare contracted facility; and

15. "Service recipient" means a patient, resident, participant, consumer, client, or member receiving services from an employer. Added by Laws 2005, c. 465, § 3, emerg. eff. June 9, 2005. Amended by Laws 2012, c. 358, § 1, eff. Nov. 1, 2012.

§63-1-1946. Notification of sex or violent offender status.

A. 1. The Department of Corrections shall immediately notify the State Department of Health of any person who is registered pursuant to the Sex Offenders Registration Act or any person who is registered pursuant to the Mary Rippy Violent Crime Offenders Registration Act who is seeking placement from a Department of Corrections facility to any long-term care facility in this state. Upon receipt of such notification, the State Department of Health shall notify the long-term care facility in which the sex offender is seeking placement.

2. The State Board of Health shall promulgate rules requiring long-term care facilities to determine from the local law enforcement authority or the Department of Corrections the registration status of the following individuals who are required to register pursuant to the Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act:

a. an applicant for admission to a long-term care facility,

b. a resident of a long-term care facility, and

c. an employee of a long-term care facility.

3. Once a long-term care facility is notified that an individual who is required to register pursuant to the Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act is residing at such facility, the facility shall immediately in writing notify the State Department of Health.

B. Upon the effective date of this act, when the Department of Corrections knows of an offender who is required to register pursuant to the Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act is being released from Department of Corrections jurisdiction, the Department of Corrections shall immediately notify the State Department of Health. Added by Laws 2005, c. 465, § 4, emerg. eff. June 9, 2005.

§63-1-1947. Employee background checks.

A. 1. The State Department of Health and the Department of Human Services shall conduct criminal history background checks on all current employees and applicants for employment of the State Department of Health and Department of Human Services whose responsibilities include working inside long-term care facilities on behalf of the State Department of Health or the Department of Human Services.

2. A criminal history background check shall be conducted on the following individuals whose responsibilities include working inside long-term care facilities:

a. any current employee of or applicant for employment with the State of Oklahoma,

b. any individual contracting with the State of Oklahoma,
c. any individual volunteering for a state-sponsored program,
d. any individual contracting with the Department of Human Services Advantage Waiver Program who enters any long-term care facility,
e. any individual providing services to the disabled or elderly in a facility or client's home, and
f. any individual employed by or volunteering for the State Long-term Care Ombudsman Program.

3. The State Department of Health and the Department of Human Services shall not hire or continue employment of an individual that has been convicted of the crimes listed in Section 1-1950.1 of this title. The criminal history background checks required by this section shall follow the requirements of Section 1-1950.1 of this title.

B. The State Department of Health and the Department of Human Services shall also submit a list of all employees of the State Department of Health and the Department of Human Services who work inside long-term care facilities to the Department of Corrections. The Department of Corrections shall promptly notify the State Department of Health and the Department of Human Services of any employee who is required to register pursuant to the Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act.

C. The State Department of Health shall conduct an employment screening prior to an offer of employment to a Health Facilities Surveyor applicant. Each applicant shall fully disclose all employment history and professional licensure history, including actions taken regarding licensure. The Department shall review the compliance history of the facilities during the time of the applicant's employment. If the applicant served as Director of Nursing or as an administrator during a survey that resulted in substandard quality of care and the facility failed to achieve compliance in an appropriate and timely manner, the applicant shall not be considered for employment. The Department shall also review professional licensure history of each applicant, including actions to suspend or revoke licenses by the Board of Nursing Home Administrators, Board of Nurse Licensure, or other applicable related licenses. Failure to fully disclose employment history and professional licensure actions shall constitute grounds for dismissal or prohibit employment as a surveyor.

D. Except as otherwise provided by subsection F of this section, an employer shall not employ, independently contract with, or grant clinical privileges to any individual who has direct patient access to service recipients of the employer, if one or more of the following are met:

1. If the results of a state and national criminal history records check reveal that the subject person has failed to act in conformity with all federal, state and municipal laws as applicable to his or her professional license, certification, permit or employment class, as established by the authority having jurisdiction for the subject person's professional license, certification, permit, or employment class;

2. If the individual is currently subject to an exclusion as described under Title 42 of the United States Code, Section 1320a-7;

3. If the individual is currently the subject of a substantiated finding of neglect, abuse, verbal abuse, misappropriation of property, maltreatment, or exploitation, by any state or federal agency pursuant to an investigation conducted in accordance with Title 42 of the United States Code, Section 1395i-3(g)(1)(c) or 1396r(g)(1)(c), or Section 1-1950.7 or 1-1951 of this title;

4. If the individual is entered on the community services worker registry pursuant to Section 1025.3 of Title 56 of the Oklahoma Statutes;

5. If the individual is recorded on the Child Care Restricted Registry pursuant to Section 405.3 of Title 10 of the Oklahoma Statutes;

6. If the individual is registered pursuant to the Sex Offenders Registration Act, the Mary Rippy Violent Crime Offenders Registration Act, or registered on another state's sex offender registry; or

7. If the individual has direct patient access in an employment class not otherwise described in this subsection and is subject to a disqualifying condition identified in subsection B of Section 1-1950.1 of this title.

E. If the results of a registry screening or criminal history check reveal that an employee or a person hired, contracted with, or granted clinical privileges on a temporary basis pursuant to subsection L of this section has been disqualified pursuant to subsection D of this section, the Department shall advise the employer or requesting agency to immediately terminate the person's employment or contract.

F. Except as otherwise provided in subsection L of this section, an employer shall not employ, independently contract with, or grant privileges to, an individual who regularly has direct patient access to service recipients of the employer until the employer conducts a registry screening and criminal history record check in compliance with subsection I of this section. This subsection and subsection D of this section shall not apply to the following:

1. An individual who is employed by, under independent contract to, or granted clinical privileges with, an employer on or before

November 1, 2012. An individual who is exempt under this subsection is not limited to working within the employer with which he or she is employed, under independent contract to, or granted clinical privileges. That individual may transfer to another employer that is under the same ownership with which he or she was employed, under contract, or granted privileges. If that individual wishes to transfer to another employer that is not under the same ownership, he or she may do so provided that a registry screening and criminal history record check are conducted by the new employer in accordance with subsection I of this section.

a. If an individual who is exempt under this subsection is subsequently found, upon seeking transfer to another employer, ineligible for employment, independent contract, or clinical privileges, as provided in subsection D of this section, then the individual is no longer exempt and shall be terminated from employment or denied employment.

b. If an individual who is exempt under this subsection is subsequently found ineligible for employment, independent contract, or clinical privileges, as provided in subsection D of this section, based on disqualifying events occurring after November 1, 2012, then the individual is no longer exempt and shall be terminated from employment; and

2. An individual who is an independent contractor to an employer, if the services for which he or she is contracted are not directly related to the provision of services to a service recipient or if the services for which he or she is contracted allow for direct patient access to service recipients but are not performed on an ongoing basis. This exception includes, but is not limited to, an individual who independently contracts with the employer to provide utility, maintenance, construction, or communications services.

G. A nurse aide scholarship program shall not accept into its training program candidates seeking eligibility for listing on the nurse aide registry pursuant to 42 U.S.C. 1395i-3(e)(2)(A) or 42 U.S.C. 1396r(e)(2)(A) until the training program conducts a registry screening and criminal history record check in compliance with subsection I of this section. The candidate shall be subject to the administrative fee in paragraph 1 of subsection J of this section. A nurse aide scholarship program shall not accept into enrollment a candidate ineligible for employment pursuant to Section 1-1950.1 of this title.

H. An applicant shall provide the employer a government photo identification of the applicant and written consent for the employer to conduct a registry screening and the Bureau to conduct a state and national criminal history record check under this section. The

employer shall maintain the written consent and information regarding the individual's identification in their files for audit purposes.

I. 1. Upon receipt of the written consent and identification required under subsection H of this section, an employer shall submit an applicant's name, any aliases, address, former states in which the applicant resided, social security number, and date of birth, through an Internet portal maintained by the Department, as provided in subsection V of this section, for the purpose of conducting a check of all relevant registries established pursuant to federal and state law and regulations for any findings barring employment. If the findings of the check do not reveal any basis that would prevent the employment of the applicant pursuant to subsection D of this section, and where the applicant does not have a monitored employment record pursuant to the provisions in subsection S of this section, the Department shall authorize the collection and submission of fingerprints through an authorized collection site to the Bureau for the performance of a criminal history record check on the applicant, pursuant to Section 150.9 of Title 74 of the Oklahoma Statutes and in accordance with U.S. Public Law 111-148. Results of such search conducted through both the Bureau and FBI databases shall be returned electronically to the Department.

2. The Bureau shall retain one set of fingerprints in the Automated Fingerprint Identification System and submit the other set to the FBI for a national criminal history records search.

3. Fingerprint images may be rejected by the Bureau or the FBI. A rejection of the fingerprints by the Bureau or the FBI shall require the applicant to be fingerprinted again.

4. The applicant shall have ten (10) calendar days, after receipt of authorization as provided in this subsection, to submit his or her fingerprints through an authorized collection site or his or her application shall be deemed withdrawn and the applicant shall be required to commence the application process from the beginning.

5. Medicaid home and community-based services waivered providers as defined in Section 1915 (c) or 1915 (i) of the federal Social Security Act may voluntarily participate in the submission of fingerprints for applicants. In lieu of fingerprinting, said providers shall obtain a name-based state criminal history record check from the Bureau at the fee established in Section 150.9 of Title 74 of the Oklahoma Statutes. No other fees shall apply to said providers relying on a name-based state criminal history record check. The determination of employment eligibility shall be made by said providers based on the criteria established in subsection D of this section.

J. 1. The employer shall pay a fee of Nineteen Dollars ($19.00) to the Department for each applicant submitted for

fingerprinting or criminal history monitoring or both fingerprinting and criminal history monitoring pursuant to subsection S of this section. The prospective employee, independent contractor or clinical privileges candidate authorized for fingerprint collection by the Department shall pay an administrative fee of Ten Dollars ($10.00) at the time of fingerprinting. Subsequent fingerprinting shall not be required of an applicant if the applicant has a monitored employment record pursuant to subsection S of this section.

2. The Department shall be responsible for screening and fingerprinting and criminal history monitoring fees for persons participating in a Medicaid program who self-direct their own care, and the applicants of such self-directed care employers.

3. The Department shall use National Background Check grant funds, employer fees and administrative fee collections, and available Medicaid matching funds, to reimburse fingerprint collection vendors, pay administrative expenses, and reimburse the Bureau and FBI for each processed fingerprint review and automatic notification services for subsequent arrest. The Department shall reimburse fingerprint collection vendors, the Bureau, and the FBI, the applicable costs for those identified in paragraph 2 of this subsection.

4. At the consent of the current employee and request of an employer, the Department shall authorize the collection and submission of fingerprints for the purposes of conducting a criminal history record check on any person excluded from the criminal history requirements pursuant to subsection F of this section. The employer shall pay a fee of Sixty-five Dollars ($65.00) to the Department for the cost of registry screening, fingerprint collection and submission, and arrest record monitoring. The collection of fingerprints from those employed, contracted, or granted clinical privileges, prior to the effective date established by rule as authorized in subsection Y of this section, is voluntary and not required for the purposes of this section.

K. 1. If the criminal history record check results reveal information that precludes the Department from making a final determination of employment eligibility, the employer and applicant shall be given notice of such and the applicant shall have sixty (60) days to make any necessary corrections or additions for the Department to review.

2. If the applicant is unable to make corrections or additions to the record within the sixty (60) days, the Department shall deny employment based on the disqualifying results and shall notify the applicant of his or her right to appeal. The notice shall include the reasons why the applicant is not eligible for employment and a statement that the applicant has a right to appeal the decision made by the Department regarding the employment eligibility. The notice

shall also include information regarding where to file and describe the appellate procedures.

L. If an employer determines it necessary to employ, contract with, or grant clinical privileges to an applicant before receiving the results of the applicant's criminal history record check under this section, the employer may conditionally employ, conditionally contract with, or grant conditional clinical privileges to the applicant if all of the following apply:

1. The employer requests the criminal history record check under this section upon conditionally employing, contracting with, or granting clinical privileges to the individual;

2. The individual signs a statement in writing that indicates the applicant affirms and agrees to all of the following:

a. that the applicant is not disqualified from employment, an independent contract, or clinical privileges, based on the disqualifying criteria defined in subsection D of this section,

b. that the applicant agrees that, if the information in the registry screening and criminal history record check conducted under this section does not confirm the individual's statements under subparagraph a of this paragraph, his or her employment, independent contract, or clinical privileges shall be terminated by the employer as required under subsection D of this section unless and until the individual appeals and can provide that the information is incorrect, and

c. that the applicant understands that the conditions described in subparagraphs a and b of this paragraph may result in the termination of his or her employment, independent contract, or clinical privileges, and that those conditions are good cause for termination; and

3. The period of provisional employment shall not exceed sixty (60) days pending the completion of the required background check. During this time the employee shall be subject to direct on-site supervision. The sixty-day time period may only be extended for those employees who are appealing the results of the background check. The time period shall only be extended for the duration of the appeal.

M. The Department shall develop and distribute a model form for the statement required under paragraph 2 of subsection L of this section. The Department shall make the model form available to health facilities or agencies subject to this section upon request at no charge.

N. If an individual is employed as a conditional employee, has a conditional independent contract, or is granted conditional clinical privileges under subsection L of this section, and the

report described in subsection I of this section does not confirm the individual's statement under subparagraph a of paragraph 2 of subsection L of this section, the employer shall terminate the individual's employment, independent contract, or clinical privileges, as required by subsection E of this section.

O. An individual who knowingly provides false information regarding his or her identity, criminal convictions, or substantiated findings on a statement described in subparagraph a of paragraph 2 of subsection L of this section is guilty of a misdemeanor punishable by a fine of not less than One Hundred Dollars ($100.00) nor more than Three Hundred Dollars ($300.00), imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

P. The Department shall use criminal history record information obtained under subsection I of this section only for the purpose of evaluating an applicant's qualifications for employment, an independent contract, or clinical privileges, in the position for which he or she has applied and for the purposes of subsections H and N of this section. The Department shall not disclose criminal history record information. An individual who knowingly uses or disseminates the criminal history record information obtained under subsection I of this section in violation of this subsection is guilty of a misdemeanor punishable by imprisonment for not more than thirty (30) days or a fine of not more than Five Hundred Dollars ($500.00), or both. Except for a knowing or intentional release of false information, the Department or employer has no liability in connection with a criminal history record check conducted under this section.

Q. As a condition of continued employment, each employee, independent contractor, or individual granted clinical privileges shall agree in writing to report to the employer immediately upon being arraigned or indicted for one or more of the criminal offenses listed in subsection D of this section, upon being convicted of, or pleading guilty or nolo contendere to, one or more of the criminal offenses listed in subsection D of this section, or upon being the subject of a substantiated finding on a relevant registry as described in subsection D of this section. Reporting of an arraignment under this subsection may be cause for leave without pay, placement under direct supervision, restriction from direct patient access, termination, or denial of employment.

R. An employer convicted for knowingly and willfully failing to conduct the criminal history checks as required under this section may be found guilty of a misdemeanor punishable by a fine of not less than One Thousand Dollars ($1,000.00) nor more than Three Thousand Dollars ($3,000.00), imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

S. The Department shall establish a database to store the records of an employer's prospective and enrolled employees, the results of the screening and criminal arrest records search, and an identifier issued by the Bureau for the purposes of receiving an automatic notification from the Bureau if and when a subsequent criminal arrest record submitted into the system matches a set of fingerprints previously submitted in accordance with this section. Upon such notification, the Bureau shall immediately notify the Department and the Department shall immediately notify the respective employee. Information in the database established under this subsection is confidential, is not subject to disclosure under the Oklahoma Open Records Act, and shall not be disclosed to any person except for purposes of this act or for law enforcement purposes. The employee shall promptly respond to Department inquiries regarding the status of an arraignment or indictment. Reporting of an arraignment or indictment under this subsection may be cause for leave without pay, placement under direct supervision, restriction from direct patient access, termination, or denial of employment.

T. 1. Any individual who has been disqualified from or denied employment by an employer pursuant to this section may file an appeal with the Department within thirty (30) days of the receipt of the notice of disqualification, if the applicant believes that the criminal history report is inaccurate or that consideration of the passage of time, extenuating circumstances, demonstration of rehabilitation, or relevancy of the particular disqualifying information with respect to the current or proposed employment of the individual merits a waiver of the disqualification or employment denial.

2. The Department shall specify in rule the criteria for issuing a waiver of the disqualification or employment denial. The criteria shall include consideration of the passage of time, extenuating circumstances, demonstration of rehabilitation, and relevancy of the particular disqualifying information with respect to the current or proposed employment of the individual.

3. The appeal shall be conducted as an individual proceeding pursuant to the Administrative Procedures Act.

U. An employer who has acted in good faith to comply with the requirements of this section of law shall be immune from liability in carrying out the provisions of this section.

V. The Department shall maintain an electronic web-based system to assist employers, and nurse aide scholarship programs, required to check relevant registries and conduct criminal history record checks of its prospective students, employees, independent contractors, and those to whom the employer would grant clinical privileges. The employer shall maintain the status of the employment, contract, or privileges in the system, and the

Department shall provide for an automated notice to employers for those employees, independent contractors, and those granted clinical privileges, who, since the initial check, have been convicted of a disqualifying offense or have been the subject of a substantiated finding on a relevant registry.

W. The Department is authorized to obtain any criminal history records maintained by the Bureau and FBI which the Department is required or authorized to request by the provisions of this section.

X. There is hereby created in the State Treasury a revolving fund for the Department to be designated the "Oklahoma National Background Check Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Department from employers and administrative fees collected pursuant to this section. Screening and administrative fees collected pursuant to this section shall be deposited into the fund. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Department for the following purposes:

1. Obtaining available Medicaid funds for screening, fingerprinting, the cost of criminal history records obtained from the Bureau and FBI, and program administration;

2. Reimbursement of fingerprint collection vendors;

3. Reimbursement to the Bureau and FBI for criminal history records; and

4. Administrative and other applicable expenses of the Department related to the background check program.

Y. The Department is authorized to phase in implementation of subsections D through V of this section by category of employer. The State Board of Health shall promulgate rules prescribing effective dates and procedures for the implementation of a national criminal history record check for the employers and nurse aide scholarship programs defined in Section 1-1945 of this title. Said dates may be staggered to facilitate implementation of the requirements of this section.

Z. On or before November 1, 2015, the Department shall submit a written report to the Legislature detailing the fee collections and costs for the previous three (3) years and revolving fund projections for the next five (5) years. A plan shall be provided to cover the costs of the criminal history checks required under this section if funding is inadequate to cover the costs of the criminal history checks required under this section after November 1, 2020.

Added by Laws 2005, c. 465, § 5, emerg. eff. June 9, 2005. Amended by Laws 2012, c. 358, § 2, eff. Nov. 1, 2012.

§63-1-1948. Employment of sex or violent offenders prohibited.

The State Long-Term Care Ombudsman is prohibited from employing or designating any state, area or local long-term care ombudsman whether paid or unpaid, who is registered pursuant to the Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act.
Added by Laws 2005, c. 465, § 6, emerg. eff. June 9, 2005.

§63-1-1950. Dispensing of nonprescription drugs - Maintaining bulk supplies.

A. A nursing facility or a residential care facility is authorized to maintain bulk supplies of nonprescription drugs for dispensing to residents of such facility pursuant to the provisions of this section.

B. If ordered or otherwise authorized by a physician currently licensed to practice medicine in this state, nonprescription drugs may be dispensed to a resident of the nursing facility or residential care facility for nonscheduled dosage regimens.

C. 1. The State Board of Health shall promulgate rules necessary for proper control and dispensing of nonprescription drugs in nursing facilities and residential care facilities, relating to:

a. specific nonprescription drugs to be dispensed,
b. recordkeeping,
c. storage of nonprescription drugs, and
d. dispensing requirements.

2. Rules promulgated by the State Board of Health shall not require facilities to package nonprescription drugs in individual containers with individual labels.
Added by Laws 1993, c. 119, § 1, eff. Sept. 1, 1993.

§63-1-1950.1. Definitions - Criminal history background check on certain persons to be offered employment.

A. For purposes of this section:

1. "Nurse aide" means any person who provides, for compensation, nursing care or health-related services to residents in a nursing facility, a specialized facility, a residential care home, continuum of care facility, assisted living center or an adult day care center and who is not a licensed health professional. Such term also means any person who provides such services to individuals in their own homes as an employee or contract provider of a home health or home care agency, or as a contract provider of the Medicaid State Plan Personal Care Program;

2. "Employer" means any of the following facilities, homes, agencies or programs which are subject to the provision of this section:

a. a nursing facility or specialized facility as such terms are defined in the Nursing Home Care Act,

b. a residential care home as such term is defined by the Residential Care Act,
c. an adult day care center as such term is defined in the Adult Day Care Act,
d. an assisted living center as such term is defined by the Continuum of Care and Assisted Living Act,
e. a continuum of care facility as such term is defined by the Continuum of Care and Assisted Living Act,
f. a home health or home care agency,
g. the Department of Human Services, in its capacity as an operator of any hospital or health care institution or as a contractor with providers under the Medicaid State Plan Personal Care Program,
h. any facility operated by the Oklahoma Department of Veterans Affairs, and
i. any facility approved and annually reviewed by the United States Department of Veterans Affairs as a medical foster home in which care is provided exclusively to three or fewer veterans;

3. "Home health or home care agency" means any person, partnership, association, corporation or other organization which administers, offers or provides health care services or supportive assistance for compensation to three or more ill, disabled, or infirm persons in the temporary or permanent residence of such persons, and includes any subunits or branch offices of a parent home health or home care agency;

4. "Bureau" means the Oklahoma State Bureau of Investigation; and

5. "Completion of the sentence" means the last day of the entire term of the incarceration imposed by the sentence including any term that is deferred, suspended or subject to parole.

B. Before any employer makes an offer to employ or to contract with a nurse aide to provide nursing care, health-related services or supportive assistance to any individual, the employer shall provide for a criminal history background check to be made on the nurse aide pursuant to the provisions of the Long-Term Care Security Act. If the employer is a facility, home or institution which is part of a larger complex of buildings, the requirement of a criminal history background check shall apply only to an offer of employment or contract made to a person who will work primarily in the immediate boundaries of the facility, home or institution.

Where the provisions of the Long-Term Care Security Act pertaining to registry screenings and national criminal history record check are not in effect pending an effective date established in rulemaking, an employer is authorized to obtain any criminal history background records maintained by the Bureau pursuant to the following:

1. The employer shall request the Bureau to conduct a criminal history background check on the nurse aide and shall provide to the Bureau any relevant information required by the Bureau to conduct the check. The employer shall pay a fee of Fifteen Dollars ($15.00) to the Bureau for each criminal history background check that is conducted pursuant to such a request;

2. An employer may make an offer of temporary employment to a nurse aide pending the results of the criminal history background check. The employer in such instance shall provide to the Bureau the name and relevant information relating to the person within seventy-two (72) hours after the date the person accepts temporary employment. The employer shall not hire or contract with the nurse aide on a permanent basis until the results of the criminal history background check are received;

3. An employer may accept a criminal history background report less than one (1) year old of a person to whom such employer makes an offer of employment. The report shall be obtained from the previous employer or contractor of such person and shall only be obtained upon the written consent of such person; and

4. Every employer while subject to the provisions of this subsection shall inform each applicant for employment, or each prospective contract provider, as applicable, that the employer is required to obtain a criminal history background record before making an offer of permanent employment or contract to a nurse aide.

C. 1. If the results of a criminal history background check reveal that the subject person has been convicted of, pled guilty or no contest to, or received a deferred sentence for, a felony or misdemeanor offense for any of the following offenses in any state or federal jurisdiction, the employer shall not hire or contract with the person:

a. abuse, neglect or financial exploitation of any person entrusted to the care or possession of such person,
b. rape, incest or sodomy,
c. child abuse,
d. murder or attempted murder,
e. manslaughter,
f. kidnapping,
g. aggravated assault and battery,
h. assault and battery with a dangerous weapon, or
i. arson in the first degree.

2. If less than seven (7) years have elapsed since the completion of sentence, and the results of a criminal history check reveal that the subject person has been convicted of, or pled guilty or no contest to, a felony or misdemeanor offense for any of the following offenses, in any state or federal jurisdiction, the employer shall not hire or contract with the person:

a. assault,

b. battery,
c. indecent exposure and indecent exhibition, except where such offense disqualifies the applicant as a registered sex offender,
d. pandering,
e. burglary in the first or second degree,
f. robbery in the first or second degree,
g. robbery or attempted robbery with a dangerous weapon, or imitation firearm,
h. arson in the second degree,
i. unlawful manufacture, distribution, prescription, or dispensing of a Schedule I through V drug as defined by the Uniform Controlled Dangerous Substances Act,
j. grand larceny, or
k. petit larceny or shoplifting.

D. An employer shall not employ or continue employing a person addicted to any Schedule I through V drug as specified by the Uniform Controlled Dangerous Substances Act unless the person produces evidence that the person has successfully completed a drug rehabilitation program.

E. All employment eligibility determination records received by the employer pursuant to this section are confidential and are for the exclusive use of the State Department of Health and the employer which requested the information. Except on court order or with the written consent of the person being investigated, the records shall not be released or otherwise disclosed to any other person or agency. These records shall be destroyed after one (1) year from the end of employment of the person to whom such records relate.

F. As part of the inspections required by the Nursing Home Care Act, Continuum of Care and Assisted Living Act, the Residential Care Act, and the Adult Day Care Act, the State Department of Health shall review the employment files of any facility, home or institution required to obtain a criminal history background determination to ensure such facilities, homes or institutions are in compliance with the provisions of this section.

Added by Laws 1990, c. 149, § 1, eff. Oct. 1, 1990. Amended by Laws 1991, c. 315, § 1, eff. Jan. 1, 1992; Laws 1992, c. 139, § 1, eff. Sept. 1, 1992; Laws 1992, c. 249, § 5, eff. Sept. 1, 1992; Laws 2004, c. 287, § 1, eff. July 1, 2004; Laws 2004, c. 436, § 12, emerg. eff. June 4, 2004; Laws 2010, c. 185, § 1, eff. Nov. 1, 2010; Laws 2012, c. 358, § 3, eff. Nov. 1, 2012; Laws 2013, c. 379, § 5, emerg. eff. May 29, 2013; Laws 2015, c. 8, § 1, eff. Nov. 1, 2015.

§63-1-1950.2. Nontechnical medical care providers - Employment by department.

Nothing contained in this act shall be construed as creating an employer-employee relationship between the Department of Human

Services and anyone contracting with the Department of Human Services as a nontechnical medical care provider.
Added by Laws 1991, c. 315, § 2, eff. Jan. 1, 1992.

§63-1-1950.3. Nurses aides - Employment of persons not licensed – Medication aides – Rules for medication administration.

A. 1. A nursing facility, specialized facility, continuum of care facility, assisted living center, adult day care or residential home, or facility operated by the Oklahoma Department of Veterans Affairs, shall not employ as a nurse aide, on a full-time, temporary, per diem, or any other basis, any individual who is not certified as a nurse aide in good standing and is not eligible for placement on the nurse aide registry maintained by the State Department of Health.

2. The Department may grant a temporary emergency waiver to the provisions of this paragraph to any nursing facility, continuum of care facility, assisted living center or adult day care or residential home which can demonstrate that such facility, home or institution has been unable to successfully meet its staffing requirements related to the provisions of this paragraph.

B. Such waiver shall require the following:

1. An individual employed as a nurse aide who is enrolled in a Department-approved training and competency evaluation program for nurse aides shall successfully complete such training and competency evaluations within four (4) months of entering the training program;

2. The individual shall obtain certification, and the Department shall place the nurse aide on the registry within thirty (30) days after demonstration of competency;

3. Any nursing facility, specialized facility, continuum of care facility, assisted living center, adult day care or residential care home that employs an individual who is in nurse aide training, as provided in this section, shall ensure that the trainee shall:

a. complete the required training and competency program as provided in rules prior to any direct contact with a resident or client,

b. not perform any service for which the trainee has not trained and been determined proficient by the instructor, and

c. be supervised at all times by no less than a licensed practical nurse; and

4. No employer may use as a nurse aide an individual who has not completed the nurse aide training and competency program within the required four-month period.

C. For purposes of this section, "four (4) months" means the equivalent of four (4) months of full-time employment as a nurse aide by any employer in any nursing facility, specialized facility,

continuum of care facility, assisted living center, adult day care or residential care home.

D. 1. The Department may grant a trainee a one-time extension of the four-month training requirement if:

a. such requirement causes an undue hardship for the trainee due to unusual circumstances or illness, and

b. the trainee has demonstrated a good faith effort to complete the training and competency evaluation program.

2. The State Board of Health shall promulgate rules related to the review of and the process and conditions for such an extension.

E. 1. Certified medication aides, upon successful completion of competency standards or prescribed training courses, shall be eligible to distribute medications or treatments provided by paragraph 2 of this subsection within a:

a. correctional facility, as set forth in Section 623 of Title 57 of the Oklahoma Statutes,

b. correctional facility operated by a contractor of the Department of Corrections,

c. county or municipal jail,

d. nursing facility,

e. specialized facility,

f. continuum of care facility,

g. assisted living center,

h. adult day care,

i. residential care home, or

j. facilities operated by the Oklahoma Department of Veterans Affairs.

2. Certified medication aides may:

a. perform fingerstick blood sugars,

b. administer diabetic medications, including subcutaneous injections of insulin, provided that the certified medication aide has completed a Department-approved advanced training program on diabetes and the administration of diabetes medications, including injections,

c. administer medications, first aid treatments and nutrition; by oral, rectal, vaginal, otic, ophthalmic, nasal, skin, topical, transdermal, and nasogastric/gastrostomy tubes routes, and

d. administer oral metered dose inhalers and nebulizers;

3. The State Board of Health shall establish rules necessary to ensure the safety of medication administration by certified medication aides, including but not limited to:

a. competency and practice standards for medication aides,

b. maintaining a list of skills and functions that medication aides will be able to perform upon completion of certification course work,
c. certification and recertification requirements for medication aides,
d. development of criteria and procedures for approval or disapproval of training and competency evaluation programs, and
e. procedures for denying, suspending, withdrawing, or refusing to renew certification for a medication aide;

4. Each facility shall develop policies and procedures that comply with the provisions of this subsection and rules promulgated by the State Board of Health. This policy shall be reviewed and approved by the facility Medical Director, Director of Nurses and/or Registered Nurse Consultant.

F. Any person convicted of violating any of the provisions of this section or Section 1-1950.1 of this title shall be guilty of a misdemeanor, punishable by a fine of not less than One Hundred Dollars ($100.00) nor more than Three Hundred Dollars ($300.00), imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

Added by Laws 1991, c. 315, § 3, eff. Jan. 1, 1992. Amended by Laws 1999, c. 129, § 1, eff. Nov. 1, 1999; Laws 2002, c. 230, § 15, eff. Nov. 1, 2002; Laws 2003, c. 429, § 3, emerg. eff. June 6, 2003; Laws 2004, c. 436, § 13, emerg. eff. June 4, 2004; Laws 2005, c. 460, § 12, eff. Nov. 1, 2005; Laws 2006, c. 79, § 2, emerg. eff. April 21, 2006; Laws 2011, c. 255, § 1, eff. Nov. 1, 2011; Laws 2013, c. 379, § 6, emerg. eff. May 29, 2013.

NOTE: Laws 2004, c. 420, § 1 repealed by Laws 2005, c. 1, § 92, emerg. eff. March 15, 2005.

§63-1-1950.4. Nurse aides – Uniform employment application.

A. 1. The State Department of Health, in conjunction with the Office of the State Long-term Care Ombudsman of the Department of Human Services, shall develop a uniform employment application to be used in the hiring of nurse aide staff by a nursing facility or a specialized facility as such terms are defined in the Nursing Home Care Act, a residential care home, as such term is defined by the Residential Care Act, an assisted living center as such term is defined by the Continuum of Care and Assisted Living Act, a continuum of care facility as defined by the Continuum of Care and Assisted Living Act, a hospice inpatient facility or program providing hospice services as such terms are defined by the Hospice Licensing Act, an adult day care center as such term is defined by the Adult Day Care Act, and a home care agency as defined by the Home Care Act. Such uniform application shall be used as the only

application for employment of nurse aides in such facilities on and after January 1, 2001.

2. Nothing in this section shall prohibit the State Department of Health or any other state agency from requiring applicants for any position in the classified service to be certified by the state using the State of Oklahoma Employment Application.

B. The uniform employment application shall be designed to gather all pertinent information for entry into the nurse aide registry maintained by the State Department of Health. The uniform application shall also contain:

1. A signature from the applicant to confirm or deny any previous felony conviction;

2. A release statement for the applicant to sign giving the State Department of Health and the Oklahoma State Bureau of Investigation the authority to proceed with the state or national criminal history record checks; and

3. Such other information deemed necessary by the Department.

C. The Department shall provide implementation training on the use of the uniform employment application.

Added by Laws 2000, c. 340, § 23, eff. July 1, 2000. Amended by Laws 2001, c. 381, § 25, eff. July 1, 2001; Laws 2003, c. 339, § 5, eff. Nov. 1, 2003; Laws 2012, c. 358, § 4, eff. Nov. 1, 2012.

§63-1-1950.4a. Uniform employment application for nurse aides - Providing false information - Penalties.

A. It shall be unlawful for any person to provide false information regarding a criminal conviction on the uniform employment application for nurse aides. The State Department of Health shall amend the uniform employment application to include a statement informing the applicant of this provision.

B. Any violation of the provisions of subsection A of this section shall constitute a misdemeanor. Every violator, upon conviction, shall be punished by a fine not to exceed Five Hundred Dollars ($500.00), by imprisonment in the county jail for a term of not more than one (1) year, or by both such fine and imprisonment.

Added by Laws 2003, c. 344, § 1, emerg. eff. May 29, 2003.

§63-1-1950.5. Caregiver - Solicitation or acceptance of gifts - Offense.

A. 1. It shall be unlawful for a caregiver to solicit or accept anything of value greater than One Dollar ($1.00) from any person in the caregiver’s care; provided, however, nothing in this section shall be construed as prohibiting a group of individuals, including family members and friends of residents, from establishing an employee recognition program consisting of voluntary, anonymous and confidential donations to care providers; provided further, no care provider shall be included in the group making decisions

regarding the disbursement. Such donations may be disbursed pursuant to procedures established by the group.

2. As used in this section, "caregiver" means a person who is:

a. the paid agent or employee of:

(1) an assisted living center,

(2) a nursing facility, specialized facility, or residential care home as such terms are defined in Section 1-1902 of this title,

(3) an adult day care center as such term is defined in Section 1-872 of this title,

(4) a home health or home care agency, or

(5) the Department of Human Services, in its capacity as an operator of any hospital or health care institution, or as a contractor with providers under the Personal Care Services Program, or

b. a personal care attendant hired by a consumer under the Oklahoma Consumer-Directed Personal Assistance and Support Services (Oklahoma CD-PASS) Program.

"Caregiver" does not include a guardian, limited guardian, or conservator as such terms are defined in the Oklahoma Guardianship and Conservatorship Act.

B. Any person who violates the provisions of paragraph 1 of subsection A of this section, upon conviction, shall be guilty of a misdemeanor.

Added by Laws 2001, c. 393, § 5, eff. Nov. 1, 2001. Amended by Laws 2003, c. 71, § 1, eff. Nov. 1, 2003; Laws 2004, c. 285, § 3, eff. July 1, 2004.

NOTE: Laws 2004, c. 249, § 4 repealed by Laws 2005, c. 1, § 93, emerg. eff. March 15, 2005.

§63-1-1950.6. Effective date - Definitions.

A. Sections 1-1950.6 through 1-1950.9 of this title shall be effective September 1, 2005.

B. As used in Sections 1-1950.6 through 1-1950.9 of this title:

1. "Board" means the State Board of Health;

2. "Bureau" means the Oklahoma State Bureau of Investigation;

3. "Department" means the State Department of Health;

4. "Nursing facility" means a nursing facility and specialized facility as such terms are defined in Section 1-1902 of this title;

5. "Nontechnical services worker" means a person employed by a nursing facility to provide, for compensation, nontechnical services in or upon the premises of a nursing facility. The term "nontechnical services worker" shall not include a nurse aide, or any person who is exempt from the criminal arrest check provisions of Section 1-1950.1 of this title; and

6. "Nontechnical services" means services that:

a. are performed in or on the premises of a nursing facility and that are predominantly physical or manual in nature, and
b. involve or may involve patient contact including, but not limited to, housekeeping, janitorial or maintenance services, food preparation and administrative services.

Added by Laws 2002, c. 470, § 2, eff. July 1, 2002. Amended by Laws 2005, c. 465, § 7, emerg. eff. June 9, 2005.

§63-1-1950.7. Nontechnical services worker abuse registry.

A. The State Department of Health shall establish a registry for those nontechnical services workers that have been noted to have committed abuse, verbal abuse, or exploitation of a resident in a nursing facility.

B. The State Board of Health shall promulgate rules to establish and maintain the nontechnical services worker abuse registry. Such rules may include, but need not be limited to:

1. A procedure for notation in the abuse registry of a final State Department of Health investigative finding or an Administrative Law Judge finding of abuse, verbal abuse, or exploitation, as these terms are defined in Section 10-103 of Title 43A of the Oklahoma Statutes, of an individual by a nontechnical services worker;

2. A procedure for notice and due process for a nontechnical services worker or applicant before the entering of such person's name in the abuse registry as having a final Department investigative finding or Administrative Law Judge finding of abuse, verbal abuse, or exploitation of an individual; and

3. Disclosure requirements for information in the abuse registry.

C. The nontechnical services worker abuse registry shall include, but not be limited to, the following information on each nontechnical services worker:

1. The individual's full name;

2. Information necessary to identify each individual;

3. The date the individual's name was placed in the abuse registry; and

4. Information on any final Department investigative finding or Administrative Law Judge finding of abuse, verbal abuse or exploitation, as these terms are defined in Section 10-103 of Title 43A of the Oklahoma Statutes, concerning the nontechnical services worker.

D. A nontechnical services worker or applicant who is adversely affected by an Administrative Law Judge finding of abuse, verbal abuse or exploitation of an individual may seek judicial review pursuant to the provisions of Article II of the Administrative

Procedures Act. The finding of the Administrative Law Judge may be appealed to the district court in which the nontechnical services worker or applicant resides within thirty (30) days of the date of the decision. A copy of the petition shall be served by mail upon the general counsel of the Department.
Added by Laws 2002, c. 470, § 3, eff. July 1, 2002.

§63-1-1950.8. Criminal history records and nontechnical services worker abuse registry search – Temporary employment.

A. 1. Before any nursing facility makes an offer to employ a nontechnical services worker applicant subject to subsection A of Section 1-1950.7 of this title on or after the effective date of Sections 1-1950.6 through 1-1950.9 of this title, to provide nontechnical services, the nursing facility shall:

a. provide for a criminal history records search to be conducted upon the nontechnical services worker applicant pursuant to the provisions of the Long-Term Care Security Act, and

b. check with the Department to determine whether the name of the applicant seeking employment appears on the nontechnical services worker abuse registry created pursuant to the provisions of Section 1-1950.7 of this title. If the name of the applicant seeking employment with the nursing facility is listed on the abuse registry as having a final Department investigative finding or an Administrative Law Judge finding pursuant to the requirements of Section 1-1950.7 of this title, and the Department has allowed for notice and opportunity for due process for such applicant, the nursing facility shall not hire the applicant.

2. Where the provisions of the Long-Term Care Security Act pertaining to registry screenings and national criminal history record checks are not in effect pending an effective date in rulemaking, an employer is authorized to obtain any criminal history background records maintained by the Oklahoma State Bureau of Investigation pursuant to the following:

a. the employer shall request the Bureau to conduct a criminal history background check on the nontechnical services worker and shall provide to the Bureau any relevant information required by the Bureau to conduct the check. The employer shall pay a fee of Fifteen Dollars ($15.00) to the Bureau for each criminal history background check that is conducted pursuant to such a request,

b. an employer may make an offer of temporary employment to a nontechnical services worker pending the results

of the criminal history background check. The employer in such instance shall provide to the Bureau the name and relevant information relating to the person within seventy-two (72) hours after the date the person accepts temporary employment. The employer shall not hire or contract with the nontechnical services worker on a permanent basis until the results of the criminal history background check are received,

c. an employer may accept a criminal history background report less than one (1) year old of a nontechnical services worker to whom such employer makes an offer of employment or employment contract. The report shall be obtained from the previous employer or contractor of such person and shall only be obtained upon the written consent of such person, and

d. every employer while subject to the provisions of this subsection shall inform each applicant for employment, or each prospective contract provider, as applicable, that the employer is required to obtain a criminal history background record before making an offer of permanent employment or contract to a nontechnical services worker.

B. Every nursing facility shall inform each nontechnical services worker applicant for employment of the requirement to obtain a criminal check and an abuse registry review before making an offer of permanent employment with a nontechnical services worker applicant.

C. A nursing facility shall not hire or contract with and shall immediately terminate the employment, contract or volunteer arrangement of any applicant, contract worker or employee for whom the results of a criminal history records search from any jurisdiction reveals that such person has a disqualifying criminal offense listed in subsection C of Section 1-1950.1 of this title.

D. All employment eligibility determination records received by the nursing facility are for the exclusive use of the State Department of Health and the nursing facility that requested the information. Except as otherwise provided by Sections 1-1950.6 through 1-1950.9 of this title or upon court order or with the written consent of the person being investigated, the employment eligibility determination records shall not be released or otherwise disclosed to any other person or agency.

E. Any person releasing or disclosing any information in violation of this section, upon conviction thereof, shall be guilty of a misdemeanor.

F. As part of any inspections required by law, the Department shall review the employment files of the nursing facility required

to conduct a criminal history records search to ensure compliance with the provisions of this section.
Added by Laws 2002, c. 470, § 4, eff. July 1, 2002. Amended by Laws 2012, c. 358, § 5, eff. Nov. 1, 2012.

§63-1-1950.9. Fine and imprisonment.

Any violation of the provisions of Sections 2 through 4 of this act shall be deemed a misdemeanor and, upon conviction or plea of guilty or nolo contendere, shall be punishable by a fine of not less than Three Hundred Dollars ($300.00), but not more than One Thousand Dollars ($1,000.00). In addition to the fine, such violator may be imprisoned in the county jail for not more than thirty (30) days. Each day that the violation continues shall be considered to be a separate violation.
Added by Laws 2002, c. 470, § 5, eff. July 1, 2002.

§63-1-1951. Certification, training and registration.

A. The State Department of Health shall have the power and duty to:

1. Issue certificates of training and competency for nurse aides;

2. Approve training and competency programs including, but not limited to, education-based programs and employer-based programs, including those programs established pursuant to Section 223.1 of Title 72 of the Oklahoma Statutes;

3. Determine curricula and standards for training and competency programs. The Department shall require such training to include a minimum of ten (10) hours of training in the care of Alzheimer's patients;

4. Establish and maintain a registry for certified nurse aides and for nurse aide trainees;

5. Establish categories and standards for nurse aide certification and registration, including feeding assistants as defined in 42 CFR Parts 483 and 488;

6. Exercise all incidental powers as necessary and proper to implement and enforce the provisions of this section; and

7. Suspend or revoke any certification issued to any nurse aide, if:

a. the nurse aide is found to meet any of the requirements contained in subsection D of Section 1-1947 of this title,

b. the nurse aide is found to meet any of the requirements contained in subsection C of Section 1-1950.1 of this title, or

c. the nurse aide is found to have committed abuse, neglect or exploitation of a resident or misappropriation of resident or client property

pursuant to the requirements contained in paragraph 7 of subsection D of this section. The action to revoke or suspend may be included with the filing of any action pursuant to the requirements of paragraph 7 of subsection D of this section.

B. The State Board of Health shall promulgate rules to implement the provisions of this section and shall have power to assess fees.

1. Each person certified as a nurse aide pursuant to the provisions of this section shall be required to pay certification and recertification fees in amounts to be determined by the State Board of Health, not to exceed Fifteen Dollars ($15.00).

2. In addition to the certification and recertification fees, the State Board of Health may impose fees for training or education programs conducted or approved by the Department, except for those programs operated by the Oklahoma Department of Veterans Affairs.

3. All revenues collected as a result of fees authorized in this section and imposed by the Board shall be deposited into the Public Health Special Fund.

C. Only a person who has qualified as a certified nurse aide and who holds a valid current nurse aide certificate for use in this state shall have the right and privilege of using the title Certified Nurse Aide and to use the abbreviation CNA after the name of such person. Any person who violates the provisions of this section shall be subject to a civil monetary penalty to be assessed by the Department.

D. A person qualified by the Department as a certified nurse aide shall be deemed to have met the requirements to work as a home health aide pursuant to the provisions of the Home Care Act and shall require no further licensure for performing services within the scope of practice of home health aides.

E. 1. The State Department of Health shall establish and maintain a certified nurse aide, nurse aide trainee and feeding assistant registry that:

a. is sufficiently accessible to promptly meet the needs of the public and employers, and

b. provides a process for notification and investigation of alleged abuse, exploitation or neglect of residents of a facility or home, clients of an agency or center, or of misappropriation of resident or client property.

2. The registry shall contain information as to whether a nurse aide has:

a. successfully completed a certified nurse aide training and competency examination,

b. met all the requirements for certification, or

c. received a waiver from the Board.

3. The registry shall include, but not be limited to, the following information on each certified nurse aide or nurse aide trainee:

a. the full name of the individual,

b. information necessary to identify each individual. Certified nurse aides and nurse aide trainees shall maintain with the registry current residential addresses and shall notify the registry, in writing, of any change of name. Notification of change of name shall require certified copies of any marriage license or other court document which reflects the change of name. Notice of change of address or telephone number shall be made within ten (10) days of the effected change. Notice shall not be accepted over the phone,

c. the date the individual became eligible for placement in the registry, and

d. information on any finding of the Department of abuse, neglect or exploitation by the certified nurse aide or nurse aide trainee, including:

(1) documentation of the Department's investigation, including the nature of the allegation and the evidence that led the Department to confirm the allegation,

(2) the date of the hearing, if requested by the certified nurse aide or nurse aide trainee, and

(3) statement by the individual disputing the finding if the individual chooses to make one.

4. The Department shall include the information specified in subparagraph d of paragraph 3 of this subsection in the registry within ten (10) working days of the substantiating finding and it shall remain in the registry, unless:

a. it has been determined by an administrative law judge, a district court or an appeal court that the finding was in error, or

b. the Board is notified of the death of the certified nurse aide or nurse aide trainee.

5. Upon receipt of an allegation of abuse, exploitation or neglect of a resident or client, or an allegation of misappropriation of resident or client property by a certified nurse aide or nurse aide trainee, the Department shall place a pending notation in the registry until a final determination has been made. If the investigation, or administrative hearing held to determine whether the certified nurse aide or nurse aide trainee is in violation of the law or rules promulgated pursuant thereto, reveals that the abuse, exploitation or neglect, or misappropriation of resident or client property was unsubstantiated, the pending

notation shall be removed within twenty-four (24) hours of receipt of notice by the Department.

6. The Department shall, after notice to the individuals involved and a reasonable opportunity for a hearing, make a finding as to the accuracy of the allegations.

7. If the Department after notice and opportunity for hearing determines with clear and convincing evidence that abuse, neglect or exploitation, or misappropriation of resident or client property has occurred and the alleged perpetrator is the person who committed the prohibited act, notice of the findings shall be sent to the nurse aide and to the district attorney for the county where the abuse, neglect or exploitation, or misappropriation of resident or client property occurred and to the Medicaid Fraud Control Unit of the Attorney General's Office. Notice of ineligibility to work as a nurse aide in a long-term care facility, a residential care facility, assisted living facility, day care facility, or any entity that requires certification of nurse aides, and notice of any further appeal rights shall also be sent to the nurse aide.

8. In any proceeding in which the Department is required to serve notice or an order on an individual, the Department may send written correspondence to the address on file with the registry. If the correspondence is returned and a notation of the United States Postal Service indicates "unclaimed" or "moved" or "refused" or any other nondelivery markings and the records of the registry indicate that no change of address as required by this subsection has been received by the registry, the notice and any subsequent notices or orders shall be deemed by the court as having been legally served for all purposes.

9. The Department shall require that each facility check the nurse aide registry before hiring a person to work as a nurse aide. If the registry indicates that an individual has been found, as a result of a hearing, to be personally responsible for abuse, neglect or exploitation, that individual shall not be hired by the facility.

10. If the state finds that any other individual employed by the facility has neglected, abused, misappropriated property or exploited in a facility, the Department shall notify the appropriate licensing authority and the district attorney for the county where the abuse, neglect or exploitation, or misappropriation of resident or client property occurred.

11. Upon a written request by a certified nurse aide or nurse aide trainee, the Board shall provide within twenty (20) working days all information on the record of the certified nurse aide or nurse aide trainee when a finding of abuse, exploitation or neglect is confirmed and placed in the registry.

12. Upon request and except for the names of residents and clients, the Department shall disclose all of the information relating to the confirmed determination of abuse, exploitation and

neglect by the certified nurse aide or nurse aide trainee to the person requesting such information, and may disclose additional information the Department determines necessary.

13. A person who has acted in good faith to comply with state reporting requirements and this section of law shall be immune from liability for reporting allegations of abuse, neglect or exploitation.

F. Each nurse aide trainee shall wear a badge which clearly identifies the person as a nurse aide trainee. Such badge shall be furnished by the facility employing the trainee. The badge shall be nontransferable and shall include the first and last name of the trainee.

G. 1. For purposes of this section, "feeding assistant" means an individual who is paid to feed residents by a facility or who is used under an arrangement with another agency or organization and meets the requirements cited in 42 CFR Parts 483 and 488.

2. Each facility that employs or contracts employment of a feeding assistant shall maintain a record of all individuals, used by the facility as feeding assistants, who have successfully completed a training course approved by the state for paid feeding assistants.

Added by Laws 1996, c. 336, § 8, eff. Nov. 1, 1996. Amended by Laws 2002, c. 230, § 16, eff. Nov. 1, 2002; Laws 2005, c. 460, § 13, eff. Nov. 1, 2005; Laws 2006, c. 16, § 44, emerg. eff. March 29, 2006; Laws 2012, c. 358, § 6, eff. Nov. 1, 2012; Laws 2013, c. 379, § 7, emerg. eff. May 29, 2013; Laws 2015, c. 122, § 1, eff. Nov. 1, 2015; Laws 2017, c. 77, § 2, eff. Nov. 1, 2017.

NOTE: Laws 2005, c. 235, § 1 repealed by Laws 2006, c. 16, § 45, emerg. eff. March 29, 2006.

§63-1-1951.1. Rules and implementation.

The State Board of Health and the War Veterans Commission shall promulgate rules to implement the provisions of this act.

Added by Laws 2013, c. 379, § 8, emerg. eff. May 29, 2013.

§63-1-1952. Repealed by Laws 2007, c. 93, § 8, eff. Nov. 1, 2007.

§63-1-1953.1. Definitions.

As used in this act:

1. "Authorized electronic monitoring" means the placement of electronic monitoring devices in the common areas or room of a resident of a nursing facility and the tapes or recordings from such devices pursuant to the provisions of this act;

2. "Authorized electronic monitoring devices" means:

a. video surveillance cameras installed in the common areas or resident's room under the provisions of this act, or

b. audio devices installed in the room of a resident under the provisions of this act that are designed to acquire communications or other sounds occurring in the room;

3. "Nursing facility" means the term as defined in Section 1-1902 of Title 63 of the Oklahoma Statutes;

4. "Representative of a resident" means the term as is defined in Section 1-1902 of Title 63 of the Oklahoma Statutes;

5. "Resident" means the term as is defined in Section 1-1902 of Title 63 of the Oklahoma Statutes; and

6. "Unauthorized electronic monitoring" means electronic, mechanical, or other devices that do not meet the provisions of this act and that are specifically used for the nonconsensual interception of wire or electronic communications.

Added by Laws 2013, c. 204, § 1, eff. Nov. 1, 2013.

§63-1-1953.2. Notice of electronic monitoring - Refusal to admit - Signs.

A. A nursing facility shall provide written notice to each resident, or to the representative of a resident, that authorized electronic monitoring of a resident's room conducted under the provisions of this act is not compulsory and shall only be conducted with the written consent of the resident or the representative of the resident.

B. A nursing facility shall not refuse to admit an individual to residency in the facility and shall not remove a resident from a facility because of authorized electronic monitoring of a resident's room.

C. A nursing facility shall post at or near its main entrances a sign that clearly states that electronic monitoring and audio devices may be in use in the facility.

Added by Laws 2013, c. 204, § 2, eff. Nov. 1, 2013.

§63-1-1953.3. Obstruction of electronic monitoring devices - Penalties.

A. No person or entity shall intentionally hamper, obstruct, tamper with, or destroy an electronic monitoring device installed in a nursing facility.

B. Any person or entity that intentionally hampers, obstructs, tampers with, or destroys a recording or an electronic monitoring device installed in a nursing facility shall be subject to the penalties prescribed in Section 1993 of Title 21 of the Oklahoma Statutes.

C. No person or entity shall intercept a communication or disclose or use an intercepted communication of an electronic monitoring device placed or installed in a common area of a nursing facility without the express written consent of the facility, or,

for an electronic monitoring device installed in a resident's room, the express written consent of the resident or the representative of the resident.
Added by Laws 2013, c. 204, § 3, eff. Nov. 1, 2013.

§63-1-1953.4. Admission into evidence.
Subject to the provisions of law, a tape or recording created through the use of authorized electronic monitoring pursuant to this act may be admitted into evidence in a civil or criminal court action or administrative proceeding.
Added by Laws 2013, c. 204, § 4, eff. Nov. 1, 2013.

§63-1-1953.5. Electronic monitoring in nursing homes.
A. A resident or the representative of a resident may conduct authorized electronic monitoring of the resident's room through the use of authorized electronic monitoring devices placed in the room pursuant to the provisions of this act at the expense of such person or representative of the resident and with the written consent of any other resident living in the room.
B. A resident who conducts authorized electronic monitoring or the representative of the resident may post and maintain a notice at the entrance to the resident's room stating that the room is being monitored by an electronic monitoring device.
C. Nothing in this act shall be construed to prevent a resident or the representative of the resident from placing an electronic monitoring device in the resident's room at the expense of such person; however, if such resident is sharing a room with any other resident, the resident or the representative of the resident shall obtain written consent from such other resident or the representative of the resident living in the room and such consent shall be on a form prescribed by the State Department of Health and shall be placed on file with the administrator of the facility.
D. If a resident residing in a shared room, or the representative of a resident residing in a shared room, desires to utilize an authorized electronic monitoring device and another resident living in such shared room refuses to consent to the use of an authorized electronic monitoring device, the nursing facility shall accommodate the resident or the representative of the resident desiring to utilize an authorized electronic monitoring device to move to another room if the resident or resident's representative requests such a room change within a reasonable amount of time.
Added by Laws 2013, c. 204, § 5, eff. Nov. 1, 2013.

§63-1-1953.6. Consent for electronic monitoring in nursing homes.
A. A resident or representative of a resident who wishes to conduct authorized electronic monitoring shall be required to notify

the nursing facility on the consent form prescribed by the State Department of Health.

B. The consent form prescribed by the Department shall require the resident or the representative of a resident to obtain the consent of any other resident in the room or the representative of a resident, using the consent form prescribed for this purpose by the Department, if the resident resides in a room with another resident.

C. Consent may be given only:

1. By the resident or any other resident in the room; or

2. By the representative of the resident or representative of any other resident in the room.

D. Another resident in the room may:

1. When the proposed electronic monitoring device is a video surveillance camera, condition consent on the camera being pointed away from the consenting resident; and

2. Condition consent on the use of an audio electronic monitoring device being limited or prohibited.

E. Except as provided for in Section 7 of this act, authorized electronic monitoring may begin only after the required consent forms specified in this act have been completed and returned to the nursing facility and placed on file with the administrator of such facility.

F. If authorized electronic monitoring is being conducted in the room of a resident, another resident may not be moved into the room unless the resident or representative of the resident has consented to the use of existing electronic monitoring, in accordance with this act.

G. The Department may include other information that it considers to be appropriate on any form it is required to prescribe under the provisions of this act.

H. The Department shall prescribe the forms required by this act no later than November 1, 2013, and shall make such forms available on its website.

Added by Laws 2013, c. 204, § 6, eff. Nov. 1, 2013.

§63-1-1953.7. Residents utilizing existing electronic monitoring devices.

Any resident or the representative of the resident utilizing existing electronic monitoring devices prior to November 1, 2013, shall comply with all written consent and disclosure provisions of this act no later than January 1, 2014.

Added by Laws 2013, c. 204, § 7, eff. Nov. 1, 2013.

§63-1-1955.1. Short title.

This act shall be known and may be cited as the "Oklahoma Long-Term Care Partnership Act".

Added by Laws 2004, c. 283, § 1.

§63-1-1955.2. Definitions.

As used in the Oklahoma Long-Term Care Partnership Act, unless the context clearly indicates otherwise:

1. "Asset disregard" means the total assets an individual owns and may retain upon application for the state Medicaid program and still qualify for benefits if the individual:

a. is a beneficiary of a Long-Term Care Partnership Program approved policy, and

b. has exhausted the benefits of such policy.

Asset disregard is increased by One Dollar ($1.00) for each One Dollar ($1.00) of benefit paid out under the individual's long-term insurance policy if the individual purchased the policy through the Oklahoma Long-Term Care Partnership Program;

2. "Authority" means the Oklahoma Health Care Authority;

3. "State Medicaid program" means the federal medical assistance program established under Title XIX of the Social Security Act; and

4. "Oklahoma Long-Term Care Partnership Program approved policy" means a long-term care insurance policy that is approved by the Insurance Department and provided through state-approved long-term care insurers through the Oklahoma Long-Term Care Partnership Program.

Added by Laws 2004, c. 283, § 2.

§63-1-1955.3. Oklahoma Long-Term Care Partnership Program - Purposes - Exhaustion of benefits - Asset disregard.

A. Upon repeal of the restrictions to asset protection contained in the Omnibus Budget Reconciliation Act of 1993, Public Law 103-66, 107 Stat. 312, there shall be established the Oklahoma Long-Term Care Partnership Program, to be administered by the Oklahoma Health Care Authority, with the assistance of the Insurance Department, to do the following:

1. Provide incentives for individuals to insure against the costs of providing for their long-term care needs;

2. Provide a mechanism for individuals to qualify for coverage of the cost of their long-term care needs under the state Medicaid program without first being required to substantially exhaust their resources;

3. Provide counseling services to individuals in planning for their long-term care needs; and

4. Alleviate the financial burden on the state's Medicaid program by encouraging the pursuit of private initiatives.

B. Upon exhaustion of benefits under a Long-Term Care Partnership Program policy, certain resources of an individual, as described in subsection C of this section, shall not be considered by the Authority when determining any of the following:

1. Medicaid eligibility;
2. The amount of any Medicaid payment; and
3. Any subsequent recovery by the state of a payment for medical services.

C. The Oklahoma Health Care Authority shall amend the state Medicaid program to allow for asset disregard. The Authority shall provide for asset disregard by counting insurance benefits paid under a policy toward asset disregard to the extent the payments are for covered services under the Oklahoma Long-Term Care Partnership Program for purchasers of an Oklahoma Long-Term Care Partnership Program approved policy.

Added by Laws 2004, c. 283, § 3.

§63-1-1955.4. Eligibility for assistance under state Medicaid program - Continuing eligibility for asset disregard - Reciprocal agreements.

A. An individual who is a beneficiary of an Oklahoma Long-Term Care Partnership Program approved policy is eligible for assistance under the state Medicaid program using asset disregard pursuant to the provisions of subsection C of Section 3 of the Oklahoma Long-Term Care Partnership Act.

B. If the Oklahoma Long-Term Care Partnership Program is discontinued, an individual who purchased an Oklahoma Long-Term Care Partnership Program approved policy prior to the date the program was discontinued shall be eligible to receive asset disregard.

C. The Oklahoma Health Care Authority may enter into reciprocal agreements with other states to extend the asset disregard to residents of the state who purchase long-term care policies in another state which has an asset disregard program that is substantially similar to the asset disregard program as established under the Oklahoma Long-Term Care Partnership Act.

Added by Laws 2004, c. 283, § 4.

§63-1-1955.5. Promulgation of rules.

The Oklahoma Health Care Authority and the Insurance Department are hereby authorized to promulgate rules to implement and administer the provisions of the Oklahoma Long-Term Care Partnership Act.

Added by Laws 2004, c. 283, § 5.

§63-1-1955.6. Long-term care insurance policies - Notice regarding asset disregard and asset tests.

A. A long-term care insurance policy issued after the effective date of this act shall contain a notice provision to the consumer detailing in plain language the current law pertaining to asset disregard and asset tests.

B. The notice to the consumer under subsection A of this section shall be developed by the Insurance Commissioner.
Added by Laws 2004, c. 283, § 6.

§63-1-1960. Short title.
This act shall be known and may be cited as the "Home Care Act".
Added by Laws 1992, c. 139, § 2, eff. Sept. 1, 1992.

§63-1-1961. Definitions.
As used in the Home Care Act:
1. "Board" means the State Board of Health;
2. "Certification" means verification of appropriate training and competence established by the State Board of Health by rules promulgated pursuant to the Home Care Act for home health aides and home care agency administrators;
3. "Department" means the State Department of Health;
4. "Home care agency" means any sole proprietorship, partnership, association, corporation or other organization which administers, offers or provides home care services, for a fee or pursuant to a contract for such services, to clients in their place of residence. The term "home care agency" shall not include:
a. individuals who contract with the Department of Human Services to provide personal care services, provided such individuals shall not be exempt from certification as home health aides,
b. organizations that contract with the Oklahoma Health Care Authority as Intermediary Services Organizations (ISO) to provide federal Internal Revenue Service fiscal and supportive services to Consumer-Directed Personal Assistance Supports and Services (CD-PASS) waiver program participants who have employer responsibility for hiring, training, directing and managing an individual personal care attendant, or
c. CD-PASS waiver program employer participants;
5. "Home care services" means skilled or personal care services provided to clients in their place of residence for a fee;
6. "Home health aide" means an individual who provides personal care to clients in their temporary or permanent place of residence for a fee;
7. "Home care agency administrator" means a person who operates, manages, or supervises, or is in charge of a home care agency;
8. "Personal care" means assistance with dressing, bathing, ambulation, exercise or other personal needs;
9. "Skilled care" means home care services performed on a regular basis by a trained Respiratory Therapist/Technician or by a person currently licensed by this state, including but not limited

to a Licensed Practical Nurse, Registered Nurse, Physical Therapist, Occupational Therapist, Speech Therapist, or Social Worker;

10. "Standby assistance" means supervision of client directed activities with verbal prompting and infrequent, incidental hands-on intervention only; and

11. "Supportive home assistant" means an individual employed by a home care agency who provides standby assistance to ambulatory clients, in conjunction with other companionship or homemaker services, in the temporary or permanent place of residence of the client for a fee.

Added by Laws 1992, c. 139, § 3, eff. Sept. 1, 1992. Amended by Laws 1995, c. 169, § 1, emerg. eff. May 4, 1995; Laws 1996, c. 349, § 1, eff. Nov. 1, 1996; Laws 2004, c. 249, § 1, eff. Nov. 1, 2004; Laws 2009, c. 370, § 1, eff. Nov. 1, 2009.

§63-1-1962. Home care agency license – Supervisory requirements - Exemptions.

A. No home care agency as that term is defined by the Home Care Act shall operate without first obtaining a license as required by the Home Care Act.

B. 1. No home care agency, except as otherwise provided by this subsection, shall place an individual in the role of supportive home assistant with a client on a full-time, temporary, per diem, or other basis, unless the individual has completed agency-based supportive home assistant training taught by a registered nurse in the sections applicable to the assistance required by the client. Each supportive home assistant who successfully completes agency-based training shall demonstrate competence by testing through an independent entity approved by the State Department of Health. The requirements related to application, approval, renewal, and denial of such testing entities shall be set forth in administrative rules promulgated by the State Board of Health.

2. The home care agency shall develop a written training plan that shall include, at a minimum, the following:

a. observation, reporting, and documentation of client status and the standby assistance or other services furnished,

b. maintenance of a clean, safe, and healthy environment,

c. recognizing an emergency and necessary emergency procedures,

d. safe techniques to provide standby assistance with bathing, grooming, and toileting,

e. assistance with meal preparation and safe food handling and storage,

f. client rights and responsibilities and the need for respect for the client and for the privacy and property of the client, and

g. basic infection control practices to include, at a minimum, instruction in acceptable hand hygiene techniques and the application of standard precautions.

3. Supervisory visits shall be made according to the client need, as determined by the nursing supervisor, but no less than once every six (6) months.

4. No supportive home assistant shall provide services to a client until a criminal history background check and a check of the nurse aide registry maintained by the State Department of Health is performed in accordance with Section 1-1950.1 of this title and the assistant is found to have no notations of abuse of any kind on the registry and no convictions of the crimes listed in subsection F of Section 1-1950.1 of this title.

5. No home care agency may employ a supportive home assistant listed on the Department of Human Services Community Services Worker Registry.

6. No licensed health care facility, licensed physician, advanced practice registered nurse, physician assistant, or state agency employee acting in the performance of his or her duties shall refer a client for personal care services as defined in paragraph 8 of Section 1-1961 of this title or for companion or sitter services as defined in paragraph 1 of subsection A of Section 1-1972 of this title, except to an agency licensed to provide such services. For purposes of this subsection, "licensed health care facility" shall include acute care hospitals, long-term acute care hospitals, rehabilitation hospitals, skilled nursing facilities, assisted living facilities, residential care homes, home care agencies, adult day care centers and hospice agencies.

C. 1. No employer or contractor, except as otherwise provided by this subsection, shall employ or contract with any individual as a home health aide for more than four (4) months, on a full-time, temporary, per diem or other basis, unless the individual is a licensed health professional or unless the individual has satisfied the requirements for certification and placement on the home health aide registry maintained by the State Department of Health.

2. a. Any person in the employment of a home care agency as a home health aide on June 30, 1992, with continuous employment through June 30, 1993, shall be granted home health aide certification by the Department on July 1, 1993. The home care agency shall maintain responsibility for assurance of specific competencies of the home health aide and shall only assign the home health aide to tasks for which the aide has been determined to be competent.

b. Any home health aide employed between the dates of July 1, 1992, and June 30, 1993, shall be eligible for

certification by passing a competency evaluation and testing as required by the Department.

c. Any home health aide employed on and after July 1, 1996, shall complete any specified training, competency evaluation and testing required by the Department.

D. The provisions of the Home Care Act shall not apply to:

1. A person acting alone who provides services in the home of a relative, neighbor or friend;

2. A person who provides maid services only;

3. A nurse service or home aide service conducted by and for the adherents to any religious denomination, the tenets of which include reliance on spiritual means through prayer alone for healing;

4. A person providing hospice services pursuant to the Oklahoma Hospice Licensing Act;

5. A nurse-midwife;

6. An individual, agency, or organization that contracts with the Oklahoma Health Care Authority to provide services under the Home- and Community-Based Waiver for persons with developmental disabilities or that contracts with the Department of Human Services to provide community services to persons with developmental disabilities; provided, that staff members and individuals providing the services shall receive a level of training, approved by the Department of Human Services, which meets or exceeds the level required pursuant to the Home Care Act. An individual, agency or organization otherwise covered under the Home Care Act shall be exempt from the act only for those paraprofessional direct care services provided under contracts referenced in this paragraph;

7. An individual, agency or organization that provides or supports the provision of personal care services to an individual who performs individual employer responsibilities of hiring, training, directing and managing a personal care attendant as part of the Oklahoma Health Care Authority Consumer-Directed Personal Assistance Supports and Services (CD-PASS) waiver program. An individual, agency or organization otherwise covered under the provisions of the Home Care Act shall be exempt from the act only for those paraprofessional direct care services provided under Oklahoma Health Care Authority contracts referenced in this paragraph, but shall not be exempt from the criminal history background check required under the Home Care Act and Section 1-1950.1 of this title for other paraprofessional direct care service providers. A personal care attendant hired by a consumer under the CD-PASS program shall be exempt from certification as a home health aide, provided such personal care attendant receives the training required and approved by the Department of Human Services;

8. An individual who only provides Medicaid home- and community-based personal care services pursuant to a contract with the Oklahoma Health Care Authority;

9. An individual who:

a. is employed by a licensed home care agency exclusively to provide personal care services on a live-in basis,

b. has no convictions pursuant to a criminal history investigation as provided in Section 1-1950.1 of this title,

c. is being continuously trained by a registered nurse to provide care that is specific to the needs of the particular client receiving the care, and

d. is supervised by a registered nurse via an on-site visit at least once each month;

10. A home or facility approved and annually reviewed by the United States Department of Veterans Affairs as a medical foster home in which care is provided exclusively to three or fewer veterans; or

11. A person qualified by the Department as a certified nurse aide pursuant to the provisions of Section 1-1951 of this title.

Added by Laws 1992, c. 139, § 4, eff. Sept. 1, 1992. Amended by Laws 1996, c. 157, § 1, eff. July 1, 1996; Laws 1997, c. 407, § 20, eff. Nov. 1, 1997; Laws 1998, c. 5, § 19, emerg. eff. March 4, 1998; Laws 2004, c. 249, § 2, eff. Nov. 1, 2004; Laws 2009, c. 370, § 2, eff. Nov. 1, 2009; Laws 2012, c. 12, § 4, emerg. eff. April 5, 2012; Laws 2012, c. 265, § 2, eff. Nov. 1, 2012; Laws 2017, c. 77, § 3, eff. Nov. 1, 2017.

NOTE: Laws 1997, c. 219, § 1 repealed by Laws 1998, c. 5, § 29, emerg. eff. March 4, 1998.

§63-1-1962a. Certification of home care agency administrators.

A. 1. The State Board of Health shall have authority to determine the qualifications, skill and fitness of any person employed to serve as an administrator of a home care agency. The State Board of Health in promulgating rules pursuant to this section may consider advice and comments from representatives of home care agencies, home care agency administrators and representatives of statewide organizations for home care agency clients.

2. The State Board of Health shall develop standards which must be met by individuals in order to receive certification as a home health agency administrator, which standards shall be designed to ensure that home health agency administrators will be individuals who are of good character and are suitable, and who, by training or experience, are qualified to serve as home health agency administrators.

B. The State Department of Health, pursuant to rules promulgated by the Board, shall:

1. Develop and apply appropriate techniques, including examinations and investigations, for determining whether an individual meets such standards as established in paragraph 2 of subsection A of this section;

2. Certify individuals determined, after the application of such techniques, to meet such standards, and revoke or suspend certification previously issued by the Department in any case where the individual holding any such certification is determined substantially to have failed to conform to the requirements of such standards;

3. Establish and carry out procedures designed to ensure that individuals certified as home health agency administrators will, during any period that they serve as such, comply with the requirements of such standards; and

4. Receive, investigate, and take appropriate action with respect to any charge or complaint filed with the Department to the effect that any individual certified as a home care agency administrator has failed to comply with the requirements of such standards.

C. 1. In order to further ensure minimum standards for certification, the Board shall require a home care agency administrator to receive education or training which shall include, but not be limited to, training in administration, supervision, fiscal management, ethics, community relations, public information and human relations, concerning the issues associated with the operation of home care agencies and programs. Any person employed as an administrator after November 1, 1996, shall have completed the education or training specified by this subsection.

2. On and after August 1, 1997, proof of successful completion of the education, training or continuing education, as applicable, for the home care agency administrator shall be required prior to issuance or renewal of a license for a home care agency pursuant to the provisions of the Home Care Act.

D. It shall be unlawful and a misdemeanor for any person to act or serve in the capacity as a home care agency administrator unless such individual is the holder of a certification as a home care agency administrator, issued in accordance with the provisions of the Home Care Act.

E. Each person certified as a home care agency administrator pursuant to the provisions of this section shall be required to pay an annual certification fee in an amount to be determined by the State Board of Health not to exceed Two Hundred Dollars ($200.00). Each such certificate shall expire on the 31st day of July following its issuance and shall be renewable for twelve (12) months beginning August 1, upon payment of the annual certification fee.

F. In addition to the annual certification fees, the State Board of Health may impose fees for training or education programs conducted or approved by the Board.

G. All revenues collected as a result of fees authorized in this section and imposed by the Board shall be deposited into the Public Health Special Fund.

Added by Laws 1996, c. 349, § 4, eff. Nov. 1, 1996.

§63-1-1963. State Department of Health - Powers and duties - Rules and regulations for investigation and hearing of complaints.

A. The State Department of Health shall have the power and duty to:

1. Issue, renew, deny, modify, suspend and revoke licenses and deny renewal of licenses for agencies, and issue, renew, deny, modify, suspend and revoke certificates and deny renewal of certificates for home health aides pursuant to the provisions of the Home Care Act;

2. Establish and enforce qualifications, standards and requirements for licensure of home care agencies and certification of home health aides; provided, nothing in this paragraph shall be construed as to require a hospice to employ a home health aide as a condition of licensure;

3. Issue or renew a license to establish or operate a home care agency if the Department determines that the agency meets the requirements of or is accredited or certified by one of the following accrediting or certifying organizations or programs. In addition, the accredited home care agency through this paragraph will not be subject to an inspection or examination by the Department unless necessary to investigate complaints under subsection B of this section:

a. Title XVIII or XIX of the federal Social Security Act,

b. the Joint Commission on Accreditation of Healthcare Organizations/Home Care Accreditation Services (JCAHO),

c. the Community Health Accreditation Program of the National League for Nursing (CHAP), or

d. the Accreditation Commission for Health Care (ACHC);

4. Establish and maintain a registry of certified home health aides;

5. Enter any home care agency when reasonably necessary for the sole purpose of inspecting and investigating conditions of the agency for compliance with the provisions of the Home Care Act, or compliance with the standards and requirements for licensure or certification developed by the Department pursuant to the provisions of the Home Care Act;

6. Establish administrative penalties for violations of the provisions of the Home Care Act; and

7. Exercise all incidental powers as necessary and proper for the administration of the Home Care Act.

B. 1. The State Board of Health shall promulgate rules necessary for the investigation and hearing of complaints regarding a home care agency or home health aide.

2. The Department shall establish procedures for receipt and investigation of complaints regarding a home care agency or home health aide.

3. A complaint regarding a home care agency or home health aide shall not be made public unless a completed investigation substantiates the violations alleged in the complaint.

Added by Laws 1992, c. 139, § 5, eff. Sept. 1, 1992. Amended by Laws 2011, c. 107, § 1, eff. Nov. 1, 2011; Laws 2017, c. 77, § 4, eff. Nov. 1, 2017.

§63-1-1964. Contents, coverage and scope of rules.

The State Board of Health shall promulgate rules necessary to implement the provisions of the Home Care Act. Such rules shall include, but shall not be limited to:

1. Minimum standards for home care services. In establishing such standards, the Board shall consider those standards adopted by state and national home care associations;

2. Requirements for the certification and renewal certification of home health aides and home care agency administrators;

3. Provisions for transfer of ownership of a licensed agency;

4. A requirement that each licensed agency create and disclose to its clients a statement of clients' rights and responsibilities;

5. Establishing continuing education requirements for renewal of certifications for home care agency administrators;

6. Requirements for financial resources to ensure a home care agency's ability to provide adequate home care services;

7. Standards for assessing an applicant's business and professional experience as demonstrated in prior health care provider operations including, but not limited to, nursing homes, residential care homes, and home care and in previous compliance with all lawful orders of suspension, receivership, administrative penalty or sanction issued by the State Department of Health or by other administrative agencies in other states with similar responsibilities;

8. Restrictions on any agency, agency employee, or agency contractor providing skilled care or conducting an in-home assessment of the need for skilled care unless and until the agency receives a physician's order to provide skilled care or to conduct an in-home assessment of the need for skilled care; provided, however, such restrictions shall not prevent an agency from providing personal care to a client without a physician's order. Provided further, such restrictions shall not apply to in-home

assessments of home and community-based waiver clients in the state Medicaid program;

9. Restrictions on any agency, agency employee, or agency contractor soliciting, coercing, or harassing a consumer of home care services or who may need home care services; and

10. Standards or other provisions which do not conflict with any federal requirements relating to the federal Medicaid and Medicare programs.

Added by Laws 1992, c. 139, § 6, eff. Sept. 1, 1992. Amended by Laws 1996, c. 349, § 2, eff. Nov. 1, 1996; Laws 1997, c. 238, § 7, eff. Nov. 1, 1997; Laws 2004, c. 249, § 3, eff. Nov. 1, 2004.

§63-1-1965. Procedures for licensure.

A. Every person, corporation, partnership, association or other legal entity desiring to obtain a license to establish, or to obtain a renewal license to operate, a home care agency in this state shall make application to the State Department of Health in such form and accompanied by such information as the State Commissioner of Health shall prescribe. Such information shall include, but not be limited to:

1. The name and location of the home care agency for which a license is sought; and

2. The name and address of the person or persons under whose ownership, operation, management, or supervision the home care agency will be conducted.

B. 1. An application for an initial license to establish or operate a new home care agency shall be accompanied by a nonrefundable application fee of up to Three Thousand Dollars ($3,000.00) not to exceed the reasonable costs incurred by the Department in implementing the Home Care Act.

2. An application for a license, or renewal thereof, to operate an existing home care agency shall be accompanied by a nonrefundable licensing fee of Five Hundred Dollars ($500.00).

3. An application for license, or renewal thereof, to establish or operate a home care agency branch office of an agency licensed in the State of Oklahoma shall be accompanied by a nonrefundable licensing fee of Twenty-five Dollars ($25.00).

4. Funds collected pursuant to this section shall be deposited in the Home Health Care Revolving Fund.

C. Disclosure statements shall be completed by the applicant and all affiliated persons and such other legal entities specified by this subsection. The disclosure statements shall be made a part of the application and shall include, but not be limited to, the following information:

1. The full name and address of the applicant, and all affiliated persons;

2. The full name and address of any legal entity in which the applicant holds a debt or equity interest of at least five percent (5%) or which is a parent company or subsidiary of the applicant;

3. A description of any ongoing organizational relationships as they may impact operations within the state; and

4. The names, locations, and dates of ownership, operation, or management for all current and prior home care agencies owned, operated or managed in this state or in any other state by the applicant or by any affiliated persons.

D. An application for a license for a home care agency may be denied by the Commissioner for any of the following reasons:

1. Failure to meet any of the minimum standards of the Home Care Act or rules of the Board promulgated pursuant thereto; or

2. Conviction of the applicant, or any affiliated persons, for any offense listed in subsection F of Section 1-1950.1 of this title.

E. The license issued by the Commissioner shall:

1. Not be transferable or assignable except to any affiliated person, parent company or subsidiary of the applicant or legal entity which has an ongoing organizational relationship with the applicant;

2. Be posted in a conspicuous place, open to the public, on the licensed premises;

3. Be issued only for the premises named in the application; and

4. Except as otherwise provided by this paragraph, expire on July 31 of each year. The Department shall promulgate rules which will authorize or allow:

a. the term of a renewal license issued pursuant to the Home Care Act prior to the effective date of this act which will expire prior to July 1, 1997, to be extended or any application fee or other fee required by the Home Care Act to be prorated so that a renewal license may be issued on August 1, 1997, and

b. the issuance of a new license, or a renewal license, prior to or after the effective date of this act to establish or operate a home care agency pursuant to the Home Care Act for less than one (1) year or the proration of any application fee or other fee so required so that a renewal license may be issued on August 1, 1997.

F. After issuing a license, the Commissioner may revoke or suspend the license based on any of the following grounds:

1. Violation of any of the provisions of the Home Care Act or the rules or standards promulgated by the Board; or

2. Permitting, aiding, or abetting the commission of any illegal act by a licensed home care agency.

G. The issuance or renewal of a license after notice of a violation shall not constitute a waiver by the Department of its power to rely on the violation as the basis for subsequent revocation of a license or other enforcement action authorized by the Home Care Act.

H. For purposes of this section:

1. "Affiliated person" means:

a. any officer, director or partner of the applicant,

b. any person employed by the applicant as a general or key manager who directs the operations of the facility which is the subject of the application, and

c. any person owning or controlling more than five percent (5%) of the applicant's debt or equity; and

2. "Subsidiary" means any person, firm, corporation or other legal entity which:

a. controls or is controlled by the applicant,

b. is controlled by an entity that also controls the applicant, or

c. the applicant or an entity controlling the applicant has directly or indirectly the power to control.

Added by Laws 1992, c. 139, § 7, eff. Sept. 1, 1992. Amended by Laws 1994, c. 283, § 18, eff. Sept. 1, 1994; Laws 1994, c. 382, § 30, eff. Sept. 1, 1994; Laws 1996, c. 349, § 3, eff. Nov. 1, 1996.

§63-1-1966. Violations - Penalties.

Any home care agency, home care agency administrator, or home health aide covered by the Home Care Act that has been determined by the State Department of Health to have violated any provision of the Home Care Act or any rule promulgated thereto may be liable for an administrative penalty of not more than One Hundred Dollars ($100.00) per violation for each day on which a violation occurs or continues. The maximum administrative penalty shall not exceed Ten Thousand Dollars ($10,000.00) for any related series of violations. Funds collected pursuant to this section shall be deposited in the Home Health Care Revolving Fund created in Section 1-1971 of this title.

Added by Laws 1992, c. 139, § 8, eff. Sept. 1, 1992. Amended by Laws 1994, c. 283, § 20, eff. Sept. 1, 1994; Laws 1994, c. 382, § 31, eff. Sept. 1, 1994; Laws 1997, c. 219, § 2, emerg. eff. May 19, 1997.

§63-1-1967. Violations - Equitable relief - Jurisdiction.

The State Department of Health may bring an action in a court of competent jurisdiction for equitable relief to redress or restrain a violation by any person of a provision of the Home Care Act or any rule promulgated pursuant to the provisions of the Home Care Act. Said court shall have jurisdiction to determine said action, and to

grant the necessary or appropriate relief, including but not limited to mandatory or prohibitive injunctive relief or interim equitable relief.
Added by Laws 1992, c. 139, § 9, eff. Sept. 1, 1992.

§63-1-1967a. Civil actions.

A. Any person, other legal entity, or any governmental agency may bring a civil action to restrain a provider of home care services, or a person acting on behalf of the provider or under the provider's control from, or for the collection of damages caused by:

1. Making or enforcing unconscionable terms or provisions of a provider agreement;

2. Fraudulent or unconscionable conduct in inducing a patient to enter into an agreement; or

3. Fraudulent or unconscionable conduct in collecting fees for services.

B. In an action brought pursuant to this section, the court may grant relief if it finds:

1. That the defendant has made unconscionable agreements or has engaged in or is likely to engage in a course of fraudulent or unconscionable conduct;

2. That the agreements or conduct of the defendant has caused or is likely to cause injury to a patient; or

3. That the defendant has been able to cause or will be able to cause injury primarily because of the nature of the services involved.

C. In applying this section, consideration shall be given to each of the following factors:

1. Belief by the defendant at the time the services were provided that there was no reasonable probability of injury;

2. Knowledge by the defendant at the time the services were provided of the inability of the patient to receive substantial benefit from the services provided;

3. Gross disparity between the price of the services provided measured by the price at which similar services are readily available or obtainable by like patients;

4. The fact that the defendant contracted for or received separate or additional charges for services with the effect of making the cost for the services provided, considered as a whole, unconscionable;

5. The fact that the defendant has knowingly taken advantage of the inability of the patient reasonably to protect the patient's interests by reason of physical or mental infirmities, ignorance, illiteracy, or inability to understand the language of the agreements or similar factors; and

6. Any other fact.

D. In an action brought pursuant to this section, conduct, a charge, or a practice expressly specified in this section shall not in itself be deemed unconscionable.

E. With respect to an action brought to restrain actions pursuant to the provisions of the Home Care Act, or unconscionable agreements or fraudulent or unconscionable conduct, a person may apply to the court for temporary relief against a defendant, pending final determination. If the court finds after a hearing held upon notice to the defendant that there is reasonable cause to believe that the defendant should be restrained, it may grant any temporary relief or restraining order it deems appropriate.

F. In addition, after demand, a person, other legal entity or governmental agency may bring a civil action against a provider of home care services, or a person acting on behalf of the provider or under the provider's control, to recover damages incurred as a result of any action taken by the provider or such person, subject to the provisions of this section.

G. The provisions of this section shall not affect any other remedies available under other principles of law or equity.

Added by Laws 1996, c. 349, § 5, eff. Nov. 1, 1996.

§63-1-1968. Eligibility to serve as guardian.

No agency, employee of any agency, or home health aide shall serve as the guardian of a client unless such home care provider is related to the client by blood or marriage and is otherwise eligible to serve as a guardian.

Added by Laws 1992, c. 139, § 10, eff. Sept. 1, 1992.

§63-1-1969. Administrative Procedures Act - Application.

The provisions of the Administrative Procedures Act shall apply to all administrative rules and procedures of the State Board of Health promulgated pursuant to the Home Care Act.

Added by Laws 1992, c. 139, § 11, eff. Sept. 1, 1992.

§63-1-1970. Repealed by Laws 2013, c. 229, § 99, eff. Nov. 1, 2013.

§63-1-1971. Home Health Care Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the State Department of Health, to be designated as the "Home Health Care Revolving Fund". Said fund shall be a continuing fund not subject to fiscal year limitations. The fund shall consist of all monies collected pursuant to the provisions of Section 1-1965 and Section 1-1966 of this title. All monies accruing to said fund are hereby appropriated and shall be budgeted and expended by the State Department of Health for licensure and regulation of home care agencies and branch offices. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims

filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment. Added by Laws 1994, c. 283, § 19, eff. Sept. 1, 1994. Amended by Laws 2012, c. 304, § 488.

§63-1-1972. Companion and sitter service licensure – Requirements - Violations.

A. As used in this section:

1. "Companion" or "sitter" means assistance with household tasks, shopping, meal preparation or planning, and provision of fellowship and other nonpersonal care for the individual including transportation, letter writing, socialization, and is intended to enable the individual to remain safely and comfortably in their place of residence in exchange for consideration; and

2. "Agency" means any partnership, firm, corporation, association, limited liability company, and any other legal entity authorized to do business in Oklahoma.

B. The State Board of Health, with the advice and consent of the Home Health Advisory Board, is authorized to promulgate rules in accordance with the Home Care Act to cover agencies providing companion and sitter services that at a minimum require:

1. An individual to be designated by the legal entity to provide supervision of the companion or sitter services;

2. Criminal background checks;

3. Workers' compensation coverage;

4. A nonrefundable application fee of One Thousand Dollars ($1,000.00) for an initial license;

5. A nonrefundable renewal application fee of Five Hundred ($500.00);

6. Liability insurance in amounts determined by the Department; and

7. A system of record keeping that shall include:

a. the name, address, and services provided for all clients,

b. duties performed for each day of service,

c. criminal background checks of companions or sitters which shall meet the criteria established for certified nurse aides as provided for in Section 1-1950.1 of this title, and

d. any other related information.

C. The State Department of Health shall investigate complaints of noncompliance with the requirements provided in subsection B of this section concerning agencies that provide companion or sitter services in this state. Any agency, employer, employee, or designated agent thereof that provides, offers, or advertises companion or sitter services shall become licensed with the State Department of Health pursuant to the Home Care Act.

D. Any agency that:

1. Is represented by the title "home care agency", without having first complied with the provisions of the Home Care Act;

2. Otherwise offers to perform personal care or home care services, as defined in Section 1-1961 of this title;

3. Uses any other name, style, or description denoting that the agency is licensed to provide personal care or home care services; or

4. Is in violation of subsection C of this section,

upon conviction, shall be guilty of a misdemeanor and shall be punished by a fine of not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00) for each offense, by imprisonment for a term not to exceed six (6) months in the county jail, or by both fine and imprisonment.

E. It shall be unlawful for any agency not licensed in accordance with the Home Care Act to advertise or otherwise offer personal care, companion or sitter services, home care services, to use the title "home care agency", "home health agency", or "senior care agency", or to provide personal care, companion or sitter services, or home care services. Such action shall be subject to equitable relief in accordance with Section 1-1967 of this title.

F. The provisions of this section shall not apply to those persons exempted under subsection C of Section 1-1962 of this title and any individual not employed by an agency.

G. The State Board of Health shall promulgate rules necessary for the investigation and hearing of complaints regarding a companion or sitter service. The rules shall include provisions for a review process to be presided over by a mediator or arbitrator, acceptable to all parties, and who is not an employee of the State Department of Health.

H. An entity that holds a valid license as a home care agency under the Home Care Act and meets the requirements of this section may provide companion or sitter services in addition to home care services under an existing license.

Added by Laws 2007, c. 255, § 1, eff. Nov. 1, 2007. Amended by Laws 2008, c. 41, § 1, emerg. eff. April 18, 2008.

§63-1-1980. Use of fee proceeds for business expenses.

The owner of any nursing home, assisted living center, residential care home, continuum of care facility, independent living facility, life care community, long-term care facility or any other facility offering similar services which may or may not be subject to the licensing requirements of the State Department of Health shall be authorized to use the proceeds from any fees required by and paid to the facility unless named and specifically prohibited by the Long-Term Care Insurance Act for business expenses, including the payment of principal, interest or costs of

borrowing related to debt incurred for purposes of capital asset acquisition or the improvement or expansion of the facility.
Added by Laws 2008, c. 305, § 9, emerg. eff. June 2, 2008.

§63-1-1990.1. Silver Alert Act.

This act shall be known and may be cited as the "Silver Alert Act".
Added by Laws 2009, c. 50, § 1, eff. Nov. 1, 2009.

§63-1-1990.2. Definitions.

As used in the Silver Alert Act:

1. "Alert" means the statewide silver alert for missing senior citizens;

2. "Local law enforcement agency" includes, but is not limited to, a county sheriff's office, a police department of a municipality or city, or the state highway patrol;

3. "Media outlet" includes but is not limited to radio stations, television stations, newspapers and local support organizations; and

4. "Missing senior citizen" means a person:

a. whose whereabouts are unknown,

b. whose age at the time the person is first reported missing is sixty (60) years of age or older and who is believed to be suffering from dementia or other cognitive impairment, and

c. whose disappearance poses a credible threat to the safety and health of the person, as determined by a local law enforcement agency.

Added by Laws 2009, c. 50, § 2, eff. Nov. 1, 2009.

§63-1-1990.3. Development and implementation.

The Department of Public Safety shall develop and implement a statewide silver alert system to be activated on behalf of a missing senior citizen in cooperation with the Department of Transportation, the Department of Human Services, any local law enforcement agency, the Oklahoma Association of Broadcasters and any other appropriate state or local agencies.
Added by Laws 2009, c. 50, § 3, eff. Nov. 1, 2009.

§63-1-1990.4. Statewide coordinator – Adoption of rules – Issuance of directives.

The Commissioner of Public Safety is the statewide coordinator of the silver alert system and shall:

1. Adopt rules and issue directives as necessary to ensure proper implementation of the alert. The rules and directives shall include:

a. the procedures to be used by a local law enforcement agency to verify whether a senior citizen:
(1) is missing,
(2) is believed to be suffering from dementia or other cognitive impairment, and
(3) is one whose disappearance is believed to pose a credible risk to the health and safety of the missing person,

b. the criteria for local law enforcement agencies to consider in circumstances in which a missing person may not meet the age requirements of a silver alert but whose safety would be best protected by the issuance of a silver alert,

c. the procedures for local law enforcement agencies to follow in initiating a statewide silver alert,

d. the method whereby information is distributed to statewide media outlets,

e. the procedures for the receipt and evaluation of information received from the public about the missing senior citizen, and

f. the procedure for the termination of a silver alert; and

2. Coordinate with local and statewide media outlets for the rapid and accurate announcement of a silver alert to the public.
Added by Laws 2009, c. 50, § 4, eff. Nov. 1, 2009.

§63-1-1990.5. Activation of silver alert procedure - Procedure.

A. A silver alert shall be activated if a local law enforcement agency:

1. Receives notice of a missing senior citizen;

2. Verifies that at the time the senior citizen is reported missing:

a. the person reported missing is sixty (60) years of age or older,

b. the location of the senior citizen is unknown, or

c. the senior citizen has dementia or other cognitive impairment;

3. Determines that the disappearance of the senior citizen poses a credible threat to the health and safety of the senior citizen; and

4. Determines that information which may assist in the safe recovery of the missing senior citizen is available.

B. The local law enforcement agency shall:

1. Require the family or legal guardian of the missing senior citizen to provide documentation of the impaired mental condition of the senior citizen;

2. Determine identifying information about the missing senior citizen and any other information which might be useful to the general public in the safe recovery of the missing senior citizen; and

3. Report the individual through the national crime information center immediately upon the issuance of a silver alert.

Added by Laws 2009, c. 50, § 5, eff. Nov. 1, 2009.

§63-1-1990.6. Silver alert information and statements.

The silver alert shall include:

1. All appropriate information that is provided by the local law enforcement agency that may lead to the safe recovery of the missing senior citizen; and

2. A statement instructing any person with information related to the missing senior citizen to contact a local law enforcement agency.

Added by Laws 2009, c. 50, § 6, eff. Nov. 1, 2009.

§63-1-1990.7. Termination of a silver alert – Senior citizen.

A. The local law enforcement agency responsible for the issuance of a silver alert shall terminate any silver alert with respect to a particular missing senior citizen not later than the earlier of the date on which:

1. The missing senior citizen is located or the situation is otherwise resolved; or

2. The notification period ends, as determined by Department rule.

B. A local law enforcement agency that locates a missing senior citizen who is the subject of a silver alert shall immediately notify the Department of Public Safety.

Added by Laws 2009, c. 50, § 7, eff. Nov. 1, 2009.

§63-1-1991. Training for Alzheimer's and dementia care.

A. The State Board of Health shall promulgate rules that require all medical and direct care staff of nursing and specialized facilities, adult day care centers, assisted living centers and home health agencies licensed by the State Department of Health to complete, at a minimum, one (1) hour of in-service training per year in Alzheimer's- and dementia-related care.

B. The curricula for the training shall include, but not be limited to, learning ways to decode behavior messages, identifying common behavioral triggers and determining the types of positive communication that can take place between persons with Alzheimer's disease and professional caregivers.

C. The Board shall also promulgate rules establishing appropriate training requirements for support staff working in the

facilities listed in subsection A of this section who do not provide direct care for patients.
Added by Laws 2017, c. 231, § 1, eff. Nov. 1, 2017.

§63-1-2001. Renumbered as § 2-7-101 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2001.1. Renumbered as § 2-7-102 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2002. Renumbered as § 2-7-103 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2002.a. Renumbered as § 2-7-122 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2003. Renumbered as § 2-7-104 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2003.1. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§63-1-2004. Renumbered as § 2-7-105 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2004.1. Renumbered as § 2-7-106 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2004.2. Renumbered as § 2-7-107 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2004.3. Renumbered as § 2-7-109 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2005. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§63-1-2005.1. Renumbered as § 2-7-123 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2005.2. Renumbered as § 2-7-119 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2005.3. Renumbered as § 2-7-115 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2005.3A. Renumbered as § 2-7-121 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2005.3B. Renumbered as § 2-7-120 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2005.3C. Renumbered as § 2-7-201 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2005.4. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§63-1-2006. Renumbered as § 2-7-113 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2006.1. Renumbered as § 2-7-110 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2007. Renumbered as § 2-7-112 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2008. Renumbered as § 2-7-116 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2008.1. Renumbered as § 2-7-117 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2009. Renumbered as § 2-7-124 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2009.1. Renumbered as § 2-7-108 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2010. Renumbered as § 2-7-125 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2011. Renumbered as § 2-7-130 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2012. Renumbered as § 2-7-129 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2012.1. Renumbered as § 2-7-126 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2012.2. Renumbered as § 2-7-128 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2012.3. Renumbered as § 2-7-127 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2012.4. Renumbered as § 2-7-132 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2013. Renumbered as § 2-7-131 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2013.1. Renumbered as § 2-7-133 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2014. Renumbered as § 2-7-111 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2014.1. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§63-1-2014.2. Renumbered as § 2-7-118 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2014.3. Renumbered as § 2-7-114 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2015. Renumbered as § 2-7-301 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2016. Renumbered as § 2-7-302 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2017. Renumbered as § 2-7-303 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2018. Renumbered as § 2-7-304 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2019. Renumbered as § 2-7-305 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2020. Renumbered as § 2-7-306 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2021. Renumbered as § 2-7-307 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2053. Renumbered as § 2-11-204 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2101. Renumbered as § 2-8-101 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2102. Renumbered as § 2-8-102 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2103. Renumbered as § 2-8-103 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2104. Renumbered as § 2-8-201 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2105. Renumbered as § 2-8-202 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2106. Renumbered as § 2-8-203 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2107. Renumbered as § 2-8-204 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2201. Renumbered as § 1150.2 of Title 59 by Laws 1993, c. 145, § 360, eff. July 1, 1993.

§63-1-2202. Renumbered as § 1150.7 of Title 59 by Laws 1993, c. 145, § 360, eff. July 1, 1993.

§63-1-2203. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§63-1-2211. Short title.

This act shall be known and may be cited as the "Long-Term Care Ombudsman Act".

Added by Laws 1989, c. 326, § 1, emerg. eff. May 26, 1989.

§63-1-2212. Definitions.

As used in the Long-Term Care Ombudsman Act:

1. "Office" means the Office of the State Long-Term Care Ombudsman. For purposes of the Long-Term Care Ombudsman Act, any area or local ombudsman entity designated by the State Long-Term Care Ombudsman shall be deemed to be a subdivision of this Office;

2. "State Long-Term Care Ombudsman" means the individual employed by the Department of Human Services to be the chief administrative officer of the Office;

3. "Department" means the Department of Human Services;

4. "Representative" means the State Long-Term Care Ombudsman, and any state, area or local long-term care ombudsman designated by the State Long-Term Care Ombudsman, whether paid or unpaid; and

5. "Resident" means any person residing in a long-term care facility.

Added by Laws 1989, c. 326, § 2, emerg. eff. May 26, 1989. Amended by Laws 1996, c. 336, § 10, emerg. eff. June 12, 1996.

§63-1-2213. Office of the State Long-Term Care Ombudsman.

A. There is hereby created within the Department of Human Services the Office of the State Long-Term Care Ombudsman. The Office, under the auspices and general direction of the State Long-Term Care Ombudsman, shall carry out a long-term care ombudsman program in accordance with the Older Americans Act of 1965, as amended, and in accordance with federal regulations issued pursuant to the Older Americans Act or as provided by the Long-Term Care Ombudsman Act.

B. The State Long-Term Care Ombudsman shall, personally or through representatives of the Office:

1. Identify, investigate and resolve complaints that:

a. are made by, or on behalf of, residents, and

b. relate to action, inaction or decisions, of:

(1) providers, or representatives of providers, of long-term care services,

(2) public agencies, or

(3) health and social service agencies,

that may adversely affect the health, safety, welfare or rights of the residents;

2. Provide services to assist the residents in protecting their health, safety, welfare and rights;

3. Inform residents about means of obtaining services offered by providers or agencies;

4. Ensure that the residents have regular and timely access to the services provided through the Office;

5. Ensure that the residents and complainant receive timely responses from the Office and representatives of the Office regarding complaints;

6. Represent the interests of residents before governmental agencies and seek administrative, legal and other remedies to protect the health, safety, welfare and rights of the residents;

7. Provide administrative and technical assistance to area or local ombudsman entities to assist the entities in participating in the State Long-Term Care Ombudsman Program;

8. a. analyze, comment on and monitor the development and implementation of federal, state and local laws, rules and other government policies and actions that pertain

to the health, safety, welfare and rights of the residents, with respect to the adequacy of long-term care facilities and services in this state,

b. recommend any changes in such laws, rules, policies and actions as the Office determines to be appropriate, and

c. facilitate public comment on the laws, rules, policies and actions;

9. a. provide for training representatives of the Office,

b. promote the development of citizen organizations, to participate in the State Long-Term Care Ombudsman Program, and

c. provide technical support for the development of resident and family councils to protect the well-being and rights of residents; and

10. Carry out such other activities as the Commission for Human Services determines to be appropriate.

C. 1. In carrying out the duties of the Office, the State Long-Term Care Ombudsman may designate an entity as an area or local Ombudsman entity, and may designate an employee or volunteer to represent the entity.

2. An individual so designated shall, in accordance with the policies and procedures established by the Office and Commission for Human Services, carry out such duties and activities as required by the State Long-Term Care Ombudsman pursuant to the authority granted by the Long-Term Care Ombudsman Act and rules promulgated by the Commission thereto.

3. Entities eligible to be designated as area or local Ombudsman entities, and individuals eligible to be designated as representatives of such entities, shall:

a. have demonstrated capability to carry out the responsibilities of the Office,

b. be free of conflicts of interest,

c. in the case of the entities, be public or nonprofit private entities, and

d. meet such additional requirements as the Ombudsman may specify.

D. 1. In accordance with the Older Americans Act of 1965, as amended and in accordance with federal regulations issued pursuant thereto, or as otherwise provided by the Long-Term Care Ombudsman Act, the State Long-Term Care Ombudsman and representatives of the Office shall have:

a. access to long-term care facilities and residents,

b. (1) access to review the medical and social records of a resident, if:

(a) the representative of the Office has the permission of the resident, or the legal representative of the resident, or

(b) the resident is unable to consent to the review and has no legal representative and the representative of the Office obtains the approval of the State Long-Term Care Ombudsman, or

(2) access to the records as is necessary to investigate a complaint if:

(a) a legal guardian of the resident refuses to give the permission,

(b) a representative of the Office has reasonable cause to believe that the guardian is not acting in the best interests of the resident, and

(c) the representative obtains the approval of the State Long-Term Care Ombudsman,

c. access to the administrative records, policies and documents, to which the residents have, or the general public has access, of long-term care facilities, and

d. access to copies of all licensing and certification records maintained by the Department or any other agency of this state with respect to long-term care facilities.

2. For purposes of this subsection, the term "Representative of the Office" shall not include any unpaid or volunteer state, area, or local ombudsman.

Added by Laws 1989, c. 326, § 3, emerg. eff. May 26, 1989. Amended by Laws 1994, c. 89, § 1, emerg. eff. April 20, 1994; Laws 1996, c. 336, § 11, emerg. eff. June 12, 1996.

§63-1-2214. Liability of long-term care ombudsman - Legal representation.

A. For purposes of the Governmental Tort Claims Act, any state, area or local long-term care ombudsman shall be deemed to be an employee of this state and as such shall not be personally liable for any act or omission made within the "scope of employment", as such term is defined by the Governmental Tort Claims Act.

B. 1. The Department of Human Services shall assure that adequate legal counsel is available to the Office of the State Long-Term Care Ombudsman for the advice and consultation needed to protect the health, safety, welfare and rights of residents, and that legal representation is provided to any representative of the Office:

a. against whom suit or other legal action is brought in connection with any act or omission of a representative made within the scope of employment, or
b. to assist the ombudsman and representatives of the Office in the performance of their official duties.

2. The provisions of this section shall not be construed to require or authorize any legal counsel provided by the Department of Human Services to represent any resident of a nursing facility in an individual capacity.

Added by Laws 1989, c. 326, § 4, emerg. eff. May 26, 1989. Amended by Laws 1994, c. 89, § 2, emerg. eff. April 20, 1994.

§63-1-2215. Willful interference with official duties - Retaliation or reprisal for filing complaint - Penalty.

A. No person shall willfully interfere with a representative of the Office of the State Long-Term Care Ombudsman in the performance of official duties.

B. No person shall engage in retaliation or reprisal against any resident or employee of a long-term care facility or other entity for having filed a complaint with or provided information to the Office.

C. Any person convicted of violating any provisions of this section shall be guilty of a misdemeanor.

Added by Laws 1989, c. 326, § 5, emerg. eff. May 26, 1989.

§63-1-2216. Duties of Commission for Human Services - Advisory capacity of State Council on Aging.

A. The Commission for Human Services shall promulgate rules regarding:

1. The powers and official duties of the State Long-Term Care Ombudsman consistent with applicable federal law and rules or as provided by the Long-Term Care Ombudsman Act;

2. Minimum qualifications for persons to serve as representatives of the Office of the State Long-Term Care Ombudsman;

3. Initial and continuing training requirements for ombudsman staff and volunteers which shall provide for a minimum of eighteen (18) hours of continuing education relevant to the care of the aging and disabled;

4. The minimum number of visits that must be made by an ombudsman to the assigned facilities;

5. The proper documentation and reporting of visits made to facilities by the ombudsman;

6. Procedures to ensure that officers, employees or other representatives of the Office are not subject to a conflict of interest which would impair their ability to carry out their official duties in an impartial manner; and

7. The disclosure by the State Long-Term Care Ombudsman or area or local Ombudsman entities of files maintained by the State Long-Term Care Ombudsman Program. Such rules shall:

a. provide that such files and records may be disclosed only at the discretion of the State Long-Term Care Ombudsman or the person designated by the State Long-Term Care Ombudsman to disclose the files and records, and

b. prohibit the disclosure of the identity of any complainant or resident with respect to whom the Office maintains such files or records unless:

(1) the complainant or resident, or the legal representative of the complainant or resident, consents to the disclosure and the consent is given in writing,

(2) (a) the complainant or resident gives consent orally, and

(b) the consent is documented contemporaneously in a writing made by a State Long-Term Care Ombudsman representative of the Office in accordance with such rules as the Commission shall promulgate, or

(3) the disclosure is required by court order.

B. The Oklahoma State Council on Aging, established by the Commission for Human Services to review, monitor and evaluate programs targeted to older persons, shall serve in an advisory capacity to the State Long-Term Care Ombudsman through establishment of a committee with equal provider and consumer representation. Added by Laws 1989, c. 326, § 6, emerg. eff. May 26, 1989. Amended by Laws 1996, c. 336, § 12, emerg. eff. June 12, 1996; Laws 2005, c. 465, § 8, emerg. eff. June 9, 2005.

§63-1-2217. Oklahoma Long-term Care Services and Supports Advisory Committee.

A. There is hereby created the Oklahoma Long-term Care Services and Supports Advisory Committee. The purpose of the Committee shall be to develop a long-range plan for long-term care service and supports, the financial impact of these services, and stable, sustainable funding to support projected growth of these services in the state in the future. The Committee shall consist of the following members:

1. Two members representing for-profit nursing homes, one member to be appointed by the Speaker of the House of Representatives and one member to be appointed by the President Pro Tempore of the Senate;

2. Two members representing not-for-profit nursing homes, one member to be appointed by the Speaker of the House of

Representatives and one member to be appointed by the President Pro Tempore of the Senate;

3. Four members representing each sector of home- and community-based services as follows:

a. the members representing The Program of All-Inclusive Care for the Elderly (PACE) and home care to be appointed by the Speaker of the House of Representatives, and

b. the members representing ADvantage waiver and adult day care to be appointed by the President Pro Tempore of the Senate;

4. Two members representing the State Council on Aging, one member to be appointed by the Speaker of the House of Representatives and one member to be appointed by the President Pro Tempore of the Senate;

5. One member representing a volunteer from the Office of the State Ombudsman, to be appointed by the Governor; and

6. Two members representing the general public who shall have no financial interest in long-term care nor any personal relationship with any long-term care provider, to be appointed by the Governor.

B. No state employee shall be eligible for membership on the Committee.

C. Members of the Committee shall serve at the pleasure of the appointing authority. Vacancies in a position shall be filled in the same manner as the original appointment. The members of the Committee shall elect a Chairperson at its initial meeting.

D. The Committee shall hold its first meeting no later than November 1, 2018, shall meet monthly, and shall publish a report of its final plan no later than November 1, 2019, the date on which members' terms shall end.

E. The Committee may use the expertise and services of the staff of the Oklahoma Health Care Authority.

F. Proceedings of all meetings of the Committee shall comply with the provisions of the Oklahoma Open Meeting Act.

Added by Laws 2018, c. 154, § 1, eff. Nov. 1, 2018.

§63-1-2300. Renumbered as § 2-10-101 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2301. Renumbered as § 2-10-102 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2302. Renumbered as § 2-10-103 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2302.a. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§63-1-2303. Repealed by Laws 1993, c. 94, § 1, emerg. eff. April 18, 1993 and by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§63-1-2304. Renumbered as § 2-10-801 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2304.1. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993.

§63-1-2304.2. Renumbered as § 2-10-404 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2305. Renumbered as § 2-10-802 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2306. Renumbered as § 2-10-302 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2307. Renumbered as § 2-10-803 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2308. Renumbered as § 2-10-403 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2309. Renumbered as § 2-10-405 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2324. Renumbered as § 2-10-602 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2325. Renumbered as § 2-10-601 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2401. Renumbered as § 2-10-1101 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2402. Renumbered as § 2-10-1102 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2403. Renumbered as § 2-10-1103 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2404. Renumbered as § 2-10-1104 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2405. Renumbered as § 2-10-1105 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2406. Renumbered as § 2-10-1106 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2407. Renumbered as § 2-10-1107 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2408. Renumbered as § 2-10-1108 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2409. Renumbered as § 2-10-1109 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2410. Renumbered as § 2-10-1110 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2411. Renumbered as § 2-10-1111 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2412. Renumbered as § 2-10-901 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2413. Renumbered as § 2-10-1001 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2414. Renumbered as § 2-10-301 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2414.1. Renumbered as § 2-10-305 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2414.2. Renumbered as § 2-10-306 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2415. Renumbered as § 2-10-303 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2416. Renumbered as § 2-10-701 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2416.1. Renumbered as § 2-10-501 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2417. Renumbered as § 2-10-201 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2418. Renumbered as § 2-10-202 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2419. Renumbered as § 2-10-203 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2420. Renumbered as § 2-10-204 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2421. Renumbered as § 2-10-304 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2440. Renumbered as § 2-11-101 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2441. Renumbered as § 2-11-102 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2443. Renumbered as § 2-11-103 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-1-2501. Short title.

Sections 1-2502 through 1-2521 of this title shall be known and may be cited as the "Oklahoma Emergency Response Systems Development Act".

Added by Laws 1990, c. 320, § 5, emerg. eff. May 30, 1990. Amended by Laws 1999, c. 156, § 1, eff. Nov. 1, 1999.

NOTE: Editorially renumbered from § 1-2401 of this title to avoid a duplication in numbering.

§63-1-2502. Legislative findings and declaration.

The Legislature hereby finds and declares that:

1. There is a critical shortage of providers of emergency care for:

   a. the delivery of fast, efficient emergency medical care for the sick and injured at the scene of a medical emergency and during transport to a health care facility, and

   b. the delivery of stabilizing and definitive care at a health care facility; and

2. Improved emergency service is required to reduce the mortality rate during the first critical minutes immediately following the onset of a medical emergency.

Added by Laws 1990, c. 320, § 6, emerg. eff. May 30, 1990. Amended by Laws 1999, c. 156, § 2, eff. Nov. 1, 1999.
NOTE: Editorially renumbered from § 1-2402 of this title to avoid a duplication in numbering.

§63-1-2503. See the following versions:
OS 63-1-2503v1 (HB 2742, Laws **2016**, c. 246, § 1).
OS 63-1-2503v2 (HB 1843, Laws 2017, c. 30, § 1).

§63-1-2503v1. Definitions.

As used in the Oklahoma Emergency Response Systems Development Act:

1. "Ambulance" means any ground, air or water vehicle which is or should be approved by the Commissioner of Health, designed and equipped to transport a patient or patients and to provide appropriate on-scene and en route patient stabilization and care as required. Vehicles used as ambulances shall meet such standards as may be required by the State Board of Health for approval, and shall display evidence of such approval at all times;

2. "Ambulance authority" means any public trust or nonprofit corporation established by the state or any unit of local government or combination of units of government for the express purpose of providing, directly or by contract, emergency medical services in a specified area of the state;

3. "Ambulance patient" or "patient" means any person who is or will be transported in a reclining position to or from a health care facility in an ambulance;

4. "Ambulance service" means any private firm or governmental agency which is or should be licensed by the State Department of Health to provide levels of medical care, including but not limited to comprehensive integrated medical care in emergency and nonemergency settings under the supervision of a physician, based on certification standards promulgated by the Board;

5. "Ambulance service district" means any county, group of counties or parts of counties formed together to provide, operate and finance emergency medical services as provided by Section 9C of Article X of the Oklahoma Constitution or Sections 1201 through 1221 of Title 19 of the Oklahoma Statutes;

6. "Board" means the State Board of Health;

7. "Certified emergency medical responder" means an individual certified by the Department to perform emergency medical services in accordance with the Oklahoma Emergency Response Systems Development Act and in accordance with the rules and standards promulgated by the Board;

8. "Certified emergency medical response agency" means an organization of any type certified by the Department to provide emergency medical care, but not transport. Certified emergency

medical response agencies may utilize certified emergency medical responders or licensed emergency medical personnel; provided, however, that all personnel so utilized shall function under the direction of and consistent with guidelines for medical control;

9. "Classification" means an inclusive standardized identification of stabilizing and definitive emergency services provided by each hospital that treats emergency patients;

10. "CoAEMSP" means the Committee on Accreditation of Educational Programs for the Emergency Medical Services Professions;

11. "Commissioner" means the State Commissioner of Health;

12. "Community paramedic" means a licensed paramedic who meets the requirements of Section 1-2505 of this title;

13. "Community paramedic services" means services that include interventions intended to prevent unnecessary ambulance transportation or hospital emergency department use.

a. Community paramedic services must be part of a care plan ordered by a primary health care provider or a hospital provider in consultation with the medical director of an ambulance service. Such care plan must ensure that the services provided by a community paramedic do not duplicate services already provided to the patient, including home health and waiver services.

b. Community paramedic services shall include health assessment, chronic disease monitoring and education, medication compliance, immunizations and vaccinations, laboratory specimen collection, hospital discharge follow-up care and minor medical procedures compliant with the community paramedic's scope of practice and approved by the ambulance medical director;

14. "Council" means the Trauma and Emergency Response Advisory Council created in Section 1-103a.1 of this title;

15. "Critical care paramedic" or "CCP" means a licensed paramedic who has successfully completed critical care training and testing requirements in accordance with the Oklahoma Emergency Response Systems Development Act and in accordance with the rules and standards promulgated by the Board;

16. "Department" means the State Department of Health;

17. "Emergency medical services system" means a system which provides for the organization and appropriate designation of personnel, facilities and equipment for the effective and coordinated local, regional and statewide delivery of health care services primarily under emergency conditions;

18. "Letter of review" means the official designation from CoAEMSP to a paramedic program that is in the "becoming accredited" process;

19. "Licensed emergency medical personnel" means an emergency medical technician (EMT), an intermediate emergency medical technician (IEMT), an advanced emergency medical technician (AEMT), or a paramedic licensed by the Department to perform emergency medical services in accordance with the Oklahoma Emergency Response Systems Development Act and the rules and standards promulgated by the Board;

20. "Licensure" means the licensing of emergency medical care providers and ambulance services pursuant to rules and standards promulgated by the Board at one or more of the following levels:

a. basic life support,
b. intermediate life support,
c. paramedic life support,
d. advanced life support,
e. stretcher aid van, and
f. specialty care, which shall be used solely for interhospital transport of patients requiring specialized en route medical monitoring and advanced life support which exceed the capabilities of the equipment and personnel provided by paramedic life support.

Requirements for each level of care shall be established by the Board. Licensure at any level of care includes a license to operate at any lower level, with the exception of licensure for specialty care; provided, however, that the highest level of care offered by an ambulance service shall be available twenty-four (24) hours each day, three hundred sixty-five (365) days per year.

Licensure shall be granted or renewed for such periods and under such terms and conditions as may be promulgated by the Board;

21. "Medical control" means local, regional or statewide medical direction and quality assurance of health care delivery in an emergency medical service system. On-line medical control is the medical direction given to licensed emergency medical personnel, certified emergency medical responders and stretcher aid van personnel by a physician via radio or telephone. Off-line medical control is the establishment and monitoring of all medical components of an emergency medical service system, which is to include stretcher aid van service including, but not limited to, protocols, standing orders, educational programs, and the quality and delivery of on-line control;

22. "Medical director" means a physician, fully licensed without restriction, who acts as a paid or volunteer medical advisor to a licensed ambulance service and who monitors and directs the care so provided. Such physicians shall meet such qualifications and requirements as may be promulgated by the Board;

23. "Region" or "emergency medical service region" means two or more municipalities, counties, ambulance districts or other

political subdivisions exercising joint control over one or more providers of emergency medical services and stretcher aid van service through common ordinances, authorities, boards or other means;

24. "Regional emergency medical services system" means a network of organizations, individuals, facilities and equipment which serves a region, subject to a unified set of regional rules and standards which may exceed, but may not be in contravention of, those required by the state, which is under the medical direction of a single regional medical director, and which participates directly in the delivery of the following services:

a. medical call-taking and emergency medical services dispatching, emergency and routine, including priority dispatching of first response agencies, stretcher aid van and ambulances,

b. emergency medical responder services provided by emergency medical response agencies,

c. ambulance services, both emergency, routine and stretcher aid van including, but not limited to, the transport of patients in accordance with transport protocols approved by the regional medical director, and

d. directions given by physicians directly via radio or telephone, or by written protocol, to emergency medical response agencies, stretcher aid van or ambulance personnel at the scene of an emergency or while en route to a hospital;

25. "Regional medical director" means a licensed physician, who meets or exceeds the qualifications of a medical director as defined by the Oklahoma Emergency Response Systems Development Act, chosen by an emergency medical service region to provide external medical oversight, quality control and related services to that region;

26. "Registration" means the listing of an ambulance service in a registry maintained by the Department; provided, however, registration shall not be deemed to be a license;

27. "Stretcher aid van" means any ground vehicle which is or should be approved by the State Commissioner of Health, which is designed and equipped to transport individuals on a stretcher or gurney type apparatus. Vehicles used as stretcher aid vans shall meet such standards as may be required by the State Board of Health for approval and shall display evidence of such approval at all times. Stretcher aid van services shall only be permitted and approved by the Commissioner in emergency medical service regions, ambulance service districts, or counties with populations in excess of four hundred thousand (400,000) people. Notwithstanding the provisions of this paragraph, stretcher aid van transports may be made to and from any federal or state veterans facility;

28. "Stretcher aid van patient" means any person who is or will be transported in a reclining position on a stretcher or gurney, who is medically stable, nonemergent and does not require any medical monitoring equipment or assistance during transport; and

29. "Transport protocol" means the written instructions governing decision-making at the scene of a medical emergency by ambulance personnel regarding the selection of the hospital to which the patient shall be transported. Transport protocols shall be developed by the regional medical director for a regional emergency medical services system or by the Department if no regional emergency medical services system has been established. Such transport protocols shall adhere to, at a minimum, the following guidelines:

a. nonemergency, routine transport shall be to the facility of the patient's choice,

b. urgent or emergency transport not involving life-threatening medical illness or injury shall be to the nearest facility, or, subject to transport availability and system area coverage, to the facility of the patient's choice, and

c. life-threatening medical illness or injury shall require transport to the nearest health care facility appropriate to the needs of the patient as established by regional or state guidelines.

Added by Laws 1990, c. 320, § 7, emerg. eff. May 30, 1990. Amended by Laws 1999, c. 156, § 3, eff. Nov. 1, 1999; Laws 2001, c. 411, § 5, eff. Nov. 1, 2001; Laws 2005, c. 433, § 1, eff. July 1, 2005; Laws 2006, c. 171, § 1, emerg. eff. May 17, 2006; Laws 2007, c. 1, § 49, emerg. eff. Feb. 22, 2007; Laws 2013, c. 23, § 1, eff. Nov. 1, 2013; Laws 2013, c. 229, § 65, eff. Nov. 1, 2013; Laws 2016, c. 246, § 1, eff. Nov. 1, 2016.

NOTE: Editorially renumbered from § 1-2403 of this title to avoid duplication in numbering.

NOTE: Laws 2006, c. 155, § 1 repealed by Laws 2007, c. 1, § 50, emerg. eff. Feb. 22, 2007.

§63-1-2503v2. Definitions.

As used in the Oklahoma Emergency Response Systems Development Act:

1. "Ambulance" means any ground, air or water vehicle which is or should be approved by the Commissioner of Health, designed and equipped to transport a patient or patients and to provide appropriate on-scene and en route patient stabilization and care as required. Vehicles used as ambulances shall meet such standards as may be required by the State Board of Health for approval, and shall display evidence of such approval at all times;

2. "Ambulance authority" means any public trust or nonprofit corporation established by the state or any unit of local government or combination of units of government for the express purpose of providing, directly or by contract, emergency medical services in a specified area of the state;

3. "Ambulance patient" or "patient" means any person who is or will be transported in a reclining position to or from a health care facility in an ambulance;

4. "Ambulance service" means any private firm or governmental agency which is or should be licensed by the State Department of Health to provide levels of medical care based on certification standards promulgated by the Board;

5. "Ambulance service district" means any county, group of counties or parts of counties formed together to provide, operate and finance emergency medical services as provided by Section 9C of Article X of the Oklahoma Constitution or Sections 1201 through 1221 of Title 19 of the Oklahoma Statutes;

6. "Board" means the State Board of Health;

7. "Certified emergency medical responder" means an individual certified by the Department to perform emergency medical services in accordance with the Oklahoma Emergency Response Systems Development Act and in accordance with the rules and standards promulgated by the Board;

8. "Certified emergency medical response agency" means an organization of any type certified by the Department to provide emergency medical care, but not transport. Certified emergency medical response agencies may utilize certified emergency medical responders or licensed emergency medical personnel; provided, however, that all personnel so utilized shall function under the direction of and consistent with guidelines for medical control;

9. "Classification" means an inclusive standardized identification of stabilizing and definitive emergency services provided by each hospital that treats emergency patients;

10. "CoAEMSP" means the Committee on Accreditation of Educational Programs for the Emergency Medical Services Professions;

11. "Commissioner" means the State Commissioner of Health;

12. "Council" means the Trauma and Emergency Response Advisory Council created in Section 1-103a.1 of this title;

13. "Critical care paramedic" or "CCP" means a licensed paramedic who has successfully completed critical care training and testing requirements in accordance with the Oklahoma Emergency Response Systems Development Act and in accordance with the rules and standards promulgated by the Board;

14. "Department" means the State Department of Health;

15. "Emergency medical services system" means a system which provides for the organization and appropriate designation of personnel, facilities and equipment for the effective and

coordinated local, regional and statewide delivery of health care services primarily under emergency conditions;

16. "Letter of review" means the official designation from CoAEMSP to a paramedic program that is in the "becoming accredited" process;

17. "Licensed emergency medical personnel" means an emergency medical technician (EMT), an intermediate, an advanced emergency medical technician (AEMT), or a paramedic licensed by the Department to perform emergency medical services in accordance with the Oklahoma Emergency Response Systems Development Act and the rules and standards promulgated by the Board;

18. "Licensure" means the licensing of emergency medical care providers and ambulance services pursuant to rules and standards promulgated by the Board at one or more of the following levels:

a. Basic life support,
b. Intermediate life support,
c. Paramedic life support,
d. Advanced life support,
e. Stretcher van, and
f. Specialty care, which shall be used solely for interhospital transport of patients requiring specialized en route medical monitoring and advanced life support which exceed the capabilities of the equipment and personnel provided by paramedic life support.

Requirements for each level of care shall be established by the Board. Licensure at any level of care includes a license to operate at any lower level, with the exception of licensure for specialty care; provided, however, that the highest level of care offered by an ambulance service shall be available twenty-four (24) hours each day, three hundred sixty-five (365) days per year.

Licensure shall be granted or renewed for such periods and under such terms and conditions as may be promulgated by the Board;

19. "Medical control" means local, regional or statewide medical direction and quality assurance of health care delivery in an emergency medical service system. On-line medical control is the medical direction given to licensed emergency medical personnel, certified emergency medical responders and stretcher van personnel by a physician via radio or telephone. Off-line medical control is the establishment and monitoring of all medical components of an emergency medical service system, which is to include stretcher van service including, but not limited to, protocols, standing orders, educational programs, and the quality and delivery of on-line control;

20. "Medical director" means a physician, fully licensed without restriction, who acts as a paid or volunteer medical advisor to a licensed ambulance service and who monitors and directs the

care so provided. Such physicians shall meet such qualifications and requirements as may be promulgated by the Board;

21. "Region" or "emergency medical service region" means two or more municipalities, counties, ambulance districts or other political subdivisions exercising joint control over one or more providers of emergency medical services and stretcher van service through common ordinances, authorities, boards or other means;

22. "Regional emergency medical services system" means a network of organizations, individuals, facilities and equipment which serves a region, subject to a unified set of regional rules and standards which may exceed, but may not be in contravention of, those required by the state, which is under the medical direction of a single regional medical director, and which participates directly in the delivery of the following services:

a. medical call-taking and emergency medical services dispatching, emergency and routine, including priority dispatching of first response agencies, stretcher van and ambulances,

b. emergency medical responder services provided by emergency medical response agencies,

c. ambulance services, both emergency, routine and stretcher van including, but not limited to, the transport of patients in accordance with transport protocols approved by the regional medical director, and

d. directions given by physicians directly via radio or telephone, or by written protocol, to emergency medical response agencies, stretcher van or ambulance personnel at the scene of an emergency or while en route to a hospital;

23. "Regional medical director" means a licensed physician, who meets or exceeds the qualifications of a medical director as defined by the Oklahoma Emergency Response Systems Development Act, chosen by an emergency medical service region to provide external medical oversight, quality control and related services to that region;

24. "Registration" means the listing of an ambulance service in a registry maintained by the Department; provided, however, registration shall not be deemed to be a license;

25. "Stretcher van" means any ground vehicle which is or should be approved by the State Commissioner of Health, which is designed and equipped to transport individuals on a stretcher or gurney type apparatus. Vehicles used as stretcher vans shall meet such standards as may be required by the Board for approval and shall display evidence of such approval at all times. Stretcher van services shall only be permitted and approved by the Commissioner in emergency medical service regions, ambulance service districts, or counties with populations in excess of five hundred thousand

(500,000) people. Notwithstanding the provisions of this paragraph, stretcher van transports may be made to and from any federal or state veterans facility;

26. "Stretcher van passenger" means any person who is or will be transported in a reclining position on a stretcher or gurney, who is medically stable, nonemergent and does not require any medical monitoring equipment or assistance during transport, except oxygen in instances where the patient has a standing medical order for oxygen. Passengers must be authorized as qualified to be transported by stretcher van. Passengers shall be authorized through screening provided by a certified medical dispatching protocol approved by the Department. All patients being transported to or from any medically licensed facility shall be screened before transport. Any patient transported without screening shall be a violation of Board rule by the transporting company and subject to administrative procedures of the Department; and

27. "Transport protocol" means the written instructions governing decision-making at the scene of a medical emergency by ambulance personnel regarding the selection of the hospital to which the patient shall be transported. Transport protocols shall be developed by the regional medical director for a regional emergency medical services system or by the Department if no regional emergency medical services system has been established. Such transport protocols shall adhere to, at a minimum, the following guidelines:

a. nonemergency, routine transport shall be to the facility of the patient's choice,

b. urgent or emergency transport not involving life-threatening medical illness or injury shall be to the nearest facility, or, subject to transport availability and system area coverage, to the facility of the patient's choice, and

c. life-threatening medical illness or injury shall require transport to the nearest health care facility appropriate to the needs of the patient as established by regional or state guidelines.

Added by Laws 1990, c. 320, § 7, emerg. eff. May 30, 1990. Amended by Laws 1999, c. 156, § 3, eff. Nov. 1, 1999; Laws 2001, c. 411, § 5, eff. Nov. 1, 2001; Laws 2005, c. 433, § 1, eff. July 1, 2005; Laws 2006, c. 171, § 1, emerg. eff. May 17, 2006; Laws 2007, c. 1, § 49, emerg. eff. Feb. 22, 2007; Laws 2013, c. 23, § 1, eff. Nov. 1, 2013; Laws 2013, c. 229, § 65, eff. Nov. 1, 2013; Laws 2016, c. 236, § 1, eff. Nov. 1, 2016; Laws 2017, c. 30, § 1, eff. July 1, 2017.

NOTE: Editorially renumbered from § 1-2403 of this title to avoid duplication in numbering.

NOTE: Laws 2006, c. 155, § 1 repealed by Laws 2007, c. 1, § 50, emerg. eff. Feb. 22, 2007.

§63-1-2504. Utilization of emergency medical personnel in hospital or health care facilities - EMT students - Nurses.

A. Any hospital or health care facility operating within the state may utilize emergency medical technician, intermediate emergency medical technician, advanced emergency medical technician or paramedic, community paramedic or critical care paramedic personnel for the delivery of emergency medical patient care within the hospital or health care facility. All licensed ambulance services shall use emergency medical technician, intermediate emergency medical technician, advanced emergency medical technician or paramedic personnel for on-scene patient care and stabilization and the delivery of prehospital and en route emergency medical care.

B. Any hospital or health care facility operating within the state may utilize community paramedic personnel for the delivery of community paramedic services for patients who come to the hospital or health care facility who reside in this state.

C. While participating in an emergency medical technician, intermediate emergency medical technician, advanced emergency medical technician, community paramedic or paramedic training course approved by the State Department of Health, the student shall be allowed to perform in the hospital, clinic or prehospital setting, while under the direct supervision of a physician, registered nurse, or licensed emergency medical personnel who are licensed at a level equal to or above the level of training of the student, or other allied health preceptor, any of the skills determined to be appropriate for the training level of the student by the Department.

D. The student shall be allowed to perform any of the skills determined to be appropriate by the Department for the training level of the student while performing community paramedic services under the direct supervision of a physician, registered nurse or emergency medical personnel who are licensed at a level equal to or above the level of training of the student, or other allied health preceptor.

E. A registered nurse or licensed practical nurse may be used in the back of an ambulance during an interhospital transfer to supplement the skills of licensed emergency medical personnel. A registered nurse or licensed practical nurse functioning in this fashion must be following written orders of a physician or be in direct radio or telephone contact with a physician.

Added by Laws 1990, c. 320, § 8, emerg. eff. May 30, 1990.
Amended by Laws 2013, c. 23, § 2, eff. Nov. 1, 2013; Laws 2016, c. 246, § 2, eff. Nov. 1, 2016.

§63-1-2504.1. Duty to act - Mutual aid - Exemption.

A. There is a required duty to act within the licensed area upon the acceptance of an ambulance service license. All licensed

ambulance services shall respond appropriately, consistent with the level of licensure, when called for emergency service regardless of the patient's ability to pay.

B. If the ambulance service cannot physically respond within the limits of the Ambulance Service Districts Act, then the ambulance service called shall immediately call for mutual aid from a neighboring licensed ambulance service. Nonemergency, interfacility transfers are exempt from the requirements of this subsection.

Added by Laws 2010, c. 295, § 21, emerg. eff. June 6, 2010.

§63-1-2504.2. Quality Assurance reviews.

A. Licensed Emergency Medical Services shall conduct Quality Assurance reviews of operations and medical care provided. This activity shall be in accordance with standards developed by Emergency Medical Services Administration and Medical Control.

B. The proceedings and records of these Quality Assurance reviews and continuous quality improvement activities conducted by Emergency Medical Services shall be confidential and not subject to disclosure by subpoena or otherwise.

C. Quality Assurance and Continuous Quality Improvement activity, records and proceedings of any licensed Emergency Medical Service shall be confidential and not subject to the Oklahoma Open Meeting Act nor the Oklahoma Open Records Act.

Added by Laws 2016, c. 236, § 2, eff. Nov. 1, 2016.

§63-1-2505. Licensed personnel - Levels of care.

Personnel licensed in the following levels of care may perform as designated under their classification:

1. "Emergency medical technician (EMT)" means an individual licensed by the State Department of Health following completion of a standard basic emergency medical technician training program approved by the Department, who has met such other standards of competence and character as may be required, and who has passed a standard licensing examination of knowledge and skill, administered by the Department or other entity designated by the Department. The licensed emergency medical technician is allowed to perform such skills as may be designated by the Department;

2. "Intermediate emergency medical technician (IEMT)" means an individual licensed as an EMT, who has completed an intermediate training program approved by the Department, who has met such other standards of competence and character as may be required, and who has passed a standard licensing examination of knowledge and skill administered by the Department or other entity designated by the Department. The intermediate emergency medical technician is allowed to perform such skills as may be designated by the Department;

3. "Advanced emergency medical technician (AEMT)" means an individual licensed as an emergency medical technician or intermediate emergency medical technician who has completed an AEMT training program approved by the Department, who has met such other standards of competence and character as may be required, and who has passed a standard licensing examination of knowledge and skills administered by the Department or other entity designated by the Department. The advanced emergency medical technician is allowed to perform such skills as may be designated by the Department;

4. "Community paramedic" means an individual who meets the provisions of paragraph 5 of this section and:

a. possesses two (2) years of full-time service as a paramedic or its part-time equivalent, and

b. completes a training program from an entity approved by the Department; and

5. "Paramedic", including community paramedic, means an individual licensed as an EMT, IEMT or AEMT, who has completed a standard paramedic training program, who has met such other standards of competence and character as may be required, and who has passed a standard licensing examination of knowledge and skill administered by the Department or other entity designated by the Department. The paramedic is allowed to perform such skills as may be designated by the Department.

Added by Laws 1990, c. 320, § 9, emerg. eff. May 30, 1990. Amended by Laws 2013, c. 23, § 3, eff. Nov. 1, 2013; Laws 2016, c. 246, § 3, eff. Nov. 1, 2016.

§63-1-2505.1. Emergency medical technician and medical responder death benefit.

A. In the event of the death of any licensed emergency medical personnel or a certified emergency medical responder resulting from the official duties of such licensed emergency medical personnel or certified emergency medical responder performed while in the line of duty, the State Department of Health shall pay the designated beneficiary of the deceased the sum of Five Thousand Dollars ($5,000.00).

B. If the designated beneficiary predeceases the emergency medical personnel or certified emergency medical responder and there is not an alternate or contingent beneficiary, the death benefit shall be payable to the personal representative of the decedent.

C. All payments made pursuant to the provisions of this section shall be paid from the Emergency Medical Personnel Death Benefit Revolving Fund created pursuant to Section 1-2505.2 of this title.

Added by Laws 2008, c. 43, § 1, eff. July 1, 2008. Amended by Laws 2010, c. 94, § 1, eff. July 1, 2010; Laws 2013, c. 23, § 4, eff. Nov. 1, 2013.

§63-1-2505.2. Emergency Medical Personnel Death Benefit Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the State Department of Health to be designated the "Emergency Medical Personnel Death Benefit Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the State Department of Health from the fees imposed pursuant to Section 1-2505.3 of this title. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the State Department of Health for the purpose of making death benefit payments to the named beneficiary or personal representative of a deceased licensed emergency medical personnel or certified emergency medical responder pursuant to Section 1-2505.1 of this title. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 2008, c. 43, § 2, eff. July 1, 2008. Amended by Laws 2010, c. 94, § 2, eff. July 1, 2010; Laws 2012, c. 304, § 489; Laws 2013, c. 23, § 5, eff. Nov. 1, 2013.

§63-1-2505.3. Application fee – Apportionment to revolving fund.

A. In addition to any other fee that may be authorized by law or pursuant to administrative rule of the State Department of Health effective July 1, 2010, there shall be imposed a fee of:

1. Ten Dollars ($10.00) for each original application for licensed emergency medical personnel;

2. Two Dollars and fifty cents ($2.50) for each renewal application for licensed emergency medical personnel;

3. Ten Dollars ($10.00) for each original application for a certified emergency medical responder; and

4. Five Dollars ($5.00) for each renewal application for a certified emergency medical responder.

B. The fees authorized by subsection A of this section shall be apportioned to the Emergency Medical Personnel Death Benefit Revolving Fund created pursuant to Section 1-2505.2 of this title.

Added by Laws 2008, c. 43, § 3, eff. July 1, 2008. Amended by Laws 2010, c. 94, § 3, eff. July 1, 2010; Laws 2013, c. 23, § 6, eff. Nov. 1, 2013.

§63-1-2506. Performance of medical procedures.

Licensed and certified emergency medical personnel, while a duty to act is in effect, shall perform medical procedures to assist patients to the best of their abilities under the direction of a medical director or in accordance with written protocols, which may include standing orders, authorized and developed by the medical

director and approved by the State Department of Health when not in conflict with standards approved by the State Board of Health, giving consideration to the recommendations of the Trauma and Emergency Response Advisory Council created in Section 44 of this act. Licensure, certification and authorization for emergency medical personnel to perform medical procedures must be consistent with provisions of this act, and rules adopted by the Board. Medical control and medical directors shall meet such requirements as prescribed through rules adopted by the Board.
Added by Laws 1990, c. 320, § 10, emerg. eff. May 30, 1990. Amended by Laws 2005, c. 204, § 1, eff. July 1, 2005; Laws 2013, c. 229, § 66, eff. Nov. 1, 2013.

§63-1-2506.1. Administration of opiate antagonists.

A. First responders shall have the authority to administer, without prescription, opiate antagonists when encountering an individual exhibiting signs of an opiate overdose. For the purposes of this provision, a first responder shall include:

1. Law enforcement officials;
2. Emergency medical technicians;
3. Firefighters;
4. Medical personnel at secondary schools and institutions of higher education; and
5. Forensic laboratory personnel of the Oklahoma State Bureau of Investigation as designated by the Executive Director.

B. Any first responder administering an opiate antagonist in a manner consistent with addressing opiate overdose shall be covered under the Good Samaritan Act.
Added by Laws 2013, c. 322, § 1, eff. Nov. 1, 2013. Laws 2017, c. 36, § 1, eff. Nov. 1, 2017.

§63-1-2506.2. Prescription of opiate antagonists to family members.

A. Upon request, a provider may prescribe an opiate antagonist to an individual for use by that individual when encountering a family member exhibiting signs of an opiate overdose.

B. When an opiate antagonist is prescribed in accordance with subsection A of this section, the provider shall provide:

1. Information on how to spot symptoms of an overdose;
2. Instruction in basic resuscitation techniques;
3. Instruction on proper naloxone administration; and
4. The importance of calling 911 for help.

C. Any family member administering an opiate antagonist in a manner consistent with addressing opiate overdose shall be covered under the Good Samaritan Act.

D. Any provider prescribing or administering an opiate antagonist in a manner consistent with addressing opiate overdose shall be covered under the Good Samaritan Act.

Added by Laws 2013, c. 322, § 2, eff. Nov. 1, 2013. Amended by Laws 2018, c. 106, § 13, eff. Nov. 1, 2018.

§63-1-2507. Repealed by Laws 2005, c. 204, § 5, eff. July 1, 2005.

§63-1-2508. Repealed by Laws 2013, c. 23, § 8, eff. Nov. 1, 2013.

§63-1-2509. Operation of ambulance service - Violation of act - Penalties - Public nuisance - Injunctions.

A. 1. No person, company, governmental entity or trust authority may operate an ambulance service within this state except as provided in this section. The State Commissioner of Health, the district attorney of the county wherein the ambulance service operates or may be found, or the Attorney General of this state shall have the authority to bring an action to enjoin the operation of any ambulance service not in compliance with the provisions of this act.

2. A ground ambulance service based outside of this state that is licensed and in good standing in its home state may respond to an emergency request for care and transport of a patient within this state provided no local licensed ambulance service is readily available, and may be exempt from the licensing requirements of this state pursuant to rules promulgated by the State Board of Health.

3. Requests for service must be referred by an Oklahoma emergency dispatch center. The Board may require such exempt ambulance service to subsequently provide documentation of emergency response activities performed within this state.

4. The State Department of Health shall have the authority to investigate any complaint associated with an emergency response by an out-of-state ambulance service in the same manner as ambulance services licensed by the Department within this state.

B. The Commissioner shall have the authority to revoke or suspend any license, to issue probationary licenses, or to levy such administrative fines and penalties as may be deemed necessary, for violations of the provisions of this act, subject to the provisions of the Administrative Procedures Act. The powers afforded the Commissioner within the general enforcement provisions of the Public Health Code are additionally incorporated herein.

C. In addition to any other penalties, any person, company, governmental entity or trust authority who violates any of the provisions of this act relating to compliance with the provisions of this act or of standards, specifications, procedures and rules adopted by the Board may be punished by the assessment of a civil penalty of not more than One Hundred Dollars ($100.00) for each violation. Each day a violation continues shall be considered a separate offense.

D. The operation or maintenance of an ambulance service in violation of this act, or the rules promulgated by the Board, is declared a public nuisance inimical to the public welfare. The Commissioner in the name of the people of the state, through the Attorney General, or the district attorney of the county in which the ambulance service is located, may, in addition to other remedies herein provided, bring action for an injunction to restrain such violation or to enjoin the future operation or maintenance of any such ambulance service.
Added by Laws 1990, c. 320, § 13, emerg. eff. May 30, 1990. Amended by Laws 2005, c. 191, § 1, eff. Nov. 1, 2005; Laws 2006, c. 16, § 46, emerg. eff. March 29, 2006.
NOTE: Editorially renumbered from § 1-2409 of this title to avoid duplication in numbering.
NOTE: Laws 2005, c. 204, § 2 repealed by Laws 2006, c. 16, § 47, emerg. eff. March 29, 2006.

§63-1-2509.1. Promulgation of rules for the Oklahoma Emergency Response Systems Development Act.
The State Board of Health shall promulgate rules to implement the provisions of the Oklahoma Emergency Response Systems Development Act.
Added by Laws 2016, c. 246, § 4, eff. Nov. 1, 2016.

§63-1-2510. Division of Emergency Medical Services created.
There is hereby created within the State Department of Health the Division of Emergency Medical Services, for the operation of an Oklahoma Emergency Medical Services Program.
Added by Laws 1990, c. 320, § 14, emerg. eff. May 30, 1990.

§63-1-2511. Commissioner - Powers and duties relating to Oklahoma Emergency Medical Services Improvement Program.
The State Commissioner of Health shall have the following powers and duties with regard to an Oklahoma Emergency Medical Services Improvement Program:
1. Administer and coordinate all federal and state programs, not specifically assigned by state law to other state agencies, which include provisions of the Federal Emergency Medical Services Systems Act and other federal laws and programs relating to the development of emergency medical services in this state. The administration and coordination of federal and state laws and programs relating to the development, planning, prevention, improvement and management of emergency medical services shall be conducted by the Division of Emergency Medical Services, as prescribed by Section 1-2510 of this title;
2. Assist private and public organizations, emergency medical and health care providers, ambulance authorities, district boards

and other interested persons or groups in improving emergency medical services at the local, municipal, district or state levels. This assistance shall be through professional advice and technical assistance;

3. Coordinate the efforts of local units of government to establish service districts and set up boards of trustees or other authorities to operate and finance emergency medical services in the state as provided under Section 9C of Article X of the Oklahoma Constitution or under Sections 1201 through 1221 of Title 19 of the Oklahoma Statutes. The Commissioner shall evaluate all proposed district areas and operational systems to determine the feasibility of their economic and health services delivery;

4. Prepare, maintain and utilize a comprehensive plan and program for emergency medical services development throughout the state to be adopted by the State Board of Health, giving consideration to the recommendations of the Trauma and Emergency Response Advisory Council created in Section 44 of this act, and incorporated within the State Health Plan. The plan shall establish goals, objectives and standards for a statewide integrated system and a timetable for accomplishing and implementing different elements of the system. The plan shall also include, but not be limited to, all components of an emergency medical services system; regional and statewide planning; the establishment of standards and the appropriate criteria for the designation of facilities; data collection and quality assurance; and funding;

5. Maintain a comprehensive registry of all ambulance services operating within the state, to be published annually and maintain a registry of critical care paramedics. All ambulance service providers shall register annually with the Commissioner on forms supplied by the State Department of Health, containing such requests for information as may be deemed necessary by the Commissioner;

6. Develop a standard report form which may be used by local, regional and statewide emergency medical services and emergency medical services systems to facilitate the collection of data related to the provision of emergency medical and trauma care. The Commissioner shall also develop a standardized emergency medical services data set and an electronic submission standard. Each ambulance service shall submit the information required in this section at such intervals as may be prescribed by rules promulgated by the State Board of Health;

7. Evaluate and certify all emergency medical services training programs and emergency medical technician training courses and operational services in accordance with specifications and procedures approved by the Board. Nonaccredited paramedic training programs shall begin their final paramedic training class by December 31, 2012. Only paramedic training programs accredited or

receiving a Letter of Review (LOR) by CoAEMSP may enroll new paramedic students after January 1, 2013;

8. Provide an emergency medical personnel and ambulance service licensure program to include a requirement that ambulance services licensed as specialty care ambulance providers shall be used solely for interhospital transport of patients requiring specialized en route medical monitoring and advanced life support which exceeds the capabilities of the equipment and personnel provided by paramedic life support;

9. Employ and prescribe the duties of employees as may be necessary to administer the provisions of the Oklahoma Emergency Response Systems Development Act;

10. Apply for and accept public and private gifts, grants, donations and other forms of financial assistance designed for the support of emergency medical services;

11. Develop a classification system for all hospitals that treat emergency patients. The classification system shall:

a. identify stabilizing and definitive emergency services provided by each hospital, and

b. require each hospital to notify the regional emergency medical services system control when treatment services are at maximum capacity and that emergency patients should be diverted to another hospital; and

12. Develop and monitor a statewide emergency medical services and trauma analysis system designed to:

a. identify emergency patients and severely injured trauma patients treated in Oklahoma,

b. identify the total amount of uncompensated emergency care provided each fiscal year by each hospital and ambulance service in Oklahoma, and

c. monitor emergency patient care provided by emergency medical service and hospitals.

Added by Laws 1990, c. 320, § 15, emerg. eff. May 30, 1990. Amended by Laws 1994, c. 236, § 1, eff. Sept. 1, 1994; Laws 1999, c. 156, § 4, eff. Nov. 1, 1999; Laws 2001, c. 411, § 6, eff. Nov. 1, 2001; Laws 2005, c. 204, § 3, eff. July 1, 2005; Laws 2013, c. 23, § 7, eff. Nov. 1, 2013; Laws 2013, c. 229, § 67, eff. Nov. 1, 2013.

§63-1-2512. Rules.

A. The State Board of Health, giving consideration to the recommendations of the Trauma and Emergency Response Advisory Council as created in Section 44 of this act, shall promulgate rules to enact the provisions of the Oklahoma Emergency Response Systems Development Act.

B. Such rules shall specify which vehicles of licensed ambulance service providers shall be considered authorized emergency vehicles pursuant to the provisions of Section 1-103 of Title 47 of

the Oklahoma Statutes. The rules shall provide that vehicles transporting licensed ambulance service personnel or life saving equipment that meet all other specifications required by the Board shall be considered authorized emergency vehicles.
Added by Laws 1990, c. 320, § 16, emerg. eff. May 30, 1990. Amended by Laws 1991, c. 167, § 2, eff. July 1, 1991; Laws 2001, c. 411, § 7, eff. Nov. 1, 2001; Laws 2013, c. 229, § 68, eff. Nov. 1, 2013.

§63-1-2512.1. Oklahoma Emergency Response Systems Stabilization and Improvement Revolving Fund - Rules.

A. There is hereby created in the State Treasury a revolving fund for the State Department of Health to be designated the "Oklahoma Emergency Response Systems Stabilization and Improvement Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of monies received by the State Department of Health in accordance with state law. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and 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. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

B. The State Board of Health shall promulgate rules establishing a formula and procedure for the distribution of funds from the Oklahoma Emergency Response Systems Stabilization and Improvement Revolving Fund.
Added by Laws 2008, c. 393, § 8, eff. Nov. 1, 2008. Amended by Laws 2012, c. 304, § 490.

§63-1-2513. Operation of ambulance service - Application for license – Air Ambulance providers.

A. All persons, companies, governmental entities or trust authorities desiring to operate an ambulance service shall file with the State Commissioner of Health an application for a license to operate the service. The Commissioner shall, within two (2) months of the date of the application, notify the applicant in writing of the granting or rejection of the license and shall, in the event of rejection, specify the reasons for the rejection.

B. The Commissioner may issue an Oklahoma Air Ambulance Provider License to an Air Ambulance provider, duly licensed in good standing and operating from bases in an adjoining state, that makes application and provides documentation pursuant to rules promulgated by the State Board of Health. Such ambulance provider staff shall

not be required to be licensed in this state but shall be required to meet the licensure requirements in the state of origin.
Added by Laws 1990, c. 320, § 17, emerg. eff. May 30, 1990. Amended by Laws 2005, c. 191, § 2, eff. Nov. 1, 2005.
NOTE: Editorially renumbered from § 1-2413 of this title to avoid duplication in numbering.

§63-1-2514. Repealed by Laws 2005, c. 204, § 5, eff. July 1, 2005.

§63-1-2515. EMS Regions, Ambulance Service districts or municipalities - Regulation and control of Ambulance Service transports - Exemptions.

A. Notwithstanding any other provision of this title, Emergency Medical Services (EMS) Regions, Ambulance Service districts or municipalities are hereby authorized to regulate and control, pursuant to duly enacted ordinance or regulation, Ambulance Service transports originating within the jurisdiction of such EMS Regions, Ambulance Service districts or municipalities.

B. Any ordinance or regulation adopted pursuant to subsection A of this section shall meet and may exceed, but shall not be in contravention of, the standards promulgated by the State Board of Health for Ambulance Service transports.

C. 1. Any ordinance or regulation adopted by an EMS Region, Ambulance Service district or a municipality may establish a sole-provider system for stretcher van and/or Ambulance Service transports; provided, however, any such designated or contracted sole-provider which is not an EMS Region, Ambulance Service district, municipality, or other public entity shall be selected by competitive bidding.

2. A contract entered into pursuant to such bidding shall be with the lowest and best bidder and may be for an initial term of such duration as deemed operationally and fiscally prudent by the contracting agency. The term of such sole-provider contract shall be made public at the time bids are solicited, which solicitation shall be not less than sixty (60) days prior to the contract start date.

D. Any EMS Region, Ambulance Service district or municipality may establish a sole-provider system for stretcher van and/or Ambulance Service transports and may allow additional geographic or political subdivisions to join such a system at any time. Whenever such a geographic or political subdivision joins such a sole-provider system, competitive bidding shall not be required and provision for servicing the new jurisdiction may be accomplished by amending the existing sole-provider contract. Furthermore, in the event the expansion of the service area of the EMS Region, Ambulance Service district or the municipality is substantial (in the sole opinion of the governing body of the EMS Region, Ambulance Service

district or municipality), the existing sole-provider contract may be extended for a period sufficient to allow reasonable opportunity for recovery of capital costs of expansion, as determined by the contracting agency.

E. The provisions of this section shall not be construed or applied to limit the operation of any emergency medical service district established and operating pursuant to Section 9C of Article 10 of the Oklahoma Constitution; provided, however, that, upon invitation and approval of a majority of the voters of the district, any such district is hereby authorized to join by appropriate agreement any system established by an EMS Region, Ambulance Service district or a municipality pursuant to the provisions of this section.

F. The following types of patient transports shall be exempt from regulation by EMS Regions, Ambulance Service districts or municipalities:

1. Any ambulance owned or operated by, or under contract to perform ambulance transport services for, the Federal or State government, or any agency thereof;

2. Any ambulance owned and operated by a hospital and in use to transport a patient of the owner-hospital, which patient has been admitted to and not been discharged from the owner-hospital, to or from another hospital or medical care facility at which the patient receives a diagnostic or therapeutic procedure not available at the owner-hospital;

3. Any ambulance engaged in a routine transport call to transport a patient from a hospital, nursing home, or dialysis center located within an EMS Region, Ambulance Service district or municipality to any location outside the EMS Region, Ambulance Service district or municipality;

4. Any ambulance engaged in the transport of a patient from a location outside an EMS Region, Ambulance Service district or municipality to a location inside an EMS Region, Ambulance Service district or municipality; or

5. Any ambulance engaged in the interstate transport of a patient.

Added by Laws 1990, c. 320, § 18, emerg. eff. May 30, 1990. Amended by Laws 1991, c. 167, § 3, eff. July 1, 1991; Laws 1995, c. 194, § 4, eff. Nov. 1, 1995; Laws 1997, c. 281, § 1, eff. July 1, 1997; Laws 2001, c. 411, § 8, eff. Nov. 1, 2001; Laws 2016, c. 236, § 3, eff. Nov. 1, 2016.

§63-1-2516. Repealed by Laws 2013, c. 229, § 99, eff. Nov. 1, 2013.

§63-1-2517. Repealed by Laws 2005, c. 204, § 5, eff. July 1, 2005.

§63-1-2518. Repealed by Laws 2005, c. 204, § 5, eff. July 1, 2005.

§63-1-2519. Repealed by Laws 2005, c. 204, § 5, eff. July 1, 2005.

§63-1-2520. Repealed by Laws 2005, c. 204, § 5, eff. July 1, 2005.

§63-1-2521. Repealed by Laws 2005, c. 204, § 5, eff. July 1, 2005.

§63-1-2522. Renumbered as Title 63, § 1-2530.9 by Laws 2004, c. 459, § 11, emerg. eff. June 4, 2004.

§63-1-2523. Oklahoma Institute for Disaster and Emergency Medicine Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the State Department of Health, to be designated the "Oklahoma Institute for Disaster and Emergency Medicine Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the State Department of Health from state appropriations for such fund. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the State Department of Health as follows:

The State Department of Health is authorized to develop and support the Oklahoma Institute for Disaster and Emergency Medicine (the "Institute") at the OU College of Medicine in Tulsa. The primary duties and responsibilities of the Institute shall include:

1. Creation and delivery of educational initiatives related to trauma systems development and trauma systems coordination, in order to strengthen the quality of trauma care services rendered statewide;

2. Development and support of an emergency medical response infrastructure to include statewide planning and training functions;

3. Establishment and support of an allopathic emergency medicine residency program in Oklahoma; and

4. In partnership with the State Department of Health, to further develop an injury prevention research program to identify significant risks and design and implement effective interventions to mitigate those risks.

Up to Five Hundred Thousand Dollars ($500,000.00) of this fund may be used for delivery of urgent care in under-served areas.

Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 2006, 2nd Ex. Sess., c. 59, § 13. Amended by Laws 2012, c. 304, § 491.

§63-1-2530. Short title.

This act shall be known and may be cited as the "Oklahoma Trauma Systems Improvement and Development Act".
Added by Laws 2004, c. 459, § 1, emerg. eff. June 4, 2004.

§63-1-2530.1. Legislative findings and intent.

A. The Legislature hereby finds and declares that:

1. Traumatic injury is the leading cause of death for persons under forty (40) years of age, and the third leading cause of death overall for persons of all ages. Traumatic injury is the leading cause of lost years of potential life for Oklahomans sixty-five (65) years of age and younger;

2. In addition to the physical and emotional losses that result from traumatic injury, the economic costs of such injuries, which include lost wages, medical expenses and indirect costs, far exceed losses for other diseases such as cancer, heart disease, stroke and diabetes;

3. Trauma systems dramatically reduce morbidity and mortality from major injuries; and

4. Development and improvement of trauma systems is beneficial to all citizens.

B. In order to improve the health and well-being of the people of this state, it is necessary to improve and further develop trauma systems by encouraging hospitals and emergency medical service providers to provide an organized system of trauma care.
Added by Laws 2004, c. 459, § 2, emerg. eff. June 4, 2004.

§63-1-2530.2. Definitions.

As used in the Oklahoma Trauma Systems Improvement and Development Act:

1. "Ambulance" means any ground, air or water vehicle operated by an ambulance service licensed pursuant to the provisions of Section 1-2513 of this title;

2. "Ambulance service" means any private firm or governmental agency which is licensed by the State Department of Health to provide levels of medical care based on certification standards promulgated by the State Board of Health;

3. "Board" means the State Board of Health;

4. "Classification" means an inclusive standardized identification of stabilizing and definitive emergency services provided by each hospital that treats emergency patients;

5. "Commissioner" means the State Commissioner of Health;

6. "Council" means the Trauma and Emergency Response Advisory Council created in Section 44 of this act;

7. "Department" means the State Department of Health;

8. "Emergency medical care" means bona fide emergency services provided after the sudden onset of a medical or traumatic condition manifesting itself by acute symptoms of sufficient severity,

including severe pain, that the absence of immediate medical attention could reasonably be expected to result in:

a. a patient's health being placed in serious jeopardy,

b. serious impairment to bodily functions, or

c. serious dysfunction of any bodily organ or part;

9. "Hospital" means a hospital licensed pursuant to the provisions of Section 1-704 of this title;

10. "Regional trauma care system" means an arrangement of available resources that are coordinated for the effective delivery of emergency trauma services within a geographic region consistent with an established plan;

11. "Trauma and emergency operative services facility" means a hospital that is classified and recognized by the Department as providing emergency trauma and operative surgical services on a twenty-four-hour basis;

12. "Trauma patient" means a severely or seriously injured person who has been:

a. evaluated by a physician, a registered nurse, or emergency medical services personnel, and

b. found to require medical care in a hospital classified as a trauma and emergency operative services facility; and

13. "Trauma services" includes services provided to a severely or seriously injured patient.

Added by Laws 2004, c. 459, § 3, emerg. eff. June 4, 2004.
Amended by Laws 2013, c. 229, § 69, eff. Nov. 1, 2013.

§63-1-2530.3. Rules - Classification of trauma and emergency care - Requirements for distribution of trauma patients.

A. The State Board of Health, giving consideration to the recommendations of the Trauma and Emergency Response Advisory Council created in Section 44 of this act, shall promulgate rules establishing minimum standards and objectives to implement the development, regulation and improvement of trauma systems on a statewide basis. Rules shall provide for the classification of trauma and emergency care provided by all hospitals based on the level of service provided and for triage, transport and transfer guidelines. The Board shall consider guidelines developed by the American College of Surgeons in promulgating rules under this section.

B. The rules shall provide specific requirements for the distribution of trauma patients, ensure that trauma care is fully coordinated with all hospitals and emergency medical services in a regional area, and reflect the geographic areas of the state, considering time and distance.

C. The rules shall include:

1. Pre-hospital care management guidelines for triage and transport of trauma patients;

2. Establishment of referral patterns of trauma patients and geographic boundaries regarding trauma patients;

3. Requirements for licensed hospitals providing trauma and emergency operative services to provide quality care to trauma patients referred to these facilities;

4. Minimum requirements for resources and equipment needed by a trauma and emergency operative services facility to treat trauma patients;

5. Minimum standards for the availability and qualifications of health care personnel, including physicians and surgeons, treating trauma patients within a hospital;

6. Minimum requirements for data collection including, but not limited to, trauma incidence reporting, system operation and patient outcome, and continuous quality improvement activities;

7. Minimum requirements for periodic performance evaluation of the system and its components through continuous quality improvement activities;

8. Minimum requirements for reviews of trauma patient transfers;

9. Requirements that hospitals with the capacity and capability to provide care not refuse to accept the transfer of a trauma patient from another facility solely because of the person's inability to pay for services or because of the person's age, sex, race, religion or national origin; and

10. Requirements for transferring hospitals to enter into reciprocal agreements with receiving hospitals that specify that the transferring hospital will accept the return transfer of trauma patients at such time as the hospital has the capability and capacity to provide care; provided, however, such reciprocal agreements shall not incorporate financial provisions for transfers. Added by Laws 2004, c. 459, § 4, emerg. eff. June 4, 2004. Amended by Laws 2013, c. 229, § 70, eff. Nov. 1, 2013.

§63-1-2530.4. Repealed by Laws 2013, c. 229, § 99, eff. Nov. 1, 2013.

§63-1-2530.5. Recognition of geographic regions with functioning trauma system - Regional trauma advisory boards - Funding.

A. Each geographic region identified in the statewide trauma systems plan that has a functioning trauma system shall be recognized by the State Department of Health.

B. Licensed hospitals and ambulance service providers in these regions shall establish a regional trauma advisory board to represent the region and conduct continuous quality improvement activities of the system for the region. Licensed hospitals and

ambulance service providers in the region shall designate regional trauma advisory board members. Regional trauma advisory board members shall consist of individuals who provide trauma services in the regional system, or individuals employed by licensed hospitals or ambulance service providers in the region. The maximum number of board members for any region shall be twenty.

C. As funds are available, regional trauma advisory boards may receive funding from the Department to support their administrative and continuous quality improvement activities.

Added by Laws 2004, c. 459, § 6, emerg. eff. June 4, 2004. Amended by Laws 2013, c. 229, § 71, eff. Nov. 1, 2013.

§63-1-2530.6. Repealed by Laws 2013, c. 229, § 99, eff. Nov. 1, 2013.

§63-1-2530.7. Repealed by Laws 2013, c. 229, § 99, eff. Nov. 1, 2013.

§63-1-2530.8. Recognition and certification of trauma transfer and referral centers - Rules establishing minimum standards - Data - Funding.

A. The State Department of Health shall recognize and certify a trauma transfer and referral center in each county and contiguous communities with populations in excess of three hundred thousand (300,000) persons for the purpose of directing ambulance patients to facilities with the clinical capacity and capability to appropriately care for the emergent medical needs of a patient.

B. The State Board of Health, giving consideration to the recommendations of the Trauma and Emergency Response Advisory Council created in Section 44 of this act, shall promulgate rules establishing minimum certification standards for such centers which shall include, but not be limited to, staff certification, data management and communications equipment, medical control and oversight, record keeping, quality improvement activities, and such other issues as the State Commissioner of Health deems appropriate.

C. Certified centers shall submit data as required by the Department for the purpose of trauma system continuous quality improvement activities. Such reports shall be confidential as provided in Section 1-2530.7 of this title.

D. The Board, giving consideration to the recommendations of the Trauma and Emergency Response Advisory Council created in Section 44 of this act, shall promulgate rules requiring emergency medical services providers to contact the appropriate regional trauma transfer and referral center while transporting injured patients into or within that region in order to ensure that patients are directed to the appropriate hospital based on the regional plan and the current capability and capacity of hospitals in the system.

E. As funding is available, the Department may reimburse operators of certified trauma transfer and referral centers for the operations of the centers on an annual basis.
Added by Laws 2004, c. 459, § 9, emerg. eff. June 4, 2004. Amended by Laws 2013, c. 229, § 72, eff. Nov. 1, 2013.

§63-1-2530.9. Trauma Care Assistance Revolving Fund.

A. There is hereby created in the State Treasury a revolving fund for the State Department of Health to be designated the "Trauma Care Assistance Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the State Department of Health from monies apportioned thereto for purposes of this section. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Department as follows:

1. Ninety percent (90%) of such monies shall be used to reimburse recognized trauma facilities, licensed ambulance service providers and physicians for uncompensated trauma care expenditures as documented in the statewide emergency medical services and trauma analysis system developed pursuant to the provisions of Section 1-2511 of this title. In lieu of or in combination with reimbursement for uncompensated care, monies from the fund may also be used to support readiness costs incurred by recognized trauma facilities associated with ensuring a stable trauma care system with availability of twenty-four-hour physician services for the provision of trauma care. Any monies used for the treatment of Medicaid-eligible patients that are subsequently used to establish federal matching fund requirements shall also be reimbursed to eligible trauma facilities, licensed ambulance service providers and physicians; and

2. Ten percent (10%) of such monies shall be used by the Department in the furtherance of its powers and duties set forth in the Oklahoma Emergency Response Systems Development Act.

B. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

C. The State Board of Health shall establish by rule a formula and procedure for the distribution of funds for uncompensated trauma care and/or readiness costs that shall provide for the allocation of funds to hospitals, ambulance service providers and physicians.

D. Annually, monies accumulated in the fund may be transferred to the Oklahoma Health Care Authority, by order of the State Commissioner of Health, to maximize Medicaid reimbursement of trauma care. The Oklahoma Health Care Authority shall use these funds with federal matching funds to reimburse hospitals, ambulance service

providers and physicians for trauma care provided to severely injured patients who are participants in Medicaid.

E. An annual report detailing the disbursements from the fund shall be provided on January 1 of each year to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Chair of each health-related committee of both the House of Representatives and the Senate.

Added by Laws 1999, c. 278, § 1, eff. July 1, 1999. Amended by Laws 2000, c. 223, § 1, eff. July 1, 2000. Renumbered from § 330.97 of this title by Laws 2002, c. 374, § 11, eff. July 1, 2002. Amended by Laws 2003, c. 367, § 1, emerg. eff. June 3, 2003; Laws 2004, c. 459, § 10, emerg. eff. June 4, 2004. Renumbered from § 1-2522 of this title by Laws 2004, c. 459, § 11, emerg. eff. June 4, 2004. Amended by Laws 2005, c. 1, § 94, emerg. eff. March 15, 2005; Laws 2005, c. 404, § 1, eff. Nov. 1, 2005; Laws 2012, c. 304, § 492.

NOTE: Laws 2004, c. 386, § 3 repealed by Laws 2005, c. 1, § 95, emerg. eff. March 15, 2005. Laws 2004, c. 396, § 10 repealed by Laws 2005, c. 1, § 96, emerg. eff. March 15, 2005.

§63-1-2600. Short title.

This act shall be known and may be cited as the "Kidney Health Planning Act of Oklahoma".

Added by Laws 1993, c. 250, § 1, eff. Sept. 1, 1993.

§63-1-2601. Purpose of act.

The purpose of the Kidney Health Planning Act of Oklahoma is to provide financial assistance to persons who have permanent kidney failure which requires either dialysis or transplantation.

Added by Laws 1993, c. 250, § 2, eff. Sept. 1, 1993.

§63-1-2602. Eligibility requirements - Areas of financial assistance.

A. The State Department of Health shall establish eligibility requirements for financial assistance from the Kidney Health Revolving Fund. Financial assistance shall include, but shall not be limited to, the following areas:

1. Payment for three (3) months of Hemodialysis treatments prior to establishment of Medicare eligibility;

2. Payment for the Social Security deductible in situations where the patient is unable to meet the deductible;

3. Monthly medications;

4. Transportation to and from dialysis;

5. Pretransplant and posttransplant costs including lab work, tissue typing and the medication Cyclosporine;

6. Certain physician's fees; and

7. Such other financial assistance to indigent persons with permanent kidney failure as the Department deems appropriate.

B. The State Department of Health shall promulgate rules for the proper administration of the Kidney Health Revolving Fund in accordance with the requirements of this section.
Added by Laws 1993, c. 250, § 3, eff. Sept. 1, 1993.

§63-1-2603. Kidney Health Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the State Department of Health, to be designated the "Kidney Health Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the State Department of Health from state appropriations for such fund. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the State Department of Health for the purpose of implementing the provisions of the Kidney Health Planning Act of Oklahoma. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.
Added by Laws 1993, c. 250, § 4, eff. Sept. 1, 1993. Amended by Laws 2012, c. 304, § 493.

§63-1-2604. Individual policy coverage for prescription drugs for cancer treatment or study of oncology - Exclusion prohibited.

No individual policy of accident and health insurance issued which provides coverage for prescription drugs, nor any group blanket policy of accident and health insurance issued which provides coverage for prescription drugs shall exclude coverage of prescription drugs for cancer treatment or the study of oncology because the off-label use of such prescription drug has not been approved by the Federal Food and Drug Administration for that indication in one of the standard reference compendia, as defined in paragraph (d) of Section 1-1401 of Title 63 of the Oklahoma Statutes.

Any coverage of a prescription drug required by this section shall also include provisions for coverage of medically necessary services associated with the administration of the prescription drug.

Nothing in this section shall be construed as altering existing law with regard to provisions limiting the coverage of prescription drugs that have not been approved by the Federal Food and Drug Administration.
Added by Laws 1993, c. 250, § 5, eff. Sept. 1, 1993.

§63-1-2605. Off-label uses of prescription drugs for cancer treatment - Coverage under health maintenance contracts.

Any group or non-group health maintenance contract which provides coverage for prescription drugs shall also provide coverage of off-label uses of prescription drugs used in the treatment of cancer or the study of oncology.
Added by Laws 1993, c. 250, § 6, eff. Sept. 1, 1993.

§63-1-2701. Repealed by Laws 2004, c. 22, § 1 and by Laws 2004, c. 92, § 6, eff. July 1, 2004.

§63-1-2702. Agency responsible for telemedicine and Oklahoma Telemedicine Network - Duties.

A. 1. With available state or federal funds, the State Department of Health shall be the state entity responsible for telemedicine and development of a statewide Oklahoma telemedicine network. The Department shall also be responsible for the continued development and implementation of a statewide system for the delivery of medical and other health care services through a telehealth system.

2. In order to achieve these duties, the State Board of Health shall establish a separate office within the State Department of Health which shall be known as the Oklahoma Center for Telemedicine. The State Commissioner of Health shall appoint or employ a director of the office who shall report to the Commissioner and the Board. The Commissioner shall also employ such other personnel as necessary to carry out the duties of the Center. The director and other Center personnel shall have no other duties within the Department except those directly related to the duties and responsibilities of the Center.

3. The Center shall have the power and duty to:

a. assess the current status and needs of the telemedicine network and telehealth in the state,

b. utilize available state and federal funds to the maximum extent possible,

c. for the purposes of the continued development of telehealth services in the state, engage with any and all parties to encourage and assist communications between entities requiring telemedicine services and entities offering or providing telemedicine services,

d. resolve problems and otherwise improve the delivery of telemedicine services,

e. assist and facilitate the coordination efforts of hospitals and other health care facilities and providers in the development and delivery of telemedicine services,

f. explore ways to provide reimbursement to providers for telehealth services,

g. explore the feasibility of providing health education services through a telehealth system,
h. study issues of compatibility of technology, and
i. establish and maintain a website and a clearinghouse for grant information as provided by Section 1-2703 of this title.

B. The Department shall enter into agreements with appropriate entities to provide the Center with assistance in carrying out the provisions of this section.

C. The director of the Center may form advisory groups as is necessary to work with the Center on telehealth issues.

D. The State Board of Health shall promulgate rules for the implementation of the teleradiology responsibilities outlined in this section. The rules shall be based on the American College of Radiology Standards for Teleradiology.

Added by Laws 1998, c. 389, § 2, eff. July 1, 1998. Amended by Laws 2000, c. 31, § 1, eff. Nov. 1, 2000; Laws 2001, c. 317, § 4, eff. Nov. 1, 2001; Laws 2004, c. 92, § 7, eff. July 1, 2004.

NOTE: Laws 2004, c. 22, § 2 repealed by Laws 2005, c. 1, § 97, emerg. eff. March 15, 2005.

§63-1-2702.1. Telehealth website – Establishment - Purpose.

A. The Oklahoma Center for Telemedicine shall establish and maintain a telehealth website for the State of Oklahoma. A direct link to the telehealth website shall be maintained on the State of Oklahoma government website page.

B. The purpose of the telehealth website shall be to promote the utilization and expansion of telemedicine in this state by:

1. Facilitating the exchange of information between telemedicine service providers and current or potential service users within the state;

2. Providing links to additional telemedicine websites; and

3. Providing a current listing of public and private grants available for:

a. the development of telehealth,
b. support or improvement of rural health facilities or services, and
c. enhancing the delivery of health care services to rural and underserved populations.

C. The Oklahoma Center for Telemedicine shall provide information and assistance to hospitals and community health centers seeking technical assistance for the development and submission of grant applications and proposals.

Added by Laws 2001, c. 317, § 5, eff. Nov. 1, 2001.

§63-1-2703. Telemedicine grants – Rural assistance.

A. Contingent upon the provision of appropriated funds designated for Telemedicine Services Programs, the State Department of Health is authorized to award one or more competitive grants to public hospitals or health care facilities for programs which deliver medical and other health care services through a telemedicine system. The goal of the grant program shall be to assist in the development of telemedicine programs which in turn have the effect of:

1. Empowering rural health facilities;
2. Expanding the range of services to rural areas;
3. Providing greater access to patients in rural areas;
4. Reducing the number of patient transfers to urban areas;
5. Enhancing rural economic development; and
6. Reducing the costs of medical care.

B. Funding may cover the cost of equipment, software, or the connection costs of either upstream or downstream users.

C. All grants shall be matched with funds from the grant recipient or in-kind contributions.

D. In order to be eligible for a grant, the program shall:

1. State clear and measurable program goals and objectives;
2. Provide verifiable data on how the program is meeting its stated goals and objectives; and
3. Include an evaluation component including an annual written self-evaluation.

E. The State Board of Health shall promulgate rules as necessary to administer the Telemedicine Service Program grants and the process by which the grant funding shall be allocated.

Added by Laws 1999, c. 185, § 1, eff. July 1, 1999.

§63-1-2710. Short title.

This act shall be known and may be cited as the "Oklahoma Dental Loan Repayment Act".

Added by Laws 2006, c. 237, § 1, eff. Nov. 1, 2006.

§63-1-2711. Legislative findings - Purpose.

A. The Legislature recognizes that there is a need to:

1. Upgrade the availability of quality dental care services for the people of Oklahoma;
2. Improve the balance of dental manpower distribution in the state by geographic location; and
3. Increase access to dental care to those who are dependent on the state for necessary dental care.

B. The purpose of the Oklahoma Dental Loan Repayment Act shall be to:

1. Increase the number of dentists serving and caring for those dependent upon the state for dental care; and

2. Ensure that dental care and services are accessible throughout the state, and specifically, that quality dental care and services be accessible to underserved dental areas in rural and metropolitan areas of the state, and to those dependent upon the state for dental care.
Added by Laws 2006, c. 237, § 2, eff. Nov. 1, 2006.

§63-1-2712. Oklahoma Dental Loan Repayment Program - Administration of program - Eligibility and obligations of dentists.

A. 1. The State Department of Health shall administer the Oklahoma Dental Loan Repayment Program.

2. The Program, depending upon available funding, shall provide educational loan repayment assistance for up to a total of twenty-five full-time equivalent Oklahoma licensed dentists per year, including new and continuing contract renewable participants.

3. Each award shall be for a contracted period and shall be distributed to the participant by drafts made payable to the participant and the appropriate loan agency in equal monthly disbursements, not to exceed Fifty Thousand Dollars ($50,000.00) per year for a maximum five-year period. Prior to any disbursement, the Department shall certify and properly review monthly reports submitted by the participating dentist detailing performance of activities in accordance with the Oklahoma Dental Loan Repayment Act.

4. At the conclusion of the minimum service obligation, the Department shall review the performance in the Program of the participating dentist and determine whether an award may be granted for an additional period not to exceed a total participation in the Program of five (5) years pursuant to rules promulgated by the Department.

B. Any dentist entering the Program each year as a nonfaculty participant shall agree to provide dental care and services to Medicaid recipients as authorized by the Oklahoma Health Care Authority. The Department shall be responsible for ensuring that at least thirty percent (30%) of the patients treated by the dentist will be Medicaid recipients.

1. Any general practice dentist entering the Program each year as a nonfaculty participant shall agree to provide dental care and services in a designated Dental Health Professional Shortage Area (DHPSA) of this state.

2. Any dentist licensed to practice as a Pediatric Dentistry Specialist as defined by the State Dental Act or any dentist practicing in a Federally Qualified Health Center (FQHC), FQHC look-alike, county health department, or city-county health department may be exempt from the requirement to practice in a Dental Health Professional Shortage Area (DHPSA).

C. A dentist entering the Program as a faculty participant shall agree to teach at the University of Oklahoma College of Dentistry. In the event there are no appropriate faculty applicants, the Program may award additional nonfaculty dentists.

D. A dentist shall be eligible to participate in the Program if the dentist:

1. Is a new dental school graduate. Preference will be given to graduates of the University of Oklahoma College of Dentistry;

2. Is licensed to practice dentistry in Oklahoma; and

3. Has demonstrated financial need.

E. The dentist shall execute a contract with the Department to provide dental services pursuant to the terms of the contract and in accordance with rules promulgated by the Department.

F. If the dentist does not fulfill the service obligation, the Department may collect from the participant the entire amount of loan payments made under the Program plus interest.

G. The Department shall present a report on the operation of the Program to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate within one (1) month of the beginning of each regular session of the Legislature, including but not limited to the progress made in accomplishing the goal of the Program.

Added by Laws 2006, c. 237, § 3, eff. Nov. 1, 2006. Amended by Laws 2012, c. 182, § 1, eff. Nov. 1, 2012; Laws 2014, c. 165, § 1, eff. Nov. 1, 2014.

§63-1-2713. Amount of award.

The amount of the award of educational loan repayment assistance shall be established at the discretion of the Department and based upon a determination of:

1. Actual funds available to the Oklahoma Dental Loan Repayment Program for expenditure; and

2. The existing student loan indebtedness of the participating dentist.

Added by Laws 2006, c. 237, § 4, eff. Nov. 1, 2006. Amended by Laws 2014, c. 165, § 2, eff. Nov. 1, 2014.

§63-1-2714. Dental Loan Repayment Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the State Department of Health to be designated the "Dental Loan Repayment Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies deposited to the credit of the fund by law. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the State Department of Health for the purpose of repaying dental student loans. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims

filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.
Added by Laws 2007, c. 122, § 2, eff. Nov. 1, 2007. Amended by Laws 2012, c. 304, § 494.

§63-1-2720. Oklahoma Medical Loan Repayment Program.

Sections 1 through 3 of this act shall be known and may be cited as the "Oklahoma Medical Loan Repayment Program".
Added by Laws 2010, c. 292, § 1, eff. Nov. 1, 2010.

§63-1-2721. Physician and physician assistant requirements.

A. 1. The Physician Manpower Training Commission shall administer the Oklahoma Medical Loan Repayment Program.

2. For the purposes of this section, "primary care physicians" shall mean physicians practicing in family medicine, geriatrics, general internal medicine, general pediatrics, obstetrics/gynecology, or emergency medicine.

3. For the purposes of this section, "health center" shall mean a federally qualified health center as defined by 42 U.S.C., Section 1905(1)(2)(B).

4. For the purposes of this section, "teaching health center" shall mean a health center that supports the residencies of primary care physicians within the operations of the health center.

5. The Program, depending upon and limited to available funding, shall provide educational loan repayment assistance to Oklahoma licensed primary care physicians and physician assistants who agree to establish a practice in a community located in Oklahoma approved by the Commission.

6. Each award shall be for a contracted period and shall be distributed to the participant by drafts made payable to the participant at the end of each contract year with disbursements not to exceed an amount to be established annually by the Commission. Prior to any disbursement, the Commission shall certify and properly review reports submitted by the participating physician or physician assistant detailing performance of activities in accordance with the Program.

7. The Commission shall review the performance in the Program of the participating physician or physician assistant and determine whether an award may be granted for additional years pursuant to rules promulgated by the Commission.

B. The physicians and physician assistants entering the Program each year shall agree to provide medical care and services in areas designated by the Commission to provide medical care and services to Medicaid recipients as authorized by the Oklahoma Health Care Authority.

C. A physician or physician assistant shall be eligible to participate in the loan repayment program if the individual:

1. Is a physician that holds a current Oklahoma medical license;

2. Is a new primary care graduate physician or physician assistant. Preference will be given to graduates of the primary care residency programs affiliated with the Oklahoma State University College of Osteopathic Medicine, the University of Oklahoma College of Medicine and the teaching hospitals affiliated with both schools of medicine and teaching health centers located in this state; or

3. Is a current practicing physician or physician assistant and has met criteria established by the Commission.

D. The Commission may accept donations of public or private funds to assist in funding the Medical Loan Repayment Program. The Commission may, at its discretion, contract with other public entities and non-profit corporations for the endowment, management and administration of such funds.

E. The Commission shall present a report on the operation of the Program to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate within one (1) month of the beginning of each regular session of the Legislature, including but not limited to the progress made in accomplishing the goal of the Program.

Added by Laws 2010, c. 292, § 2, eff. Nov. 1, 2010. Amended by Laws 2011, c. 33, § 1, eff. Nov. 1, 2011; Laws 2016, c. 22, § 1, eff. Nov. 1, 2016; Laws 2018, c. 286, § 1, eff. Nov. 1, 2018.

§63-1-2722. Amount of educational loan repayment award.

The amount of the award of educational loan repayment assistance shall not exceed any maximum or minimum amount as promulgated by rules of the Physician Manpower Training Commission pursuant to the Oklahoma Medical Loan Repayment Program. The actual amount of the award shall be based upon a determination of:

1. Actual funds available to the Program for expenditure; and

2. The existing student loan indebtedness of the participating physician.

Added by Laws 2010, c. 292, § 3, eff. Nov. 1, 2010. Amended by Laws 2011, c. 33, § 2, eff. Nov. 1, 2011.

§63-1-2723. Physician Manpower Training Commission - Program funding.

A. The Physician Manpower Training Commission shall have the option of utilizing available funding in excess of the amount necessary to fund the Oklahoma Medical Loan Repayment Program described in Section 1-2721 of this title to fund new or expanded primary care residency programs in rural and underserved areas of the state. Such new or expanded primary care residency program funding shall include but not be limited to:

1. Payments to hospitals or teaching health centers desiring to establish new primary care residency programs. Such payments shall be made to cover the costs of salaries, benefits and educational costs of residents in training at the facility; or

2. Payments to hospitals or teaching health centers with existing primary residency programs desiring to expand the number of residents participating in those programs. Such payments shall be made to cover the costs of salaries, benefits and educational costs of residents in training at the facility.

B. Provisions of this section shall be subject to the promulgated rules of the Commission.

Added by Laws 2011, c. 33, § 3, eff. Nov. 1, 2011. Amended by Laws 2016, c. 22, § 2, eff. Nov. 1, 2016; Laws 2018, c. 286, § 2, eff. Nov. 1, 2018.

§63-2-101. See the following versions:

OS 63-2-101v1 (HB 2913, Laws 2018, c. 64, § 11).

OS 63-2-101v2 (SB 1446, Laws 2018, c. 175, § 3).

§63-2-101.1. Drug paraphernalia - Factors used in determining.

In determining whether an object is "drug paraphernalia", a court or jury shall consider, in addition to all other logically relevant factors, the following:

1. Statements by an owner or by anyone in control of the object concerning its use;

2. The proximity of the object, in time and space, to a direct violation of the Uniform Controlled Dangerous Substances Act;

3. The proximity of the object to controlled dangerous substances;

4. The existence of any residue of controlled dangerous substances on the object;

5. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to any person who intends to use the object to facilitate a violation of the Uniform Controlled Dangerous Substances Act. The innocence of an owner, or of anyone in control of the object, as to a direct violation of this act shall not prevent a finding that the object is intended for use, or fashioned specifically for use, as drug paraphernalia;

6. Instructions, oral or written, provided with the object which either state directly or imply that the object is to be used for the consumption of controlled substances;

7. Descriptive materials accompanying the object which explain or depict its use as an object for the consumption of controlled substances;

8. The manner in which the object is displayed for sale;

9. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

10. Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise;

11. The existence and scope of legitimate uses for the object in the community; and

12. Expert testimony concerning its use.

Added by Laws 1981, c. 62, § 2, emerg. eff. April 13, 1981. Amended by Laws 1982, c. 12, § 2, operative Oct. 1, 1982; Laws 2004, c. 301, § 2, eff. Nov. 1, 2004.

§63-2-101.2. Definitions.

A. As used in this section:

1. "Glass tube" means an object which meets all of the following requirements:

a. a hollow glass cylinder, either open or closed at either end,

b. not less than two (2) nor more than seven (7) inches in length,

c. not less than one-eighth (1/8) inch nor more than three-fourths (3/4) inch in diameter,

d. may be used to facilitate, or intended or designed to facilitate, violations of the Uniform Controlled Dangerous Substances Act including, but not limited to, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, and concealing controlled substances and injecting, ingesting, inhaling, or otherwise introducing controlled substances into the human body, and

e. sold individually, or in connection with another object such as a novelty holder, flower vase, or pen. The foregoing descriptions are intended to be illustrative and not exclusive;

2. “Patron” means a person who enters a business for the purpose of purchasing or viewing as a shopper, merchandise offered for sale at the business; and

3. "Retailer" means a person, corporation, or partnership primarily engaged in the sale of consumable goods and services including, but not limited to, food and gasoline, at retail to the general public. A retailer shall not include any person, corporation, or partnership that sells specialized laboratory equipment for research or educational purposes.

B. It shall be unlawful for a retailer within the State of Oklahoma to offer for retail sale to any patron a glass tube, as defined in subsection A of this section.

C. A retailer, or an employee of the retailer, who willfully and knowingly violates the provisions of subsection B of this section shall, upon conviction, be guilty of a misdemeanor punishable by incarceration in the county jail for not more than one (1) year, or by a fine of not less than One Thousand Dollars ($1,000.00), or by both such fine and imprisonment.

D. The provisions of this section shall not be construed to prohibit the sale of cigars packaged by the manufacturer in containers or tubes made of glass to facilitate the sale of the item and not for another purpose prohibited by law.

Added by Laws 2010, c. 323, § 1, eff. Nov. 1, 2010. Amended by Laws 2011, c. 20, § 1.

§63-2-101v1. Definitions.

As used in the Uniform Controlled Dangerous Substances Act:

1. "Administer" means the direct application of a controlled dangerous substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient, animal or research subject by:

a. a practitioner (or, in the presence of the practitioner, by the authorized agent of the practitioner), or

b. the patient or research subject at the direction and in the presence of the practitioner;

2. "Agent" means a peace officer appointed by and who acts on behalf of the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control or an authorized person who acts on behalf of or at the direction of a person who manufactures, distributes, dispenses, prescribes, administers or uses for scientific purposes controlled dangerous substances but does not include a common or contract carrier, public warehouser or employee thereof, or a person required to register under the Uniform Controlled Dangerous Substances Act;

3. "Board" means the Advisory Board to the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

4. "Bureau" means the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

5. "Coca leaves" includes cocaine and any compound, manufacture, salt, derivative, mixture or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine or ecgonine;

6. "Commissioner" or "Director" means the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

7. "Control" means to add, remove or change the placement of a drug, substance or immediate precursor under the Uniform Controlled Dangerous Substances Act;

8. "Controlled dangerous substance" means a drug, substance or immediate precursor in Schedules I through V of the Uniform Controlled Dangerous Substances Act or any drug, substance or immediate precursor listed either temporarily or permanently as a federally controlled substance. Any conflict between state and federal law with regard to the particular schedule in which a substance is listed shall be resolved in favor of state law;

9. "Counterfeit substance" means a controlled substance which, or the container or labeling of which without authorization, bears the trademark, trade name or other identifying marks, imprint, number or device or any likeness thereof of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed the substance;

10. "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another of a controlled dangerous substance or drug paraphernalia, whether or not there is an agency relationship;

11. "Dispense" means to deliver a controlled dangerous substance to an ultimate user or human research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling or compounding necessary to prepare the substance for such distribution. "Dispenser" is a practitioner who delivers a controlled dangerous substance to an ultimate user or human research subject;

12. "Distribute" means to deliver other than by administering or dispensing a controlled dangerous substance;

13. "Distributor" means a commercial entity engaged in the distribution or reverse distribution of narcotics and dangerous drugs and who complies with all regulations promulgated by the federal Drug Enforcement Administration and the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

14. "Drug" means articles:

a. recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them,

b. intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals,

c. other than food, intended to affect the structure or any function of the body of man or other animals, and

d. intended for use as a component of any article specified in this paragraph;

provided, however, the term "drug" does not include devices or their components, parts or accessories;

15. "Drug-dependent person" means a person who is using a controlled dangerous substance and who is in a state of psychic or

physical dependence, or both, arising from administration of that controlled dangerous substance on a continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects, or to avoid the discomfort of its absence;

16. "Home care agency" means any sole proprietorship, partnership, association, corporation, or other organization which administers, offers, or provides home care services, for a fee or pursuant to a contract for such services, to clients in their place of residence;

17. "Home care services" means skilled or personal care services provided to clients in their place of residence for a fee;

18. "Hospice" means a centrally administered, nonprofit or profit, medically directed, nurse-coordinated program which provides a continuum of home and inpatient care for the terminally ill patient and the patient's family. Such term shall also include a centrally administered, nonprofit or profit, medically directed, nurse-coordinated program if such program is licensed pursuant to the provisions of this act. A hospice program offers palliative and supportive care to meet the special needs arising out of the physical, emotional and spiritual stresses which are experienced during the final stages of illness and during dying and bereavement. This care is available twenty-four (24) hours a day, seven (7) days a week, and is provided on the basis of need, regardless of ability to pay. "Class A" Hospice refers to Medicare certified hospices. "Class B" refers to all other providers of hospice services;

19. "Imitation controlled substance" means a substance that is not a controlled dangerous substance, which by dosage unit appearance, color, shape, size, markings or by representations made, would lead a reasonable person to believe that the substance is a controlled dangerous substance. In the event the appearance of the dosage unit is not reasonably sufficient to establish that the substance is an "imitation controlled substance", the court or authority concerned should consider, in addition to all other factors, the following factors as related to "representations made" in determining whether the substance is an "imitation controlled substance":

a. statements made by an owner or by any other person in control of the substance concerning the nature of the substance, or its use or effect,

b. statements made to the recipient that the substance may be resold for inordinate profit,

c. whether the substance is packaged in a manner normally used for illicit controlled substances,

d. evasive tactics or actions utilized by the owner or person in control of the substance to avoid detection by law enforcement authorities,
e. prior convictions, if any, of an owner, or any other person in control of the object, under state or federal law related to controlled substances or fraud, and
f. the proximity of the substances to controlled dangerous substances;

20. "Immediate precursor" means a substance which the Director has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used, or likely to be used, in the manufacture of a controlled dangerous substance, the control of which is necessary to prevent, curtail or limit such manufacture;

21. "Laboratory" means a laboratory approved by the Director as proper to be entrusted with the custody of controlled dangerous substances and the use of controlled dangerous substances for scientific and medical purposes and for purposes of instruction;

22. "Manufacture" means the production, preparation, propagation, compounding or processing of a controlled dangerous substance, either directly or indirectly by extraction from substances of natural or synthetic origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis. "Manufacturer" includes any person who packages, repackages or labels any container of any controlled dangerous substance, except practitioners who dispense or compound prescription orders for delivery to the ultimate consumer;

23. "Marijuana" means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds or resin, but shall not include:

a. the mature stalks of such plant or fiber produced from such stalks,
b. oil or cake made from the seeds of such plant, including cannabidiol derived from the seeds of the marijuana plant,
c. any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks (except the resin extracted therefrom), including cannabidiol derived from mature stalks, fiber, oil or cake,
d. the sterilized seed of such plant which is incapable of germination,
e. for any person participating in a clinical trial to administer cannabidiol for the treatment of severe forms of epilepsy pursuant to Section 2-802 of this

title, a drug or substance approved by the federal Food and Drug Administration for use by those participants,

f. for any person or the parents, legal guardians or caretakers of the person who have received a written certification from a physician licensed in this state that the person has been diagnosed by a physician as having Lennox-Gastaut Syndrome, Dravet Syndrome, also known as Severe Myoclonic Epilepsy of Infancy, or any other severe form of epilepsy that is not adequately treated by traditional medical therapies, spasticity due to multiple sclerosis or due to paraplegia, intractable nausea and vomiting, appetite stimulation with chronic wasting diseases, the substance cannabidiol, a nonpsychoactive cannabinoid, found in the plant Cannabis sativa L. or any other preparation thereof, that has a tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) and that is delivered to the patient in the form of a liquid,

g. any federal Food and Drug Administration-approved cannabidiol drug or substance, or

h. industrial hemp, from the plant Cannabis sativa L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis which shall only be grown pursuant to the Oklahoma Industrial Hemp Agricultural Pilot Program and may be shipped to Oklahoma pursuant to the provisions of subparagraph e or f of this paragraph;

24. "Medical purpose" means an intention to utilize a controlled dangerous substance for physical or mental treatment, for diagnosis, or for the prevention of a disease condition not in violation of any state or federal law and not for the purpose of satisfying physiological or psychological dependence or other abuse;

25. "Mid-level practitioner" means an advanced practice nurse as defined and within parameters specified in Section 567.3a of Title 59 of the Oklahoma Statutes, or a certified animal euthanasia technician as defined in Section 698.2 of Title 59 of the Oklahoma Statutes, or an animal control officer registered by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control under subsection B of Section 2-301 of this title within the parameters of such officer's duty under Sections 501 through 508 of Title 4 of the Oklahoma Statutes;

26. "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of

vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

a. opium, coca leaves and opiates,

b. a compound, manufacture, salt, derivative or preparation of opium, coca leaves or opiates,

c. cocaine, its salts, optical and geometric isomers, and salts of isomers,

d. ecgonine, its derivatives, their salts, isomers and salts of isomers, and

e. a substance, and any compound, manufacture, salt, derivative or preparation thereof, which is chemically identical with any of the substances referred to in subparagraphs a through d of this paragraph, except that the words "narcotic drug" as used in Section 2-101 et seq. of this title shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine;

27. "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under the Uniform Controlled Dangerous Substances Act, the dextrorotatory isomer of 3-methoxy-n-methyl-morphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms;

28. "Opium poppy" means the plant of the species Papaver somniferum L., except the seeds thereof;

29. "Peace officer" means a police officer, sheriff, deputy sheriff, district attorney's investigator, investigator from the Office of the Attorney General, or any other person elected or appointed by law to enforce any of the criminal laws of this state or of the United States;

30. "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;

31. "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;

32. "Practitioner" means:

a. (1) a medical doctor or osteopathic physician,

(2) a dentist,

(3) a podiatrist,

(4) an optometrist,

(5) a veterinarian,

(6) a physician assistant under the supervision of a licensed medical doctor or osteopathic physician,

(7) a scientific investigator, or

(8) any other person,

licensed, registered or otherwise permitted to prescribe, distribute, dispense, conduct research with respect to, use for scientific purposes or administer a controlled dangerous substance in the course of professional practice or research in this state, or

b. a pharmacy, hospital, laboratory or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to, use for scientific purposes or administer a controlled dangerous substance in the course of professional practice or research in this state;

33. "Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled dangerous substance;

34. "State" means the State of Oklahoma or any other state of the United States;

35. "Ultimate user" means a person who lawfully possesses a controlled dangerous substance for the person's own use or for the use of a member of the person's household or for administration to an animal owned by the person or by a member of the person's household;

36. "Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or fashioned specifically for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body, a controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Act including, but not limited to:

a. kits used, intended for use, or fashioned specifically for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled dangerous substance or from which a controlled dangerous substance can be derived,

b. kits used, intended for use, or fashioned specifically for use in manufacturing, compounding, converting, producing, processing or preparing controlled dangerous substances,

c. isomerization devices used, intended for use, or fashioned specifically for use in increasing the potency of any species of plant which is a controlled dangerous substance,

d. testing equipment used, intended for use, or fashioned specifically for use in identifying, or in analyzing the strength, effectiveness or purity of controlled dangerous substances,

e. scales and balances used, intended for use, or fashioned specifically for use in weighing or measuring controlled dangerous substances,
f. diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or fashioned specifically for use in cutting controlled dangerous substances,
g. separation gins and sifters used, intended for use, or fashioned specifically for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana,
h. blenders, bowls, containers, spoons and mixing devices used, intended for use, or fashioned specifically for use in compounding controlled dangerous substances,
i. capsules, balloons, envelopes and other containers used, intended for use, or fashioned specifically for use in packaging small quantities of controlled dangerous substances,
j. containers and other objects used, intended for use, or fashioned specifically for use in parenterally injecting controlled dangerous substances into the human body,
k. hypodermic syringes, needles and other objects used, intended for use, or fashioned specifically for use in parenterally injecting controlled dangerous substances into the human body,
l. objects used, intended for use, or fashioned specifically for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:
    (1) metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls,
    (2) water pipes,
    (3) carburetion tubes and devices,
    (4) smoking and carburetion masks,
    (5) roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand,
    (6) miniature cocaine spoons and cocaine vials,
    (7) chamber pipes,
    (8) carburetor pipes,
    (9) electric pipes,
    (10) air-driven pipes,
    (11) chillums,

(12) bongs, or
(13) ice pipes or chillers,

m. all hidden or novelty pipes, and

n. any pipe that has a tobacco bowl or chamber of less than one-half (1/2) inch in diameter in which there is any detectable residue of any controlled dangerous substance as defined in this section or any other substances not legal for possession or use;

provided, however, the term "drug paraphernalia" shall not include separation gins intended for use in preparing tea or spice, clamps used for constructing electrical equipment, water pipes designed for ornamentation in which no detectable amount of an illegal substance is found or pipes designed and used solely for smoking tobacco, traditional pipes of an American Indian tribal religious ceremony, or antique pipes that are thirty (30) years of age or older;

37. a. "Synthetic controlled substance" means a substance:

(1) the chemical structure of which is substantially similar to the chemical structure of a controlled dangerous substance in Schedule I or II,

(2) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled dangerous substance in Schedule I or II, or

(3) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled dangerous substance in Schedule I or II.

b. The designation of gamma butyrolactone or any other chemical as a precursor, pursuant to Section 2-322 of this title, does not preclude a finding pursuant to subparagraph a of this paragraph that the chemical is a synthetic controlled substance.

c. "Synthetic controlled substance" does not include:

(1) a controlled dangerous substance,

(2) any substance for which there is an approved new drug application,

(3) with respect to a particular person any substance, if an exemption is in effect for investigational use, for that person under the provisions of Section 505 of the Federal Food,

Drug and Cosmetic Act, Title 21 of the United States Code, Section 355, to the extent conduct with respect to such substance is pursuant to such exemption, or

(4) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.

d. Prima facie evidence that a substance containing salvia divinorum has been enhanced, concentrated or chemically or physically altered shall give rise to a rebuttable presumption that the substance is a synthetic controlled substance;

38. "Tetrahydrocannabinols" means all substances that have been chemically synthesized to emulate the tetrahydrocannabinols of marijuana;

39. "Isomer" means the optical isomer, except as used in subsections C and F of Section 2-204 of this title and paragraph 4 of subsection A of Section 2-206 of this title. As used in subsections C and F of Section 2-204 of this title, "isomer" means the optical, positional or geometric isomer. As used in paragraph 4 of subsection A of Section 2-206 of this title, the term "isomer" means the optical or geometric isomer;

40. "Hazardous materials" means materials, whether solid, liquid or gas, which are toxic to human, animal, aquatic or plant life, and the disposal of which materials is controlled by state or federal guidelines; and

41. "Anhydrous ammonia" means any substance that exhibits cryogenic evaporative behavior and tests positive for ammonia.

Added by Laws 1971, c. 119, § 2-101, operative Sept. 1, 1971. Amended by Laws 1975, c. 133, § 1, emerg. eff. May 15, 1975; Laws 1981, c. 62, § 1, emerg. eff. April 13, 1981; Laws 1982, c. 12, § 1, operative Oct. 1, 1982; Laws 1985, c. 186, § 1, eff. July 1, 1985; Laws 1987, c. 138, § 1, emerg. eff. June 19, 1987; Laws 1988, c. 43, § 1, operative June 1, 1988; Laws 1989, c. 237, § 1, eff. Nov. 1, 1989; Laws 1994, c. 52, § 4; Laws 1996, c. 306, § 1, emerg. eff. June 10, 1996; Laws 1997, c. 2, § 14, emerg. eff. Feb. 26, 1997; Laws 1997, c. 250, § 10, eff. Nov. 1, 1997; Laws 1998, c. 128, § 5, eff. Nov. 1, 1998; Laws 2000, c. 199, § 6, eff. Nov. 1, 2000; Laws 2001, c. 373, § 1, eff. July 1, 2001; Laws 2003, c. 338, § 2, eff. Nov. 1, 2003; Laws 2004, c. 301, § 1, eff. Nov. 1, 2004; Laws 2005, c. 1, § 98, emerg. eff. March 15, 2005; Laws 2006, c. 251, § 1, emerg. eff. June 7, 2006; Laws 2012, c. 80, § 1, eff. Nov. 1, 2012; Laws 2014, c. 154, § 1, eff. Nov. 1, 2014; Laws 2015, c. 203, § 2, emerg. eff. April 30, 2015; Laws 2016, c. 299, § 1, eff. Nov. 1, 2016; Laws 2017, c. 43, § 1, eff. Nov. 1, 2017; Laws 2018, c. 64, § 11, emerg. eff. April 23, 2018.

NOTE: Laws 1996, c. 186, § 9 repealed by Laws 1997, c. 2, § 26, emerg. eff. Feb. 26, 1997. Laws 2004, c. 116, § 1 repealed by Laws 2005, c. 1, § 99, emerg. eff. March 15, 2005.

§63-2-101v2. Definitions.

As used in the Uniform Controlled Dangerous Substances Act:

1. "Administer" means the direct application of a controlled dangerous substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient, animal or research subject by:

a. a practitioner (or, in the presence of the practitioner, by the authorized agent of the practitioner), or

b. the patient or research subject at the direction and in the presence of the practitioner;

2. "Agent" means a peace officer appointed by and who acts on behalf of the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control or an authorized person who acts on behalf of or at the direction of a person who manufactures, distributes, dispenses, prescribes, administers or uses for scientific purposes controlled dangerous substances but does not include a common or contract carrier, public warehouser or employee thereof, or a person required to register under the Uniform Controlled Dangerous Substances Act;

3. "Board" means the Advisory Board to the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

4. "Bureau" means the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

5. "Coca leaves" includes cocaine and any compound, manufacture, salt, derivative, mixture or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine or ecgonine;

6. "Commissioner" or "Director" means the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

7. "Control" means to add, remove or change the placement of a drug, substance or immediate precursor under the Uniform Controlled Dangerous Substances Act;

8. "Controlled dangerous substance" means a drug, substance or immediate precursor in Schedules I through V of the Uniform Controlled Dangerous Substances Act or any drug, substance or immediate precursor listed either temporarily or permanently as a federally controlled substance. Any conflict between state and federal law with regard to the particular schedule in which a substance is listed shall be resolved in favor of state law;

9. "Counterfeit substance" means a controlled substance which, or the container or labeling of which without authorization, bears the trademark, trade name or other identifying marks, imprint,

number or device or any likeness thereof of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed the substance;

10. "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another of a controlled dangerous substance or drug paraphernalia, whether or not there is an agency relationship;

11. "Dispense" means to deliver a controlled dangerous substance to an ultimate user or human research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling or compounding necessary to prepare the substance for such distribution. "Dispenser" is a practitioner who delivers a controlled dangerous substance to an ultimate user or human research subject;

12. "Distribute" means to deliver other than by administering or dispensing a controlled dangerous substance;

13. "Distributor" means a commercial entity engaged in the distribution or reverse distribution of narcotics and dangerous drugs and who complies with all regulations promulgated by the federal Drug Enforcement Administration and the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

14. "Drug" means articles:

a. recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them,

b. intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals,

c. other than food, intended to affect the structure or any function of the body of man or other animals, and

d. intended for use as a component of any article specified in this paragraph;

provided, however, the term "drug" does not include devices or their components, parts or accessories;

15. "Drug-dependent person" means a person who is using a controlled dangerous substance and who is in a state of psychic or physical dependence, or both, arising from administration of that controlled dangerous substance on a continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects, or to avoid the discomfort of its absence;

16. "Home care agency" means any sole proprietorship, partnership, association, corporation, or other organization which administers, offers, or provides home care services, for a fee or

pursuant to a contract for such services, to clients in their place of residence;

17. "Home care services" means skilled or personal care services provided to clients in their place of residence for a fee;

18. "Hospice" means a centrally administered, nonprofit or profit, medically directed, nurse-coordinated program which provides a continuum of home and inpatient care for the terminally ill patient and the patient's family. Such term shall also include a centrally administered, nonprofit or profit, medically directed, nurse-coordinated program if such program is licensed pursuant to the provisions of this act. A hospice program offers palliative and supportive care to meet the special needs arising out of the physical, emotional and spiritual stresses which are experienced during the final stages of illness and during dying and bereavement. This care is available twenty-four (24) hours a day, seven (7) days a week, and is provided on the basis of need, regardless of ability to pay. "Class A" Hospice refers to Medicare certified hospices. "Class B" refers to all other providers of hospice services;

19. "Imitation controlled substance" means a substance that is not a controlled dangerous substance, which by dosage unit appearance, color, shape, size, markings or by representations made, would lead a reasonable person to believe that the substance is a controlled dangerous substance. In the event the appearance of the dosage unit is not reasonably sufficient to establish that the substance is an "imitation controlled substance", the court or authority concerned should consider, in addition to all other factors, the following factors as related to "representations made" in determining whether the substance is an "imitation controlled substance":

a. statements made by an owner or by any other person in control of the substance concerning the nature of the substance, or its use or effect,
b. statements made to the recipient that the substance may be resold for inordinate profit,
c. whether the substance is packaged in a manner normally used for illicit controlled substances,
d. evasive tactics or actions utilized by the owner or person in control of the substance to avoid detection by law enforcement authorities,
e. prior convictions, if any, of an owner, or any other person in control of the object, under state or federal law related to controlled substances or fraud, and
f. the proximity of the substances to controlled dangerous substances;

20. "Immediate precursor" means a substance which the Director has found to be and by regulation designates as being the principal

compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used, or likely to be used, in the manufacture of a controlled dangerous substance, the control of which is necessary to prevent, curtail or limit such manufacture;

21. "Laboratory" means a laboratory approved by the Director as proper to be entrusted with the custody of controlled dangerous substances and the use of controlled dangerous substances for scientific and medical purposes and for purposes of instruction;

22. "Manufacture" means the production, preparation, propagation, compounding or processing of a controlled dangerous substance, either directly or indirectly by extraction from substances of natural or synthetic origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis. "Manufacturer" includes any person who packages, repackages or labels any container of any controlled dangerous substance, except practitioners who dispense or compound prescription orders for delivery to the ultimate consumer;

23. "Marijuana" means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds or resin, but shall not include:

a. the mature stalks of such plant or fiber produced from such stalks,

b. oil or cake made from the seeds of such plant, including cannabidiol derived from the seeds of the marijuana plant,

c. any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks (except the resin extracted therefrom), including cannabidiol derived from mature stalks, fiber, oil or cake,

d. the sterilized seed of such plant which is incapable of germination,

e. for any person participating in a clinical trial to administer cannabidiol for the treatment of severe forms of epilepsy pursuant to Section 2-802 of this title, a drug or substance approved by the federal Food and Drug Administration for use by those participants,

f. for any person or the parents, legal guardians or caretakers of the person who have received a written certification from a physician licensed in this state that the person has been diagnosed by a physician as having Lennox-Gastaut Syndrome, Dravet Syndrome, also known as Severe Myoclonic Epilepsy of Infancy, or any other severe form of epilepsy that is not adequately treated by traditional medical therapies, spasticity

due to multiple sclerosis or due to paraplegia, intractable nausea and vomiting, appetite stimulation with chronic wasting diseases, the substance cannabidiol, a nonpsychoactive cannabinoid, found in the plant Cannabis sativa L. or any other preparation thereof, that has a tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) and that is delivered to the patient in the form of a liquid,

g. any federal Food and Drug Administration-approved cannabidiol drug or substance, or

h. industrial hemp, from the plant Cannabis sativa L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis which shall not be grown anywhere in the State of Oklahoma but may be shipped to Oklahoma pursuant to the provisions of subparagraph e or f of this paragraph;

24. "Medical purpose" means an intention to utilize a controlled dangerous substance for physical or mental treatment, for diagnosis, or for the prevention of a disease condition not in violation of any state or federal law and not for the purpose of satisfying physiological or psychological dependence or other abuse;

25. "Mid-level practitioner" means an advanced practice nurse as defined and within parameters specified in Section 567.3a of Title 59 of the Oklahoma Statutes, or a certified animal euthanasia technician as defined in Section 698.2 of Title 59 of the Oklahoma Statutes, or an animal control officer registered by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control under subsection B of Section 2-301 of this title within the parameters of such officer's duty under Sections 501 through 508 of Title 4 of the Oklahoma Statutes;

26. "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

a. opium, coca leaves and opiates,

b. a compound, manufacture, salt, derivative or preparation of opium, coca leaves or opiates,

c. cocaine, its salts, optical and geometric isomers, and salts of isomers,

d. ecgonine, its derivatives, their salts, isomers and salts of isomers, and

e. a substance, and any compound, manufacture, salt, derivative or preparation thereof, which is chemically identical with any of the substances referred to in

subparagraphs a through d of this paragraph, except that the words "narcotic drug" as used in Section 2-101 et seq. of this title shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine;

27. "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under the Uniform Controlled Dangerous Substances Act, the dextrorotatory isomer of 3-methoxy-n-methyl-morphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms;

28. "Opium poppy" means the plant of the species Papaver somniferum L., except the seeds thereof;

29. "Peace officer" means a police officer, sheriff, deputy sheriff, district attorney's investigator, investigator from the Office of the Attorney General, or any other person elected or appointed by law to enforce any of the criminal laws of this state or of the United States;

30. "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;

31. "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;

32. "Practitioner" means:

a. (1) a medical doctor or osteopathic physician,
(2) a dentist,
(3) a podiatrist,
(4) an optometrist,
(5) a veterinarian,
(6) a physician assistant under the supervision of a licensed medical doctor or osteopathic physician,
(7) a scientific investigator, or
(8) any other person,

licensed, registered or otherwise permitted to prescribe, distribute, dispense, conduct research with respect to, use for scientific purposes or administer a controlled dangerous substance in the course of professional practice or research in this state, or

b. a pharmacy, hospital, laboratory or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to, use for scientific purposes or administer a controlled dangerous substance in the course of professional practice or research in this state;

33. "Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled dangerous substance;

34. "State" means the State of Oklahoma or any other state of the United States;

35. "Ultimate user" means a person who lawfully possesses a controlled dangerous substance for the person's own use or for the use of a member of the person's household or for administration to an animal owned by the person or by a member of the person's household;

36. "Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or fashioned specifically for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body, a controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Act including, but not limited to:

a. kits used, intended for use, or fashioned specifically for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled dangerous substance or from which a controlled dangerous substance can be derived,

b. kits used, intended for use, or fashioned specifically for use in manufacturing, compounding, converting, producing, processing or preparing controlled dangerous substances,

c. isomerization devices used, intended for use, or fashioned specifically for use in increasing the potency of any species of plant which is a controlled dangerous substance,

d. testing equipment used, intended for use, or fashioned specifically for use in identifying, or in analyzing the strength, effectiveness or purity of controlled dangerous substances,

e. scales and balances used, intended for use, or fashioned specifically for use in weighing or measuring controlled dangerous substances,

f. diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or fashioned specifically for use in cutting controlled dangerous substances,

g. separation gins and sifters used, intended for use, or fashioned specifically for use in removing twigs and

seeds from, or in otherwise cleaning or refining, marijuana,

h. blenders, bowls, containers, spoons and mixing devices used, intended for use, or fashioned specifically for use in compounding controlled dangerous substances,

i. capsules, balloons, envelopes and other containers used, intended for use, or fashioned specifically for use in packaging small quantities of controlled dangerous substances,

j. containers and other objects used, intended for use, or fashioned specifically for use in parenterally injecting controlled dangerous substances into the human body,

k. hypodermic syringes, needles and other objects used, intended for use, or fashioned specifically for use in parenterally injecting controlled dangerous substances into the human body,

l. objects used, intended for use, or fashioned specifically for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

(1) metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls,

(2) water pipes,

(3) carburetion tubes and devices,

(4) smoking and carburetion masks,

(5) roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand,

(6) miniature cocaine spoons and cocaine vials,

(7) chamber pipes,

(8) carburetor pipes,

(9) electric pipes,

(10) air-driven pipes,

(11) chillums,

(12) bongs, or

(13) ice pipes or chillers,

m. all hidden or novelty pipes, and

n. any pipe that has a tobacco bowl or chamber of less than one-half (1/2) inch in diameter in which there is any detectable residue of any controlled dangerous substance as defined in this section or any other substances not legal for possession or use;

provided, however, the term "drug paraphernalia" shall not include separation gins intended for use in preparing tea or spice, clamps

used for constructing electrical equipment, water pipes designed for ornamentation in which no detectable amount of an illegal substance is found or pipes designed and used solely for smoking tobacco, traditional pipes of an American Indian tribal religious ceremony, or antique pipes that are thirty (30) years of age or older;

37. a. "Synthetic controlled substance" means a substance:
    (1) the chemical structure of which is substantially similar to the chemical structure of a controlled dangerous substance in Schedule I or II,
    (2) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled dangerous substance in Schedule I or II, or
    (3) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled dangerous substance in Schedule I or II.

    b. The designation of gamma butyrolactone or any other chemical as a precursor, pursuant to Section 2-322 of this title, does not preclude a finding pursuant to subparagraph a of this paragraph that the chemical is a synthetic controlled substance.

    c. "Synthetic controlled substance" does not include:
    (1) a controlled dangerous substance,
    (2) any substance for which there is an approved new drug application,
    (3) with respect to a particular person any substance, if an exemption is in effect for investigational use, for that person under the provisions of Section 505 of the Federal Food, Drug and Cosmetic Act, Title 21 of the United States Code, Section 355, to the extent conduct with respect to such substance is pursuant to such exemption, or
    (4) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.

    d. Prima facie evidence that a substance containing salvia divinorum has been enhanced, concentrated or chemically or physically altered shall give rise to a

rebuttable presumption that the substance is a synthetic controlled substance;

38. "Tetrahydrocannabinols" means all substances that have been chemically synthesized to emulate the tetrahydrocannabinols of marijuana;

39. "Isomer" means the optical isomer, except as used in subsections C and F of Section 2-204 of this title and paragraph 4 of subsection A of Section 2-206 of this title. As used in subsections C and F of Section 2-204 of this title, "isomer" means the optical, positional or geometric isomer. As used in paragraph 4 of subsection A of Section 2-206 of this title, the term "isomer" means the optical or geometric isomer;

40. "Hazardous materials" means materials, whether solid, liquid or gas, which are toxic to human, animal, aquatic or plant life, and the disposal of which materials is controlled by state or federal guidelines;

41. "Anhydrous ammonia" means any substance that exhibits cryogenic evaporative behavior and tests positive for ammonia;

42. "Acute pain" means pain, whether resulting from disease, accidental or intentional trauma or other cause, that the practitioner reasonably expects to last only a short period of time. "Acute pain" does not include chronic pain, pain being treated as part of cancer care, hospice or other end-of-life care, or pain being treated as part of palliative care;

43. "Chronic pain" means pain that persists beyond the usual course of an acute disease or healing of an injury. "Chronic pain" may or may not be associated with an acute or chronic pathologic process that causes continuous or intermittent pain over months or years;

44. "Initial prescription" means a prescription issued to a patient who:

a. has never previously been issued a prescription for the drug or its pharmaceutical equivalent in the past year, or

b. requires a prescription for the drug or its pharmaceutical equivalent due to a surgical procedure or new acute event and has previously had a prescription for the drug or its pharmaceutical equivalent within the past year.

When determining whether a patient was previously issued a prescription for a drug or its pharmaceutical equivalent, the practitioner shall consult with the patient and review the medical record and prescription monitoring information of the patient;

45. "Patient-provider agreement" means a written contract or agreement that is executed between a practitioner and a patient, prior to the commencement of treatment for chronic pain using a

Schedule II controlled substance or any opioid drug which is a prescription drug, as a means to:

a. explain the possible risk of development of physical or psychological dependence in the patient and prevent the possible development of addiction,

b. document the understanding of both the practitioner and the patient regarding the pain-management plan of the patient,

c. establish the rights of the patient in association with treatment and the obligations of the patient in relation to the responsible use, discontinuation of use, and storage of Schedule II controlled dangerous substances, including any restrictions on the refill of prescriptions or the acceptance of Schedule II prescriptions from practitioners,

d. identify the specific medications and other modes of treatment, including physical therapy or exercise, relaxation or psychological counseling, that are included as a part of the pain-management plan,

e. specify the measures the practitioner may employ to monitor the compliance of the patient including, but not limited to, random specimen screens and pill counts, and

f. delineate the process for terminating the agreement, including the consequences if the practitioner has reason to believe that the patient is not complying with the terms of the agreement. Compliance with the "consent items" shall constitute a valid, informal consent for opioid therapy. The provider shall be held harmless from civil litigation for failure to treat pain if the event occurs because of nonadherence by the patient with any of the provisions of the patient-provider agreement;

46. "Serious illness" means a medical illness or physical injury or condition that substantially affects quality of life for more than a short period of time. "Serious illness" includes, but is not limited to, Alzheimer's disease or related dementias, lung disease, cancer, heart failure, renal failure, liver failure or chronic, unremitting or intractable pain such as neuropathic pain; and

47. "Surgical procedure" means a procedure that is performed for the purpose of structurally altering the human body by incision or destruction of tissues as part of the practice of medicine. This term includes the diagnostic or therapeutic treatment of conditions or disease processes by use of instruments such as lasers, ultrasound, ionizing, radiation, scalpels, probes or needles that cause localized alteration or transportation of live human tissue by

cutting, burning, vaporizing, freezing, suturing, probing or manipulating by closed reduction for major dislocations or fractures, or otherwise altering by any mechanical, thermal, light-based, electromagnetic or chemical means.
Added by Laws 1971, c. 119, § 2-101, operative Sept. 1, 1971. Amended by Laws 1975, c. 133, § 1, emerg. eff. May 15, 1975; Laws 1981, c. 62, § 1, emerg. eff. April 13, 1981; Laws 1982, c. 12, § 1, operative Oct. 1, 1982; Laws 1985, c. 186, § 1, eff. July 1, 1985; Laws 1987, c. 138, § 1, emerg. eff. June 19, 1987; Laws 1988, c. 43, § 1, operative June 1, 1988; Laws 1989, c. 237, § 1, eff. Nov. 1, 1989; Laws 1994, c. 52, § 4; Laws 1996, c. 306, § 1, emerg. eff. June 10, 1996; Laws 1997, c. 2, § 14, emerg. eff. Feb. 26, 1997; Laws 1997, c. 250, § 10, eff. Nov. 1, 1997; Laws 1998, c. 128, § 5, eff. Nov. 1, 1998; Laws 2000, c. 199, § 6, eff. Nov. 1, 2000; Laws 2001, c. 373, § 1, eff. July 1, 2001; Laws 2003, c. 338, § 2, eff. Nov. 1, 2003; Laws 2004, c. 301, § 1, eff. Nov. 1, 2004; Laws 2005, c. 1, § 98, emerg. eff. March 15, 2005; Laws 2006, c. 251, § 1, emerg. eff. June 7, 2006; Laws 2012, c. 80, § 1, eff. Nov. 1, 2012; Laws 2014, c. 154, § 1, eff. Nov. 1, 2014; Laws 2015, c. 203, § 2, emerg. eff. April 30, 2015; Laws 2016, c. 299, § 1, eff. Nov. 1, 2016; Laws 2017, c. 43, § 1, eff. Nov. 1, 2017; Laws 2018, c. 175, § 3, eff. Nov. 1, 2018.
NOTE: Laws 1996, c. 186, § 9 repealed by Laws 1997, c. 2, § 26, emerg. eff. Feb. 26, 1997. Laws 2004, c. 116, § 1 repealed by Laws 2005, c. 1, § 99, emerg. eff. March 15, 2005.

§63-2-102. Bureau of Narcotics and Dangerous Drug Control.
There is hereby established the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.
Added by Laws 1971, c. 119, § 2-102. Amended by Laws 1975, c. 133, § 2, emerg. eff. May 15, 1975.

§63-2-103. Director - Appointment and powers - Agents and reserve agents - Custody of sidearms and badges upon death or retirement.
A. The Director shall be appointed by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission. The Director of Narcotics and Dangerous Drugs Control on January 1, 1984, shall be initially appointed as Director. The succeeding Director shall, at the time of the appointment, have a Bachelor's Degree from an accredited college or university and at least five (5) years of experience in drug law enforcement. The Director may appoint necessary assistants, agents, and other personnel to perform the work of the office and may prescribe their titles and duties and fix their compensation pursuant to Merit System rules. The Director may appoint employees to the positions of Chief of Law Enforcement Information and Technology, Public Information/Education Officer, Training Officer, Program Administrators, Grants Administrator,

Criminal Analysts, Legal Secretary, and Typist Clerk/Spanish Transcriptionists. The positions shall be unclassified and exempt from the rules and procedures of the Office of Management and Enterprise Services, except leave regulations. The office of the Director shall be located at a suitable place in Oklahoma City, Oklahoma.

B. 1. Agents appointed by the Director shall have the powers of peace officers generally; provided, the Director may appoint special agents and reserve special agents, who shall be unclassified employees of the state, to meet specific investigatory needs. Special agents and reserve special agents shall not be required to meet the age and educational requirements as specified in this section.

2. Agents appointed on and after November 1, 1998, shall be at least twenty-one (21) years of age and shall have a Bachelor's Degree from an accredited college or university.

3. Each entering agent, with the exception of special agents, shall be required to serve one (1) year in a probationary status as a prerequisite to being placed on permanent status.

C. Agents appointed pursuant to the provisions of this section shall have the responsibility of investigating alleged violations and shall have the authority to arrest those suspected of having violated the provisions of the Uniform Controlled Dangerous Substances Act, as well as the crimes of money laundering and human trafficking, as otherwise set forth by laws of this state.

D. The Director may appoint reserve special agents who shall not be considered employees of the state and shall serve at the will of the Director. Reserve special agents shall complete a minimum of two hundred forty (240) hours of training pursuant to Section 3311 of Title 70 of the Oklahoma Statutes and may not serve more than one hundred forty (140) hours per calendar month. Upon completion of training, reserve special agents appointed by the Director shall have general peace officer powers and the authority to arrest those suspected of having violated the provisions of the Uniform Controlled Dangerous Substances Act. The agency may expend funds related to training and special reserve agents may receive travel expenses pursuant to the State Travel Reimbursement Act.

E. A commissioned employee of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall be entitled to receive, upon retirement by reason of length of service, the continued custody and possession of the sidearm and badge carried by such employee immediately prior to retirement.

F. A commissioned employee of the Bureau may be entitled to receive, upon retirement by reason of disability, the continued custody and possession of the sidearm and badge carried by such employee immediately prior to retirement upon written approval of the Director.

G. Custody and possession of the sidearm and badge of a commissioned employee killed in the line of duty may be awarded by the Director to the spouse or next of kin of the deceased employee.

H. Custody and possession of the sidearm and badge of a commissioned employee who dies while employed at the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control may be awarded by the Director to the spouse or next of kin of the deceased employee.

I. Any Director appointed on or after July 1, 2003, shall be eligible to participate in either the Oklahoma Public Employees Retirement System or in the Oklahoma Law Enforcement Retirement System and shall make an irrevocable election in writing to participate in one of the two retirement systems.

J. Any employee of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control in a classified position under the Merit System of the Personnel Administration who is appointed Director, Deputy Director, Acting Director or Acting Deputy Director shall have a right to return to the highest previously held classified position without any loss of rights, privileges or benefits immediately upon completion of the duties of the employee, provided the employee is not otherwise disqualified.

Added by Laws 1971, c. 119, § 2-103. Amended by Laws 1975, c. 133, § 3, emerg. eff. May 15, 1975; Laws 1976, c. 202, § 6, emerg. eff. June 4, 1976; Laws 1977, c. 177, § 7, emerg. eff. June 7, 1977; Laws 1978, c. 118, § 6, emerg. eff. March 31, 1978; Laws 1981, c. 340, § 19, eff. July 1, 1981; Laws 1983, c. 145, § 2, eff. Jan. 1, 1984; Laws 1987, c. 138, § 2, emerg. eff. June 19, 1987; Laws 1990, c. 258, § 9, operative July 1, 1990; Laws 1998, c. 387, § 2, eff. Nov. 1, 1998; Laws 1999, c. 60, § 1, eff. July 1, 1999; Laws 1999, c. 426, § 2, eff. July 1, 1999; Laws 2003, c. 199, § 13, emerg. eff. May 7, 2003; Laws 2006, 2nd Ex. Sess., c. 79, § 5; Laws 2007, c. 1, § 51, emerg. eff. Feb. 22, 2007; Laws 2008, c. 359, § 1, emerg. eff. June 3, 2008; Laws 2009, c. 445, § 1, eff. July 1, 2009; Laws 2011, c. 58, § 1, eff. Nov. 1, 2011; Laws 2012, c. 186, § 1, eff. Nov. 1, 2012; Laws 2013, c. 15, § 70, emerg. eff. April 8, 2013; Laws 2015, c. 305, § 1; . Laws 2017, c. 38, § 2, eff. Nov. 1, 2017; Laws 2017, c. 390, § 1, emerg. eff. June 6, 2017.

NOTE: Laws 1999, c. 40, § 1 repealed by Laws 1999, c. 426, § 5, eff. July 1, 1999. Laws 2006, 2nd Ex. Sess., c. 83, § 7 repealed by Laws 2007, c. 1, § 52, emerg. eff. Feb. 22, 2007. Laws 2012, c. 304, § 495 repealed by Laws 2013, c. 15, § 71, emerg. eff. April 8, 2013.

§63-2-103.1. Investigations - Subpoena power.

A. In any investigation relating to the functions of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control pursuant to the provisions of the Uniform Controlled Dangerous Substances Act with respect to controlled substances or other

provisions of Oklahoma law with respect to the crimes of money laundering and human trafficking, the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, if recommended and approved by a chief agent of the Bureau and the legal counsel of the Bureau, may subpoena witnesses, compel the attendance and testimony of witnesses, and require the production of any records, including books, papers, documents, and other tangible things which constitute or contain evidence, which the Director or agent finds relevant or material to the investigation. The attendance of witnesses and the production of records may be required from any place in the state to a designated location in the county seat of the county of which the subpoenaed person is an inhabitant or in which the subpoenaed person carries on business or may be found. Witnesses summoned pursuant to this section shall be paid the same fees and mileage that are paid witnesses in the courts of this state.

B. The witness shall have the option of complying with said subpoena by:

1. Appearing and/or producing documents, as requested; or

2. Notifying the Bureau, in writing, of refusal to appear or produce documents, within ten (10) days of the date of service.

The subpoena form shall clearly set forth the optional means of compliance including instructions for sending written notice of refusal.

C. A subpoena issued pursuant to this section may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

D. In the case of contumacy by or refusal to obey a subpoena issued to any person, the Director may invoke the aid of any district court of the state within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which he carries on business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Director to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as an indirect contempt thereof. All process in any such case may be served in any judicial district in which such person may be found.

E. The district court of the county wherein the subpoena is served may quash a subpoena issued pursuant to this section, upon a

motion to quash the subpoena filed with the court by the party to whom the subpoena is issued.
Added by Laws 1989, c. 184, § 1, eff. Nov. 1, 1989. Amended by Laws 2013, c. 143, § 1, eff. Nov. 1, 2013.

§63-2-103a. Repealed by Laws 2014, c. 390, § 6, eff. July 1, 2014.

§63-2-104.1. Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission.

A. There is hereby created an Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission which shall consist of seven (7) members, not more than two of whom shall be from the same congressional district. However, when congressional districts are redrawn, each member appointed prior to July 1 of the year in which such modification becomes effective shall complete the current term of office and appointments made after July 1 of the year in which such modification becomes effective shall be based on the redrawn districts. No appointments may be made after July 1 of the year in which such modification becomes effective if such appointment would result in more than two members serving from the same modified district. The members shall be appointed by the Governor and confirmed by the Senate and shall be removable only for cause, as provided by law for the removal of officers not subject to impeachment. The term of office of each member shall be seven (7) years. The first appointments shall be for the following terms as designated by the Governor: one member for a term of one (1) year; one member for a term of two (2) years; one member for a term of three (3) years; one member for a term of four (4) years; one member for a term of five (5) years; one member for a term of six (6) years; and one member for a term of seven (7) years. A member may serve more than one term on the Commission. Each member shall continue to serve so long as the member is qualified until a successor has been appointed and confirmed by the Senate. Vacancies occurring during a term shall be filled for the unexpired portion of the term by the same procedure used to make the regular appointments.

B. Four of the members shall represent the lay citizenry, one member shall be a district attorney while serving in that capacity, one member shall be a sheriff while serving in that capacity, and one member shall be a chief of police while serving in that capacity; provided that the sheriff and police chief members shall have successfully completed an approved course of instruction for peace officers as required by law.

C. Annually the Commission shall select one of the Commission members to serve as chair and one member to serve as vice-chair. The Commission shall meet at least quarterly. The chair shall preside at all meetings of the Commission and shall have the power

to call meetings of the Commission. In addition, meetings of the Commission may be called by a majority of the members. The vice-chair shall perform these functions in the absence or incapacity of the chair. A quorum of four members of the Commission shall be necessary to conduct any official business. All actions taken by the Commission shall be by a simple majority vote of a quorum. In the event of a tie vote, the measure being voted upon shall be deemed to have failed.

The Commission shall adopt rules of procedure for the orderly performance of its functions.

D. Members of the Commission shall serve without salary but may be reimbursed for travel expenses in attending meetings and performing their duties in the manner provided for other state officers and employees under the State Travel Reimbursement Act. No other provisions of law shall be construed as prohibiting public officers from also serving as members of the Commission, nor shall any other provisions of law be construed as prohibiting public officers or public employees from performing services for the Commission without compensation. It is further provided that no town, city, county, or other subdivision or other agency of state government shall be prohibited from receiving a grant or from benefiting from grants or expenditures of the Commission for the reason that an officer or employee of such town, city, county, or other subdivision or agency of state government is a Commission member or employee.

E. The Commission shall have the following powers and duties and responsibilities:

1. To appoint the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, whose compensation shall be determined by the Legislature.

2. To hear any complaint against the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control or any of its employees according to the following procedure:

a. Only those complaints which have been submitted in writing and are signed will be acted upon by the Commission.

b. All hearings on complaints shall be conducted in executive sessions, and shall not be open to the public.

c. The Commission shall have limited access to pertinent investigative files when investigating a complaint. The Director shall provide a procedure whereby the identification of all persons named in any investigative file except the subject of the complaint and the complaining witness shall not be revealed to the members of the Commission. Any consideration of files shall be in executive session not open to the

public. No information or evidence received in connection with the hearings shall be revealed to any person or agency. Any violation hereof shall be grounds for removal from the Commission, and shall constitute a misdemeanor.

3. To make recommendations to the Director of any needed disciplinary action necessary as a result of an investigation conducted upon a complaint received.

4. To establish general procedures with regard to assisting law enforcement officers and district attorneys.

5. To establish a program of training for agents utilizing such courses as the National Police Academy conducted by the Federal Bureau of Investigation.

Added by Laws 1983, c. 145, § 3, eff. Jan. 1, 1984. Amended by Laws 1985, c. 178, § 45, operative July 1, 1985; Laws 1992, c. 364, § 6, emerg. eff. June 4, 1992; Laws 2002, c. 375, § 12, eff. Nov. 5, 2002; Laws 2003, c. 229, § 4, emerg. eff. May 20, 2003.

§63-2-105. Duty of state departments, officers, agencies, and employees – Fatal and nonfatal drug overdose report.

A. It shall be the duty of all departments, officers, agencies, and employees of the state to cooperate with the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control in carrying out the functions of the office. The State Medical Examiner shall promptly report to the offices of the Director of the Oklahoma Bureau of Narcotics and Dangerous Drugs Control, the Executive Director of the State Board of Medical Licensure and Supervision and the Executive Director of the State Board of Osteopathic Examiners all deaths occurring within the state which were the result or probable result of abuse of a controlled dangerous substance.

B. The Bureau shall be required to compile a yearly report of all fatal and nonfatal drug overdoses for the State of Oklahoma. All registrants, as defined in the Anti-Drug Diversion Act, shall report any person appearing at a medical facility with a drug overdose to the central repository as provided in the Anti-Drug Diversion Act. The determination of a drug overdose shall be made solely at the discretion of the treating medical professional based on the education, experience and professional opinion of the medical professional. This information shall be considered part of the central repository pursuant to the Anti-Drug Diversion Act and shall be confidential and not open to the public pursuant to the provisions of Section 2-309D of this title.

Added by Laws 1971, c. 119, § 2-105. Amended by Laws 1972, c. 229, § 1, emerg. eff. April 7, 1972; Laws 1985, c. 263, § 4, emerg. eff. July 15, 1985; Laws 1996, c. 306, § 2, emerg. eff. June 10, 1996; Laws 2010, c. 160, § 1, eff. Nov. 1, 2010; Laws 2015, c. 305, § 2.

§63-2-106. Powers and duties of Director.

A. The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall, in addition to other powers and duties vested in the Director:

1. Cooperate with federal and other state agencies in discharging the responsibilities concerning traffic in narcotics and dangerous substances and in suppressing the abuse of dangerous substances;

2. Arrange for the exchange of information between governmental officials concerning the use and abuse of dangerous substances;

3. Coordinate and cooperate in training programs on dangerous substances law enforcement at the local and state levels;

4. Cooperate with the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control by establishing a centralized unit which will accept, catalog, file and collect statistics, including records of drug-dependent persons and other dangerous substance law offenders within the state, and make such information available for federal, state and local law enforcement purposes; and may collect and furnish statistics for other appropriate purposes; and

5. Coordinate and cooperate in programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled dangerous substances may be extracted.

B. Results, information and evidence received from the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control relating to the regulatory functions of this act, including results of inspections conducted by that agency, may be relied upon and acted upon by the Director in conformance with the regulatory functions under this act.

C. The Director is further authorized and directed to:

1. Coordinate and cooperate in educational programs designed to prevent and deter misuse and abuse of controlled dangerous substances;

2. Promote better recognition of the problems of misuse and abuse of controlled dangerous substances within the regulated industry and among interested groups and organizations;

3. Assist the regulated industry, interested groups and organizations in contributing to the reduction of misuse and abuse of controlled dangerous substances;

4. Consult with interested groups and organizations to aid them in solving administrative and organizational problems;

5. Assist in evaluating procedures, projects, techniques and controls conducted or proposed as part of educational programs on misuse and abuse of controlled dangerous substances;

6. Disseminate the results of research on misuse and abuse of controlled dangerous substances to promote a better public

understanding of what problems exist and what can be done to combat them;

7. Assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled dangerous substances;

8. Conduct an annual seminar to be attended by selected law enforcement officers in order to teach new techniques and advances in the investigation of violations of the Uniform Controlled Dangerous Substances Act; and

9. Supervise and direct agents appointed in the performance of their function of enforcement of the provisions of this act.

D. The Director is further authorized and directed to:

1. Encourage research on misuse and abuse of controlled dangerous substances;

2. Cooperate in establishing methods to assess accurately the effects of controlled dangerous substances and to identify and characterize controlled dangerous substances with potential for abuse; and

3. Cooperate in making studies and in undertaking programs of research to:

a. develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of this act,

b. determine patterns of misuse and abuse of controlled dangerous substances and the social effects thereof, and

c. improve methods for preventing, predicting, understanding and dealing with the misuse and abuse of controlled dangerous substances.

E. The Director shall prepare a yearly report on all deaths and nonfatal overdoses which were the result or probable result of abuse of a controlled dangerous substance. The yearly report shall be limited to statistical information including, but not limited to, the county where the death or nonfatal overdose occurred, age, race, gender, type of controlled dangerous substances involved in the death or nonfatal overdose, and the method in which the controlled dangerous substance was obtained by the person, when available.

F. The Director may enter into contracts with public agencies, institutions of higher education and private organizations or individuals for the purpose of conducting research, demonstrations or special projects which bear directly on misuse and abuse of controlled dangerous substances.

G. The Director may enter into contracts for educational and research activities without performance bonds.

H. The Director may authorize persons engaged in research or scientific activities on the use and effects of dangerous substances to withhold the names and other identifying characteristics of

persons who are the subjects of such research. Persons who obtain this authorization may not be compelled in any state civil, criminal, administrative, legislative or other proceeding to identify the subjects of research for which such authorization was obtained.

I. The Director may authorize the lawful possession, distribution and use of controlled dangerous substances by persons engaged in research or scientific activities; authorization for possession of controlled dangerous substances may be extended to persons engaged in a program of drug education or persons in the performance of an official duty. Persons who obtain this authorization shall be exempt from state prosecution for possession, distribution or use of dangerous substances to the extent authorized by the Director.

J. The Director is authorized to accept gifts, bequests, devises, contributions and grants, public or private, including federal funds or funds from any other source for use in furthering the purpose of the office of the Director.

K. The Director is authorized to purchase or sell real property, together with appurtenances, in the name of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control upon approval of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission.

L. The Director is authorized to purchase and maintain motor vehicles and other equipment for use by the employees of the Bureau.

M. The Director shall be in charge of all monies appropriated for or deposited to the credit of the office of the Director and is authorized to approve claims and payrolls as provided in Section 41.26 of Title 62 of the Oklahoma Statutes.

N. The Director shall have the authority of a peace officer and is authorized to commission assistants of the office as peace officers.

O. Upon determining that a practitioner is prescribing a controlled dangerous substance to a person engaged in fraudulent or deceptive efforts to fill or refill multiple prescriptions for controlled dangerous substances, the Director shall provide written or electronic notification alerting the practitioner to the possibility that the person may be unlawfully obtaining prescription drugs in violation of the Uniform Controlled Dangerous Substances Act.

Added by Laws 1971, c. 119, § 2-106, emerg. eff. April 28, 1971. Amended by Laws 1975, c. 133, § 5, emerg. eff. May 15, 1975; Laws 2008, c. 170, § 10, eff. July 1, 2008; Laws 2009, c. 442, § 2, eff. July 1, 2009; Laws 2010, c. 160, § 2, eff. Nov. 1, 2010; Laws 2013, c. 340, § 1, eff. Nov. 1, 2013.

§63-2-106.1. Lease of seaplane.

The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control is hereby authorized to lease the seaplane owned by said Bureau. Said lease shall not be subject to the provisions of Section 85.5 of Title 74 of the Oklahoma Statutes and shall not have to be approved by the Office of Management and Enterprise Services.
Added by Laws 1987, c. 205, § 54, operative July 1, 1987. Amended by Laws 2008, c. 359, § 2, emerg. eff. June 3, 2008; Laws 2012, c. 304, § 496.

§63-2-106.2. Sale of forfeited vehicles, equipment, and property - Exemption.

A. The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, pursuant to rules promulgated by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission, is hereby authorized to:

1. Make available for sale used vehicles, used equipment and forfeited property to any federal, state, county, or municipal agency, trust authority or public school district;

2. Sell at public auction any used vehicles, used equipment and any property forfeited to the Bureau; and

3. Donate or transfer title to any surplus property as defined in Section 62.2 of Title 74 of the Oklahoma Statutes, or property forfeited to the Bureau, to any law enforcement agency of any political subdivision of the State of Oklahoma. The use of such donated equipment shall be limited to valid and authorized law enforcement efforts by the receiving agency.

B. Any property subject to this section shall be exempted from the provisions set forth in Section 62.3 of Title 74 of the Oklahoma Statutes.
Added by Laws 2008, c. 359, § 3, emerg. eff. June 3, 2008.
NOTE: Laws 2008, c. 170, § 11 repealed by Laws 2009, c. 2, § 19, emerg. eff. March 12, 2009.

§63-2-107. Bureau of Narcotics Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control to be designated the "Bureau of Narcotics Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies received from the sale of surplus and confiscated property, fees and receipts collected pursuant to the Oklahoma Open Records Act, gifts, bequests, devises, contributions or grants, public or private, including federal funds unless otherwise provided by federal law or regulation, registration fees and receipts relating to prescription pads and receipts from any other source. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control for

general operations of the agency. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.
Added by Laws 1971, c. 119, § 2-107, emerg. eff. April 28, 1971. Amended by Laws 1975, c. 133, § 6, emerg. eff. May 15, 1975; Laws 1986, c. 202, § 6, operative July 1, 1986; Laws 1987, c. 205, § 55, operative July 1, 1987; Laws 2012, c. 304, § 497.

§63-2-107a. Bureau of Narcotics Drug Education Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control to be designated the "Bureau of Narcotics Drug Education Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies received pursuant to subsection F of Section 1313.2 of Title 20 of the Oklahoma Statutes. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control for purposes relating to drug education and information in the State of Oklahoma.
Added by Laws 2008, c. 437, § 1, eff. July 1, 2008. Amended by Laws 2009, c. 442, § 3, eff. July 1, 2009.

§63-2-107b. Drug Money Laundering and Wire Transmitter Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control to be designated the "Drug Money Laundering and Wire Transmitter Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control from the fees imposed pursuant to Section 2-503.1j of this title. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control for the purpose of drug enforcement. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.
Added by Laws 2009, c. 442, § 4, eff. July 1, 2009. Amended by Laws 2012, c. 304, § 498.

§63-2-109. Rental or charter of aircraft.

The Oklahoma Bureau of Narcotics and Dangerous Drugs Control is hereby authorized to rent and/or charter aircraft on a project mission basis; such rental or charter to last only for the duration

of the project mission. The Bureau is also authorized to pay, from any funds available to the Bureau, expenses involved in qualifying multiengine and instrument pilots as may be required to accomplish agency responsibilities.
Laws 1980, c. 301, § 8, emerg. eff. June 17, 1980.

§63-2-109a. Oklahoma State Bureau of Narcotics and Dangerous Drugs Control - Janitorial services - Background investigations and national criminal history record checks.

The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall conduct background investigations and national criminal history record checks on companies and individuals with which the Bureau contracts to provide janitorial services and shall not be subject to the provisions of Section 3007 of Title 74 of the Oklahoma Statutes.
Added by Laws 2010, c. 458, § 3, eff. Nov. 1, 2010.

§63-2-110. Attorneys.

The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control may employ attorneys, who shall be unclassified employees of the state, or contract with attorneys, as needed. These attorneys may advise the Director, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission and Bureau personnel on all legal matters and shall appear for and represent the Director, the Commission and Bureau personnel in all administrative hearings and all litigation or other proceedings which may arise in the discharge of their duties. At the request of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission, such attorney shall assist the district attorney in prosecuting charges of violators of the Uniform Controlled Dangerous Substances Act or any felony relating to or arising from a violation of the Uniform Controlled Dangerous Substances Act. Attorneys for the Bureau who have been certified by the Council on Law Enforcement Education and Training to carry a weapon or have been issued a handgun license pursuant to the provisions of the Oklahoma Self-Defense Act shall be allowed to carry weapons pursuant to paragraph 3 of subsection A of Section 1272 of Title 21 of the Oklahoma Statutes. These attorneys, pursuant to this provision, shall not be considered eligible to participate in the Oklahoma Law Enforcement Retirement System. If a conflict of interest would be created by such attorney representing the Director, the Commission or Bureau personnel, additional counsel may be hired upon approval of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission.
Added by Laws 1985, c. 263, § 7, emerg. eff. July 15, 1985. Amended by Laws 1988, c. 173, § 6, operative July 1, 1988; Laws 2000, c.

216, § 1, eff. Nov. 1, 2000; Laws 2008, c. 359, § 4, emerg. eff. June 3, 2008; Laws 2012, c. 259, § 46, eff. Nov. 1, 2012.

§63-2-111. Employee performance recognition program - Awards - Funding.

A. The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control is authorized to establish an employee performance recognition program that encourages outstanding job performance and productivity within the Bureau. The Bureau is authorized to expend funds for:

1. The purchase of recognition awards to be presented to members of work units or individual employees having exceptional job performance records or other significant contributions to the operation of the Bureau;

2. The purchase of recognition awards to be presented to nonemployees of the Bureau in recognition of exemplary service or assistance to the Bureau and law enforcement; and

3. A formal ceremony or banquet where the awards may be presented.

B. Recognition awards may consist of distinctive wearing apparel, service pins, plaques, writing pens, or other distinguished awards of a value not exceeding One Hundred Fifty Dollars ($150.00) per award to recognize the achievement of the work unit or individual employee. In addition to recognition awards, the Bureau may establish an employee benefit program not exceeding Five Thousand Dollars ($5,000.00) each fiscal year for cash awards to recognize outstanding performance in the workplace by Bureau employees.

C. To better educate and foster relations as to the Bureau and its mission towards drug reduction, the Bureau may expend funds not exceeding Ten Thousand Dollars ($10,000.00) each fiscal year for the purpose of distributing educational, demand-reduction and commemorative materials bearing the seal of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control to nonemployees. Donated items, federal grant money and seizure funds shall not count toward this amount.

Added by Laws 2008, c. 359, § 5, emerg. eff. June 3, 2008.

NOTE: Laws 2008, c. 170, § 12 repealed by Laws 2009, c. 2, § 20, emerg. eff. March 12, 2009.

§63-2-201. Authority to control - Recommendations.

A. The Director shall administer the provisions of this act except as otherwise provided.

B. The Board of Pharmacy by rule may classify new products determined to have a potential for abuse as controlled dangerous substances after notice and hearing; provided that such rule shall be submitted to the next regular session of the Legislature, and

such rule shall remain in force and effect unless a concurrent resolution of disapproval is passed. Hearings shall be conducted by the Board of Pharmacy or such officers, agents or employees as the Board of Pharmacy may designate for the purpose. The Board of Pharmacy shall give appropriate notice of the proposed classification and of the time and place for a hearing. The rule so promulgated shall become effective on a date fixed by the Board of Pharmacy. Such rule may be amended or repealed in the same manner as provided for its adoption. Proceedings pursuant to this subsection shall be governed by the Administrative Procedures Act. A new substance controlled pursuant to this subsection shall be subject to the same regulatory provisions of this act applicable to the Schedule of substances to which it is classified.

C. The Director may recommend to the Legislature the addition, deletion or rescheduling of a substance.

D. In considering whether to make a recommendation or issue an order under this section, the Director or the Board of Pharmacy, as the case may be, shall consider the following:

1. Its actual or relative potential for abuse;
2. Scientific evidence of its pharmacological effect, if known;
3. State of current scientific knowledge regarding the substance;
4. Its history and current pattern of abuse;
5. The scope, duration, and significance of abuse;
6. What, if any, risk there is to the public health;
7. Its psychic or physiological dependence liability; and
8. Whether the substance is an immediate precursor or principal compound of a substance already controlled under this article.

E. Substances which are precursors of a controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

F. In addition to the filing requirements of the Administrative Procedures Act, copies of orders issued under this section shall, during the time the Legislature is not in session, be filed with the Chair and Vice Chair of the State Legislative Council's Judiciary Committee.

G. The Board of Pharmacy shall exclude any nonnarcotic substance from a schedule if such substance may, under the Federal Food, Drug and Cosmetic Act and the law of this state, be lawfully sold over the counter without a prescription.

Added by Laws 1971, c. 119, § 2-201. Amended by Laws 2008, c. 359, § 6, emerg. eff. June 3, 2008.

§63-2-202. Nomenclature in Schedules.

The schedules provided by this act include the controlled dangerous substances listed or to be listed by whatever official name, common or usual name, chemical name, or trade name designated.

Laws 1971, c. 119, § 2-202.

§63-2-203. Schedule I characteristics.

Schedule I includes substances with the following characteristics:

1. High potential for abuse;

2. No accepted medical use in the United States or lacks accepted safety for use in treatment under medical supervision.

Added by Laws 1971, c. 119, § 2-203.

§63-2-204. Schedule I.

The controlled substances listed in this section are included in Schedule I.

A. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, when the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

1. Acetylmethadol;
2. Allylprodine;
3. Alphacetylmethadol;
4. Alphameprodine;
5. Alphamethadol;
6. Benzethidine;
7. Betacetylmethadol;
8. Betameprodine;
9. Betamethadol;
10. Betaprodine;
11. Clonitazene;
12. Dextromoramide;
13. Dextrorphan (except its methyl ether);
14. Diampromide;
15. Diethylthiambutene;
16. Dimenoxadol;
17. Dimepheptanol;
18. Dimethylthiambutene;
19. Dioxaphetyl butyrate;
20. Dipipanone;
21. Ethylmethylthiambutene;
22. Etonitazene;
23. Etoxeridine;
24. Furethidine;
25. Hydroxypethidine;
26. Ketobemidone;
27. Levomoramide;
28. Levophenacylmorphan;
29. Morpheridine;

30. Noracymethadol;
31. Norlevorphanol;
32. Normethadone;
33. Norpipanone;
34. Phenadoxone;
35. Phenampromide;
36. Phenomorphan;
37. Phenoperidine;
38. Piritramide;
39. Proheptazine;
40. Properidine;
41. Racemoramide; or
42. Trimeperidine.

B. Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, when the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

1. Acetorphine;
2. Acetyldihydrocodeine;
3. Benzylmorphine;
4. Codeine methylbromide;
5. Codeine-N-Oxide;
6. Cyprenorphine;
7. Desomorphine;
8. Dihydromorphine;
9. Etorphine;
10. Heroin;
11. Hydromorphinol;
12. Methyldesorphine;
13. Methylhydromorphine;
14. Morphine methylbromide;
15. Morphine methylsulfonate;
16. Morphine-N-Oxide;
17. Myrophine;
18. Nicocodeine;
19. Nicomorphine;
20. Normorphine;
21. Phoclodine;
22. Thebacon;
23. N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-acetamide;
24. N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-butenamide;
25. N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-2-furancarboxamide;
26. N-phenyl-1-(2-phenylethyl)-4-piperidinamine; or
27. N-(1-phenethylpiperidin-4-yl)-N-phyenylcyclopropranecraboxamide.

C. Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, when the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

1. Methcathinone;
2. 3, 4-methylenedioxy amphetamine;
3. 3, 4-methylenedioxy methamphetamine;
4. 5-methoxy-3, 4-methylenedioxy amphetamine;
5. 3, 4, 5-trimethoxy amphetamine;
6. Bufotenine;
7. Diethyltryptamine;
8. Dimethyltryptamine;
9. 4-methyl-2, 5-dimethoxyamphetamine;
10. Ibogaine;
11. Lysergic acid diethylamide;
12. Marihuana;
13. Mescaline;
14. N-benzylpiperazine;
15. N-ethyl-3-piperidyl benzilate;
16. N-methyl-3-piperidyl benzilate;
17. Psilocybin;
18. Psilocyn;
19. 2, 5 dimethoxyamphetamine;
20. 4 Bromo-2, 5-dimethoxyamphetamine;
21. 4 methoxyamphetamine;
22. Cyclohexamine;
23. Salvia Divinorum;
24. Salvinorin A;
25. Thiophene Analog of Phencyclidine. Also known as: 1-(1-(2-thienyl) cyclohexyl) piperidine; 2-Thienyl Analog of Phencyclidine; TPCP, TCP;
26. Phencyclidine (PCP);
27. Pyrrolidine Analog for Phencyclidine. Also known as 1-(1-Phenylcyclohexyl) - Pyrrolidine, PCPy, PHP;
28. 1-(3-trifluoromethylphenyl) piperazine;
29. Flunitrazepam;
30. B-hydroxy-amphetamine;
31. B-ketoamphetamine;
32. 2,5-dimethoxy-4-nitroamphetamine;
33. 2,5-dimethoxy-4-bromophenethylamine;
34. 2,5-dimethoxy-4-chlorophenethylamine;
35. 2,5-dimethoxy-4-iodoamphetamine;
36. 2,5-dimethoxy-4-iodophenethylamine;
37. 2,5-dimethoxy-4-methylphenethylamine;
38. 2,5-dimethoxy-4-ethylphenethylamine;
39. 2,5-dimethoxy-4-fluorophenethylamine;

40. 2,5-dimethoxy-4-nitrophenethylamine;
41. 2,5-dimethoxy-4-ethylthio-phenethylamine;
42. 2,5-dimethoxy-4-isopropylthio-phenethylamine;
43. 2,5-dimethoxy-4-propylthio-phenethylamine;
44. 2,5-dimethoxy-4-cyclopropylmethylthio-phenethylamine;
45. 2,5-dimethoxy-4-tert-butylthio-phenethylamine;
46. 2,5-dimethoxy-4-(2-fluoroethylthio)-phenethylamine;
47. 5-methoxy-N, N-dimethyltryptamine;
48. N-methyltryptamine;
49. A-ethyltryptamine;
50. A-methyltryptamine;
51. N, N-diethyltryptamine;
52. N, N-diisopropyltryptamine;
53. N, N-dipropyltryptamine;
54. 5-methoxy-a-methyltryptamine;
55. 4-hydroxy-N, N-diethyltryptamine;
56. 4-hydroxy-N, N-diisopropyltryptamine;
57. 5-methoxy-N, N-diisopropyltryptamine;
58. 4-hydroxy-N-isopropyl-N-methyltryptamine;
59. 3,4-Methylenedioxymethcathinone (Methylone);
60. 3,4-Methylenedioxypyrovalerone (MDPV);
61. 4-Methylmethcathinone (Mephedrone);
62. 4-methoxymethcathinone;
63. 4-Fluoromethcathinone;
64. 3-Fluoromethcathinone;
65. 1-(8-bromobenzo 1,2-b;4,5-b' difuran-4-yl)-2-aminopropane;
66. 2,5-Dimethoxy-4-chloroamphetamine;
67. 4-Methylethcathinone;
68. Pyrovalerone;
69. N,N-diallyl-5-methoxytryptamine;
70. 3,4-Methylenedioxy-N-ethylcathinone (Ethylone);
71. B-keto-N-Methylbenzodioxolylbutanamine (Butylone);
72. B-keto-Methylbenzodioxolylpentanamine (Pentylone);
73. Alpha-Pyrrolidinopentiophenone;
74. 4-Fluoroamphetamine;
75. Pentredone;
76. 4'-Methyl-a-pyrrolidinohexaphenone;
77. 2,5-dimethoxy-4-(n)-propylphenethylamine;
78. 2,5-dimethoxyphenethylamine;
79. 1,4-Dibenzylpiperazine;
80. N,N-Dimethylamphetamine;
81. 4-Fluoromethamphetamine;
82. 4-Chloro-2,5-dimethoxy-N-(2-methoxybenzyl)phenethylamine (25C-NBOMe);
83. 4-Iodo-2,5-dimethoxy-N-(2-methoxybenzyl)phenethylamine (25I-NBOMe);

84. 4-Bromo-2,5-dimethoxy-N-(2-methoxybenzy)phenethylamine (25B-NBOMe);

85. 1-(4-Fluorophenyl)piperazine;

86. Methoxetamine; or

87. 3,4-dichloro-N[2-dimethylamino)cyclohexyl]-N-methylbenzamide.

D. Unless specifically excepted or unless listed in a different schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having stimulant or depressant effect on the central nervous system:

1. Fenethylline;

2. Mecloqualone;

3. N-ethylamphetamine;

4. Methaqualone;

5. Gamma-Hydroxybutyric Acid, also known as GHB, gamma-hydroxybutyrate, 4-hydroxybutyrate, 4-hydroxybutanoic acid, sodium oxybate, and sodium oxybutyrate;

6. Gamma-Butyrolactone (GBL) as packaged, marketed, manufactured or promoted for human consumption, with the exception of legitimate food additive and manufacturing purposes;

7. Gamma Hydroxyvalerate (GHV) as packaged, marketed, or manufactured for human consumption, with the exception of legitimate food additive and manufacturing purposes;

8. Gamma Valerolactone (GVL) as packaged, marketed, or manufactured for human consumption, with the exception of legitimate food additive and manufacturing purposes;

9. 1,4 Butanediol (1,4 BD or BDO) as packaged, marketed, manufactured, or promoted for human consumption with the exception of legitimate manufacturing purposes; or

10. N-ethylpentylone.

E. 1. The following industrial uses of Gamma-Butyrolactone, Gamma Hydroxyvalerate, Gamma Valerolactone, or 1,4 Butanediol are excluded from all schedules of controlled substances under this title:

a. pesticides,

b. photochemical etching,

c. electrolytes of small batteries or capacitors,

d. viscosity modifiers in polyurethane,

e. surface etching of metal coated plastics,

f. organic paint disbursements for water soluble inks,

g. pH regulators in the dyeing of wool and polyamide fibers,

h. foundry chemistry as a catalyst during curing,

i. curing agents in many coating systems based on urethanes and amides,

j. additives and flavoring agents in food, confectionary, and beverage products,

k. synthetic fiber and clothing production,
l. tetrahydrofuran production,
m. gamma butyrolactone production,
n. polybutylene terephthalate resin production,
o. polyester raw materials for polyurethane elastomers and foams,
p. coating resin raw material, and
q. as an intermediate in the manufacture of other chemicals and pharmaceuticals.

2. At the request of any person, the Director may exempt any other product containing Gamma-Butyrolactone, Gamma Hydroxyvalerate, Gamma Valerolactone, or 1,4 Butanediol from being included as a Schedule I controlled substance if such product is labeled, marketed, manufactured and distributed for legitimate industrial use in a manner that reduces or eliminates the likelihood of abuse.

3. In making a determination regarding an industrial product, the Director, after notice and hearing, shall consider the following:

a. the history and current pattern of abuse,
b. the name and labeling of the product,
c. the intended manner of distribution, advertising and promotion of the product, and
d. other factors as may be relevant to and consistent with the public health and safety.

4. The hearing shall be held in accordance with the procedures of the Administrative Procedures Act.

F. Any material, compound, mixture, or preparation, whether produced directly or indirectly from a substance of vegetable origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, that contains any quantity of the following substances, or that contains any of their salts, isomers, and salts of isomers when the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

1. JWH-004;
2. JWH-007;
3. JWH-009;
4. JWH-015;
5. JWH-016;
6. JWH-018;
7. JWH-019;
8. JWH-020;
9. JWH-030;
10. JWH-046;
11. JWH-047;
12. JWH-048;
13. JWH-049;

14. JWH-050;
15. JWH-070;
16. JWH-071;
17. JWH-072;
18. JWH-073;
19. JWH-076;
20. JWH-079;
21. JWH-080;
22. JWH-081;
23. JWH-082;
24. JWH-094;
25. JWH-096;
26. JWH-098;
27. JWH-116;
28. JWH-120;
29. JWH-122;
30. JWH-145;
31. JWH-146;
32. JWH-147;
33. JWH-148;
34. JWH-149;
35. JWH-150;
36. JWH-156;
37. JWH-167;
38. JWH-175;
39. JWH-180;
40. JWH-181;
41. JWH-182;
42. JWH-184;
43. JWH-185;
44. JWH-189;
45. JWH-192;
46. JWH-193;
47. JWH-194;
48. JWH-195;
49. JWH-196;
50. JWH-197;
51. JWH-198;
52. JWH-199;
53. JWH-200;
54. JWH-201;
55. JWH-202;
56. JWH-203;
57. JWH-204;
58. JWH-205;
59. JWH-206;
60. JWH-207;

61. JWH-208;
62. JWH-209;
63. JWH-210;
64. JWH-211;
65. JWH-212;
66. JWH-213;
67. JWH-234;
68. JWH-235;
69. JWH-236;
70. JWH-237;
71. JWH-239;
72. JWH-240;
73. JWH-241;
74. JWH-242;
75. JWH-243;
76. JWH-244;
77. JWH-245;
78. JWH-246;
79. JWH-248;
80. JWH-249;
81. JWH-250;
82. JWH-251;
83. JWH-252;
84. JWH-253;
85. JWH-262;
86. JWH-292;
87. JWH-293;
88. JWH-302;
89. JWH-303;
90. JWH-304;
91. JWH-305;
92. JWH-306;
93. JWH-307;
94. JWH-308;
95. JWH-311;
96. JWH-312;
97. JWH-313;
98. JWH-314;
99. JWH-315;
100. JWH-316;
101. JWH-346;
102. JWH-348;
103. JWH-363;
104. JWH-364;
105. JWH-365;
106. JWH-367;
107. JWH-368;

108. JWH-369;
109. JWH-370;
110. JWH-371;
111. JWH-373;
112. JWH-386;
113. JWH-387;
114. JWH-392;
115. JWH-394;
116. JWH-395;
117. JWH-397;
118. JWH-398;
119. JWH-399;
120. JWH-400;
121. JWH-412;
122. JWH-413;
123. JWH-414;
124. JWH-415;
125. CP-55, 940;
126. CP-47, 497;
127. HU-210;
128. HU-211;
129. WIN-55, 212-2;
130. AM-2201;
131. AM-2233;
132. JWH-018 adamantyl-carboxamide;
133. AKB48;
134. JWH-122 N-(4-pentenyl)analog;
135. MAM2201;
136. URB597;
137. URB602;
138. URB754;
139. UR144;
140. XLR11;
141. A-796,260;
142. STS-135;
143. AB-FUBINACA;
144. AB-PINACA;
145. PB-22;
146. AKB48 N-5-Fluorpentyl;
147. AM1248;
148. FUB-PB-22;
149. ADB-FUBINACA;
150. BB-22;
151. 5-Fluoro PB-22; or
152. 5-Fluoro AKB-48.

G. In addition to those substances listed in subsection F of this section, unless specifically excepted or unless listed in

another schedule, any material, compound, mixture, or preparation which contains any quantity of a synthetic cannabinoid found to be in any of the following chemical groups:

1. Naphthoylindoles: any compound containing a 3-(1-naphthoyl)indole structure with or without substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, benzyl, halobenzyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3- morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, 1-methylazepanyl, phenyl, or halophenyl group, whether or not further substituted on the indole ring to any extent, and whether or not substituted on the naphthyl ring to any extent. Naphthoylindoles include, but are not limited to:

a. 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH-200),
b. 1-(5-fluoropentyl)-3-(1-naphthoyl)indole (AM2201),
c. 1-pentyl-3-(1-naphthoyl)indole (JWH-018),
d. 1-butyl-3-(1-naphthoyl)indole (JWH-073),
e. 1-pentyl-3-(4-methoxy-1-naphthoyl)indole (JWH-081),
f. 1-propyl-2-methyl-3-(1-naphthoyl)indole (JWH-015),
g. 1-hexyl-3-(1-naphthoyl)indole (JWH-019),
h. 1-pentyl-3-(4-methyl-1-naphthoyl)indole (JWH-122),
i. 1-pentyl-3-(4-ethyl-1-naphthoyl)indole (JWH-210),
j. 1-pentyl-3-(4-chloro-1-naphthoyl)indole (JWH-398),
k. 1-pentyl-2-methyl-3-(1-naphthoyl)indole (JWH-007),
l. 1-pentyl-3-(7-methoxy-1-naphthoyl)indole (JWH-164),
m. 1-pentyl-2-methyl-3-(4-methoxy-1-naphthoyl)indole (JWH-098),
n. 1-pentyl-3-(4-fluoro-1-naphthoyl)indole (JWH-412),
o. 1-[1-(N-methyl-2-piperidinyl)methyl]-3-(1-naphthoyl)indole (AM-1220),
p. 1-(5-fluoropentyl)-3-(4-methyl-1-naphthoyl)indole (MAM-2201), or
q. 1-(4-cyanobutyl)-3-(1-naphthoyl)indole (AM-2232);

2. Naphthylmethylindoles: any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with or without substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, benzyl, halobenzyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3- morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, 1-methylazepanyl, phenyl, or halophenyl group, whether or not further substituted on the indole ring to any extent, and whether or not substituted on the naphthyl ring to any extent. Naphthylmethylindoles include, but are not limited to, (1-pentylindol-3-yl)(1-naphthyl)methane (JWH-175);

3. Naphthoylpyrroles: any compound containing a 3-(1-naphthoyl)pyrrole structure with or without substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, benzyl, halobenzyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, 1-methylazepanyl, phenyl, or halophenyl group, whether or not further substituted on the pyrrole ring to any extent, and whether or not substituted on the naphthyl group to any extent. Naphthoylpyrroles include, but are not limited to:

a. 1-hexyl-2-phenyl-4-(1-naphthoyl)pyrrole (JWH-147),
b. 1-pentyl-5-(2-methylphenyl)-3-(1-naphthoyl)pyrrole (JWH-370),
c. 1-pentyl-3-(1-naphthoyl)pyrrole (JWH-030), or
d. 1-hexyl-5-phenyl-3-(1-naphthoyl)pyrrole (JWH-147);

4. Naphthylideneindenes: any compound containing a 1-(1-naphthylmethylene)indene structure with or without substitution at the 3-position of the indene ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, benzyl, halobenzyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, 1-methylazepanyl, phenyl, or halophenyl group, whether or not further substituted on the indene group to any extent, and whether or not substituted on the naphthyl group to any extent. Naphthylmethylindenes include, but are not limited to, (1-[(3-pentyl)-1H-inden-1-ylidene)methyl]naphthalene (JWH-176);

5. Phenylacetylindoles: any compound containing a 3-phenylacetylindole structure with or without substitution at the nitrogen atom of the indole ring by alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, benzyl, halobenzyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3- morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, 1-methylazepanyl, phenyl, or halophenyl group, whether or not further substituted on the indole ring to any extent, and whether or not substituted on the phenyl ring to any extent. Phenylacetylindoles include, but are not limited to:

a. 1-pentyl-3-(2-methoxyphenylacetyl)indole (JWH-250),
b. 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole (RCS-8),
c. 1-pentyl-3-(2-chlorophenylacetyl)indole (JWH-203),
d. 1-pentyl-3-(2-methylphenylacetyl)indole (JWH-251),
e. 1-pentyl-3-(4-methoxyphenylacetyl)indole (JWH-201), or
f. 1-pentyl-3-(3-methoxyphenylacetyl)indole (JWH-302);

6. Cyclohexylphenols: any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with or without substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, benzyl, halobenzyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, 1-methylazepanyl, phenyl, or halophenyl group, and whether or not further substituted on the cyclohexyl ring to any extent. Cyclohexylphenols include, but are not limited to:

a. 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (CP-47,497),
b. 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (cannabicyclohexanol; CP-47,497 C8 homologue), or
c. 5-(1,1-dimethylheptyl)-2-[(1R,2R)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl]-phenol (CP 55, 940);

7. Benzoylindoles: any compound containing a 3-(benzoyl)indole structure with or without substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, benzyl, halobenzyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3- morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, 1-methylazepanyl, phenyl, or halophenyl group, whether or not further substituted on the indole ring to any extent, and whether or not substituted on the phenyl group to any extent. Benzoylindoles include, but are not limited to:

a. 1-pentyl-3-(4-methoxybenzoyl)indole (RCS-4),
b. 1-[2-(4-morpholinyl)ethyl]-2-methyl-3-(4-methoxybenzoyl)indole (Pravadoline or WIN 48, 098),
c. 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (AM-694),
d. 1-pentyl-3-(2-iodobenzoyl)indole (AM-679), or
e. 1-[1-(N-methyl-2-piperidinyl)methyl]-3-(2-iodobenzoyl)indole (AM-2233);

8. Cyclopropoylindoles: Any compound containing a 3-(cyclopropoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, benzyl, halobenzyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3- morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, 1-methylazepanyl, phenyl, or halophenyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the cyclopropoyl ring to any extent. Cyclopropoylindoles include, but are not limited to:

a. 1-pentyl-3-(2,2,3,3-tetramethylcyclopropoyl)indole (UR-144),
b. 1-(5-chloropentyl)-3-(2,2,3,3-tetramethylcyclopropoyl)indole (5Cl-UR-144), or
c. 1-(5-fluoropentyl)-3-(2,2,3,3-tetramethylcyclopropoyl)indole (XLR11);

9. Indole Amides: Any compound containing a 1H-Indole-3-carboxamide structure with or without substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, benzyl, halobenzyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3- morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, 1-methylazepanyl, phenyl, or halophenyl group, whether or not substituted at the carboxamide group by an adamantyl, naphthyl, phenyl, benzyl, quinolinyl, cycloalkyl, 1-amino-3-methyl-1-oxobutan-2-yl, 1-amino-3,3-dimethyl-1-oxobutan-2-yl, 1-methoxy-3-methyl-1-oxobutan-2-yl, 1-methoxy-3,3-dimethyl-1-oxobutan-2-yl or pyrrole group, and whether or not further substituted in the indole, adamantyl, naphthyl, phenyl, pyrrole, quninolinyl, or cycloalkyl rings to any extent. Indole Amides include, but are not limited to:

a. N-(1-adamantyl)-1-pentyl-1H-indole-3-carboxamide (2NE1),
b. N-(1-adamantyl)-1-(5-fluoropentyl-1H-indole-3-carboxamide (STS-135),
c. N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indole-3-carboxamide (ADBICA),
d. N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indole-3-carboxamide (5F-ADBICA),
e. N-(naphthalen-1-yl)-1-pentyl-1H-indole-3-carboxamide (NNE1),
f. 1-(5-fluoropentyl)-N-(naphthalene-1-yl)-1H-indole-3-carboxamide (5F-NNE1),
g. N-benzyl-1-pentyl-1H-indole-3-carboxamide (SDB-006), or
h. N-benzyl-1-(5-fluoropentyl)-1H-indole-3-carboxamide (5F-SDB-006);

10. Indole Esters: Any compound containing a 1H-Indole-3-carboxylate structure with or without substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, benzyl, halobenzyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, 1-methylazepanyl, phenyl, or halophenyl group, whether or not substituted at the carboxylate group by an adamantyl, naphthyl, phenyl, benzyl, quinolinyl, cycloalkyl,1-amino-3-methyl-1-oxobutan-2-yl, 1-amino-3,3-dimethyl-1-

oxobutan-2-yl, 1-methoxy-3-methyl-1-oxobutan-2-yl, 1-methoxy-3,3-dimethyl-1-oxobutan-2-yl or pyrrole group, and whether or not further substituted in the indole, adamantyl, naphthyl, phenyl, pyrrole, quinolinyl, or cycloalkyl rings to any extent. Indole Esters include, but are not limited to:

a. quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate (PB-22),
b. quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (5F-PB-22),
c. quinolin-8-yl 1-(cyclohexylmethyl)-1H-indole-3-carboxylate (BB-22),
d. naphthalen-1-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate (FDU-PB-22), or
e. naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (NM2201);

11. Adamantanoylindoles: Any compound containing an adamantanyl-(1H-indol-3-yl)methanone structure with or without substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, benzyl, halobenzyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, 1-methylazepanyl, phenyl, or halophenyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the adamantyl ring to any extent. Adamantanoylindoles include, but are not limited to:

a. adamantan-1-yl[1-[(1-methyl-2-piperidinyl)methyl]-1H-indol-3-yl]methanone (AM1248), or
b. adamantan-1-yl-(1-pentyl-1H-indol-3-yl)methanone (AB-001);

12. Carbazole Ketone: Any compound containing (9H-carbazole-3-yl) methanone structure with or without substitution at the nitrogen atom of the carbazole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, benzyl, halobenzyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, 1-methylazepanyl, phenyl, or halophenyl group, with substitution at the carbon of the methanone group by an adamantyl, naphthyl, phenyl, benzyl, quinolinyl, cycloalkyl, 1-amino-3-methyl-1-oxobutan-2-yl, 1-amino-3,3-dimethyl-1-oxobutan-2-yl, 1-methoxy-3-methyl-1-oxobutan-2-yl, 1-methoxy-3,3-dimethyl-1-oxobutan-2-yl or pyrrole group, and whether or not further substituted at the carbazole, adamantyl, naphthyl, phenyl, pyrrole, quinolinyl, or cycloalkyl rings to any extent. Carbazole Ketones include, but are not limited to, naphthalen-1-yl(9-pentyl-9H-carbazol-3-yl)methanone (EG-018);

13. Benzimidazole Ketone: Any compound containing (benzimidazole-2-yl) methanone structure with or without substitution at either nitrogen atom of the benzimidazole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, benzyl, halobenzyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, 1-methylazepanyl, phenyl, or halophenyl group, with substitution at the carbon of the methanone group by an adamantyl, naphthyl, phenyl, benzyl, quinolinyl, cycloalkyl, 1-amino-3-methyl-1-oxobutan-2-yl, 1-amino-3,3-dimethyl-1-oxobutan-2-yl, 1-methoxy-3-methyl-1-oxobutan-2-yl, 1-methoxy-3,3-dimethyl-1-oxobutan-2-yl or pyrrole group, and whether or not further substituted in the benzimidazole, adamantyl, naphthyl, phenyl, pyrrole, quinolinyl, or cycloalkyl rings to any extent. Benzimidazole Ketones include, but are not limited to:

a. naphthalen-1-yl(1-pentyl-1H-benzo[d]imidazol-2-l)methanone (JWH-018 benzimidazole analog), or

b. (1-(5-fluoropentyl)-1H-benzo[d]imidazol-2-yl)(naphthalen-1-yl)methanone (FUBIMINA); and

14. Modified by Replacement: any compound defined in this subsection that is modified by replacement of a carbon with nitrogen in the indole, naphthyl, indene, benzimidazole, or carbazole ring.

Added by Laws 1971, c. 119, § 2-204, operative Sept. 1, 1971. Amended by Laws 1976, c. 291, § 1, emerg. eff. June 17, 1976; Laws 1978, c. 194, § 3, emerg. eff. April 14, 1978; Laws 1984, c. 127, § 1, eff. Nov. 1, 1984; Laws 1987, c. 138, § 3, emerg. eff. June 19, 1987; Laws 1994, c. 140, § 1, eff. Sept. 1, 1994; Laws 1995, c. 54, § 2, eff. July 1, 1995; Laws 1998, c. 100, § 1, emerg. eff. April 13, 1998; Laws 2000, c. 16, § 1, emerg. eff. April 3, 2000; Laws 2001, c. 99, § 2, eff. July 1, 2001; Laws 2001, c. 373, § 2, eff. July 1, 2001; Laws 2005, c. 283, § 1, eff. Nov. 1, 2005; Laws 2008, c. 332, § 1, eff. Nov. 1, 2008; Laws 2010, c. 182, § 1, eff. Nov. 1, 2010; Laws 2011, c. 239, § 2, eff. Nov. 1, 2011; Laws 2012, c. 80, § 2, eff. Nov. 1, 2012; Laws 2013, c. 181, § 1, eff. Nov. 1, 2013; Laws 2014, c. 154, § 2, eff. Nov. 1, 2014; Laws 2015, c. 305, § 3; Laws 2017, c. 390, § 2, emerg. eff. June 6, 2017; Laws 2018, c. 134, § 1, eff. Nov. 1, 2018.

§63-2-205. Schedule II characteristics.

Schedule II includes substances with the following characteristics:

1. High potential for abuse;

2. Currently accepted medical use in the United States, or currently accepted medical use with severe restrictions; and

3. The abuse of the substance may lead to severe psychic or physical dependence.

Added by Laws 1971, c. 119, § 2-205.

§63-2-206. Schedule II.

The controlled substances listed in this section are included in Schedule II.

A. Any of the following substances except those narcotic drugs listed in other schedules whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

1. Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

2. Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph 1 of this subsection, but not including the isoquinoline alkaloids of opium;

3. Opium poppy and poppy straw; or

4. Coca leaves except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine, its salts, optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts, isomers and salts of isomers; or any compound, mixture or preparation which contains any quantity of any of the substances referred to in this paragraph. Ioflupane is excluded from this paragraph.

B. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, when the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

1. Alphaprodine;
2. Anileridine;
3. Bezitramide;
4. Dihydrocodeine;
5. Diphenoxylate;
6. Fentanyl;
7. Hydromorphone;
8. Isomethadone;
9. Levomethorphan;
10. Levorphanol;
11. Metazocine;
12. Methadone;
13. Methadone - Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
14. Moramide - Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;
15. Oxycodone;
16. Oxymorphone;

17. Pethidine (Meperidine);
18. Pethidine - Intermediate - A, 4-cyano-1-methyl-4-phenylpiperidine;
19. Pethidine - Intermediate - B, ethyl-4-phenylpiperidine-4-carboxylate;
20. Pethidine - Intermediate - C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
21. Phenazocine;
22. Piminodine;
23. Racemethorphan;
24. Racemorphan;
25. Etorphine Hydrochloride salt only;
26. Alfentanil hydrochloride;
27. Levo-alphacetylmethadol;
28. Codeine;
29. Hydrocodone;
30. Morphine;
31. Remifentanil;
32. Sufentanil; or
33. Tapentadol.

C. Any substance which contains any quantity of:

1. Methamphetamine, including its salts, isomers, and salts of isomers;
2. Amphetamine, its salts, optical isomers, and salts of its optical isomers;
3. Nabilone; or
4. Lisdexamfetamine.

D. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following substances having stimulant or depressant effect on the central nervous system:

1. Phenmetrazine and its salts;
2. Methylphenidate, including its salts, isomers and salts of isomers;
3. Amobarbital;
4. Pentobarbital;
5. Secobarbital; or
6. Ethylphenidate.

Added by Laws 1971, c. 119, § 2-206. Amended by Laws 1972, c. 229, § 2, emerg. eff. April 7, 1972; Laws 1976, c. 291, § 2, emerg. eff. June 17, 1976; Laws 1984, c. 127, § 2, eff. Nov. 1, 1984; Laws 1987, c. 138, § 4, emerg. eff. June 19, 1987; Laws 1988, c. 43, § 2, operative June 1, 1988; Laws 1990, c. 220, § 1, eff. Sept. 1, 1990; Laws 1994, c. 140, § 2, eff. Sept. 1, 1994; Laws 2005, c. 283, § 2, eff. Nov. 1, 2005; Laws 2007, c. 248, § 2, emerg. eff. June 4, 2007; Laws 2008, c. 332, § 2, eff. Nov. 1, 2008; Laws 2011, c. 239, § 3, eff. Nov. 1, 2011; Laws 2013, c. 181, § 2, eff. Nov. 1, 2013; Laws

2014, c. 154, § 3, eff. Nov. 1, 2014; Laws 2017, c. 390, § 3, emerg. eff. June 6, 2017; Laws 2018, c. 33, § 1, eff. Nov. 1, 2018.

§63-2-207. Schedule III characteristics.

Schedule III includes substances with the following characteristics:

1. A potential for abuse less than the substances listed in Schedules I and II;

2. Currently accepted medical use in treatment in the United States; and

3. Abuse may lead to moderate or low physical dependence or high psychological dependence.

Added by Laws 1971, c. 119, § 2-207.

§63-2-208. Schedule III.

The controlled substances listed in this section are included in Schedule III.

A. Unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following substances or any other substance having a potential for abuse associated with a stimulant or depressant effect on the central nervous system:

1. Any drug product containing gamma-hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application has been approved under Section 505 of the Federal Food, Drug, and Cosmetic Act;

2. Any material, compound, mixture, or preparation which contains any quantity of the following hormonal substances or steroids, including their salts, isomers, esters and salts of isomers and esters, when the existence of these salts, isomers, esters, and salts of isomers and esters is possible within the specific chemical designation:

a. Boldenone,
b. Chlorotestosterone,
c. Clostebol,
d. Dehydrochlormethyltestosterone,
e. Dihydrotestosterone,
f. Drostanolone,
g. Ethylestrenol,
h. Fluoxymesterone,
i. Formebolone,
j. Mesterolone,
k. Methandienone,
l. Methandranone,
m. Methandriol,
n. Methandrostenolone,
o. Methenolone,

p. Methyltestosterone, except as provided in subsection E of this section,
q. Mibolerone,
r. Nandrolone,
s. Norethandrolone,
t. Oxandrolone,
u. Oxymesterone,
v. Oxymetholone,
w. Stanolone,
x. Stanozolol,
y. Testolactone,
z. Testosterone, except as provided in subsection E of this section, and
aa. Trenbolone;

3. Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid;
4. Benzephetamine and its salts;
5. Buprenorphine;
6. Butalbital/acetaminophen/caffeine;
7. Chlorhexadol;
8. Chlorphentermine and its salts;
9. Clortermine;
10. Glutethimide;
11. Ketamine, its salts, isomers, and salts of isomers;
12. Lysergic acid;
13. Lysergic acid amide;
14. Mazindol;
15. Methyprylon;
16. Phendimetrazine;
17. Phenylacetone (P2P);
18. Sulfondiethylmethane;
19. Sulfonethylmethane;
20. Sulfonmethane;
21. Tetrahydrocannibinols;
22. 1-Phenycyclohexylamine; or
23. 1-Piperidinocychexanecarbo nitrile (PCC).

Livestock implants as regulated by the Federal Food and Drug Administration shall be exempt.

B. Nalorphine.

C. Unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

1. Not more than one and eight-tenths (1.8) grams of codeine or any of its salts, per one hundred (100) milliliters or not more than ninety (90) milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

2. Not more than one and eight-tenths (1.8) grams of codeine or any of its salts, per one hundred (100) milliliters or not more than ninety (90) milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

3. Not more than one and eight-tenths (1.8) grams of dihydrocodeine or any of its salts, per one hundred (100) milliliters or not more than ninety (90) milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

4. Not more than three hundred (300) milligrams of ethylmorphine or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one or more ingredients in recognized therapeutic amounts;

5. Not more than five hundred (500) milligrams of opium per one hundred (100) milliliters or per one hundred (100) grams, or not more than twenty-five (25) milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts; or

6. Not more than fifty (50) milligrams of morphine or any of its salts, per one hundred (100) milliliters or per one hundred (100) grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

D. The Board of Pharmacy may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections A and B of this section from the application of all or any part of the Uniform Controlled Dangerous Substances Act if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

E. The following hormonal substances or steroids are exempt from classification as Schedule III controlled dangerous substances:

1. Estratest, containing 1.25 mg esterified estrogens and 2.5 mg methyltestosterone;

2. Estratest HS, containing 0.625 mg esterified estrogens and 1.25 mg methyltestosterone;

3. Premarin with Methyltestosterone, containing 1.25 mg conjugated estrogens and 10.0 mg methyltestosterone;

4. Premarin with Methyltestosterone, containing 0.625 mg conjugated estrogens and 5.0 mg methyltestosterone;

5. Testosterone Cypionate - Estrodiol Cypionate injection, containing 50 mg/ml Testosterone Cypionate; and

6. Testosterone Enanthate - Estradiol Valerate injection, containing 90 mg/ml Testosterone Enanthate and 4 mg/ml Estradiol Valerate.

Added by Laws 1971, c. 119, § 2-208, operative Sept. 1, 1971. Amended by Laws 1972, c. 229, § 3, emerg. eff. April 7, 1972; Laws 1976, c. 291, § 3, emerg. eff. June 17, 1976; Laws 1984, c. 127, § 3, eff. Nov. 1, 1984; Laws 1991, c. 306, § 1, emerg. eff. June 4, 1991; Laws 1993, c. 22, § 1, emerg. eff. March 29, 1993; Laws 1995, c. 54, § 3, eff. July 1, 1995; Laws 2001, c. 373, § 3, eff. July 1, 2001; Laws 2005, c. 283, § 3, eff. Nov. 1, 2005; Laws 2011, c. 239, § 4, eff. Nov. 1, 2011; Laws 2012, c. 80, § 3, eff. Nov. 1, 2012; Laws 2015, c. 305, § 4.

§63-2-209. Schedule IV characteristics.

Schedule IV includes substances with the following characteristics:

1. Low potential for abuse relative to substances listed in Schedule III;

2. Currently accepted medical use in treatment in use in the United States; and

3. Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances listed in Schedule III.

Added by Laws 1971, c. 119, § 2-209.

§63-2-210. Schedule IV.

A. Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant or depressant effect on the central nervous system:

1. Chloral betaine;
2. Chloral hydrate;
3. Ethchlorvynol;
4. Ethinamate;
5. Meprobamate;
6. Paraldehyde;
7. Petrichloral;
8. Diethylpropion;
9. Phentermine;
10. Pemoline;
11. Chlordiazepoxide;
12. Chlordiazepoxide and its salts, but not including chlordiazepoxide hydrochloride and clidinium bromide or chlordiazepoxide and water-soluble esterified estrogens;
13. Diazepam;
14. Oxazepam;
15. Clorazepate;

16. Flurazepam and its salts;
17. Clonazepam;
18. Barbital;
19. Mebutamate;
20. Methohexital;
21. Methylphenobarbital;
22. Phenobarbital;
23. Fenfluramine;
24. Pentazocine;
25. Propoxyphene;
26. Butorphanol;
27. Alprazolam;
28. Halazepam;
29. Lorazepam;
30. Prazepam;
31. Temazepam;
32. Triazolam;
33. Carisoprodol;
34. Dichloralphenazone;
35. Estazolam;
36. Eszopiclone;
37. Midazolam;
38. Modafinil;
39. Zaleplon;
40. Zolpidem;
41. Tramadol;
42. Bromazepam;
43. Suvorexant;
44. Phenazepam;
45. Etizolam; or
46. Clonazolam.

B. 1. The following nonnarcotic substances, which may, under the Federal Food, Drug, and Cosmetic Act (21 U.S.C., Section 301), be lawfully sold over the counter without a prescription, are excluded from all schedules of controlled substances under this title:

a. Breathe-Aid,
b. BronCare,
c. Bronchial Congestion,
d. Bronkaid Tablets,
e. Bronkaid Dual Action Caplets,
f. Bronkotabs,
g. Bronkolixir,
h. NeoRespin,
i. Pazo Hemorrhoid Ointment and Suppositories,
j. Primatene Tablets,
k. Primatene "Dual Action" Formula,

l. Quelidrine,
m. Resp, and
n. Vatronal Nose Drops.

2. At the request of any person, the Director may exempt any other drug product containing ephedrine from being included as a Schedule IV controlled substance if such product:

a. is labeled and marketed in a manner consistent with the pertinent OTC tentative final or final monograph issued by the FDA, and
b. is manufactured and distributed for legitimate medicinal use and in a manner that reduces or eliminates the likelihood of abuse.

3. In making a determination regarding a drug product, the Director, after notice and hearing, shall consider the following:

a. the history and current pattern of abuse,
b. the name and labeling of the product,
c. the intended manner of distribution, advertising and promotion of the product, and
d. other factors as may be relevant to and consistent with the public health and safety.

4. The hearing shall be held in accordance with the Administrative Procedures Act.

5. A list of current drug products meeting exemption requirements under this subsection may be obtained from the Bureau upon written request.

C. The Board of Pharmacy may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection A of this section from the application of all or any part of the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of this title, if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

Added by Laws 1971, c. 119, § 2-210, operative Sept. 1, 1971. Amended by Laws 1976, c. 291, § 4, emerg. eff. June 17, 1976; Laws 1978, c. 171, § 1, eff. Jan. 1, 1979; Laws 1984, c. 127, § 4, eff. Nov. 1, 1984; Laws 1990, c. 271, § 2, operative July 1, 1990; Laws 1991, c. 306, § 2, emerg. eff. June 4, 1991; Laws 1995, c. 147, § 1, eff. Nov. 1, 1995; Laws 1996, c. 306, § 3, emerg. eff. June 10, 1996; Laws 2002, c. 52, § 1, eff. Nov. 1, 2002; Laws 2007, c. 248, § 3, emerg. eff. June 4, 2007; Laws 2011, c. 239, § 5, eff. Nov. 1, 2011; Laws 2012, c. 80, § 4, eff. Nov. 1, 2012; Laws 2013, c. 181, § 3, eff. Nov. 1, 2013; Laws 2014, c. 154, § 4, eff. Nov. 1, 2014;

Laws 2015, c. 305, § 5; Laws 2017, c. 390, § 4, emerg. eff. June 6, 2017.

§63-2-211. Schedule V characteristics.

Schedule V includes substances with the following characteristics:

1. Low potential for abuse relative to the controlled substances listed in Schedule IV;

2. Currently accepted medical use in treatment in the United States; and

3. Limited physical dependence or psychological dependence liability relative to the controlled substances listed in Schedule IV.

Added by Laws 1971, c. 119, § 2-211.

§63-2-212. Schedule V.

A. The controlled substances listed in this section are included in Schedule V.

1. Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

a. not more than two hundred (200) milligrams of codeine, or any of its salts, per one hundred (100) milliliters or per one hundred (100) grams,

b. not more than one hundred (100) milligrams of dihydrocodeine, or any of its salts, per one hundred (100) milliliters or per one hundred (100) grams,

c. not more than one hundred (100) milligrams of ethylmorphine, or any of its salts, per one hundred (100) milliliters or per one hundred (100) grams,

d. not more than two and five-tenths (2.5) milligrams of diphenoxylate and not less than twenty-five (25) micrograms of atropine sulfate per dosage unit, or

e. not more than one hundred (100) milligrams of opium per one hundred (100) milliliters or per one hundred (100) grams.

2. Any compound, mixture, or preparation containing any detectable quantity of base pseudoephedrine or ephedrine, its salts or optical isomers, or salts of optical isomers. If any compound, mixture, or preparation as specified in this paragraph is dispensed, sold, or distributed in a pharmacy:

a. it shall be dispensed, sold, or distributed only by, or under the supervision of, a licensed pharmacist or a registered pharmacy technician,

b. a service charge not to exceed the purchase price of the product, mixture or preparation may be assessed and collected by the licensed pharmacist or registered pharmacy technician at the point of sale from the person seeking to purchase, receive or otherwise acquire a pseudoephedrine product or products. Upon receipt of payment of the service charge, the licensed pharmacist or registered pharmacy technician shall access the methamphetamine offender registry and verify whether the person is an individual who is listed on the methamphetamine offender registry. Upon verification that the person is an individual who is not listed on the methamphetamine offender registry, the service charge shall be deducted from the total purchase price of the pseudoephedrine product or products. Upon verification that the person is an individual who is listed on the methamphetamine offender registry, the person shall be prohibited from purchasing the pseudoephedrine product or products and shall be required to forfeit the service charge previously collected by the licensed pharmacist or registered pharmacy technician. Any pharmacy that requires the assessment and collection of a service charge for pseudoephedrine products shall post a clear and conspicuous sign at each public entrance to the place of business and at each register within the pharmacy that provides notice to customers of the pharmacy that a service charge shall be assessed and collected for pseudoephedrine products and, upon verification that the person is listed on the methamphetamine offender registry, the service charge shall be forfeited and retained by the pharmacy, and

c. any person who is not an individual listed on the methamphetamine offender registry that is purchasing, receiving, or otherwise acquiring any compound, mixture, or preparation shall produce a driver license, passport, military identification, or other state-issued identification card and shall sign a written or electronic log, receipt, or other program or mechanism approved by the Oklahoma Bureau of Narcotics and Dangerous Drugs Control, showing:
   (1) the date and time of the transaction,
   (2) name, address and date of birth of the purchaser,
   (3) driver license number, passport, military identification, or state-issued identification number and state of residence of the purchaser,

(4) name and initials of the pharmacist or pharmacy technician conducting the transaction,
(5) the product being sold,
(6) total quantity, in grams, of base pseudoephedrine or ephedrine purchased, and
(7) attestation by the person receiving the compound, mixture or preparation that the person is not subject to the Methamphetamine Offender Registry Act.

No person shall purchase, receive, or otherwise acquire more than three and six-tenths (3.6) grams of any product, mixture, or preparation per day or more than seven and two-tenths (7.2) grams of any product, mixture, or preparation within any thirty-day period, or sixty (60) grams of any product, mixture, or preparation within a twelve-month period. Once a person has purchased, received or otherwise acquired the daily limit of three and six-tenths (3.6) grams of any product, mixture or preparation, the person shall be prohibited from purchasing, receiving or otherwise acquiring any additional product, mixture or preparation containing any detectable quantity of base pseudoephedrine or ephedrine for a period of not less than seventy-two (72) hours following the last permitted purchase. The requirements of this paragraph shall not apply to any quantity of such product, mixture or preparation dispensed pursuant to a valid prescription. There shall be no protocol or procedure mandated by any individual or corporate entity that interferes with the professional duty of a pharmacist to counsel and evaluate the appropriate pharmaceutical needs of a patient and the exercise of the professional judgment of a pharmacist as to whether it is appropriate to dispense medication as set forth in this paragraph or otherwise.

3. Any compound, mixture, or preparation containing any detectable quantity of pregabalin.

B. The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, by rule, may exempt other products from this Schedule which the Director finds are not used in the illegal manufacture of methamphetamine or other controlled dangerous substances. A manufacturer of a drug product may apply for removal of the product from the Schedule if the product is determined by the Director to have been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine.

Added by Laws 1971, c. 119, § 2-212. Amended by Laws 1994, c. 140, § 3, eff. Sept. 1, 1994; Laws 1995, c. 147, § 2, eff. Nov. 1, 1995; Laws 2004, c. 59, § 3, emerg. eff. April 6, 2004; Laws 2004, c. 300, § 9, emerg. eff. May 12, 2004; Laws 2005, c. 128, § 2, eff. Nov. 1, 2005; Laws 2010, c. 458, § 4, eff. Nov. 1, 2010; Laws 2011, c. 239,

§ 6, eff. Nov. 1, 2011; Laws 2012, c. 206, § 2, eff. July 1, 2012; Laws 2013, c. 181, § 4, eff. Nov. 1, 2013.

§63-2-301. Rules and regulations.

A. The Director is authorized to promulgate rules and regulations relating to the registration and control of the manufacture, distribution, dispensing, prescribing, administering or use for scientific purposes of controlled dangerous substances within this state. All proceedings before the Director shall be governed by the Administrative Procedures Act.

B. The Director shall promulgate rules relating to the training, certification and registration of animal control officers for the purpose of authorizing such individuals to purchase, possess and administer controlled dangerous substances for animal control within this state and operating under the parameters of Sections 501 through 508 of Title 4 of the Oklahoma Statutes. In promulgating such rules, the Director shall cooperate with any federal, state or local entity with jurisdiction over the euthanasia of animals.

Added by Laws 1971, c. 119, § 2-301. Amended by Laws 2003, c. 338, § 3, eff. Nov. 1, 2003; Laws 2008, c. 359, § 7, emerg. eff. June 3, 2008.

§63-2-302. See the following versions:

OS 63-2-302v1 (HB 2795, Laws 2018, c. 250, § 1).

OS 63-2-302v2 (HB 2796, Laws 2018, c. 251, § 1).

§63-2-302v1. Registration requirements.

A. Every person who manufactures, distributes, dispenses, prescribes, administers or uses for scientific purposes any controlled dangerous substance within this state, or who proposes to engage in the manufacture, distribution, dispensing, prescribing, administering or use for scientific purposes of any controlled dangerous substance within this state shall obtain a registration issued by the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, in accordance with rules promulgated by the Director. Persons registered by the Director under Section 2-101 et seq. of this title to manufacture, distribute, dispense, or conduct research with controlled dangerous substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this article. Every wholesaler, manufacturer or distributor of any drug product containing pseudoephedrine or phenylpropanolamine, or their salts, isomers, or salts of isomers shall obtain a registration issued by the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control in accordance with rules promulgated by the Director and as provided for in Section 2-332 of this title.

B. Out-of-state pharmaceutical suppliers who provide controlled dangerous substances to individuals within this state shall obtain a registration issued by the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, in accordance with rules promulgated by the Director; provided that this provision shall not apply to wholesale distributors who ship controlled dangerous substances to pharmacies or other entities registered within this state in accordance with rules promulgated by the Director.

C. Every person who owns in whole or in part a public or private medical facility for which a majority of patients are issued on a reoccurring monthly basis a prescription for opioids, benzodiazepines, barbiturates or carisoprodol, but not including Suboxone or buprenorphine, shall obtain a registration issued by the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

D. Manufacturers, distributors, home care agencies, hospices, home care services, medical facility owners referred to in subsection C of this section and scientific researchers shall obtain a registration annually. Other practitioners shall obtain a registration for a period to be determined by the Director that will be for a period not less than one (1) year nor more than three (3) years.

E. Every trainer or handler of a canine controlled dangerous substances detector who, in the ordinary course of such trainer's or handler's profession, desires to possess any controlled dangerous substance, annually, shall obtain a registration issued by the Director for a fee of Seventy Dollars ($70.00). Such persons shall be subject to all applicable provisions of Section 2-101 et seq. of this title and such applicable rules promulgated by the Director for those individuals identified in subparagraph a of paragraph 32 of Section 2-101 of this title. Persons registered by the Director pursuant to this subsection may possess controlled dangerous substances to the extent authorized by their registration and in conformity with the other provisions of this article.

F. The following persons shall not be required to register and may lawfully possess controlled dangerous substances under the provisions of Section 2-101 et seq. of this title:

1. An agent, or an employee thereof, of any registered manufacturer, distributor, dispenser or user for scientific purposes of any controlled dangerous substance, if such agent is acting in the usual course of such agent's or employee's business or employment;

2. Any person lawfully acting under the direction of a person authorized to administer controlled dangerous substances under Section 2-312 of this title;

3. A common or contract carrier or warehouser, or an employee thereof, whose possession of any controlled dangerous substance is

in the usual course of such carrier's or warehouser's business or employment;

4. An ultimate user or a person in possession of any controlled dangerous substance pursuant to a lawful order of a practitioner;

5. An individual pharmacist acting in the usual course of such pharmacist's employment with a pharmacy registered pursuant to the provisions of Section 2-101 et seq. of this title;

6. A nursing home licensed by this state;

7. Any Department of Mental Health and Substance Abuse Services employee or any person whose facility contracts with the Department of Mental Health and Substance Abuse Services whose possession of any dangerous drug, as defined in Section 353.1 of Title 59 of the Oklahoma Statutes, is for the purpose of delivery of a mental health consumer's medicine to the consumer's home or residence;

8. Registered nurses and licensed practical nurses; and

9. An assisted living facility licensed by the State of Oklahoma.

G. The Director may, by rule, waive the requirement for registration or fee for registration of certain manufacturers, distributors, dispensers, prescribers, administrators, or users for scientific purposes if the Director finds it consistent with the public health and safety.

H. A separate registration shall be required at each principal place of business or professional practice where the applicant manufactures, distributes, dispenses, prescribes, administers, or uses for scientific purposes controlled dangerous substances.

I. The Director is authorized to inspect the establishment of a registrant or applicant for registration in accordance with rules promulgated by the Director.

J. No person engaged in a profession or occupation for which a license to engage in such activity is provided by law shall be registered under this act unless such person holds a valid license of such person's profession or occupation.

K. Registrations shall be issued on the first day of November of each year. Registrations may be issued at other times, however, upon certification of the professional licensing board.

L. The licensing boards of all professions and occupations to which the use of controlled dangerous substances is incidental shall furnish a current list to the Director, not later than the first day of October of each year, of the persons holding valid licenses. All such persons except persons exempt from registration requirements under subsection F of this section shall be subject to the registration requirements of Section 2-101 et seq. of this title.

M. The licensing board of any professional defined as a mid-level practitioner shall notify and furnish to the Director, not later than the first day of October of each year that such professional holds a valid license, a current listing of individuals

licensed and registered with their respective boards to prescribe, order, select, obtain and administer controlled dangerous substances. The licensing board shall immediately notify the Director of any action subsequently taken against any such individual.

N. Beginning November 1, 2010, each registrant that prescribes, administers or dispenses methadone shall be required to check the prescription profile of the patient on the central repository of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

Added by Laws 1971, c. 119, § 2-302. Amended by Laws 1972, c. 43, § 1, emerg. eff. March 9, 1972; Laws 1987, c. 138, § 5, emerg. eff. June 19, 1987; Laws 1990, c. 232, § 4, emerg. eff. May 18, 1990; Laws 1991, c. 306, § 3, emerg. eff. June 4, 1991; Laws 1996, c. 306, § 4, emerg. eff. June 10, 1996; Laws 1997, c. 250, § 11, eff. Nov. 1, 1997; Laws 1998, c. 142, § 1, eff. July 1, 1998; Laws 2003, c. 226, § 1; Laws 2004, c. 5, § 59, emerg. eff. March 1, 2004; Laws 2005, c. 40, § 2, eff. July 1, 2005; Laws 2010, c. 323, § 2, eff. Nov. 1, 2010; Laws 2018, c. 250, § 1, eff. Nov. 1, 2018.

NOTE: Laws 2003, c. 133, § 1 repealed by Laws 2004, c. 5, § 60, emerg. eff. March 1, 2004.

§63-2-302v2. Registration requirements.

A. Every person who manufactures, distributes, dispenses, prescribes, administers or uses for scientific purposes any controlled dangerous substance within or into this state, or who proposes to engage in the manufacture, distribution, dispensing, prescribing, administering or use for scientific purposes of any controlled dangerous substance within or into this state shall obtain a registration issued by the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, in accordance with rules promulgated by the Director. Persons registered by the Director under Section 2-101 et seq. of this title to manufacture, distribute, dispense, or conduct research with controlled dangerous substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this article. Every wholesaler, manufacturer or distributor of any drug product containing pseudoephedrine or phenylpropanolamine, or their salts, isomers, or salts of isomers shall obtain a registration issued by the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control in accordance with rules promulgated by the Director and as provided for in Section 2-332 of this title.

B. Out-of-state pharmaceutical suppliers who provide controlled dangerous substances to individuals within this state shall obtain a registration issued by the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, in accordance with rules

promulgated by the Director. This provision shall also apply to wholesale distributors who distribute controlled dangerous substances to pharmacies or other entities registered within this state in accordance with rules promulgated by the Director.

C. Beginning January 1, 2019, every manufacturer and distributor required to register under the provisions of this section shall provide all data required pursuant to federal law, federal rules and regulations and 21 U.S.C., Section 827(d)(1) on a quarterly basis to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control in accordance with rules promulgated by the Director.

D. The information maintained and provided pursuant to subsection C of this section shall be confidential and not open to the public. Access to the information shall, at the discretion of the Director, be limited to:

1. Peace officers certified pursuant to the provisions of Section 3311 of Title 70 of the Oklahoma Statutes who are employed as investigative agents of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control or the Office of the Attorney General;

2. The United States Drug Enforcement Administration Diversion Group Supervisor; and

3. A multicounty grand jury properly convened pursuant to the provisions of the Multicounty Grand Jury Act.

E. Manufacturers, distributors, home care agencies, hospices, home care services, and scientific researchers shall obtain a registration annually. Other practitioners shall obtain a registration for a period to be determined by the Director that will be for a period not less than one (1) year nor more than three (3) years.

F. Every trainer or handler of a canine controlled dangerous substances detector who, in the ordinary course of such trainer's or handler's profession, desires to possess any controlled dangerous substance, annually, shall obtain a registration issued by the Director for a fee of Seventy Dollars ($70.00). Such persons shall be subject to all applicable provisions of Section 2-101 et seq. of this title and such applicable rules promulgated by the Director for those individuals identified in subparagraph a of paragraph 32 of Section 2-101 of this title. Persons registered by the Director pursuant to this subsection may possess controlled dangerous substances to the extent authorized by their registration and in conformity with the other provisions of this article.

G. The following persons shall not be required to register and may lawfully possess controlled dangerous substances under the provisions of Section 2-101 et seq. of this title:

1. An agent, or an employee thereof, of any registered manufacturer, distributor, dispenser or user for scientific purposes of any controlled dangerous substance, if such agent is acting in

the usual course of such agent's or employee's business or employment;

2. Any person lawfully acting under the direction of a person authorized to administer controlled dangerous substances under Section 2-312 of this title;

3. A common or contract carrier or warehouser, or an employee thereof, whose possession of any controlled dangerous substance is in the usual course of such carrier's or warehouser's business or employment;

4. An ultimate user or a person in possession of any controlled dangerous substance pursuant to a lawful order of a practitioner;

5. An individual pharmacist acting in the usual course of such pharmacist's employment with a pharmacy registered pursuant to the provisions of Section 2-101 et seq. of this title;

6. A nursing home licensed by this state;

7. Any Department of Mental Health and Substance Abuse Services employee or any person whose facility contracts with the Department of Mental Health and Substance Abuse Services whose possession of any dangerous drug, as defined in Section 353.1 of Title 59 of the Oklahoma Statutes, is for the purpose of delivery of a mental health consumer's medicine to the consumer's home or residence; and

8. Registered nurses and licensed practical nurses.

H. The Director may, by rule, waive the requirement for registration or fee for registration of certain manufacturers, distributors, dispensers, prescribers, administrators, or users for scientific purposes if the Director finds it consistent with the public health and safety.

I. A separate registration shall be required at each principal place of business or professional practice where the applicant manufactures, distributes, dispenses, prescribes, administers, or uses for scientific purposes controlled dangerous substances.

J. The Director is authorized to inspect the establishment of a registrant or applicant for registration in accordance with rules promulgated by the Director.

K. No person engaged in a profession or occupation for which a license to engage in such activity is provided by law shall be registered under this act unless such person holds a valid license of such person's profession or occupation.

L. Registrations shall be issued on the first day of November of each year. Registrations may be issued at other times, however, upon certification of the professional licensing board.

M. The licensing boards of all professions and occupations to which the use of controlled dangerous substances is incidental shall furnish a current list to the Director, not later than the first day of October of each year, of the persons holding valid licenses. All such persons except persons exempt from registration requirements

under subsection G of this section shall be subject to the registration requirements of Section 2-101 et seq. of this title.

N. The licensing board of any professional defined as a mid-level practitioner shall notify and furnish to the Director, not later than the first day of October of each year that such professional holds a valid license, a current listing of individuals licensed and registered with their respective boards to prescribe, order, select, obtain and administer controlled dangerous substances. The licensing board shall immediately notify the Director of any action subsequently taken against any such individual.

O. Beginning November 1, 2010, each registrant that prescribes, administers or dispenses methadone shall be required to check the prescription profile of the patient on the central repository of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

Added by Laws 1971, c. 119, § 2-302. Amended by Laws 1972, c. 43, § 1, emerg. eff. March 9, 1972; Laws 1987, c. 138, § 5, emerg. eff. June 19, 1987; Laws 1990, c. 232, § 4, emerg. eff. May 18, 1990; Laws 1991, c. 306, § 3, emerg. eff. June 4, 1991; Laws 1996, c. 306, § 4, emerg. eff. June 10, 1996; Laws 1997, c. 250, § 11, eff. Nov. 1, 1997; Laws 1998, c. 142, § 1, eff. July 1, 1998; Laws 2003, c. 226, § 1; Laws 2004, c. 5, § 59, emerg. eff. March 1, 2004; Laws 2005, c. 40, § 2, eff. July 1, 2005; Laws 2010, c. 323, § 2, eff. Nov. 1, 2010; Laws 2018, c. 251, § 1, eff. Nov. 1, 2018.

NOTE: Laws 2003, c. 133, § 1 repealed by Laws 2004, c. 5, § 60, emerg. eff. March 1, 2004.

§63-2-303. Registration.

A. The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall register an applicant to own a medical facility as described in subsection C of Section 2-302 of this title, or to manufacture, distribute, dispense, prescribe, administer or use for scientific purposes controlled dangerous substances included in Schedules I through V of Section 2-101 et seq. of this title unless the Director determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

1. Maintenance of effective controls against diversion of particular controlled dangerous substances and any Schedule I or II substance compounded therefrom into other than legitimate medical, scientific or industrial channels, including examination of the fitness of his or her employees or agents to handle dangerous substances;

2. Compliance with applicable state and local law;

3. Has been found guilty of, entered a plea of guilty or nolo contendere to a charge under the Uniform Controlled Dangerous

Substances Act or any other state or federal law relating to any substance defined herein as a controlled dangerous substance or any felony under the laws of any state or the United States;

4. Furnishing by the applicant false or fraudulent material information in any application filed under Section 2-101 et seq. of this title;

5. Past experience in the manufacture, distribution, dispensing, prescribing, administering or use for scientific purposes of controlled dangerous substances, and the existence in the establishment of effective controls against diversion;

6. Denial, suspension or revocation of the applicant's federal registration to manufacture, distribute or dispense controlled dangerous substances as authorized by federal law; and

7. Such other factors as may be relevant to and consistent with the public health and safety.

Nothing herein shall be deemed to require individual licensed pharmacists to register under the provisions of the Uniform Controlled Dangerous Substances Act.

B. Registration granted under subsection A of this section shall not entitle a registrant to manufacture, distribute, dispense, prescribe, administer or use for scientific purposes controlled dangerous substances in Schedule I or II other than those specified in the registration.

C. Practitioners shall be registered to dispense, prescribe, administer or use for scientific purposes substances in Schedules II through V if they are authorized to carry on their respective activities under the laws of this state. A registration application by a practitioner who wishes to conduct research with Schedule I substances shall be accompanied by evidence of the applicant's federal registration to conduct such activity and shall be referred to the Medical Research Commission for advice. The Medical Research Commission shall promptly advise the Director concerning the qualifications of each practitioner requesting such registration. Registration for the purpose of bona fide research or of use for scientific purposes with Schedule I substances by a practitioner deemed qualified by the Medical Research Commission may be denied only on a ground specified in subsection A of Section 2-304 of this title or if there are reasonable grounds to believe that the applicant will abuse or unlawfully transfer such substances or fail to safeguard adequately such applicant's supply of such substances against diversion from legitimate medical or scientific use.

D. 1. The Director shall initially permit persons to register who own or operate any establishment engaged in the manufacture, distribution, dispensing, prescribing, administering or use for scientific purposes of any controlled dangerous substances prior to June 4, 1991, and who are registered or licensed by the state. Fees for registration under this section shall be as follows:

Practitioners and mid-level practitioners	$140.00	per year of registration
Home Care Agencies, Hospices & Home Care Services	$140.00	annually
Medical Facility Owners	$300.00	annually
Distributors	$300.00	annually
Manufacturers	$500.00	annually
Manufacturer, Wholesaler, or Distributor of drug products containing pseudoephedrine or phenylpropanolamine	$300.00	annually

2. A registrant shall be required to pay double the amount of the above-listed fee for any renewal of registration received more than thirty (30) days late.

3. A Ten Dollar ($10.00) fee shall be charged for a duplicate registration certificate.

E. Compliance by manufacturers and distributors with the provisions of the Federal Controlled Substances Act, 21 U.S.C., Section 801 et seq., respecting registration, excluding fees, shall be deemed sufficient to qualify for registration under this act. Added by Laws 1971, c. 119, § 2-303. Amended by Laws 1982, c. 120, § 1, emerg. eff. April 6, 1982; Laws 1984, c. 299, § 5, operative July 1, 1984; Laws 1987, c. 138, § 6, emerg. eff. June 19, 1987; Laws 1990, c. 232, § 5, emerg. eff. May 18, 1990; Laws 1991, c. 306, § 4, emerg. eff. June 4, 1991; Laws 1996, c. 306, § 5, emerg. eff. June 10, 1996; Laws 1997, c. 250, § 12, eff. Nov. 1, 1997; Laws 2003, c. 226, § 2; Laws 2004, c. 5, § 61, emerg. eff. March 1, 2004; Laws 2008, c. 273, § 1, eff. Nov. 1, 2008; Laws 2009, c. 445, § 2, eff. July 1, 2009; Laws 2018, c. 250, § 2, eff. Nov. 1, 2018.
NOTE: Laws 2003, c. 133, § 2 repealed by Laws 2004, c. 5, § 62, emerg. eff. March 1, 2004.

§63-2-304. Denial, revocation or suspension of registration - Administrative penalty.

A. A registration, pursuant to Section 2-303 of this title, to manufacture, distribute, dispense, prescribe, administer or use for scientific purposes a controlled dangerous substance shall be limited, conditioned, denied, suspended or revoked by the Director upon a finding that the registrant:

1. Has materially falsified any application filed pursuant to the Uniform Controlled Dangerous Substances Act or required by the Uniform Controlled Dangerous Substances Act;

2. Has been found guilty of, entered a plea of guilty, or entered a plea of nolo contendere to a misdemeanor relating to any substance defined herein as a controlled dangerous substance or any felony under the laws of any state or the United States;

3. Has had his or her federal registration retired, suspended, or revoked by a competent federal authority and is no longer authorized by federal law to manufacture, distribute, dispense, prescribe, administer or use for scientific purposes controlled dangerous substances;

4. Has failed to maintain effective controls against the diversion of controlled dangerous substances to unauthorized persons or entities;

5. Has prescribed, dispensed or administered a controlled dangerous substance from schedules other than those specified in his or her state or federal registration;

6. Has had a restriction, suspension, revocation, limitation, condition, or probation placed on his or her professional license or certificate or practice as a result of a proceeding pursuant to the general statutes;

7. Is abusing or, within the past five (5) years, has abused or excessively used drugs or controlled dangerous substances;

8. Has prescribed, sold, administered, or ordered any controlled substance for an immediate family member, himself or herself; provided that this shall not apply to a medical emergency when no other doctor is available to respond to the emergency;

9. Has possessed, used, prescribed, dispensed or administered drugs or controlled dangerous substances for other than legitimate medical or scientific purposes or for purposes outside the normal course of his or her professional practice;

10. Has been under the influence of alcohol or another intoxicating substance which adversely affected the central nervous system, vision, hearing or other sensory or motor functioning to such degree the person was impaired during the performance of his or her job; or

11. Has violated any federal law relating to any controlled substances, any provision of the Uniform Controlled Dangerous Substances Act, or any rules of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

B. In the event the Director suspends or revokes a registration granted under Section 2-303 of this title, all controlled dangerous substances owned or possessed by the registrant pursuant to such registration at the time of denial or suspension or the effective date of the revocation order, as the case may be, may in the discretion of the Director be impounded and preserved. No disposition may be made of substances impounded and preserved until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all such controlled dangerous substances shall be forfeited to the state.

C. The Drug Enforcement Administration shall promptly be notified of all orders suspending or revoking registration and all forfeitures of controlled dangerous substances.

D. In lieu of or in addition to any other remedies available to the Director, if a finding is made that a registrant has committed any act in violation of federal law relating to any controlled substance, any provision of the Uniform Controlled Dangerous Substances Act, or any rules of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Director is hereby authorized to assess an administrative penalty not to exceed Two Thousand Dollars ($2,000.00) for each such act. The provisions of this subsection shall not apply to violations of subsection G of Section 2-309D of this title. Nothing in this section shall be construed so as to permit the Director of the State Bureau of Narcotics and Dangerous Drugs Control to assess administrative fines for violations of the provisions of subsection G of Section 2-309D of this title.

Added by Laws 1971, c. 119, § 2-304. Amended by Laws 1982, c. 120, § 2, emerg. eff. April 6, 1982; Laws 1993, c. 285, § 1, eff. Sept. 1, 1993; Laws 1996, c. 306, § 6, emerg. eff. June 10, 1996; Laws 2015, c. 1, § 1, eff. Nov. 1, 2015.

§63-2-305. Order to show cause.

A. Before denying, suspending or revoking a registration or refusing a renewal of registration, the Director shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked or suspended or why the renewal should not be refused. The order to show cause shall contain a statement of the basis therefor and shall call upon the applicant or registrant to appear before the appropriate person or agency at a time and place within thirty (30) days after the date of service of the order, but in the case of a denial or renewal of registration the show cause order shall be served within thirty (30) days before the expiration of the registration. These proceedings shall be conducted in accordance with the Administrative Procedures Act without regard to any criminal prosecution or other proceeding. Proceedings to refuse renewal of registration shall not abate the existing registration which shall remain in effect pending the outcome of the administrative hearing.

B. The Director shall suspend, without an order to show cause, any registration simultaneously with the institution of proceedings under Section 2-304 of this title, if he finds there is imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, unless sooner withdrawn by the Director or dissolved by a court of competent jurisdiction.

Amended by Laws 1982, c. 120, § 3, emerg. eff. April 6, 1982.

§63-2-306. Transmission of copies of convictions.

On the conviction of any person of the violation of any provision of this act, a certified copy of the judgment of conviction shall be sent by the clerk of the court to the Director and to the board or officer, if any, by whom the convicted defendant has been licensed or registered to practice his or her profession or to carry on his or her business.

Added by Laws 1971, c. 119, § 2-306. Amended by Laws 2008, c. 359, § 8, emerg. eff. June 3, 2008.

§63-2-307. Records of registrants.

Persons registered to manufacture, distribute, or dispense controlled dangerous substances under this act shall keep records and maintain inventories in conformance with the record-keeping and inventory requirements of federal law and with the additional rules the Director issues.

Added by Laws 1971, c. 119, § 2-307. Amended by Laws 2008, c. 359, § 9, emerg. eff. June 3, 2008.

§63-2-308. Order forms.

Controlled dangerous substances in Schedules I and II shall be distributed only by a registrant to another registrant pursuant to an order form obtained from the United States Drug Enforcement Administration. Compliance with the provisions of the Federal Controlled Substances Act respecting order forms shall be deemed compliance with this section. This section shall not apply to dispensing as defined by this act, nor to distribution otherwise authorized by this act.

Added by Laws 1971, c. 119, § 2-308. Amended by Laws 2009, c. 445, § 3, eff. July 1, 2009.

§63-2-309. Prescriptions.

A. 1. Except for dosages medically required for a period not to exceed forty-eight (48) hours which are administered by or on direction of a practitioner, other than a pharmacist, or medication dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled dangerous substance included in Schedule II, which is a prescription drug as determined under regulation promulgated by the Board of Pharmacy, shall be dispensed without an electronic prescription of a practitioner; provided, that in emergency situations, as prescribed by the Board of Pharmacy by regulation, such drug may be dispensed upon oral prescription reduced promptly to writing and filed by the pharmacist in a manner to be prescribed by rules and regulations of the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

2. Electronic prescribing shall be utilized for Schedules II, III, IV, and V, subject to the requirements set forth in 21 CFR, Section 1311 et seq.

3. An electronic prescription with electronic signature may serve as an original prescription, subject to the requirements set forth in 21 CFR, Section 1311 et seq.

4. Prescriptions shall be retained in conformity with the requirements of this section and Section 2-307 of this title. No prescription for a Schedule II substance may be refilled.

5. The electronic prescription requirement provided for in this section shall not apply to prescriptions for controlled dangerous substances issued by any of the following:

a. a person licensed to practice veterinary medicine,

b. a practitioner who experiences temporary technological or electrical failure or other extenuating circumstance that prevents the prescription from being transmitted electronically; provided, however, that the practitioner documents the reason for this exception in the medical record of the patient,

c. a practitioner, other than a pharmacist, who dispenses directly to an ultimate user,

d. a practitioner who orders a controlled dangerous substance to be administered through an on-site pharmacy in:

(1) a hospital as defined in Section 1-701 of this title,

(2) a nursing facility as defined in Section 1-1902 of this title,

(3) a hospice inpatient facility as defined in Section 1-860.2 of this title,

(4) an outpatient dialysis facility,

(5) a continuum of care facility as defined in Section 1-890.2 of this title, or

(6) a penal institution listed in Section 509 of Title 57 of the Oklahoma Statutes,

e. a practitioner who writes a prescription to be dispensed by a pharmacy located on federal property, provided the practitioner documents the reason for this exception in the medical record of the patient, or

f. a practitioner that has received a waiver or extension from his or her licensing board.

6. Electronic prescriptions shall not be utilized under the following circumstances:

a. compound prescriptions containing two or more commercially available products or two or more active pharmaceutical ingredients,

b. compounded infusion prescriptions containing two or more commercially available products or two or more active pharmaceutical ingredients,
c. prescriptions issued under approved research protocols, or
d. if the practitioner determines that an electronic prescription cannot be issued in a timely manner and the condition of the patient is at risk.

7. A pharmacist who receives a written, oral or facsimile prescription shall not be required to verify that the prescription falls under one of the exceptions provided for in paragraph 6 of this subsection. Pharmacists may continue to dispense medications from otherwise valid written, oral or facsimile prescriptions that are consistent with the provisions of this act.

8. Practitioners shall indicate in the health record of a patient that an exception to the electronic prescription requirement was utilized.

9. All prescriptions issued pursuant to paragraphs 5 and 6 of this subsection shall be issued on an official prescription form provided by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

10. a. Effective January 1, 2020, practitioners shall register with the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control in order to be issued official prescription forms. Such registration shall include, but not be limited to, the primary address and the address of each place of business to be imprinted on official prescription forms. Any change to a registered practitioner's registered address shall be promptly reported to the practitioner's licensing board and the Bureau by the practitioner in a manner approved by the Bureau.
b. A practitioner's registration shall be without fee and subject to approval by the Bureau. Such registration shall be valid for a period of two (2) years and may be denied, suspended or revoked by the Bureau upon a finding by the Bureau or licensing board that the registered practitioner has had any license to practice a medical profession revoked or suspended by any state or federal agency.
c. Where the Bureau has revoked the registration of a registered practitioner, the Bureau may revoke or cancel any official prescription forms in the possession of the registered practitioner. Any revocation or any suspension shall require the registered practitioner to return all unused official prescription forms to the Bureau within fifteen (15)

calendar days after the date of the written notification.

d. A practitioner that has had any license to practice terminated, revoked or suspended by a state or federal agency may, upon restoration of such license or certificate, register to be issued official prescription forms.

11. a. Except as provided in subparagraph f of this paragraph, the Bureau shall issue official prescription forms free of charge only to registered practitioners in this state. Such forms shall not be transferable. The number of official prescription forms issued to a registered practitioner at any time shall be at the discretion of the Bureau.

b. Official prescription forms issued to a registered practitioner shall be imprinted only with the primary address and other addresses listed on the registration of the practitioner. Such prescriptions shall be sent only to the primary address of the registered practitioner.

c. Official prescription forms issued to a registered practitioner shall be used only by the practitioner to whom they are issued.

d. The Bureau may revoke or cancel official prescription forms in possession of registered practitioners when the license of such practitioner is suspended, terminated or revoked.

e. Official prescription forms of registered practitioners who are deceased or who no longer prescribe shall be returned to the Bureau at a designated address. If the registered practitioner is deceased, it is the responsibility of the registered practitioner's estate or lawful designee to return such forms.

f. The Bureau may issue official prescription forms to employees or agents of the Bureau and other government agencies for the purpose of preventing, identifying, investigating and prosecuting unacceptable or illegal practices by providers and other persons and assisting in the recovery of overpayments under any program operated by the state or paid for with state funds. Such prescription forms shall be issued for this purpose only to individuals who are authorized to conduct investigations on behalf of the Bureau or other government agencies as part of their official duties. Individuals and agencies receiving such prescription forms for this purpose shall provide

appropriate assurances to the Bureau that adequate safeguards and security measures are in place to prevent the use of such prescription forms for anything other than official government purposes.

12. a. Adequate safeguards and security measures shall be undertaken by registered practitioners holding official prescription forms to assure against the loss, destruction, theft or unauthorized use of the forms. Registered practitioners shall maintain a sufficient but not excessive supply of such forms in reserve.

b. Registered practitioners shall immediately notify the Bureau, in a manner designated by the Bureau, upon their knowledge of the loss, destruction, theft or unauthorized use of any official prescription forms issued to them, as well as the failure to receive official prescription forms within a reasonable time after ordering them from the Bureau.

c. Registered practitioners shall immediately notify the Bureau upon their knowledge of any diversion or suspected diversion of drugs pursuant to the loss, theft or unauthorized use of prescriptions.

B. 1. Except for dosages medically required for a period not to exceed seventy-two (72) hours which are administered by or on direction of a practitioner, other than a pharmacist, or medication dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled dangerous substance included in Schedule III or IV, which is a prescription drug as determined under regulation promulgated by the Board of Pharmacy, shall be dispensed without an electronic prescription.

2. Any prescription for a controlled dangerous substance in Schedule III , IV or V may not be filled or refilled more than six (6) months after the date thereof or be refilled more than five times after the date of the prescription, unless renewed by the practitioner.

C. Whenever it appears to the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control that a drug not considered to be a prescription drug under existing state law or regulation of the Board of Pharmacy should be so considered because of its abuse potential, the Director shall so advise the Board of Pharmacy and furnish to the Board all available data relevant thereto.

D. 1. "Prescription", as used in this section, means a written, oral or electronic order by a practitioner to a pharmacist for a controlled dangerous substance for a particular patient, which specifies the date of its issue, and the full name and address of the patient and, if the controlled dangerous substance is prescribed

for an animal, the species of the animal, the name and quantity of the controlled dangerous substance prescribed, the directions for use, the name and address of the owner of the animal and, if written, the signature of the practitioner.

2. "Registered practitioner", as used in this section, means a licensed practitioner duly registered with the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control to be issued official prescription forms.

E. No person shall solicit, dispense, receive or deliver any controlled dangerous substance through the mail, unless the ultimate user is personally known to the practitioner and circumstances clearly indicate such method of delivery is in the best interest of the health and welfare of the ultimate user.

Added by Laws 1971, c. 119, § 2-309. Amended by Laws 1972, c. 229, § 4, emerg. eff. April 7, 1972; Laws 1982, c. 120, § 4, emerg. eff. April 6, 1982; Laws 1990, c. 210, § 9, eff. Sept. 1, 1990; Laws 1996, c. 306, § 7, emerg. eff. June 10, 1996; Laws 2008, c. 273, § 2, eff. Nov. 1, 2008; Laws 2011, c. 239, § 7, eff. Nov. 1, 2011; Laws 2012, c. 83, § 1, eff. Nov. 1, 2012; Laws 2013, c. 323, § 1, eff. Nov. 1, 2013; Laws 2018, c. 255, § 1, eff. Jan. 1, 2020.

NOTE: Laws 2012, c. 80, § 5 repealed by Laws 2013, c. 15, § 72, emerg. eff. April 8, 2013.

§63-2-309A. Short title.

Section 2-309A et seq. of this title shall be known and may be cited as the “Anti-Drug Diversion Act”.

Added by Laws 1990, c. 210, § 1, eff. Sept. 1, 1990. Amended by Laws 2004, c. 300, § 1, emerg. eff. May 12, 2004.

§63-2-309B. Definitions.

For the purposes of the Anti-Drug Diversion Act:

1. "Bureau" means the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

2. "Dispenser" means a person who distributes a Schedule II controlled dangerous substance, but does not include a licensed hospital pharmacy or a licensed nurse or medication aide who administers such a substance at the direction of a licensed physician;

3. "Dispenser’s registration number" means the dispenser’s Oklahoma State Bureau of Narcotics and Dangerous Drugs Control registration number or, in the case of a pharmacist, the National Association of Boards of Pharmacy number for the pharmacy where the dispensation is made;

4. "Exception report" means an output of data indicating Schedule II controlled dangerous substance dispensation which is outside expected norms for a prescriber practicing a particular

specialty or field of health care, for a dispenser doing business in a particular location, or for a recipient;

5. "Recipient" means the person for whom a prescription is prescribed and who is the lawful intended ultimate user;

6. "Recipient's agent" means a person who is authorized by the ultimate user to pick up the recipient's medication and deliver it to the recipient or a person who claims a prescription other than the person to whom the medication is prescribed;

7. "Recipient's identification number" and "recipient's agent's identification number" means the unique number contained on a valid passport, military identification card, driver license, or identification card issued to a recipient pursuant to Section 6-105 of Title 47 of the Oklahoma Statutes or similar statute of another state if the recipient is not a resident of the State of Oklahoma, or, if the recipient is less than eighteen (18) years old and has no such identification, the unique number contained on a valid passport, military identification card, driver license, or identification card issued to the recipient's parent or guardian pursuant to Section 6-105 of Title 47 of the Oklahoma Statutes or similar statute of another state if the parent or guardian is not a resident of the State of Oklahoma, or, if the controlled dangerous substance is obtained for an animal, the unique number contained on the animal owner's valid driver license or identification card issued pursuant to Section 6-105 of Title 47 of the Oklahoma Statutes or similar statute of another state if the owner is not a resident of the State of Oklahoma. Nonresident drug outlets registered pursuant to the Oklahoma Pharmacy Act and resident drug outlets defined in Section 353.1 of Title 59 of the Oklahoma Statutes are exempt from the picture identification requirement if the nonresident and resident drug outlets have obtained the identification of the patient through the prescription benefit plan of the patient;

8. "Registrant" means a person, persons, corporation or other entity who has been issued by the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control a registration pursuant to Section 2-302 of this title; and

9. "State" means any state, territory, or possession of the United States, the District of Columbia, or foreign nation.

Added by Laws 1990, c. 210, § 2, eff. Sept. 1, 1990. Amended by Laws 2004, c. 300, § 2, emerg. eff. May 12, 2004; Laws 2007, c. 81, § 1, eff. Nov. 1, 2007; Laws 2008, c. 273, § 3, eff. Nov. 1, 2008; Laws 2009, c. 445, § 4, eff. July 1, 2009.

§63-2-309C. Dispensers of Schedule II, III, IV or V controlled dangerous substances - Transmittal of certain information to central repository - Willful failure to transmit - Monitoring of pseudoephedrine product sales.

A. A dispenser of a Schedule II, III, IV or V controlled dangerous substance dispensed pursuant to a valid prescription shall transmit to a central repository designated by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control using the American Society for Automation in Pharmacy's (ASAP) Telecommunications Format for Controlled Substances version designated in rules by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the following information for each dispensation:

1. Recipient's and recipient's agent's name;
2. Recipient's and recipient's agent's address;
3. Recipient's and recipient's agent's date of birth;
4. Recipient's and recipient's agent's identification number;
5. National Drug Code number of the substance dispensed;
6. Date of the dispensation;
7. Quantity of the substance dispensed;
8. Prescriber's United States Drug Enforcement Agency registration number;
9. Dispenser's registration number; and
10. Other information as required by administrative rule.

B. The information required by this section shall be transmitted:

1. In a format or other media designated acceptable by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; and
2. Within twenty-four (24) hours of the time that the substance is dispensed. Beginning January 1, 2012, all information shall be submitted on a real-time log.

C. When a prescription is written or dispensed to a resident of a nursing home or a person who is under the care of a hospice program licensed pursuant to the provisions of the Oklahoma Hospice Licensing Act who does not have an identification card issued by the state or another form of a recipient identification number pursuant to Section 2-309B of this title, a Social Security number may be used for the purpose of complying with the reporting requirements provided for in this section.

D. Willful failure to transmit accurate information as required by this section shall be a misdemeanor punishable, upon conviction, by not more than one (1) year in the county jail, or by a fine of not more than One Thousand Dollars ($1,000.00), or by both such imprisonment and fine, or administrative action may be taken pursuant to Section 2-304 of this title.

E. The Director of the Bureau shall have the authority to allow paper submissions on a form designated by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, if the dispenser has an appropriate hardship.

Added by Laws 1990, c. 210, § 3, eff. Sept. 1, 1990. Amended by Laws 1998, c. 142, § 2, eff. July 1, 1998; Laws 2004, c. 300, § 3, emerg. eff. May 12, 2004; Laws 2005, c. 128, § 3, eff. Nov. 1, 2005;

Laws 2009, c. 445, § 5, eff. July 1, 2009; Laws 2010, c. 458, § 5, eff. Nov. 1, 2010; Laws 2012, c. 80, § 6, eff. Nov. 1, 2012; Laws 2012, c. 206, § 3, eff. July 1, 2012; Laws 2013, c. 15, § 73, emerg. eff. April 8, 2013.
NOTE: Laws 2012, c. 83, § 2 repealed by Laws 2013, c. 15, § 74, emerg. eff. April 8, 2013.

§63-2-309D. See the following versions:
OS 63-2-309Dv1 (SB 937, Laws 2018, c. 32, § 1).
OS 63-2-309Dv2 (SB 1446, Laws 2018, c. 175, § 4).

§63-2-309E. Central repository information - Control of access.
A. All access to information in the central repository shall be controlled by and made through the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.
B. For the purposes of court proceedings, the Director of the Bureau, or designee, shall be the designated keeper of the records. Added by Laws 1990, c. 210, § 5, eff. Sept. 1, 1990. Amended by Laws 2004, c. 300, § 5, emerg. eff. May 12, 2004; Laws 2010, c. 89, § 2, eff. Nov. 1, 2010.

§63-2-309F. Central repository - Powers, duties and responsibilities - Contract with vendor to serve as.
A. The central repository provided by the Anti-Drug Diversion Act shall:
1. Be capable of providing the collected information in forms required by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, including but not limited to, dispensations by prescriber name or registration number, dispenser name or registration number, recipient name or identification number, type of substance, frequency, quantity, and location of dispensation;
2. Provide the Bureau with continual, twenty-four-hour per day, on-line access to the collected information;
3. Secure the collected information against access by unauthorized persons;
4. Provide the Bureau, in a reasonable time, with all collected information in a format readily usable by the Bureau, in the event the relationship between the state and central repository is terminated; and
5. Not withhold access to the collected information for any reason other than failure of the Bureau to timely pay agreed fees and charges for use of the central repository.
B. The Bureau is authorized to enter into a contract with a vendor to serve as the central repository provided for in the Anti-Drug Diversion Act or to purchase the necessary equipment to create the central repository within the Bureau. The Bureau is authorized to enter into agreements and contracts with vendors as necessary to

facilitate the electronic transmission of data contained within the central repository to registrants and other persons as provided for in Section 2-309D of this title. The central repository shall not be subject to the provisions of Sections 34.6 through 34.33 of Title 62 of the Oklahoma Statutes and shall be maintained and controlled by personnel of the Bureau pursuant to the confidentiality requirements provided for in Section 2-309D of this title.
Added by Laws 1990, c. 210, § 6, eff. Sept. 1, 1990. Amended by Laws 2004, c. 300, § 6, emerg. eff. May 12, 2004; Laws 2010, c. 458, § 6, eff. Nov. 1, 2010; Laws 2013, c. 340, § 2, eff. Nov. 1, 2013.

§63-2-309G. Development of criteria for production of exception reports out of information collected.

The Oklahoma Bureau of Narcotics and Dangerous Drugs Control shall develop criteria for the production of exception reports out of the information collected at the central repository. In developing these criteria, the Bureau shall seek the counsel of the following entities:

1. Board of Podiatric Medical Examiners;
2. Board of Dentistry;
3. Board of Pharmacy;
4. State Board of Medical Licensure and Supervision;
5. State Board of Osteopathic Examiners;
6. State Board of Veterinary Medical Examiners;
7. Oklahoma Podiatric Medical Association;
8. Oklahoma Dental Association;
9. Oklahoma Pharmaceutical Association;
10. Oklahoma State Medical Association;
11. Oklahoma Osteopathic Association; and
12. Oklahoma Veterinary Medical Association.

Added by Laws 1990, c. 210, § 7, eff. Sept. 1, 1990. Amended by Laws 1997, c. 238, § 6, eff. Nov. 1, 1997; Laws 2004, c. 300, § 7, emerg. eff. May 12, 2004.

§63-2-309H. Implementation and enforcement of act - Rules and regulations.

The Director of the Oklahoma Bureau of Narcotics and Dangerous Drugs Control shall promulgate and adopt rules to implement and enforce the Anti-Drug Diversion Act.
Added by Laws 1990, c. 210, § 8, eff. Sept. 1, 1990. Amended by Laws 2004, c. 300, § 8, emerg. eff. May 12, 2004.

§63-2-309I. Prescription limits and rules for opioid drugs – Copay and other insurance requirements – Informed consent process.

A. A practitioner shall not issue an initial prescription for an opioid drug which is a prescription drug in a quantity exceeding a seven-day supply for treatment of acute pain for an adult patient,

or a seven-day supply for treatment of acute pain for a patient under the age of eighteen (18) years old. Any prescription for acute pain pursuant to this subsection shall be for the lowest effective dose of immediate-release opioid drug.

B. Prior to issuing an initial prescription of a Schedule II controlled dangerous substance or any opioid drug that is a prescription drug in a course of treatment for acute or chronic pain, a practitioner shall:

1. Take and document the results of a thorough medical history, including the experience of the patient with nonopioid medication and nonpharmacological pain-management approaches and substance abuse history;

2. Conduct, as appropriate, and document the results of a physical examination;

3. Develop a treatment plan with particular attention focused on determining the cause of pain of the patient;

4. Access relevant prescription monitoring information from the central repository pursuant to Section 2-309D of Title 63 of the Oklahoma Statutes;

5. Limit the supply of any opioid drug prescribed for acute pain to a duration of no more than seven (7) days as determined by the directed dosage and frequency of dosage;

6. In the case of a patient under the age of eighteen (18) years old, enter into a patient-provider agreement with a parent or guardian of the patient; and

7. In the case of a patient who is a pregnant woman, enter into a patient-provider agreement with the patient.

C. No less than seven (7) days after issuing the initial prescription pursuant to subsection A of this section, the practitioner, after consultation with the patient, may issue a subsequent prescription for the drug to the patient in a quantity not to exceed seven (7) days, provided that:

1. The subsequent prescription would not be deemed an initial prescription under this section;

2. The practitioner determines the prescription is necessary and appropriate to the treatment needs of the patient and documents the rationale for the issuance of the subsequent prescription; and

3. The practitioner determines that issuance of the subsequent prescription does not present an undue risk of abuse, addiction or diversion and documents that determination.

D. Prior to issuing the initial prescription of a Schedule II controlled dangerous substance or any opioid drug that is a prescription drug in a course of treatment for acute or chronic pain and again prior to issuing the third prescription of the course of treatment, a practitioner shall discuss with the patient or the parent or guardian of the patient if the patient is under eighteen (18) years of age and is not an emancipated minor, the risks

associated with the drugs being prescribed, including but not limited to:

1. The risks of addiction and overdose associated with opioid drugs and the dangers of taking opioid drugs with alcohol, benzodiazepines and other central nervous system depressants;

2. The reasons why the prescription is necessary;

3. Alternative treatments that may be available; and

4. Risks associated with the use of the drugs being prescribed, specifically that opioids are highly addictive, even when taken as prescribed, that there is a risk of developing a physical or psychological dependence on the controlled dangerous substance, and that the risks of taking more opioids than prescribed or mixing sedatives, benzodiazepines or alcohol with opioids can result in fatal respiratory depression.

The practitioner shall include a note in the medical record of the patient that the patient or the parent or guardian of the patient, as applicable, has discussed with the practitioner the risks of developing a physical or psychological dependence on the controlled dangerous substance and alternative treatments that may be available. The applicable state licensing board of the practitioner shall develop and make available to practitioners guidelines for the discussion required pursuant to this subsection.

E. At the time of the issuance of the third prescription for a prescription opioid drug, the practitioner shall enter into a pain-management agreement with the patient.

F. When a Schedule II controlled dangerous substance or any prescription opioid drug is continuously prescribed for three (3) months or more for chronic pain, the practitioner shall:

1. Review, at a minimum of every three (3) months, the course of treatment, any new information about the etiology of the pain, and the progress of the patient toward treatment objectives and document the results of that review;

2. Assess the patient prior to every renewal to determine whether the patient is experiencing problems associated with physical and psychological dependence and document the results of that assessment;

3. Periodically make reasonable efforts, unless clinically contraindicated, to either stop the use of the controlled substance, decrease the dosage, try other drugs or treatment modalities in an effort to reduce the potential for abuse or the development of physical or psychological dependence and document with specificity the efforts undertaken;

4. Review the central repository information in accordance with Section 2-309D of Title 63 of the Oklahoma Statutes; and

5. Monitor compliance with the pain-management agreement and any recommendations that the patient seek a referral.

G. This section shall not apply to a prescription for a patient who is currently in active treatment for cancer, receiving hospice care from a licensed hospice or palliative care, or is a resident of a long-term care facility, or to any medications that are being prescribed for use in the treatment of substance abuse or opioid dependence.

H. Every policy, contract or plan delivered, issued, executed or renewed in this state, or approved for issuance or renewal in this state by the Insurance Commissioner, and every contract purchased by the Employees Group Insurance Division of the Office of Management and Enterprise Services, on or after the effective date of this act, that provides coverage for prescription drugs subject to a copayment, coinsurance or deductible shall charge a copayment, coinsurance or deductible for an initial prescription of an opioid drug prescribed pursuant to this section that is either:

1. Proportional between the cost sharing for a thirty-day supply and the amount of drugs the patient was prescribed; or

2. Equivalent to the cost sharing for a full thirty-day supply of the opioid drug, provided that no additional cost sharing may be charged for any additional prescriptions for the remainder of the thirty-day supply.

I. Any provider authorized to prescribe opioids shall adopt and maintain a written policy or policies that include execution of a written agreement to engage in an informed consent process between the prescribing provider and qualifying opioid therapy patient. For the purposes of this section, "qualifying opioid therapy patient" means:

1. A patient requiring opioid treatment for more than three (3) months;

2. A patient who is prescribed benzodiazepines and opioids together; or

3. A patient who is prescribed a dose of opioids that exceeds one hundred (100) morphine equivalent doses.

Added by Laws 2018, c. 175, § 5, eff. Nov. 1, 2018.

§63-2-310. Samples.

No person shall distribute samples of controlled dangerous substances to a practitioner without simultaneously preparing and leaving with that practitioner a specific, written list of the items so distributed, the form and control of which shall be prescribed by rules promulgated by the Director.

Added by Laws 1971, c. 119, § 2-310. Amended by Laws 2009, c. 442, § 5, eff. July 1, 2009.

§63-2-311. Sale of certain substances.

A. The legal owner of any stock of controlled dangerous substances, as listed in Schedules II through IV, upon

discontinuation of manufacture, distribution, dispensing, prescribing, administering or use for scientific purposes of said substances, may sell said stock to a manufacturer, wholesaler or pharmacist. Schedule II substances must be transferred on an order form as provided in Section 2-308 of this title.

B. A pharmacist, only upon an order form as provided in Section 2-308 of this title, may sell to a physician, dentist or veterinarian, in quantities not exceeding thirty (30) milliliters at any one time, aqueous or oleaginous solutions of which the content of controlled dangerous substances does not exceed a proportion greater than twenty percent (20%) of the complete solution, to be used for medical purposes.

Amended by Laws 1982, c. 120, § 5, emerg. eff. April 6, 1982.

§63-2-312. Physicians, podiatrists, optometrists, dentists, veterinarians and advanced practice nurses - Authority to prescribe, administer or dispense.

A. A physician, podiatrist, optometrist or a dentist who has complied with the registration requirements of the Uniform Controlled Dangerous Substances Act, in good faith and in the course of such person's professional practice only, may prescribe and administer controlled dangerous substances, or may cause the same to be administered by medical or paramedical personnel acting under the direction and supervision of the physician, podiatrist, optometrist or dentist, and only may dispense controlled dangerous substances pursuant to the provisions of Sections 355, 355.1 and 355.2 of Title 59 of the Oklahoma Statutes.

B. A veterinarian who has complied with the registration requirements of the Uniform Controlled Dangerous Substances Act, in good faith and in the course of the professional practice of the veterinarian only, and not for use by a human being, may prescribe, administer, and dispense controlled dangerous substances and may cause them to be administered by an assistant or orderly under the direction and supervision of the veterinarian.

C. An advanced practice nurse who is recognized to prescribe by the Oklahoma Board of Nursing as an advanced registered nurse practitioner, clinical nurse specialist or certified nurse-midwife, who is subject to medical direction by a supervising physician, pursuant to Section 567.3a of Title 59 of the Oklahoma Statutes, and who has complied with the registration requirements of the Uniform Controlled Dangerous Substances Act, in good faith and in the course of professional practice only, may prescribe and administer Schedule III, IV and V controlled dangerous substances.

D. An advanced practice nurse who is recognized to order, select, obtain and administer drugs by the Oklahoma Board of Nursing as a certified registered nurse anesthetist pursuant to Section 353.1b of Title 59 of the Oklahoma Statutes and who has complied

with the registration requirements of the Uniform Controlled Dangerous Substances Act, in good faith and in the course of such practitioner's professional practice only, may order, select, obtain and administer Schedules II through V controlled dangerous substances in a preanesthetic preparation or evaluation; anesthesia induction, maintenance or emergence; or postanesthesia care setting only. A certified registered nurse anesthetist may order, select, obtain and administer such drugs only during the perioperative or periobstetrical period.

E. A physician assistant who is recognized to prescribe by the State Board of Medical Licensure and Supervision under the medical direction of a supervising physician, pursuant to subsection D of Section 519.6 of Title 59 of the Oklahoma Statutes, and who has complied with the registration requirements of the Uniform Controlled Dangerous Substances Act, in good faith and in the course of professional practice only, may prescribe and administer Schedule II through V controlled dangerous substances.

Added by Laws 1971, c. 119, § 2-312. Amended by Laws 1987, c. 20, § 3, eff. Nov. 1, 1987; Laws 1994, c. 52, § 5; Laws 1996, c. 186, § 10, eff. Nov. 1, 1996; Laws 1997, c. 250, § 13, eff. Nov. 1, 1997; Laws 1998, c. 128, § 6, eff. Nov. 1, 1998; Laws 2001, c. 385, § 6, eff. Nov. 1, 2001.

§63-2-312.1. Prescription of anabolic steroids or human growth hormones.

A. A licensed practitioner as defined in Section 355 of Title 59 of the Oklahoma Statutes shall not prescribe, dispense, deliver, or administer an anabolic steroid or human growth hormone or cause an anabolic steroid or human growth hormone to be administered under the direction or supervision of the practitioner except for a valid medical purpose and in the course of a professional practice. A valid medical purpose for the use of anabolic steroids or human growth hormones shall not include bodybuilding, muscle enhancement or increasing muscle bulk or strength of a person who is in good health. This section shall not prohibit the use of anabolic steroids for the treatment of livestock or domestic animals in accordance with state or federal law.

B. The prescribing, dispensing, delivering or administering of an anabolic steroid by a licensed practitioner in violation of the provisions of subsection A of this section shall be grounds for revocation or nonrenewal of the license of such licensed practitioner to practice in this state. In addition, any licensed practitioner prescribing, dispensing, delivering or administering an anabolic steroid in violation of the provisions of subsection A of this section, upon conviction thereof shall be guilty of a felony punishable by imprisonment in the State Penitentiary for a term of not more than three (3) years, or by a fine not to exceed Ten

Thousand Dollars ($10,000.00), or by both such imprisonment and fine.
Added by Laws 1989, c. 304, § 2, eff. Nov. 1, 1989. Amended by Laws 1990, c. 271, § 1, operative July 1, 1990. Renumbered from § 355.3 of Title 59 by Laws 1990, c. 271, § 3, operative July 1, 1990. Amended by Laws 1997, c. 133, § 527, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 380, eff. July 1, 1999.
NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 527 from July 1, 1998, to July 1, 1999.

§63-2-312.2. Sale or dispensation of Naloxone.

Naloxone, also known as Narcan, or any of its generic equivalents may be dispensed or sold by a pharmacy without a prescription; provided, however, it shall be dispensed or sold only by, or under the supervision of, a licensed pharmacist. Naloxone may be prescribed and dispensed by a licensed pharmacist; provided, however, it shall be dispensed only by, or under the supervision of, a licensed pharmacist. No dispensing protocol shall be required.
Added by Laws 2014, c. 154, § 6, eff. Nov. 1, 2014. Amended by Laws 2017, c. 234, § 2, eff. Nov. 1, 2017.

§63-2-313. Excepted preparations - Conditions of exemption.

A. Except as otherwise in this act specifically provided, this act shall not apply to the following cases:

1. Prescribing, administering, dispensing, or selling at retail not more than one of any of the following medicinal preparations that contain in thirty (30) milliliters or, if a solid or semisolid preparation, in one (1) avoirdupois ounce:

a. not more than one hundred sixty (160) milligrams of opium;

b. not more than twenty (20) milligrams of morphine or of any of its salts; or

c. not more than eighty (80) milligrams of codeine or any of its salts.

2. Prescribing, administering, dispensing, or selling at retail of liniments, ointments, and other preparations, that are susceptible of external use only and that contain narcotic drugs in such combinations as to prevent their being readily extracted from such liniments, ointments, or preparations, except that this act shall apply to all liniments, ointments and other preparations that contain coca leaves in any quantity or combination.

B. The exemptions authorized by subparagraphs 1 and 2 of subsection A of this section shall be subject to all of the conditions set out in this subsection. The exemptions authorized by subparagraph 3 of subsection A of this section shall not, however, be subject to the conditions set out in subparagraphs 1, 2 or 3 of

this subsection, but shall be subject to subparagraph 4 of this subsection.

1. No person shall prescribe, administer, dispense, or distribute under the exemptions of this section, to any one person, or for the use of any one person or animal, any preparation or preparations included within this section, when he knows, or can by reasonable diligence ascertain, that such prescribing, administering, dispensing or distributing will provide the persons to whom or for whose use, or the owner of the animal for the use of which such preparation is prescribed, administered, dispensed, or distributed, within any forty-eight (48) consecutive hours, with more than three hundred twenty (320) milligrams of opium, or more than forty (40) milligrams of morphine or any of its salts, or more than one hundred sixty (160) milligrams of codeine or any of its salts, or will provide such person or the owner of such animal, within forty-eight (48) consecutive hours, with more than one preparation exempted by this section from the operation of this act.

2. This act shall not apply to any compound, mixture or preparation which contains not more than one (1) drachm of paregoric per thirty (30) milliliters.

3. The medicinal preparation, or the liniment, ointment, or other preparation susceptible of external use only, prescribed, administered, dispensed, or distributed, shall contain, in addition to the narcotic drug in it, some drug or drugs conferring upon it medicinal qualities other than those possessed by the narcotic drug alone. Such preparation shall be prescribed, administered, dispensed, and distributed in good faith as a medicine, and not for the purpose of evading the provisions of this act.

4. The provisions of Section 2-314 of this act shall apply to the preparations referred to in subsection A of this section. Nothing in this section shall be construed to limit the kind and quantity of any narcotic drug that may be prescribed, administered, dispensed, or distributed to any person or for the use of any person or animal when it is prescribed, administered, dispensed, or distributed in compliance with the general provisions of this act. Laws 1971, c. 119, § 2-313.

§63-2-314. Labels.

A. Whenever a manufacturer or wholesaler distributes a controlled dangerous substance in a container prepared by him, he shall securely affix to each individual container in which that substance is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of substance contained therein.

B. Whenever a pharmacist dispenses any controlled dangerous substance, he shall affix to each immediate container in which such substance is dispensed the prescription number, the date dispensed,

the patient's name, the name of the doctor, name and address of the pharmacy for which he is lawfully acting; or, if the patient is an animal, the name of the owner of the animal and words "for veterinary use only".

C. Whenever a practitioner dispenses any controlled dangerous substance, he shall affix to each immediate container in which such substance is dispensed a label showing date dispensed, his name, his address, his state registration number, name of the patient, or, if the patient is an animal, the name of the owner of the animal.

D. No person except a pharmacist for the purpose of filling a prescription shall alter, deface, or remove any label so affixed. Added by Laws 1971, c. 119, § 2-314.

§63-2-315. Submission of out-of-date controlled dangerous substances for destruction.

A. Except as otherwise provided by law, any person required to obtain an annual registration pursuant to Section 2-302 of this title, or any group home, or residential care home as defined by Section 1-820 of this title shall submit for destruction all controlled dangerous substances which are out of date, which are unwanted, unused or which are abandoned by their owner at their facility due to death or other circumstances.

B. All controlled dangerous substances described in subsection A of this section shall be submitted to the Oklahoma City laboratory of the Oklahoma State Bureau of Investigation, along with all required information on forms provided by the Oklahoma State Bureau of Investigation, to the federal Drug Enforcement Administration, to a duly registered reverse distributor, to the original registered supplier or their registered agent, to a duly registered retail pharmacy, or to a hospital or clinic with an on-site pharmacy pursuant to the rules set forth in Part 1317 of Title 21 of the Code of Federal Regulations. When any such substance is transported by private contract or common carrier or United States Postal Service for the purpose of destruction, the sender shall require a receipt from such private contract or common carrier or United States Postal Service, and such receipt shall be retained as a permanent record by the sender.

C. Controlled dangerous substances submitted to the Oklahoma State Bureau of Investigation pursuant to the provisions of this section shall be destroyed pursuant to the procedures provided in subsection A of Section 2-508 of this title.

Controlled dangerous substances submitted to any distributors, reverse distributors or their original registered suppliers pursuant to the provisions of this section shall be destroyed by incineration so as to make the substance absolutely unusable for human purposes. An official record listing the property destroyed, the location of destruction and disposal, and the name and title of the person

supervising the destruction and disposal shall be submitted to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control and the federal Drug Enforcement Administration office located nearest the destruction site.

D. The Office of the Chief Medical Examiner is hereby authorized to perform on-site incineration of all controlled dangerous substances which are obtained in the discharge of the official duties of the Chief Medical Examiner. Any record relating to destruction of a controlled dangerous substance shall be maintained as required by the state or federal government and shall be available for inspection by appropriate state or federal government regulatory agencies.

E. This section shall constitute a part of the Uniform Controlled Dangerous Substances Act.

Added by Laws 1988, c. 308, § 10, operative Jan. 1, 1989. Amended by Laws 1990, c. 144, § 7, emerg. eff. May 1, 1990; Laws 1992, c. 127, § 1, emerg. eff. April 27, 1992; Laws 1996, c. 306, § 8, emerg. eff. June 10, 1996; Laws 2015, c. 305, § 6.

§63-2-321. Short title.

Sections 3 through 11 of this act shall constitute a part of the Uniform Controlled Dangerous Substances Act and shall be known and may be cited as the "Precursor Substances Act".

Added by Laws 1990, c. 220, § 3, eff. Sept. 1, 1990.

§63-2-322. Precursor substances - License or permit.

A. No person or business shall possess, sell, manufacture, transfer, or otherwise furnish any of the following precursor substances without first having a permit or license issued by the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, except as provided in Section 2-327 of this title:

1. D-Lysergic acid;
2. Ergotamine and its salts;
3. Ergonovine and its salts;
4. Methylamine;
5. Ethylamine;
6. Phenyl-2-Propanone;
7. Phenylacetic acid and its salts;
8. Ephedrine, its salts, optical isomers and salts of optical isomers;
9. Norpseudoephedrine, its salts, optical isomers, and salts of optical isomers;
10. Phenylpropanolamine, its salts, optical isomers and salts of optical isomers;
11. Benzyl cyanide;
12. N-methylephedrine, its salts, optical isomers and salts of optical isomers;

13. Pseudoephedrine, its salts, optical isomers and salts of optical isomers;
14. Chloroephedrine, its salts, optical isomers and salts of optical isomers;
15. Piperidine and its salts;
16. Pyrrolidine and its salts;
17. Propionic anhydride;
18. Isosafrole;
19. Safrole;
20. Piperonal; and
21. Red Phosphorus.

B. Upon completion of an application for a license pursuant to Section 2-323 of this title, or a permit pursuant to Section 2-324 of this title, the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall either grant or deny such license or permit. A denial of an application for a permit or license shall be handled as provided by Section 2-325 of this title. Added by Laws 1990, c. 220, § 4, eff. Sept. 1, 1990. Amended by Laws 1998, c. 12, § 1, eff. Nov. 1, 1998.

§63-2-323. License to sell, transfer or otherwise furnish - Application - Records - Fee.

A. A manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any precursor substance defined in Section 4 of this act must first obtain a license annually from the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

B. The procedure for obtaining a license to sell, transfer, manufacture, purchase for resale, or otherwise furnish a precursor substance shall be as follows:
1. Obtain an application from the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;
2. Submit the application to the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; and
3. Demonstrate a legitimate reason to sell, transfer, or otherwise furnish precursor chemicals.

C. The content of the application for a license shall include, but not be limited to, the following information:
1. Name of business;
2. Address of business other than a post office box number;
3. Phone number of business;
4. Names and addresses of business owners;
5. Location of storage facility;
6. Identification of precursor substances to be sold; and
7. Criminal history of applicant.

D. A licensee shall make an accurate and legible record of any transaction of precursor substances and maintain such record

together with the following records for a period of at least two (2) years:

1. Inventory on hand;

2. Purchase receipts;

3. Manufacturing records including the date and quantity of any precursor substance manufactured, the quantity of precursor substances used in manufacturing any other substance or product, and the inventory on hand of precursor substances after the manufacturing of any other substance or product;

4. Copies of the Oklahoma Bureau of Narcotics purchase permits or written authorization waving the permit requirement, as provided by subsection E of Section 6 of this act; and

5. Records of substance disposal.

E. The license shall cost One Hundred Dollars ($100.00) annually and shall be renewable on July 1 of each year. The fee shall be payable to the Oklahoma State Bureau of Narcotics Revolving Fund.

Added by Laws 1990, c. 220, § 5, eff. Sept. 1, 1990.

§63-2-324. Permit to possess - Application Fee - Regular report in lieu of permit.

A. Any person or business having a legitimate need for using precursor substances defined in Section 4 of this act, shall apply in person to the Director of Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, or his designee, for a permit to possess such substances each time said substance is obtained.

B. The following must be submitted in person to the Director of Oklahoma Bureau of Narcotics and Dangerous Drugs Control, or his designee, to receive a permit for possession of precursor substances:

1. A driver's license number or other personal identification certificate number, date of birth, residential or mailing address, other than a post office box number, and a driver's license or personal identification card issued by the Department of Public Safety which contains a photograph of the recipient. In the event the applicant is a corporation, the information in this paragraph shall be required of the person making application for the permit. In addition, the person making application for the permit on behalf of a corporation shall disclose his relationship to the corporation;

2. A complete description of how the substance is to be used; and

3. The location where the substance is to be stored and used.

C. The permit shall consist of three parts, including:

1. A copy to be retained by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

2. A copy to be retained by the manufacturer, wholesaler, retailer, or other person furnishing precursor substances; and

3. A copy to be attached to the container of the precursor substances and to be kept with the substances at all times.

D. The permit shall cost Ten Dollars ($10.00) and shall be payable to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Revolving Fund.

E. The Director may authorize in writing any person or business to submit a comprehensive monthly report in lieu of the permit required by this section, if the Director determines that the recipient has established a record of utilization of the substance solely for a lawful purpose.

Added by Laws 1990, c. 220, § 6, eff. Sept. 1, 1990.

§63-2-325. Denial, suspension or revocation of license or permit - Grounds - Order to show cause - Administrative proceeding - Suspension without order to show cause.

A. A license or permit, obtained pursuant to Sections 5 or 6 of this act, shall be denied, suspended, or revoked by the Director upon finding that the licensee or permit holder has:

1. Materially falsified any application filed pursuant to this act or required by this act;

2. Been convicted of a misdemeanor relating to any precursor substance defined in Section 4 of this act or any felony under the laws of this state or the United States; or

3. Failed to maintain effective controls against the diversion of said precursors to unauthorized persons or entities.

B. Before denying, suspending, or revoking a license or permit, the Director shall cause to be served upon the applicant, licensee, or permit holder an order to show cause why a license or a permit should not be denied, suspended, or revoked. The order to show cause shall contain a statement of the basis therefor and shall call upon the applicant, licensee, or permit holder to appear before the appropriate person or agency at the time and place within thirty (30) days after the date of service of the order. The proceedings shall be conducted in accordance with the Administrative Procedures Act without regard to any criminal prosecution or other proceeding.

C. The Director shall suspend, without an order to show cause, any license or permit simultaneously with the institution of proceedings described in subsection B of this section if he finds there is imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, unless withdrawn by the Director or dissolved by a court of competent jurisdiction.

Added by Laws 1990, c. 220, § 7, eff. Sept. 1, 1990.

§63-2-326. Discovery of loss or theft - Disposal - Reports - Other duties.

A. Any person or business, licensed or permitted, who discovers a loss or theft of, or disposes of a substance listed in Section 4 of this act shall:

1. Submit a report of the loss, theft, or disposal to the Director of the Oklahoma Bureau of Narcotics and Dangerous Drugs Control no later than the third business day after the date the manufacturer, wholesaler, retailer, or other person discovers the loss or theft, or after the actual disposal; and

2. Include the amount of loss, theft, or disposal in the report. Any disposal of precursor substances must be done in accordance with the rules and regulations of the United States Environmental Protection Administration and shall be performed at the expense of the permit or license holder.

B. A manufacturer, wholesaler, retailer, or other person who sells, transfers, possesses, uses, or otherwise furnishes any precursor substance shall:

1. Maintain records as specified in Section 5 of this act;

2. Permit agents of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control to conduct on-site audits, inspect inventory on hand and inspect all records made in accordance with this act at any reasonable time; and

3. Cooperate with the audit, and the full and complete inspection or copying of any records.

Added by Laws 1990, c. 220, § 8, eff. Sept. 1, 1990.

§63-2-327. Application of act - Sale or transfer of certain nonnarcotic products.

Sections 2-322 through 2-326 of this title shall not apply to the sale or transfer of a nonnarcotic product that includes a precursor substance defined in Section 2-322 of this title, if the product may be sold lawfully with a prescription or over the counter without a prescription pursuant to the Federal Food, Drug and Cosmetic Act, 21 U.S.C. Section 301 et seq., or a rule adopted pursuant thereto. Further, this act shall not apply to common carriers in the transaction of business as common carriers. This section shall not create an exemption for any person who has knowledge that a product sold over the counter is intended to be used to manufacture amphetamine or methamphetamine.

Added by Laws 1990, c. 220, § 9, eff. Sept. 1, 1990. Amended by Laws 1999, c. 319, § 2, eff. July 1, 1999.

§63-2-328. Violations - Penalties.

A. A person or business who manufactures, sells, transfers, furnishes, or receives a precursor substance defined in Section 2-322 of this title commits an offense if the person:

1. Does not comply with the requirements of Section 2-322, 2-323 or 2-326 of this title; or

2. Knowingly makes a false statement in a report or record required by Section 2-323 or 2-326 of this title.

B. Except as provided by subsection C of this section, an offense under subsection A of this section is a misdemeanor and punishable by imprisonment in the county jail for a term not to exceed one year or by a fine not to exceed Ten Thousand Dollars ($10,000.00).

C. A person who manufactures, sells, transfers, or otherwise furnishes a precursor substance defined in Section 2-322 of this title commits an offense if the person manufactures, sells, transfers, or furnishes the substance with the knowledge or intent that the recipient shall use the substance to unlawfully manufacture a controlled substance or a controlled substance analog.

D. A second or subsequent violation of subsection A of this section shall be a felony punishable by imprisonment in the State Penitentiary for a term of not more than ten (10) years or by a fine not to exceed Twenty-five Thousand Dollars ($25,000.00), or by both such fine and imprisonment. Any imprisonment imposed shall not run concurrent with other imprisonment sentences for violations of other provisions of Title 63 of the Oklahoma Statutes.

E. A person who is required by Section 2-322 or 2-324 of this title to have a permit for precursor substances commits an offense if the person:

1. Purchases, obtains, or possesses a precursor substance without having first obtained a permit;

2. Has in his possession or immediate control a precursor substance with no attached permit;

3. Knowingly makes a false statement in an application or report required by Section 2-324 or 2-326 of this title; or

4. Manufacturers, sells, transfers, or otherwise furnishes any person or business a precursor substance defined in Section 2-322 of this title, who does not have a permit.

F. An offense under subsection C or E of this section is a felony punishable by imprisonment in the State Penitentiary for a term of not more than ten (10) years or by a fine not to exceed Twenty-five Thousand Dollars ($25,000.00), or by both such fine and imprisonment. Any imprisonment imposed shall not run concurrent with other imprisonment sentences for violations of other provisions of Title 63 of the Oklahoma Statutes.

Added by Laws 1990, c. 220, § 10, eff. Sept. 1, 1990. Amended by Laws 1997, c. 133, § 528, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 381, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 528 from July 1, 1998, to July 1, 1999.

§63-2-329. Drug cleanup fines - Disposition of fines collected.

A. In addition to any fine or imprisonment imposed under Section 2-328 of this title, the following drug cleanup fine may be imposed:

1. Up to Ten Thousand Dollars ($10,000.00) for violations described in subsection A of Section 2-328 of this title or Section 2-401 of this title; and

2. Up to One Hundred Thousand Dollars ($100,000.00) for violations described in subsections C, D or E of Section 2-328 of this title.

B. All fines collected under this section shall be transferred to the Bureau of Narcotics Revolving Fund, pursuant to Section 2-107 of this title.

Added by Laws 1990, c. 220, § 11, eff. Sept. 1, 1990. Amended by Laws 2012, c. 83, § 3, eff. Nov. 1, 2012.

NOTE: Laws 2012, c. 80, § 7 repealed by Laws 2013, c. 15, § 75, emerg. eff. April 8, 2013.

§63-2-330. Notification of seizure – Duty of law enforcement agencies.

A. Every law enforcement agency in this state shall notify the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control within ten (10) days of any officer of such agency seizing:

1. Any precursor chemical, as defined in the Precursor Substances Act, used or allegedly used, in full or in part, to manufacture any controlled substance; and

2. Any drug paraphernalia relating to an illegal laboratory, including but not limited to any glassware, instruments, devices, utensils or other objects or equipment used or allegedly used, in full or in part, to manufacture any controlled substance.

B. The Bureau may promulgate rules and forms to facilitate the required notification pursuant to this section.

Added by Laws 1999, c. 56, § 1, emerg. eff. April 5, 1999.

§63-2-331. Seizure of devices or precursor chemicals – Notice by peace officer to Bureau of Narcotics and Dangerous Drugs Control.

It shall be the duty of any peace officer of the State of Oklahoma who seizes any glassware, instruments, devices, utensils or precursor chemicals, as defined by Section 2-322 of Title 63 of the Oklahoma Statutes, which have been used or were intended to be used in the illicit manufacturing of any controlled dangerous substance, in full or in part, to make notice of the seizure in writing to the Oklahoma Bureau of Narcotics and Dangerous Drugs Control.

Added by Laws 1999, c. 60, § 2, eff. July 1, 1999.

NOTE: This section was editorially renumbered from § 2-330 of this title to avoid a duplication in numbering.

§63-2-332. Possession of substances to be used as precursor to manufacture of methamphetamine or another controlled substance – Presumption – Exceptions – Penalty – Registration - Records.

A. It shall be unlawful for a person to knowingly and unlawfully possess a drug product containing ephedrine, pseudoephedrine or phenylpropanolamine, or their salts, isomers or salts of isomers with intent to use the product as a precursor to manufacture methamphetamine or another controlled substance.

B. Except as provided in this subsection, possession of a drug product containing more than seven and two-tenths (7.2) grams of ephedrine, pseudoephedrine or phenylpropanolamine, or their salts, isomers or salts of isomers shall constitute a rebuttable presumption of the intent to use the product as a precursor to methamphetamine or another controlled substance. The rebuttable presumption established by this subsection shall not apply to the following persons who are lawfully possessing drug products in the course of legitimate business:

1. A retail distributor of drug products or wholesaler;

2. A wholesale drug distributor, or its agents, licensed by the Board of Pharmacy;

3. A manufacturer of drug products, or its agents, licensed by the Board of Pharmacy;

4. A pharmacist licensed by the Board of Pharmacy; and

5. A licensed healthcare professional possessing the drug products in the course of carrying out his profession.

C. A violation of subsection A of this section shall be a felony punishable as provided for in subsection G of Section 2-401 of this title.

D. Any wholesaler, manufacturer, or distributor of drug products containing pseudoephedrine or phenylpropanolamine, or their salts, isomers, or salts of isomers shall obtain a registration annually from the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control. Any such wholesaler, manufacturer, or distributor shall keep complete records of all transactions involving such drug products including the names of all parties involved in the transaction and amount of the drug products involved. The records shall be kept readily retrievable and separate from all other invoices or records of transactions not involving such drug products, and shall be maintained for not less than three (3) years.

E. As used in this section:

1. "Manufacturer" means any person within this state who produces, compounds, packages, or in any manner initially prepares for sale or use any drug product described in subsection D of this section, or any such person in another state if they cause the products to be compounded, packaged, or transported into this state;

2. "Wholesaler" means any person within this state or another state, other than a manufacturer, who sells, transfers, or in any

manner furnishes a drug product described in subsection A of this section to any other person in this state for the purpose of being resold;

3. "Distributor" means any person within this state or another state, other than a manufacturer or wholesaler, who sells, delivers, transfers, or in any manner furnishes a drug product described in subsection A of this section to any person who is not the ultimate user or consumer of the product; and

4. "Readily retrievable" means available for inspection without prior notice at the registration address if that address is within the State of Oklahoma. If the registration address is in a state other than Oklahoma, it means records must be furnished within three (3) working days by courier, facsimile, mail or electronic mail.

F. Any substances possessed without a registration as provided in subsection D of this section shall be subject to forfeiture upon conviction for a violation of this section.

G. In addition to any administrative penalties provided by law, any violation of subsection D of this section shall be a misdemeanor, punishable upon conviction by a fine only in an amount not more than Ten Thousand Dollars ($10,000.00).

Added by Laws 2002, c. 288, § 1, eff. July 1, 2002. Amended by Laws 2003, c. 133, § 3, emerg. eff. April 25, 2003; Laws 2004, c. 59, § 4, emerg. eff. April 6, 2004; Laws 2013, c. 181, § 6, eff. Nov. 1, 2013.

§63-2-333. Knowingly selling, transferring, distributing, or dispensing products to be used in the production of certain controlled substances – Penalty - Damages.

A. It shall be unlawful for any person to knowingly sell, transfer, distribute, or dispense any product containing ephedrine, pseudoephedrine or phenylpropanolamine, or their salts, isomers or salts of isomers if the person knows that the purchaser will use the product as a precursor to manufacture methamphetamine or another controlled illegal substance or if the person sells, transfers, distributes or dispenses the product with reckless disregard as to how the product will be used.

B. A violation of this section shall be a felony punishable by imprisonment in the State Penitentiary for a term of not more than ten (10) years.

C. Any person who sells, transfers, distributes, dispenses, or in any manner furnishes any product containing pseudoephedrine or phenylpropanolamine, or their salts, isomers, or salts of isomers in a negligent manner, with knowledge or reason to know that the product will be used as a precursor to manufacture methamphetamine or any other illegal controlled substance, or with reckless disregard as to how the product will be used, shall be liable for

all damages, whether directly or indirectly caused by the sale, transfer, distribution, dispensation, or furnishing.

1. Such damages may include, but are not limited to, any and all costs of detecting, investigating, and cleaning up or remediating clandestine or other unlawfully operated or maintained laboratories where controlled dangerous substances are manufactured, any and all costs of prosecuting criminal cases arising from such manufacture, and any and all consequential and punitive damages otherwise allowed by law.

2. A civil action to recover damages against persons, corporations or other entities violating this subsection may be brought only by the Attorney General, the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control or by any district attorney in whose jurisdiction such person may be shown to have committed such violation. Any funds recovered from such an action shall be used for payment or reimbursement of costs arising from investigating or prosecuting criminal or civil cases involving the manufacture of controlled dangerous substances, for drug education programs, or for payment or reimbursement of remediating contaminated methamphetamine laboratory sites.

D. Violation of subsection A or C of this section shall be considered to affect at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon the individuals may be unequal and is subject to the provisions of Section 2 of Title 50 of the Oklahoma Statutes and Section 1397 of Title 12 of the Oklahoma Statutes.

Added by Laws 2002, c. 288, § 2, eff. July 1, 2002. Amended by Laws 2003, c. 133, § 4, emerg. eff. April 25, 2003; Laws 2008, c. 359, § 10, emerg. eff. June 3, 2008.

§63-2-341. Pharmacy electronic drug-tracking service.

A. Beginning January 1, 2013, any pharmacy that dispenses, sells or distributes any compound mixture or preparation containing any detectable quantity of base pseudoephedrine or ephedrine, its salts or optical isomers, or salts of optical isomers shall maintain an electronic record of the sale. The electronic record of the sale shall include the following information:

1. Name and address of the purchaser;
2. Date of birth of the purchaser;
3. Type of identification and number;
4. Date and time of the purchase;
5. Name and quantity of base pseudoephedrine or ephedrine purchased in grams, but not the overall weight of the products; and
6. Name, initials and registration number of the licensed pharmacist or registered pharmacy technician.

If the electronic tracking service is not able to record the identification type and identification number of the purchaser, the licensed pharmacist or a registered pharmacy technician shall write the identification type and number on the order. The electronic record shall also be maintained in a manner that allows for the determination of the equivalent number of packages purchased and total quantity of base ephedrine or pseudoephedrine purchased.

B. By January 1, 2013, each pharmacy in this state shall have in place and operational all equipment necessary to access and use a real-time electronic methamphetamine precursor tracking service which is approved by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control. The electronic methamphetamine precursor tracking service shall be available free of charge to all law enforcement agencies within the state for purposes of viewing and searching the database. Pharmacies shall be permitted to access only the information that is submitted by the pharmacy and such access shall be available free of charge. The electronic methamphetamine precursor tracking service shall be self-sustaining and shall not require the use of any public funds in the form of state or federal fees or taxes, to create, deploy, or operate. The tracking service shall operate and communicate in real-time throughout the state and across state lines with similar multistate systems. The tracking service shall be capable of tracking all required information and generating a stop-sale alert to notify a pharmacy that an attempted purchase by a person of pseudoephedrine or ephedrine exceeds the quantity limits set forth in Section 2-212 of Title 63 of the Oklahoma Statutes. The tracking service shall have the capability of stopping an illegal purchase in real-time and shall contain an override function that allows a pharmacy to complete a sale in violation of this section if the circumstances require that such sale be completed. The tracking service shall be in real time and track all override sales made by the pharmacy. The Bureau shall select a vendor that meets the requirements specified in this section by no later than October 1, 2012.

C. Beginning January 1, 2013, before completing the sale of an over-the-counter product containing pseudoephedrine or ephedrine, a pharmacy shall electronically submit the required information to the electronic methamphetamine precursor tracking service. The pharmacy shall not complete the sale of the product if the electronic methamphetamine precursor tracking service generates a stop-sale alert.

D. Absent intentional violation of this act, any pharmacy utilizing the electronic methamphetamine precursor tracking service in accordance with this section shall not be civilly liable as a result of any act or omission in carrying out the duties required by this section. Such pharmacies shall also be immune from liability to any third party unless the pharmacy has violated a provision of

this section in relation to a claim brought for such violation. The provisions of this section shall not apply to a person who obtains the product or products pursuant to a valid prescription.

E. The information entered, stored and maintained by the electronic methamphetamine precursor tracking service shall be confidential and shall only be accessed by law enforcement officials, health care professionals and licensed pharmacists for the purpose of controlling the sale of methamphetamine precursors.

F. If a pharmacy selling an over-the-counter product containing pseudoephedrine or ephedrine experiences mechanical or electronic failure of the electronic tracking service and is unable to comply with the provisions of this section, the pharmacy shall maintain a written log until such time as the pharmacy is able to comply with the electronic tracking service requirements.

G. A pharmacy selling an over-the-counter product containing pseudoephedrine or ephedrine may seek an exemption from submitting transactions to the electronic tracking service in writing to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control stating the reasons for such exemption. The Bureau may grant an exemption for good cause, but in no event shall such exemption exceed one hundred eighty (180) days. Any pharmacy that receives an exemption shall maintain a hard-copy logbook and shall require the purchaser to provide the information required pursuant to subsection A of this section before completion of any sale. The logbook shall be maintained as a record of each sale for inspection by any law enforcement official during normal business hours.

H. All data that is collected from the pharmacies of this state and stored in the electronic methamphetamine precursor tracking service shall be downloaded and exported by electronic means to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control at least every twenty-four (24) hours. The export of data shall be in a version that is in compliance with the standards agreed to by both the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control and the provider of the electronic methamphetamine precursor tracking service. The export of data shall be executed by way of a memorandum of understanding and without charge to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control. Any and all data exported to, obtained by, gathered by, transmitted to or stored by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control or its designee shall be the property of the state. The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall have the authority to control, administer, and disseminate at the discretion of the Bureau, the transaction data for the purpose of enforcing federal and state laws. In addition to exporting data to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, real-time access to information contained in the electronic methamphetamine precursor tracking service through an online portal

shall be provided to all law enforcement agencies within the state free of charge.

I. The electronic methamphetamine precursor tracking service shall generate a stop-sale alert if completion of a sale would result in the seller or purchaser violating the quantity limits set forth in Section 2-212 of Title 63 of the Oklahoma Statutes. The electronic tracking service shall contain an override function that may be used by a dispenser of pseudoephedrine or ephedrine products who has a reasonable fear of imminent bodily harm if the sale is not completed. Each instance in which the override function is utilized shall be logged by the electronic tracking service.

J. A person who violates any of the provisions of this section shall, upon conviction, be guilty of a misdemeanor punishable by a fine of not more than One Thousand Dollars ($1,000.00). If the person convicted is a licensed pharmacist or registered pharmacy technician, the violation shall be reported to the State Board of Pharmacy for review and appropriate action.

Added by Laws 2012, c. 206, § 1, eff. July 1, 2012.

§63-2-401. Prohibited acts A - Penalties.

A. Except as authorized by the Uniform Controlled Dangerous Substances Act, it shall be unlawful for any person:

1. To distribute, dispense, transport with intent to distribute or dispense, possess with intent to manufacture, distribute, or dispense, a controlled dangerous substance or to solicit the use of or use the services of a person less than eighteen (18) years of age to cultivate, distribute or dispense a controlled dangerous substance;

2. To create, distribute, transport with intent to distribute or dispense, or possess with intent to distribute, a counterfeit controlled dangerous substance; or

3. To distribute any imitation controlled substance as defined by Section 2-101 of this title, except when authorized by the Food and Drug Administration of the United States Department of Health and Human Services.

B. Any person who violates the provisions of this section with respect to:

1. A substance classified in Schedule I or II, except for marijuana, upon conviction, shall be guilty of transporting or possessing with an intent to distribute a controlled dangerous substance, a felony, and shall be sentenced to a term of imprisonment in the custody of the Department of Corrections for not more than seven (7) years and a fine of not more than One Hundred Thousand Dollars ($100,000.00), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment. A second conviction for the violation of provisions of this paragraph is a felony punishable by a term of imprisonment in

the custody of the Department of Corrections for not more than fourteen (14) years. A third or subsequent conviction for the violation of the provisions of this paragraph is a felony punishable by a term of imprisonment in the custody of the Department of Corrections for not more than twenty (20) years;

2. Any other controlled dangerous substance classified in Schedule III, IV, V or marijuana, upon conviction, shall be guilty of a felony and shall be sentenced to a term of imprisonment in the custody of the Department of Corrections for not more than five (5) years and a fine of not more than Twenty Thousand Dollars ($20,000.00), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment. A second conviction for the violation of the provisions of this paragraph is a felony punishable by a term of imprisonment in the custody of the Department of Corrections for not more than ten (10) years. A third or subsequent conviction for the violation of the provisions of this paragraph is a felony punishable by a term of imprisonment in the custody of the Department of Corrections for not more than fifteen (15) years; or

3. An imitation controlled substance as defined by Section 2-101 of this title, upon conviction, shall be guilty of a misdemeanor and shall be sentenced to a term of imprisonment in the county jail for a period of not more than one (1) year and a fine of not more than One Thousand Dollars ($1,000.00). A person convicted of a second violation of the provisions of this paragraph shall be guilty of a felony and shall be sentenced to a term of imprisonment in the custody of the Department of Corrections for not more than two (2) years and a fine of not more than Five Thousand Dollars ($5,000.00), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment.

C. 1. Except when authorized by the Food and Drug Administration of the United States Department of Health and Human Serices, it shall be unlawful for any person to manufacture or distribute a controlled substance or synthetic controlled substance.

2. Any person convicted of violating the provisions of paragraph 1 of this subsection with respect to distributing a controlled substance is guilty of a felony and shall be punished by imprisonment in the custody of the Department of Corrections for a term not to exceed ten (10) years and a fine of not more than Twenty-five Thousand Dollars ($25,000.00), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment.

3. A second conviction for the violation of the provisions of paragraph 1 of this subsection with respect to distributing a controlled substance is a felony punishable by imprisonment in the custody of the Department of Corrections for a term not less than two (2) years nor more than twenty (20) years. A third or

subsequent conviction for the violation of the provisions of this paragraph is a felony punishable by imprisonment in the custody of the Department of Corrections for a term not less than ten (10) years nor more than life.

4. Any person convicted of violating the provisions of paragraph 1 of this subsection with respect to manufacturing a controlled substance is guilty of a felony and shall be punished by imprisonment in the custody of the Department of Corrections for a term not to exceed ten (10) years and a fine of not more than Twenty-five Thousand Dollars ($25,000.00), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment.

5. A second conviction for the violation of the provisions of paragraph 1 of this subsection with respect to manufacturing a controlled substance is a felony punishable by imprisonment in the custody of the Department of Corrections for a term not less than two (2) years nor more than twenty (20) years. A third or subsequent conviction for the violation of the provisions of this paragraph is a felony punishable by imprisonment in the custody of the Department of Corrections for a term not less than ten (10) years nor more than life.

D. Convictions for violations of the provisions of this section shall be subject to the statutory provisions for suspended or deferred sentences, or probation as provided in Section 991a of Title 22 of the Oklahoma Statutes.

E. Any person who is at least eighteen (18) years of age and who violates the provisions of this section by using or soliciting the use of services of a person less than eighteen (18) years of age to distribute, dispense, transport with intent to distribute or dispense or cultivate a controlled dangerous substance or by distributing a controlled dangerous substance to a person under eighteen (18) years of age, or in the presence of a person under twelve (12) years of age, is punishable by:

1. For a first violation of this section, a term of imprisonment in the custody of the Department of Corrections not less than two (2) years nor more than ten (10) years;

2. For a second violation of this section, a term of imprisonment in the custody of the Department of Corrections for not less than four (4) years nor more than twenty (20) years; or

3. For a third or subsequent violation of this section, a term of imprisonment in the custody of the Department of Corrections for not less than ten (10) years nor more than life.

F. Any person who violates any provision of this section by transporting with intent to distribute or dispense, distributing or possessing with intent to distribute a controlled dangerous substance to a person, or violation of subsection G of this section, in or on, or within two thousand (2,000) feet of the real property

comprising a public or private elementary or secondary school, public vocational school, public or private college or university, or other institution of higher education, recreation center or public park, including state parks and recreation areas, public housing project, or child care facility as defined by Section 402 of Title 10 of the Oklahoma Statutes, shall be punished by:

1. For a first offense, a term of imprisonment in the custody of the Department of Corrections, or by the imposition of a fine or by both, not exceeding twice that authorized by the appropriate provision of this section; or

2. For a second or subsequent violation of this section, a term of imprisonment in the custody of the Department of Corrections, or by the imposition of a fine or by both, not exceeding thrice that authorized by the appropriate provision of this section. Convictions for second and subsequent violations of the provisions of this section shall not be subject to statutory provisions of suspended sentences, deferred sentences or probation.

G. 1. Except as authorized by the Uniform Controlled Dangerous Substances Act, it shall be unlawful for any person to manufacture or attempt to manufacture any controlled dangerous substance or possess any substance listed in Section 2-322 of this title or any substance containing any detectable amount of pseudoephedrine or its salts, optical isomers or salts of optical isomers, iodine or its salts, optical isomers or salts of optical isomers, hydriodic acid, sodium metal, lithium metal, anhydrous ammonia, phosphorus, or organic solvents with the intent to use that substance to manufacture a controlled dangerous substance.

2. Any person violating the provisions of this subsection with respect to the unlawful manufacturing or attempting to unlawfully manufacture any controlled dangerous substance, or possessing any substance listed in this subsection or Section 2-322 of this title, upon conviction, is guilty of a felony and shall be punished by imprisonment for not less than seven (7) years nor more than life and by a fine of not less than Fifty Thousand Dollars ($50,000.00), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment. The possession of any amount of anhydrous ammonia in an unauthorized container shall be prima facie evidence of intent to use such substance to manufacture a controlled dangerous substance.

3. Any person violating the provisions of this subsection with respect to the unlawful manufacturing or attempting to unlawfully manufacture any controlled dangerous substance in the following amounts:

a. one (1) kilogram or more of a mixture or substance containing a detectable amount of heroin,

b. five (5) kilograms or more of a mixture or substance containing a detectable amount of:

(1) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed,
(2) cocaine, its salts, optical and geometric isomers, and salts of isomers,
(3) ecgonine, its derivatives, their salts, isomers, and salts of isomers, or
(4) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in divisions (1) through (3) of this subparagraph,

c. fifty (50) grams or more of a mixture or substance described in division (2) of subparagraph b of this paragraph which contains cocaine base,
d. one hundred (100) grams or more of phencyclidine (PCP) or 1 kilogram or more of a mixture or substance containing a detectable amount of phencyclidine (PCP),
e. ten (10) grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD),
f. four hundred (400) grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-pheylethy)-4-piperidinyl] propanamide or 100 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide,
g. one thousand (1,000) kilograms or more of a mixture or substance containing a detectable amount of marihuana or one thousand (1000) or more marihuana plants regardless of weight, or
h. fifty (50) grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers,

upon conviction, is guilty of aggravated manufacturing a controlled dangerous substance punishable by imprisonment for not less than twenty (20) years nor more than life and by a fine of not less than Fifty Thousand Dollars ($50,000.00), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment. Any person convicted of a violation of the provisions of this paragraph shall be required to serve a minimum of eighty-five percent (85%) of the sentence received prior to becoming eligible for state correctional earned credits towards the completion of the sentence or eligible for parole.

4. Any sentence to the custody of the Department of Corrections for any violation of paragraph 3 of this subsection shall not be subject to statutory provisions for suspended sentences, deferred sentences, or probation. A person convicted of a second or subsequent violation of the provisions of paragraph 3 of this subsection shall be punished as a habitual offender pursuant to Section 51.1 of Title 21 of the Oklahoma Statutes and shall be required to serve a minimum of eighty-five percent (85%) of the sentence received prior to becoming eligible for state correctional earned credits or eligibility for parole.

5. Any person who has been convicted of manufacturing or attempting to manufacture methamphetamine pursuant to the provisions of this subsection and who, after such conviction, purchases or attempts to purchase, receive or otherwise acquire any product, mixture, or preparation containing any detectable quantity of base pseudoephedrine or ephedrine shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for a term in the range of twice the minimum term provided for in paragraph 2 of this subsection.

H. Any person convicted of any offense described in the Uniform Controlled Dangerous Substances Act may, in addition to the fine imposed, be assessed an amount not to exceed ten percent (10%) of the fine imposed. Such assessment shall be paid into a revolving fund for enforcement of controlled dangerous substances created pursuant to Section 2-506 of this title.

I. Any person convicted of any offense described in this section shall, in addition to any fine imposed, pay a special assessment trauma-care fee of One Hundred Dollars ($100.00) to be deposited into the Trauma Care Assistance Revolving Fund created in Section 1-2522 of this title.

J. For purposes of this section, "public housing project" means any dwelling or accommodations operated as a state or federally subsidized multifamily housing project by any housing authority, nonprofit corporation or municipal developer or housing projects created pursuant to the Oklahoma Housing Authorities Act.

K. When a person is found guilty of a violation of the provisions of this section, the court shall order, in addition to any other penalty, the defendant to pay a one-hundred-dollar assessment to be deposited in the Drug Abuse Education and Treatment Revolving Fund created in Section 2-503.2 of this title, upon collection.

L. Any person convicted of a second or subsequent felony violation of the provisions of this section, except for paragraphs 1 and 2 of subsection B of this section, paragraphs 2, 3, 4 and 5 of subsection C of this section, paragraphs 1, 2, and 3 of subsection E of this section and paragraphs 1 and 2 of subsection F of this

section, shall be punished as a habitual offender pursuant to Section 51.1 of Title 21 of the Oklahoma Statutes.
Added by Laws 1971, c. 119, § 2-401. Amended by Laws 1975, c. 22, § 1; Laws 1981, c. 229, § 1, emerg. eff. June 22, 1981; Laws 1982, c. 12, § 3, operative Oct. 1, 1982; Laws 1984, c. 127, § 5, eff. Nov. 1, 1984; Laws 1984, c. 196, § 1, eff. Nov. 1, 1984; Laws 1985, c. 186, § 2, eff. July 1, 1985; Laws 1986, c. 199, § 1, eff. Nov. 1, 1986; Laws 1986, c. 240, § 10, eff. Nov. 1, 1986; Laws 1989, c. 114, § 1, eff. Nov. 1, 1989; Laws 1989, c. 237, § 2, eff. Nov. 1, 1989; Laws 1990, c. 232, § 6, emerg. eff. May 18, 1990; Laws 1991, c. 179, § 2, eff. Sept. 1, 1991; Laws 1992, c. 86, § 1, eff. Sept. 1, 1992; Laws 1994, c. 307, § 2, emerg. eff. June 7, 1994; Laws 1997, c. 133, § 529, eff. July 1, 1999; Laws 1999, c. 152, § 1, eff. Nov. 1, 1999; Laws 1999, c. 319, § 1, eff. July 1, 1999; Laws 2000, c. 265, § 1, emerg. eff. June 1, 2000; Laws 2001, c. 437, § 31, eff. July 1, 2001; Laws 2002, c. 22, § 23, emerg. eff. March 8, 2002; Laws 2003, c. 133, § 5, emerg. eff. April 25, 2003; Laws 2003, c. 437, § 2, eff. July 1, 2003; Laws 2004, c. 59, § 5, emerg. eff. April 6, 2004; Laws 2004, c. 275, § 14, eff. July 1, 2004; Laws 2004, c. 396, § 2, eff. Sept. 1, 2004; Laws 2005, c. 283, § 4, eff. Nov. 1, 2005; Laws 2012, c. 206, § 4, eff. July 1, 2012; Laws 2018, c. 130, § 1, eff. Nov. 1, 2018.
NOTE: Laws 1997, c. 59, § 1 repealed by Laws 1999, 1st Ex. Sess., c. 5, § 452, eff. July 1, 1999. Laws 2001, c. 373, § 4 repealed by Laws 2002, c. 22, § 34, emerg. eff. March 8, 2002. Laws 2004, c. 116, § 2 repealed by Laws 2004, c. 396, § 11, eff. Sept. 1, 2004.
NOTE: Laws 1998, 1st Ex. Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 529 from July 1, 1998 to July 1, 1999. Laws 2004, c. 530, § 2 amended the effective date of Laws 2004, c. 396 from Nov. 1, 2004 to Sept. 1, 2004.

§63-2-401A. Repealed by Laws 1992, c. 86, § 3, eff. Sept. 1, 1992.

§63-2-402. See the following versions:
OS 63-2-402v1 (HB 2479, Laws 2016, c. 220, § 1).
OS 63-2-402v2 (State Question No. 780, Initiative Petition No. 404, § 3).

§63-2-402v1. Prohibited acts B - Penalties.
A. 1. It shall be unlawful for any person knowingly or intentionally to possess a controlled dangerous substance unless such substance was obtained directly, or pursuant to a valid prescription or order from a practitioner, while acting in the course of his or her professional practice, or except as otherwise authorized by this act.
2. It shall be unlawful for any person to purchase any preparation excepted from the provisions of the Uniform Controlled

Dangerous Substances Act pursuant to Section 2-313 of this title in an amount or within a time interval other than that permitted by Section 2-313 of this title.

3. It shall be unlawful for any person or business to sell, market, advertise or label any product containing ephedrine, its salts, optical isomers, or salts of optical isomers, for the indication of stimulation, mental alertness, weight loss, appetite control, muscle development, energy or other indication which is not approved by the pertinent federal OTC Final Monograph, Tentative Final Monograph, or FDA-approved new drug application or its legal equivalent. In determining compliance with this requirement, the following factors shall be considered:

a. the packaging of the product,

b. the name of the product, and

c. the distribution and promotion of the product, including verbal representations made at the point of sale.

B. Any person who violates this section with respect to:

1. Any Schedule I or II substance, except marijuana or a substance included in subsection D of Section 2-206 of this title, is guilty of a felony punishable by imprisonment for not more than five (5) years and by a fine not exceeding Five Thousand Dollars ($5,000.00). A second violation of this section with respect to a Schedule I or II substance, except marijuana or a substance included in subsection D of Section 2-206 of this title, is a felony punishable by imprisonment for not more than ten (10) years and by a fine not exceeding Ten Thousand Dollars ($10,000.00). A third or subsequent violation of this section with respect to a Schedule I or II substance, except marijuana or a substance included in subsection D of Section 2-206 of this title, is a felony punishable by imprisonment for not less than four (4) years nor more than fifteen (15) years and by a fine not exceeding Ten Thousand Dollars ($10,000.00);

2. Any Schedule III, IV or V substance, marijuana, a substance included in subsection D of Section 2-206 of this title, or any preparation excepted from the provisions of the Uniform Controlled Dangerous Substances Act is guilty of a misdemeanor punishable by confinement for not more than one (1) year and by a fine not exceeding One Thousand Dollars ($1,000.00);

3. Any Schedule III, IV or V substance, marijuana, a substance included in subsection D of Section 2-206 of this title, or any preparation excepted from the provisions of the Uniform Controlled Dangerous Substances Act and who, during the period of any court-imposed probationary term or within ten (10) years of the date following the completion of the execution of any sentence or deferred judgment for a violation of this section, commits a second or subsequent violation of this section shall, upon conviction, be

guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for not less than one (1) year nor more than five (5) years and by a fine not exceeding Five Thousand Dollars ($5,000.00); or

4. Any Schedule III, IV or V substance, marijuana, a substance included in subsection D of Section 2-206 of this title, or any preparation excepted from the provisions of the Uniform Controlled Dangerous Substances Act and who, ten (10) or more years following the date of completion of the execution of any sentence or deferred judgment for a violation of this section, commits a second or subsequent violation of this section shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for not less than one (1) year nor more than five (5) years and by a fine not exceeding Five Thousand Dollars ($5,000.00).

C. Any person who violates any provision of this section by possessing or purchasing a controlled dangerous substance from any person, in or on, or within one thousand (1,000) feet of the real property comprising a public or private elementary or secondary school, public vocational school, public or private college or university, or other institution of higher education, recreation center or public park, including state parks and recreation areas, or in the presence of any child under twelve (12) years of age, shall be guilty of a felony and punished by:

1. For a first offense, a term of imprisonment, or by the imposition of a fine, or by both, not exceeding twice that authorized by the appropriate provision of this section. In addition, the person shall serve a minimum of fifty percent (50%) of the sentence received prior to becoming eligible for state correctional institution earned credits toward the completion of said sentence; or

2. For a second or subsequent offense, a term of imprisonment not exceeding three times that authorized by the appropriate provision of this section and the person shall serve a minimum of ninety percent (90%) of the sentence received prior to becoming eligible for state correctional institution earned credits toward the completion of said sentence, and imposition of a fine not exceeding Ten Thousand Dollars ($10,000.00).

D. Any person convicted of any offense described in this section shall, in addition to any fine imposed, pay a special assessment trauma-care fee of One Hundred Dollars ($100.00) to be deposited into the Trauma Care Assistance Revolving Fund created in Section 1-2530.9 of this title.

Added by Laws 1971, c. 119, § 2-402. Amended by Laws 1972, c. 229, § 5, emerg. eff. April 7, 1972; Laws 1981, c. 34, § 1, eff. Oct. 1, 1981; Laws 1984, c. 127, § 6, eff. Nov. 1, 1984; Laws 1987, c. 138, § 7, emerg. eff. June 19, 1987; Laws 1992, c. 86, § 2, eff. Sept. 1,

1992; Laws 1993, c. 311, § 1, emerg. eff. June 7, 1993; Laws 1995, c. 147, § 3, eff. Nov. 1, 1995; Laws 1997, c. 133, § 530, eff. July 1, 1999; Laws 1999, 1st Ex. Sess., c. 5, § 382, eff. July 1, 1999; Laws 2004, c. 396, § 3, eff. Sept. 1, 2004; Laws 2009, c. 306, § 1, eff. Nov. 1, 2009; Laws 2012, c. 228, § 10, eff. Nov. 1, 2012; Laws 2016, c. 220, § 1, eff. Nov. 1, 2016.
NOTE: Laws 1998, 1st Ex. Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 530 from July 1, 1998, to July 1, 1999.
NOTE: Laws 2004, c. 530, § 3 amended the effective date of Laws 2004, c. 396, § 3 from Nov. 1, 2004, to Sept. 1, 2004.

§63-2-402v2. Prohibited acts B - Penalties.

A. 1. It shall be unlawful for any person knowingly or intentionally to possess a controlled dangerous substance unless such substance was obtained directly, or pursuant to a valid prescription or order from a practitioner, while acting in the course of his or her professional practice, or except as otherwise authorized by this act.

2. It shall be unlawful for any person to purchase any preparation excepted from the provisions of the Uniform Controlled Dangerous Substances Act pursuant to Section 2-313 of this title in an amount or within a time interval other than that permitted by Section 2-313 of this title.

3. It shall be unlawful for any person or business to sell, market, advertise or label any product containing ephedrine, its salts, optical isomers, or salts of optical isomers, for the indication of stimulation, mental alertness, weight loss, appetite control, muscle development, energy or other indication which is not approved by the pertinent federal OTC Final Monograph, Tentative Final Monograph, or FDA-approved new drug application or its legal equivalent. In determining compliance with this requirement, the following factors shall be considered:

a. the packaging of the product,
b. the name of the product, and
c. the distribution and promotion of the product, including verbal representations made at the point of sale.

B. Any person who violates this section is guilty of a misdemeanor punishable by confinement for not more than one (1) year and by a fine not exceeding One Thousand Dollars ($1,000.00).

C. Any person convicted of any offense described in this section shall, in addition to any fine imposed, pay a special assessment trauma-care fee of One Hundred Dollars ($100.00) to be deposited into the Trauma Care Assistance Revolving Fund created in Section 1-2530.9 of this title.
Added by Laws 1971, c. 119, § 2-402. Amended by Laws 1972, c. 229, § 5, emerg. eff. April 7, 1972; Laws 1981, c. 34, § 1, eff. Oct. 1,

1981; Laws 1984, c. 127, § 6, eff. Nov. 1, 1984; Laws 1987, c. 138, § 7, emerg. eff. June 19, 1987; Laws 1992, c. 86, § 2, eff. Sept. 1, 1992; Laws 1993, c. 311, § 1, emerg. eff. June 7, 1993; Laws 1995, c. 147, § 3, eff. Nov. 1, 1995; Laws 1997, c. 133, § 530, eff. July 1, 1999; Laws 1999, 1st Ex. Sess., c. 5, § 382, eff. July 1, 1999; Laws 2004, c. 396, § 3, eff. Sept. 1, 2004; Laws 2009, c. 306, § 1, eff. Nov. 1, 2009; Laws 2012, c. 228, § 10, eff. Nov. 1, 2012; State Question No. 780, Initiative Petition No. 404, § 3, adopted at General Election held on November 8, 2016, eff. July 1, 2017.
NOTE: Laws 1998, 1st Ex. Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 530 from July 1, 1998, to July 1, 1999.
NOTE: Laws 2004, c. 530, § 3 amended the effective date of Laws 2004, c. 396, § 3 from Nov. 1, 2004, to Sept. 1, 2004.

§63-2-403. Prohibited acts C - Penalties.

A. Any person found guilty of larceny, burglary or theft of controlled dangerous substances is guilty of a felony punishable by imprisonment for a period not to exceed ten (10) years. A second or subsequent offense under this subsection is a felony punishable by imprisonment for not less than ten (10) years. Convictions for second or subsequent violations of this subsection shall not be subject to statutory provisions for suspended sentences, deferred sentences or probation.

B. Any person found guilty of robbery or attempted robbery of controlled dangerous substances from a practitioner, manufacturer, distributor or agent thereof as defined in Section 2-101 of this title is guilty of a felony punishable by imprisonment for a period of not less than five (5) years, and such sentence shall not be subject to statutory provisions for suspended sentences, deferred sentences or probation. A second or subsequent offense under this subsection is a felony punishable by life imprisonment. Convictions for second or subsequent offenses of this subsection shall not be subject to statutory provisions for suspended sentences, deferred sentences or probation.
Added by Laws 1971, c. 119, § 2-403. Amended by Laws 1983, c. 82, § 1, emerg. eff. May 3, 1983.

§63-2-404. Prohibited acts D - Penalties.

A. It shall be unlawful for any person:

1. Who is subject to the requirements of Article III of this act to distribute or dispense a controlled dangerous substance in violation of Section 2-308 of this title;

2. Who is a registrant to manufacture, distribute, or dispense a controlled dangerous substance not authorized by his registration to another registrant or other authorized person;

3. To omit, remove, alter, or obliterate a symbol required by the Federal Controlled Substances Act or this act;

4. To refuse or fail to make, keep, or furnish any record, notification, order form, statement, invoice, or information required under this act;

5. To refuse any entry into any premises or inspection authorized by this act; or

6. To keep or maintain any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft, or any place whatever, which is resorted to by persons using controlled dangerous substances in violation of this act for the purpose of using such substances, or which is used for the keeping or selling of the same in violation of this act.

B. Any person who violates this section is punishable by a civil fine of not more than One Thousand Dollars ($1,000.00); provided, that, if the violation is prosecuted by an information or indictment which alleges that the violation was committed knowingly or intentionally, and the trier of fact specifically finds that the violation was committed knowingly or intentionally, such person is guilty of a felony punishable by imprisonment for not more than five (5) years, and a fine of not more than Ten Thousand Dollars ($10,000.00), except that if such person is a corporation it shall be subject to a civil penalty of not more than One Hundred Thousand Dollars ($100,000.00). The fine provided for in this subsection shall be in addition to other punishments provided by law and shall not be in lieu of other punishment.

C. Any person convicted of a second or subsequent violation of this section is punishable by a term of imprisonment twice that otherwise authorized and by twice the fine otherwise authorized. The fine provided for in this subsection shall be in addition to other punishments provided by law and shall not be in lieu of other punishment.

D. Any person convicted of any offense described in this section shall, in addition to any fine imposed, pay a special assessment trauma-care fee of One Hundred Dollars ($100.00) to be deposited into the Trauma Care Assistance Revolving Fund created in Section 1-2522 of this title.

Added by Laws 1971, c. 119, § 2-404. Amended by Laws 1997, c. 133, § 531, eff. July 1, 1999; Laws 1999, 1st Ex. Sess., c. 5, § 383, eff. July 1, 1999; Laws 2004, c. 396, § 4, eff. Nov. 1, 2004.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 531 from July 1, 1998 to July 1, 1999.

§63-2-405. Prohibited acts E - Penalties.

A. No person shall use tincture of opium, tincture of opium camphorated, or any derivative thereof, by the hypodermic method, either with or without a medical prescription therefor.

B. No person shall use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce,

process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Act, except those persons holding an unrevoked license in the professions of podiatry, dentistry, medicine, nursing, optometry, osteopathy, veterinary medicine or pharmacy.

C. No person shall deliver, sell, possess or manufacture drug paraphernalia knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Act.

D. Any person eighteen (18) years of age or over who violates subsection C of this section by delivering or selling drug paraphernalia to a person under eighteen (18) years of age shall, upon conviction, be guilty of a felony.

E. Any person who violates subsections A, B or C of this section shall, upon conviction, be guilty of a misdemeanor punishable as follows:

1. For a first offense the person shall be punished by imprisonment in the county jail for not more than one (1) year or by a fine of not more than One Thousand Dollars ($1,000.00), or both such fine and imprisonment;

2. For a second offense the person shall be punished by imprisonment in the county jail for not more than one (1) year or by a fine of not more than Five Thousand Dollars ($5,000.00), or both such fine and imprisonment; and

3. For a third or subsequent offense the person shall be punished by imprisonment in the county jail for not more than one (1) year or by a fine of not more than Ten Thousand Dollars ($10,000.00), or both such fine and imprisonment.

F. Any person convicted of any offense described in this section shall, in addition to any fine imposed, pay a special assessment trauma-care fee of One Hundred Dollars ($100.00) to be deposited into the Trauma Care Assistance Revolving Fund created in Section 1-2522 of this title.

Added by Laws 1971, c. 119, § 2-405. Amended by Laws 1981, c. 62, § 3, emerg. eff. April 13, 1981; Laws 1982, c. 12, § 4, operative Oct. 1, 1982; Laws 1997, c. 133, § 532, eff. July 1, 1999; Laws 2004, c. 301, § 3, eff. Nov. 1, 2004; Laws 2004, c. 396, § 5, eff. Nov. 1, 2004.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 532 from July 1, 1998 to July 1, 1999.

§63-2-406. Prohibited acts F - Penalties.

A. It shall be unlawful for any registrant knowingly or intentionally:

1. To distribute, other than by dispensing or as otherwise authorized by this act, a controlled dangerous substance classified in Schedules I or II, in the course of his legitimate business, except pursuant to an order form as required by Section 2-308 of this title;

2. To use in the course of the manufacture or distribution of a controlled dangerous substance a registration number which is fictitious, revoked, suspended or issued to another person;

3. To acquire or obtain possession of a controlled dangerous substance by misrepresentation, fraud, forgery, deception or subterfuge;

4. To furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document required to be kept or filed under this act, or any record required to be kept by this act; and

5. To make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render such drug a counterfeit controlled dangerous substance.

B. Any person who violates this section is guilty of a felony punishable by imprisonment for not more than twenty (20) years or a fine of not more than Two Hundred Fifty Thousand Dollars ($250,000.00), or both.

C. Any person convicted of a second or subsequent violation of this section is punishable by a term of imprisonment twice that otherwise authorized and by twice the fine otherwise authorized. Convictions for second or subsequent violations of this section shall not be subject to statutory provisions for suspended sentences, deferred sentences, or probation.

D. Any person convicted of any offense described in this section shall, in addition to any fine imposed, pay a special assessment trauma-care fee of One Hundred Dollars ($100.00) to be deposited into the Trauma Care Assistance Revolving Fund created in Section 1-2522 of this title.

Added by Laws 1971, c. 119, § 2-406. Amended by Laws 1997, c. 133, § 533, eff. July 1, 1999; Laws 1999, 1st Ex. Sess., c. 5, § 384, eff. July 1, 1999; Laws 2004, c. 396, § 6, eff. Nov. 1, 2004.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 533 from July 1, 1998 to July 1, 1999.

§63-2-407. Prohibited acts G - Penalties.

A. No person shall obtain or attempt to obtain any preparation excepted from the provisions of the Uniform Controlled Dangerous Substances Act pursuant to Section 2-313 of this title in a manner inconsistent with the provisions of paragraph 1 of subsection B of Section 2-313 of this title, or a controlled dangerous substance or procure or attempt to procure the administration of a controlled dangerous substance:

1. By fraud, deceit, misrepresentation, or subterfuge;

2. By the forgery of, alteration of, adding any information to or changing any information on a prescription or of any written order;

3. By the concealment of a material fact;

4. By the use of a false name or the giving of a false address; or

5. By knowingly failing to disclose the receipt of a controlled dangerous substance or a prescription for a controlled dangerous substance of the same or similar therapeutic use from another practitioner within the previous thirty (30) days.

B. Except as authorized by this act, a person shall not manufacture, create, deliver, or possess with intent to manufacture, create, or deliver or possess a prescription form, an original prescription form, or a counterfeit prescription form. This shall not apply to the legitimate manufacture or delivery of prescription forms, or a person acting as an authorized agent of the practitioner.

C. Information communicated to a physician in an effort unlawfully to procure a controlled dangerous substance, or unlawfully to procure the administration of any such drug, shall not be deemed a privileged communication.

D. Any person who violates this section is guilty of a felony punishable by imprisonment for not more than ten (10) years, by a fine of not more than Ten Thousand Dollars ($10,000.00), or by both such fine and imprisonment. A second or subsequent offense under this section is a felony punishable by imprisonment for not less than four (4) years nor more than twenty (20) years, by a fine of not more than Twenty Thousand Dollars ($20,000.00), or by both such fine and imprisonment.

E. Convictions for second or subsequent violations of this section shall not be subject to statutory provisions for suspended sentences, deferred sentences, or probation.

F. Any person convicted of any offense described in this section shall, in addition to any fine imposed, pay a special assessment trauma-care fee of One Hundred Dollars ($100.00) to be deposited into the Trauma Care Assistance Revolving Fund created in Section 1-2530.9 of this title.

Added by Laws 1971, c. 119, § 2-407. Amended by Laws 1987, c. 138, § 8, emerg. eff. June 19, 1987; Laws 1996, c. 306, § 9, emerg. eff.

June 10, 1996; Laws 1997, c. 133, § 534, eff. July 1, 1999; Laws 1999, 1st Ex. Sess., c. 5, § 385, eff. July 1, 1999; Laws 2004, c. 396, § 7, eff. Sept. 1, 2004; Laws 2015, c. 305, § 7.
NOTE: Laws 1998, 1st Ex. Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 534 from July 1, 1998, to July 1, 1999.
NOTE: Laws 2004, c. 530, § 3 amended the effective date of Laws 2004, c. 396, § 7 from Nov. 1, 2004, to Sept. 1, 2004.

§63-2-407.1. Certain substances causing intoxication, distortion or disturbances of auditory, visual, muscular or mental processes prohibited - Exemptions - Penalties.

A. For the purpose of inducing intoxication or distortion or disturbance of the auditory, visual, muscular, or mental process, no person shall ingest, use, or possess any compound, liquid, or chemical which contains ethylchloride, butyl nitrite, isobutyl nitrite, secondary butyl nitrite, tertiary butyl nitrite, amyl nitrite, isopropyl nitrite, isopentyl nitrite, or mixtures containing butyl nitrite, isobutyl nitrite, secondary butyl nitrite, tertiary butyl nitrite, amyl nitrite, isopropyl nitrite, isopentyl nitrite, or any of their esters, isomers, or analogues, or any other similar compound.

B. No person shall possess, buy, sell, or otherwise transfer any substance specified in subsection A of this section for the purpose of inducing or aiding any other person to inhale or ingest such substance or otherwise violate the provisions of this section.

C. The provisions of subsections A and B of this section shall not apply to:

1. The possession and use of a substance specified in subsection A of this section which is used as part of the care or treatment by a licensed physician of a disease, condition or injury or pursuant to a prescription of a licensed physician; and

2. The possession of a substance specified in subsection A of this section which is used as part of a known manufacturing process or industrial operation when the possessor has obtained a permit from the State Department of Health.

D. The State Board of Health shall promulgate rules and regulations establishing procedures for the application, form and issuance of a permit to legitimate manufacturing and industrial applicants as provided for in subsection C of this section.

E. Any person convicted of violating any provision of subsection A or B of this section shall be guilty of a misdemeanor punishable by imprisonment in the county jail not to exceed ninety (90) days or by the imposition of a fine not to exceed Five Hundred Dollars ($500.00), or by both such imprisonment and fine. Each violation shall be considered a separate offense.

F. Any person convicted of any offense described in this section shall, in addition to any fine imposed, pay a special

assessment trauma-care fee of One Hundred Dollars ($100.00) to be deposited into the Trauma Care Assistance Revolving Fund created in Section 1-2522 of this title.
Added by Laws 1990, c. 79, § 1, operative July 1, 1990. Amended by Laws 1991, c. 306, § 5, emerg. eff. June 4, 1991; Laws 2004, c. 396, § 8, eff. Nov. 1, 2004.

§63-2-408. Offering, soliciting, attempting, endeavoring or conspiring to commit offense - Penalties.

Any person who offers, solicits, attempts, endeavors, or conspires to commit anyoffense defined in the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of this title shall be subject to the penalty prescribed for the offense, the commission of which was the object of the offer, solicitation, attempt, endeavor or conspiracy.
Laws 1971, c. 119, § 2-408.

§63-2-409. Additional penalties.

Any penalty imposed for violation of this article shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law.
Laws 1971, c. 119, § 2-409.

§63-2-410. Conditional release for first offense - Effect of expungement - Persons not covered by section.

A. Whenever any person who has not previously been convicted of any offense under this act or under any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty or nolo contendere to or is found guilty of a violation of the Uniform Controlled Dangerous Substances Act, the court may, unless otherwise prohibited by law, without entering a judgment of guilt and with the consent of such person, defer further proceedings and place the person on probation upon such reasonable terms and conditions as it may require including the requirement that such person cooperate in a treatment and rehabilitation program of a state-supported or state-approved facility, if available. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge such person and dismiss the proceedings against the person. Discharge and dismissal under this section shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Discharge and dismissal under this section may occur only once with respect to any person.

B. Any expunged arrest or conviction shall not thereafter be regarded as an arrest or conviction for purposes of employment, civil rights, or any statute, regulation, license, questionnaire or any other public or private purpose; provided, that, any plea of guilty or nolo contendere or finding of guilt to a violation of the Uniform Controlled Dangerous Substances Act shall constitute a conviction of the offense for the purpose of the Uniform Controlled Dangerous Substances Act or any other criminal statute under which the existence of a prior conviction is relevant for a period of ten (10) years following the completion of any court imposed probationary term; provided, the person has not, in the meantime, been convicted of a misdemeanor involving moral turpitude or a felony. Records expunged pursuant to this section shall be sealed to the public but not to law enforcement agencies for law enforcement purposes. Records expunged pursuant to this section shall be admissible in any subsequent criminal prosecution to prove the existence of a prior conviction or prior deferred judgment without the necessity of a court order requesting the unsealing of such records.

C. The provisions of this section shall not apply to any person who pleads guilty or nolo contendere to or is found guilty of a violation of the Trafficking in Illegal Drugs Act or the Drug Money Laundering and Wire Transmitter Act.

Added by Laws 1971, c. 119, § 2-410. Amended by Laws 2008, c. 308, § 1, emerg. eff. June 2, 2008; Laws 2009, c. 306, § 2, eff. Nov. 1, 2009; Laws 2010, c. 2, § 50, emerg. eff. March 3, 2010; Laws 2014, c. 219, § 2, eff. Nov. 1, 2014.

NOTE: Laws 2009, c. 442, § 6 repealed by Laws 2010, c. 2, § 51, emerg. eff. March 3, 2010.

§63-2-411. General penalty clause.

Any person who violates any provision of this act not subject to a specific penalty provision is guilty of a misdemeanor punishable by imprisonment in the county jail for not more than one (1) year, or by a fine of not more than One Thousand Dollars ($1,000.00), or by both such fine and imprisonment.

Added by Laws 1971, c. 119, § 2-411. Amended by Laws 2009, c. 442, § 7, eff. July 1, 2009.

§63-2-412. Second or subsequent offenses.

An offense shall be considered a second or subsequent offense under this act, if, prior to his conviction of the offense, the offender has at any time been convicted of an offense or offenses under this act, under any statute of the United States, or of any state relating to narcotic drugs, marihuana, depressant, stimulant, or hallucinogenic drugs, as defined by this act.

Added by Laws 1971, c. 119, § 2-412.

§63-2-413. Bar to prosecution.

If a violation of this act is a violation of a federal law or the law of another state, a conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

Added by Laws 1971, c. 119, § 2-413.

§63-2-413.1. Emergency medical assistance – Immunity from prosecution.

A. A peace officer shall not take a person into custody based solely on the commission of an offense involving a controlled dangerous substance described in subsection B of this section if the peace officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonably believes that all of the following apply:

1. The peace officer has contact with the person because the person requested emergency medical assistance for an individual who reasonably appeared to be in need of medical assistance due to the use of a controlled dangerous substance; and

2. The person:

a. provided his or her full name and any other relevant information requested by the peace officer,

b. remained at the scene with the individual who reasonably appeared to be in need of medical assistance due to the use of a controlled dangerous substance until emergency medical assistance arrived, and

c. cooperated with emergency medical assistance personnel and peace officers at the scene.

B. A person who meets the criteria of subsection A of this section is immune from criminal prosecution for possession of a Schedule I or Schedule II controlled dangerous substance, as listed in Sections 2-204 and 2-206 of Title 63 of the Oklahoma Statutes, provided the amount of such controlled dangerous substance does not constitute trafficking, as provided in subsection C of Section 2-415 of Title 63 of the Oklahoma Statutes, and for possession of drug paraphernalia associated with a controlled dangerous substance, as defined in paragraph 36 of Section 2-101 of Title 63 of the Oklahoma Statutes. Further, a person is only immune from prosecution for the aforementioned offenses if the offense involved a state of intoxication caused by the use of a controlled dangerous substance by a person or if the offense involved the person being or becoming intoxicated as a result of the use of a controlled dangerous substance by a person.

C. A person may not initiate or maintain an action against a peace officer or the employing political subdivision of the peace

officer based on the compliance or failure of the peace officer to comply with the provisions of this section.

D. For the purposes of this section, "peace officer" shall have the same meaning as defined in Section 99 of Title 21 of the Oklahoma Statutes.

Added by Laws 2018, c. 240, § 1, eff. Nov. 1, 2018.

§63-2-414. Short title.

Sections 2-414 through 2-420 of this title shall be known and may be cited as the "Trafficking in Illegal Drugs Act".

Added by Laws 1987, c. 136, § 1, eff. Nov. 1, 1987. Amended by Laws 2007, c. 199, § 4, eff. Nov. 1, 2007.

§63-2-415. See the following versions:

OS 63-2-415v1 (SB 1078, Laws 2018, c. 7, § 1).

OS 63-2-415v2 (SB 793, Laws 2018, c. 130, § 2).

§63-2-415v1. Application - Fines and penalties.

A. The provisions of the Trafficking in Illegal Drugs Act shall apply to persons convicted of violations with respect to the following substances:

1. Marihuana;
2. Cocaine or coca leaves;
3. Heroin;
4. Amphetamine or methamphetamine;
5. Lysergic acid diethylamide (LSD);
6. Phencyclidine (PCP);
7. Cocaine base, commonly known as "crack" or "rock";
8. 3,4-Methylenedioxy methamphetamine, commonly known as "ecstasy" or MDMA;
9. Morphine;
10. Oxycodone;
11. Hydrocodone;
12. Benzodiazepine; or
13. Fentanyl and its analogs and derivatives.

B. Except as otherwise authorized by the Uniform Controlled Dangerous Substances Act, it shall be unlawful for any person to:

1. Knowingly distribute, manufacture, bring into this state or possess a controlled substance specified in subsection A of this section in the quantities specified in subsection C of this section;
2. Possess any controlled substance with the intent to manufacture a controlled substance specified in subsection A of this section in quantities specified in subsection C of this section; or
3. Use or solicit the use of services of a person less than eighteen (18) years of age to distribute or manufacture a controlled dangerous substance specified in subsection A of this section in quantities specified in subsection C of this section.

Violation of this section shall be known as "trafficking in illegal drugs". Separate types of controlled substances described in subsection A of this section when possessed at the same time in violation of any provision of this section shall constitute a separate offense for each substance.

Any person who commits the conduct described in paragraph 1, 2 or 3 of this subsection and represents the quantity of the controlled substance to be an amount described in subsection C of this section shall be punished under the provisions appropriate for the amount of controlled substance represented, regardless of the actual amount.

C. In the case of a violation of the provisions of subsection B of this section, involving:

1. Marihuana:
   a. twenty-five (25) pounds or more of a mixture or substance containing a detectable amount of marihuana shall be punishable by a fine of not less than Twenty-five Thousand Dollars ($25,000.00) and not more than One Hundred Thousand Dollars ($100,000.00), or
   b. one thousand (1,000) pounds or more of a mixture or substance containing a detectable amount of marihuana shall be deemed aggravated trafficking punishable by a fine of not less than One Hundred Thousand Dollars ($100,000.00) and not more than Five Hundred Thousand Dollars ($500,000.00);
2. Cocaine or coca leaves:
   a. twenty-eight (28) grams or more of a mixture or substance containing a detectable amount of cocaine or coca leaves shall be punishable by a fine of not less than Twenty-five Thousand Dollars ($25,000.00) and not more than One Hundred Thousand Dollars ($100,000.00),
   b. three hundred (300) grams or more of a mixture or substance containing a detectable amount of cocaine or coca leaves shall be punishable by a fine of not less than One Hundred Thousand Dollars ($100,000.00) and not more than Five Hundred Thousand Dollars ($500,000.00), or
   c. four hundred fifty (450) grams or more of a mixture or substance containing a detectable amount of cocaine or coca leaves shall be deemed aggravated trafficking punishable by a fine of not less than One Hundred Thousand Dollars ($100,000.00) and not more than Five Hundred Thousand Dollars ($500,000.00);
3. Heroin:
   a. ten (10) grams or more of a mixture or substance containing a detectable amount of heroin shall be punishable by a fine of not less than Twenty-five

Thousand Dollars ($25,000.00) and not more than Fifty Thousand Dollars ($50,000.00), or

b. twenty-eight (28) grams or more of a mixture or substance containing a detectable amount of heroin shall be punishable by a fine of not less than Fifty Thousand Dollars ($50,000.00) and not more than Five Hundred Thousand Dollars ($500,000.00);

4. Amphetamine or methamphetamine:

a. twenty (20) grams or more of a mixture or substance containing a detectable amount of amphetamine or methamphetamine shall be punishable by a fine of not less than Twenty-five Thousand Dollars ($25,000.00) and not more than Two Hundred Thousand Dollars ($200,000.00),

b. two hundred (200) grams or more of a mixture or substance containing a detectable amount of amphetamine or methamphetamine shall be punishable by a fine of not less than Fifty Thousand Dollars ($50,000.00) and not more than Five Hundred Thousand Dollars ($500,000.00), or

c. four hundred fifty (450) grams or more of a mixture or substance containing a detectable amount of amphetamine or methamphetamine shall be deemed aggravated trafficking punishable by a fine of not less than Fifty Thousand Dollars ($50,000.00) and not more than Five Hundred Thousand Dollars ($500,000.00);

5. Lysergic acid diethylamide (LSD):

a. one (1) gram or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD) shall be punishable by a fine of not less than Fifty Thousand Dollars ($50,000.00) and not more than One Hundred Thousand Dollars ($100,000.00), or

b. ten (10) grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD) shall be punishable by a fine of not less than One Hundred Thousand Dollars ($100,000.00) and not more than Two Hundred Fifty Thousand Dollars ($250,000.00);

6. Phencyclidine (PCP):

a. twenty (20) grams or more of a substance containing a mixture or substance containing a detectable amount of phencyclidine (PCP) shall be punishable by a fine of not less than Twenty Thousand Dollars ($20,000.00) and not more than Fifty Thousand Dollars ($50,000.00), or

b. one hundred fifty (150) grams or more of a substance containing a mixture or substance containing a

detectable amount of phencyclidine (PCP) shall be punishable by a fine of not less than Fifty Thousand Dollars ($50,000.00) and not more than Two Hundred Fifty Thousand Dollars ($250,000.00);

7. Cocaine base:

a. five (5) grams or more of a mixture or substance described in paragraph 2 of this subsection which contains cocaine base shall be punishable by a fine of not less than Twenty-five Thousand Dollars ($25,000.00) and not more than One Hundred Thousand Dollars ($100,000.00), or

b. fifty (50) grams or more of a mixture or substance described in paragraph 2 of this subsection which contains cocaine base shall be punishable by a fine of not less than One Hundred Thousand Dollars ($100,000.00) and not more than Five Hundred Thousand Dollars ($500,000.00);

8. Methylenedioxy methamphetamine:

a. thirty (30) tablets or ten (10) grams of a mixture or substance containing a detectable amount of 3,4-Methylenedioxy methamphetamine shall be punishable by a fine of not less than Twenty-five Thousand Dollars ($25,000.00) and not more than One Hundred Thousand Dollars ($100,000.00), or

b. one hundred (100) tablets or thirty (30) grams of a mixture or substance containing a detectable amount of 3,4-Methylenedioxy methamphetamine shall be punishable by a fine of not less than One Hundred Thousand Dollars ($100,000.00) and not more than Five Hundred Thousand Dollars ($500,000.00);

9. Morphine: One thousand (1,000) grams or more of a mixture containing a detectable amount of morphine shall be punishable by a fine of not less than One Hundred Thousand Dollars ($100,000.00) and not more than Five Hundred Thousand Dollars ($500,000.00);

10. Oxycodone: Four hundred (400) grams or more of a mixture containing a detectable amount of oxycodone shall be punishable by a fine of not less than One Hundred Thousand Dollars ($100,000.00) and not more than Five Hundred Thousand Dollars ($500,000.00);

11. Hydrocodone: Three thousand seven hundred and fifty (3,750) grams or more of a mixture containing a detectable amount of hydrocodone shall be punishable by a fine of not less than One Hundred Thousand Dollars ($100,000.00) and not more than Five Hundred Thousand Dollars ($500,000.00);

12. Benzodiazepine: Five hundred (500) grams or more of a mixture containing a detectable amount of benzodiazepine shall be punishable by a fine of not less than One Hundred Thousand Dollars

($100,000.00) and not more than Five Hundred Thousand Dollars ($500,000.00); and

13. Fentanyl and its analogs and derivatives: One (1) gram or more of a mixture containing fentanyl or carfentanil, or any fentanyl analogs or derivatives shall be punishable by a fine of not less than One Hundred Thousand Dollars ($100,000.00) and not more than Five Hundred Thousand Dollars ($500,000.00).

D. Any person who violates the provisions of this section with respect to a controlled substance specified in subsection A of this section in a quantity specified in subsection C of this section shall, in addition to any fines specified by this section, be punishable by a term of imprisonment as follows:

1. Not less than twice the term of imprisonment provided for in Section 2-401 of this title;

2. If the person has previously been convicted of one violation of this section or has been previously convicted of a felony violation of the Uniform Controlled Dangerous Substances Act arising from separate and distinct transactions, not less than three times the term of imprisonment provided for in Section 2-401 of this title;

3. If the person has previously been convicted of two or more violations of this section or any provision of the Uniform Controlled Dangerous Substances Act which constitutes a felony, or a combination of such violations arising out of separate and distinct transactions, not less than twenty (20) years to life imprisonment or life without parole; provided, if the person has been previously convicted of two or more drug trafficking violations, the punishment shall be life without parole; and

4. If the person is convicted of aggravated trafficking as provided in subparagraph b of paragraph 1 of subsection C of this section, subparagraph c of paragraph 2 of subsection C of this section or subparagraph c of paragraph 4 of subsection C of this section, a mandatory minimum sentence of imprisonment in the custody of the Department of Corrections for a term of fifteen (15) years of which the person shall serve eighty-five percent (85%) of such mandatory sentence before being eligible for parole consideration or any earned credits.

The terms of imprisonment specified in this subsection shall not be subject to statutory provisions for suspension, deferral or probation, or state correctional institution earned credits accruing from and after November 1, 1989, except for the achievement earned credits authorized by subsection H of Section 138 of Title 57 of the Oklahoma Statutes. To qualify for such achievement credits, such inmates must also be in compliance with the standards for Class level 2 behavior, as defined in subsection D of Section 138 of Title 57 of the Oklahoma Statutes.

Persons convicted of violations of this section shall not be eligible for appeal bonds.

E. Any person convicted of any offense described in this section shall, in addition to any fine imposed, pay a special assessment trauma-care fee of One Hundred Dollars ($100.00) to be deposited into the Trauma Care Assistance Revolving Fund created in Section 1-2530.9 of this title and the assessment pursuant to Section 2-503.2 of this title.

Added by Laws 1987, c. 136, § 2, eff. Nov. 1, 1987. Amended by Laws 1989, c. 114, § 2, eff. Nov. 1, 1989; Laws 1989, c. 237, § 3, eff. Nov. 1, 1989; Laws 1990, c. 232, § 7, emerg. eff. May 18, 1990; Laws 1993, c. 21, § 1, eff. Sept. 1, 1993; Laws 1997, c. 133, § 535, eff. July 1, 1999; Laws 1999, 1st Ex. Sess., c. 5, § 386, eff. July 1, 1999; Laws 2002, c. 135, § 1, emerg. eff. April 24, 2002; Laws 2004, c. 396, § 9, eff. Sept. 1, 2004; Laws 2007, c. 199, § 5, eff. Nov. 1, 2007; Laws 2011, c. 239, § 8, eff. Nov. 1, 2011; Laws 2014, c. 348, § 1, eff. Nov. 1, 2014; Laws 2015, c. 258, § 1, eff. Nov. 1, 2015; Laws 2018, c. 7, § 1, eff. Nov. 1, 2018.

NOTE: Laws 1998, 1st Ex. Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 535 from July 1, 1998, to July 1, 1999.

NOTE: Laws 2004, c. 530, § 2 amended the effective date of Laws 2004, c. 396, § 9 from Nov. 1, 2004, to Sept. 1, 2004.

§63-2-415v2. Application - Fines and penalties.

A. The provisions of the Trafficking in Illegal Drugs Act shall apply to persons convicted of violations with respect to the following substances:

1. Marihuana;
2. Cocaine or coca leaves;
3. Heroin;
4. Amphetamine or methamphetamine;
5. Lysergic acid diethylamide (LSD);
6. Phencyclidine (PCP);
7. Cocaine base, commonly known as "crack" or "rock";
8. 3,4-Methylenedioxy methamphetamine, commonly known as "ecstasy" or MDMA;
9. Morphine;
10. Oxycodone;
11. Hydrocodone; or
12. Benzodiazepine.

B. Except as otherwise authorized by the Uniform Controlled Dangerous Substances Act, it shall be unlawful for any person to:

1. Knowingly distribute, manufacture, bring into this state or possess a controlled substance specified in subsection A of this section in the quantities specified in subsection C of this section;

2. Possess any controlled substance with the intent to manufacture a controlled substance specified in subsection A of this section in quantities specified in subsection C of this section; or

3. Use or solicit the use of services of a person less than eighteen (18) years of age to distribute or manufacture a controlled dangerous substance specified in subsection A of this section in quantities specified in subsection C of this section.

Violation of this section shall be known as "trafficking in illegal drugs". Separate types of controlled substances described in subsection A of this section when possessed at the same time in violation of any provision of this section shall constitute a separate offense for each substance.

Any person who commits the conduct described in paragraph 1, 2 or 3 of this subsection and represents the quantity of the controlled substance to be an amount described in subsection C of this section shall be punished under the provisions appropriate for the amount of controlled substance represented, regardless of the actual amount.

C. In the case of a violation of the provisions of subsection B of this section, involving:

1. Marihuana:
   a. twenty-five (25) pounds or more of a mixture or substance containing a detectable amount of marihuana shall be punishable by a fine of not less than Twenty-five Thousand Dollars ($25,000.00) and not more than One Hundred Thousand Dollars ($100,000.00), or
   b. one thousand (1,000) pounds or more of a mixture or substance containing a detectable amount of marihuana shall be deemed aggravated trafficking punishable by a fine of not less than One Hundred Thousand Dollars ($100,000.00) and not more than Five Hundred Thousand Dollars ($500,000.00);
2. Cocaine, coca leaves or cocaine base:
   a. twenty-eight (28) grams or more of a mixture or substance containing a detectable amount of cocaine, coca leaves or cocaine base shall be punishable by a fine of not less than Twenty-five Thousand Dollars ($25,000.00) and not more than One Hundred Thousand Dollars ($100,000.00),
   b. three hundred (300) grams or more of a mixture or substance containing a detectable amount of cocaine, coca leaves or cocaine base shall be punishable by a fine of not less than One Hundred Thousand Dollars ($100,000.00) and not more than Five Hundred Thousand Dollars ($500,000.00), or
   c. four hundred fifty (450) grams or more of a mixture or substance containing a detectable amount of cocaine,

coca leaves or cocaine base shall be deemed aggravated trafficking punishable by a fine of not less than One Hundred Thousand Dollars ($100,000.00) and not more than Five Hundred Thousand Dollars ($500,000.00);

3. Heroin:
   a. ten (10) grams or more of a mixture or substance containing a detectable amount of heroin shall be punishable by a fine of not less than Twenty-five Thousand Dollars ($25,000.00) and not more than Fifty Thousand Dollars ($50,000.00), or
   b. twenty-eight (28) grams or more of a mixture or substance containing a detectable amount of heroin shall be punishable by a fine of not less than Fifty Thousand Dollars ($50,000.00) and not more than Five Hundred Thousand Dollars ($500,000.00);
4. Amphetamine or methamphetamine:
   a. twenty (20) grams or more of a mixture or substance containing a detectable amount of amphetamine or methamphetamine shall be punishable by a fine of not less than Twenty-five Thousand Dollars ($25,000.00) and not more than Two Hundred Thousand Dollars ($200,000.00),
   b. two hundred (200) grams or more of a mixture or substance containing a detectable amount of amphetamine or methamphetamine shall be punishable by a fine of not less than Fifty Thousand Dollars ($50,000.00) and not more than Five Hundred Thousand Dollars ($500,000.00), or
   c. four hundred fifty (450) grams or more of a mixture or substance containing a detectable amount of amphetamine or methamphetamine shall be deemed aggravated trafficking punishable by a fine of not less than Fifty Thousand Dollars ($50,000.00) and not more than Five Hundred Thousand Dollars ($500,000.00);
5. Lysergic acid diethylamide (LSD):
   a. one (1) gram or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD) shall be punishable by a fine of not less than Fifty Thousand Dollars ($50,000.00) and not more than One Hundred Thousand Dollars ($100,000.00), or
   b. ten (10) grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD) shall be punishable by a fine of not less than One Hundred Thousand Dollars ($100,000.00) and not more than Two Hundred Fifty Thousand Dollars ($250,000.00);

6. Phencyclidine (PCP):

a. twenty (20) grams or more of a substance containing a mixture or substance containing a detectable amount of phencyclidine (PCP) shall be punishable by a fine of not less than Twenty Thousand Dollars ($20,000.00) and not more than Fifty Thousand Dollars ($50,000.00), or

b. one hundred fifty (150) grams or more of a substance containing a mixture or substance containing a detectable amount of phencyclidine (PCP) shall be punishable by a fine of not less than Fifty Thousand Dollars ($50,000.00) and not more than Two Hundred Fifty Thousand Dollars ($250,000.00);

7. Methylenedioxy methamphetamine:

a. thirty (30) tablets or ten (10) grams of a mixture or substance containing a detectable amount of 3,4-Methylenedioxy methamphetamine shall be trafficking punishable by a term of imprisonment in the custody of the Department of Corrections not to exceed twenty (20) years and by a fine of not less than Twenty-five Thousand Dollars ($25,000.00) and not more than One Hundred Thousand Dollars ($100,000.00), or

b. one hundred (100) tablets or thirty (30) grams of a mixture or substance containing a detectable amount of 3,4-Methylenedioxy methamphetamine shall be aggravated trafficking punishable by a term of imprisonment in the custody of the Department of Corrections of not less than two (2) years nor more than life by a fine of not less than One Hundred Thousand Dollars ($100,000.00) and not more than Five Hundred Thousand Dollars ($500,000.00);

8. Morphine: One thousand (1,000) grams or more of a mixture containing a detectable amount of morphine shall be trafficking punishable by a term of imprisonment in the custody of the Department of Corrections not to exceed twenty (20) years and by a fine of not less than One Hundred Thousand Dollars ($100,000.00) and not more than Five Hundred Thousand Dollars ($500,000.00);

9. Oxycodone: Four hundred (400) grams or more of a mixture containing a detectable amount of oxycodone shall be trafficking punishable by a term of imprisonment in the custody of the Department of Corrections not to exceed twenty (20) years and by a fine of not less than One Hundred Thousand Dollars ($100,000.00) and not more than Five Hundred Thousand Dollars ($500,000.00);

10. Hydrocodone: Three thousand seven hundred and fifty (3,750) grams or more of a mixture containing a detectable amount of hydrocodone shall be trafficking punishable by a term of imprisonment in the custody of the Department of Corrections not to exceed twenty (20) years and by a fine of not less than One Hundred

Thousand Dollars ($100,000.00) and not more than Five Hundred Thousand Dollars ($500,000.00); and

11. Benzodiazepine: Five hundred (500) grams or more of a mixture containing a detectable amount of benzodiazepine shall be trafficking punishable by a term of imprisonment not to exceed twenty (20) years and by a fine of not less than One Hundred Thousand Dollars ($100,000.00) and not more than Five Hundred Thousand Dollars ($500,000.00).

D. Any person who violates the provisions of this section with respect to a marihuana, cocaine, coca leaves, cocaine base, heroin, amphetamine or methamphetamine in a quantity specified in paragraphs 1, 2, 3 and 4 of subsection C of this section shall, in addition to any fines specified by this section, be punishable by a term of imprisonment as follows:

1. For trafficking, a first violation of this section, a term of imprisonment in the custody of the Department of Corrections not to exceed twenty (20) years;

2. For trafficking, a second violation of this section, a term of imprisonment in the Department of Corrections of not less than four (4) years nor more than life, for which the person shall serve fifty percent (50%) of the sentence before being eligible for parole consideration;

3. For trafficking, a third or subsequent violation of this section, a term of imprisonment in the custody of the Department of Corrections of not less than twenty (20) years nor more than life, of which the person shall serve fifty percent (50%) of the sentence before being eligible for parole consideration.

Persons convicted of trafficking shall not be eligible for earned credits or any other type of credits which have the effect of reducing the length of sentence to less than fifty percent (50%) of the sentence imposed; and

If the person is convicted of aggravated trafficking as provided in subparagraph b of paragraph 1 of subsection C of this section, subparagraph c of paragraph 2 of subsection C of this section or subparagraph c of paragraph 4 of subsection C of this section, a sentence of imprisonment in the custody of the Department of Corrections as provided in paragraphs 1, 2 and 3 of subsection D of this section, of which the person shall serve eighty-five percent (85%) of such sentence before being eligible for parole consideration.

F. The penalties specified in subsections C and D of this section are subject to the enhancements enumerated in subsections E and F of Section 2-401 of this title.

G. Any person convicted of any offense described in this section shall, in addition to any fine imposed, pay a special assessment trauma-care fee of One Hundred Dollars ($100.00) to be deposited into the Trauma Care Assistance Revolving Fund created in

Section 1-2530.9 of this title and the assessment pursuant to Section 2-503.2 of this title.
Added by Laws 1987, c. 136, § 2, eff. Nov. 1, 1987. Amended by Laws 1989, c. 114, § 2, eff. Nov. 1, 1989; Laws 1989, c. 237, § 3, eff. Nov. 1, 1989; Laws 1990, c. 232, § 7, emerg. eff. May 18, 1990; Laws 1993, c. 21, § 1, eff. Sept. 1, 1993; Laws 1997, c. 133, § 535, eff. July 1, 1999; Laws 1999, 1st Ex. Sess., c. 5, § 386, eff. July 1, 1999; Laws 2002, c. 135, § 1, emerg. eff. April 24, 2002; Laws 2004, c. 396, § 9, eff. Sept. 1, 2004; Laws 2007, c. 199, § 5, eff. Nov. 1, 2007; Laws 2011, c. 239, § 8, eff. Nov. 1, 2011; Laws 2014, c. 348, § 1, eff. Nov. 1, 2014; Laws 2015, c. 258, § 1, eff. Nov. 1, 2015; Laws 2018, c. 130, § 2, eff. Nov. 1, 2018.
NOTE: Laws 1998, 1st Ex. Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 535 from July 1, 1998, to July 1, 1999.
NOTE: Laws 2004, c. 530, § 2 amended the effective date of Laws 2004, c. 396, § 9 from Nov. 1, 2004, to Sept. 1, 2004.

§63-2-416. Apportionment of fines.

The fines specified in Section 2 of this act shall be apportioned as follows:

1. Twenty-five percent (25%) shall be distributed to the revolving fund established pursuant to the provisions of Section 2-506 of Title 63 of the Oklahoma Statutes to be used for enforcement of the Uniform Controlled Dangerous Substances Act; and

2. Twenty-five percent (25%) shall be distributed to the municipality, county, or state agency or agencies which conducted the investigation. The amount distributed to a municipality or county shall be placed in a revolving fund to be used for law enforcement purposes. This fund shall be limited to Two Hundred Thousand Dollars ($200,000.00) at any one time in municipalities and counties with population in excess of three hundred thousand (300,000) and Fifty Thousand Dollars ($50,000.00) at any one time in municipalities and counties with population less than three hundred thousand (300,000). This fund shall be audited by the State Auditor and Inspector at least every two (2) years in the manner provided in Section 171 of Title 19 of the Oklahoma Statutes. Said audit shall include, but not be limited to, a compliance audit. Any amount in excess of these figures distributed to a municipality or county shall be placed in the general fund of the municipality or county. The amount distributed to a state agency shall be placed in the applicable revolving fund or special agency account of said agency to be used for law enforcement purposes. If more than one law enforcement agency participates in the investigation, the amount to be distributed shall be divided among the agencies in proportion to the amount of work performed by each agency involved in the investigation, as determined by the district court; and

3. Twenty-five percent (25%) shall be distributed to the Drug Abuse Education Revolving Fund to be used for drug abuse education programs within the State Department of Education; and

4. Twenty-five percent (25%) shall be distributed to the court fund.

Added by Laws 1987, c. 136, § 3, eff. Nov. 1, 1987.

§63-2-417. Drug Abuse Education Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the State Board of Education to be designated the "Drug Abuse Education Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of fines collected pursuant to the Trafficking in Illegal Drugs Act. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the State Board of Education for drug abuse education programs. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1987, c. 136, § 4, eff. Nov. 1, 1987. Amended by Laws 2012, c. 304, § 499.

§63-2-418. Repealed by Laws 1992, c. 86, § 3, eff. Sept. 1, 1992.

§63-2-419. Repealed by Laws 1997, c. 133, § 610, eff. July 1, 1998.

§63-2-419.1. Use of minors in transportation, sale, etc. of controlled dangerous substances.

A. It shall be unlawful for any individual eighteen (18) years of age or older to solicit, employ, hire, or use an individual under eighteen (18) years of age to unlawfully transport, carry, sell, give away, prepare for sale, or peddle any controlled dangerous substance.

B. A person who violates subsection A of this section shall be guilty of a felony and, upon conviction, shall be punishable by a term of imprisonment, or fine, or both, not exceeding twice that authorized by Section 2-401 of Title 63 of the Oklahoma Statutes.

C. A person who violates subsection A of this section after a previous conviction pursuant to that subsection which has become final, shall be punishable by a term of imprisonment not exceeding three times that authorized by Section 2-401 of Title 63 of the Oklahoma Statutes.

D. A person who violates subsection A of this section by employing, hiring, or using an individual under fifteen (15) years of age, may be imprisoned for not more than twenty-five (25) years, fined not more than One Hundred Thousand Dollars ($100,000.00), or

both, in addition to any other punishment authorized by this section.

E. It shall not be a defense to this section that a person did not know the age of an individual.

Added by Laws 1999, 1st Ex.Sess., c. 5, § 451, eff. July 1, 1999.

§63-2-420. GPS monitoring of persons charged with aggravated trafficking - Statistical records.

A. Any person charged with aggravated trafficking pursuant to Section 2-415 of this title shall not be subject to pretrial release as specified in Section 1105.3 of Title 22 of the Oklahoma Statutes and shall not be released on bail without a Global Positioning System (GPS) monitoring device attached to the person and cost thereof paid by such person at his or her own expense until after the conclusion of the criminal case. The Department of Corrections shall monitor such GPS monitoring device and the person until the conclusion of the case, and the person shall pay a supervision fee as provided for other persons subject to supervision by the Department. At the conclusion of the case, the court shall order the removal of the GPS monitoring device if the person is acquitted or is to be incarcerated or the case is dismissed.

B. The Department of Corrections shall maintain statistical records on any aggravated trafficking offense, including a calculation of the time period from arrest to disposition, and if the person is convicted, the term of sentence, length of sentence actually served in incarceration, amount of the fine imposed, whether any enhancements or co-occurring offenses were involved, whether the person is determined upon reception into the custody of the Department to be an addicted person, and whether the person has prior convictions by stating the prior offenses.

Added by Laws 1989, c. 361, § 1, emerg. eff. June 2, 1989. Amended by Laws 2007, c. 199, § 6, eff. Nov. 1, 2007.

§63-2-421. Short title.

This act shall be known and may be cited as the "Drug Dealer Liability Act".

Added by Laws 1994, c. 179, § 1, eff. Sept. 1, 1994.

§63-2-422. Definitions.

As used in the Drug Dealer Liability Act:

1. "Illegal drug" means a drug whose distribution is a violation of state law;

2. "Illegal drug market" means the support system of illegal drug-related operations, from production to retail sales, through which an illegal drug reaches the user;

3. "Illegal drug market target community" is the area described under Section 7 of this act;

4. "Individual drug user" means the individual whose illegal drug use is the basis of an action brought under this act;

5. "Level one offense" means possession of one quarter (1/4) ounce or more, but less than four (4) ounces, or distribution of less than one (1) ounce of a specified illegal drug, or possession of one (1) pound or twenty-five plants or more, but less than four (4) pounds or fifty plants, or distribution of less than one (1) pound of marijuana;

6. "Level two offense" means possession of four (4) ounces or more, but less than eight (8) ounces, or distribution of one (1) ounce or more, but less than two (2) ounces, of a specified illegal drug, or possession of four (4) pounds or more or fifty plants or more, but less than eight (8) pounds or seventy-five plants, or distribution of more than one (1) pound but less than ten (10) pounds of marijuana;

7. "Level three offense" means possession of eight (8) ounces or more, but less than sixteen (16) ounces, or distribution of two (2) ounces or more, but less than four (4) ounces, of a specified illegal drug or possession of eight (8) pounds or more or seventy-five plants or more, but less than sixteen (16) pounds or one hundred plants, or distribution of more than five (5) pounds but less than ten (10) pounds of marijuana;

8. "Level four offense" means possession of sixteen (16) ounces or more or distribution of four (4) ounces or more of a specified illegal drug or possession of sixteen (16) pounds or more or one hundred plants or more or distribution of ten (10) pounds or more of marijuana;

9. "Participate in the illegal drug market" means to distribute, possess with an intent to distribute, commit an act intended to facilitate the marketing or distribution of, or agree to distribute, possess with an intent to distribute, or commit an act intended to facilitate the marketing and distribution of an illegal drug. "Participate in the illegal drug market" does not include the purchase or receipt of an illegal drug for personal use only;

10. "Person" means an individual, a governmental entity, corporation, firm, trust, partnership, or incorporated or unincorporated association, existing under or authorized by the laws of this state, another state, or a foreign country;

11. "Period of illegal drug use" means, in relation to the individual drug user, the time of first use by an individual of an illegal drug to the accrual of the cause of action. The period of illegal drug use is presumed to commence two (2) years before the cause of action accrues unless the defendant proves otherwise by clear and convincing evidence;

12. "Place of illegal drug activity" means, in relation to the individual drug user, each county in which the individual possesses or uses an illegal drug or in which the individual resides, attends

school, or is employed during the period of the illegal drug use of the individual, unless the defendant proves otherwise by clear and convincing evidence;

13. "Place of participation" means, in relation to a defendant in an action brought under the Drug Dealer Liability Act, each county in which the person participates in the illegal drug market or in which the person resides, attends school, or is employed during the period of the participation in the illegal drug market by the person; and

14. "Specified illegal drug" means cocaine, heroin, or methamphetamine and any other drug the distribution of which is a violation of state law.

Added by Laws 1994, c. 179, § 2, eff. Sept. 1, 1994.

§63-2-423. Liability for civil damages.

A. A person who knowingly participates in the illegal drug market within this state is liable for civil damages as provided in the Drug Dealer Liability Act. A person may recover damages under this act for injury resulting from use of an illegal drug by that person.

B. A law enforcement officer or agency, the state, or a person acting at the direction of a law enforcement officer or agency of the state is not liable for participating in the illegal drug market, if the participation is in furtherance of an official investigation.

Added by Laws 1994, c. 179, § 3, eff. Sept. 1, 1994.

§63-2-424. Persons who may bring action - Persons liable - Damages recoverable.

A. One or more of the following persons may bring an action for damages caused by use of an illegal drug by an individual:

1. A parent, legal guardian, child, spouse, or sibling of the individual drug user;

2. An individual who was exposed to an illegal drug in utero;

3. An employer of the individual drug user; and

4. A medical facility, insurer, governmental entity, employer, or other entity that funds a drug treatment program or employee assistance program for the individual drug user or that otherwise expended money on behalf of the individual drug user.

B. A person entitled to bring an action under this section may seek damages from one or more of the following:

1. A person who knowingly distributed, or knowingly participated in the chain of distribution of, an illegal drug that was actually used by the individual drug user;

2. A person who knowingly participated in the illegal drug market if:

a. the place of the illegal drug activity by the individual drug user is within the illegal drug market target community of the defendant,
b. the participation of the defendant in the illegal drug market was connected with the same type of illegal drug used by the individual user, and
c. the defendant participated in the illegal drug market at any time during the illegal drug use of the individual user.

C. A person entitled to bring an action under this section may recover all of the following damages:

1. Economic damages including, but not limited to, the cost of treatment and rehabilitation, medical expenses, loss of economic or educational potential, loss of productivity, absenteeism, support expenses, accidents or injury, and any other pecuniary loss proximately caused by the illegal drug use;

2. Noneconomic damages, including, but not limited to, physical and emotional pain, suffering, physical impairment, emotional distress, mental anguish, disfigurement, loss of enjoyment, loss of companionship, services and consortium, and other nonpecuniary losses proximately caused by an individual's use of an illegal drug;

3. Exemplary damages;

4. Reasonable attorney fees; and

5. Cost of suit, including but not limited to, reasonable expenses for expert testimony.

Added by Laws 1994, c. 179, § 4, eff. Sept. 1, 1994.

§63-2-425. Individual drug users who may bring action - Persons liable for damages - Damages recoverable.

A. An individual drug user shall not bring an action for damages caused by the use of an illegal drug, except as otherwise provided in this subsection. An individual drug user may bring an action for damages caused by the use of an illegal drug only if all of the following conditions are met:

1. The individual personally discloses to narcotics enforcement authorities, more than six (6) months before filing the action, all the information known to the individual regarding their source of illegal drugs;

2. The individual has not used an illegal drug within the six (6) months before filing the action; and

3. The individual continues to remain free of the use of an illegal drug throughout the pendency of the action.

B. A person entitled to bring an action under this section may seek damages only from a person who distributed, or is in the chain of distribution of, an illegal drug that was actually used by the individual drug user.

C. A person entitled to bring an action under this section may recover only the following damages:

1. Economic damages, including but not limited to the cost of treatment, rehabilitation, and medical expenses, loss of economic or educational potential, loss of productivity, absenteeism, accidents or injury, and other pecuniary loss proximately caused by the person's illegal drug use;

2. Reasonable attorney fees; and

3. Costs of suit, including but not limited to reasonable expenses for expert testimony.

Added by Laws 1994, c. 179, § 5, eff. Sept. 1, 1994.

§63-2-426. Third party payment of damages - Defense under contract of insurance - Indemnification - Prohibition.

A third party shall not pay damages awarded under the Drug Dealer Liability Act, or provide a defense or money for a defense, on behalf of an insured under a contract of insurance or indemnification.

Added by Laws 1994, c. 179, § 6, eff. Sept. 1, 1994.

§63-2-427. Drug market target community - Level of offense.

A person whose participation in the illegal drug market constitutes the following level offense shall be considered to have the following illegal drug market target community:

1. For a level one offense, the county in which the place of participation of the defendant is situated;

2. For a level two offense, the target community described in paragraph 1 of this section along with all counties with a border contiguous to that target community;

3. For a level three offense, the target community described in paragraph 2 of this section plus all counties with a border contiguous to that target community; and

4. For a level four offense, the state.

Added by Laws 1994, c. 179, § 7, eff. Sept. 1, 1994.

§63-2-428. Joinder of parties - Judgments.

A. Two or more persons may join in one action under this act as plaintiffs if their respective actions have at least one place of illegal drug activity in common and if any portion of the period of illegal drug use overlaps with the period of illegal drug use for every other plaintiff.

B. Two or more persons may be joined in one action under the Drug Dealer Liability Act as defendants if those persons are liable to at least one plaintiff.

C. A plaintiff need not be interested in obtaining and a defendant need not be interested in defending against all the relief

demanded. Judgment may be given for one or more plaintiffs according to their respective liabilities.
Added by Laws 1994, c. 179, § 8, eff. Sept. 1, 1994.

§63-2-429. Comparative responsibility - Burden and standard of proof.

A. An action by an individual drug user is governed by the principles of comparative responsibility. Comparative responsibility attributed to the plaintiff does not bar recovery but diminishes the award of compensatory damages proportionally, according to the measure of responsibility attributed to the plaintiff.

B. The burden of proving the comparative responsibility of the plaintiff is on the defendant, which shall be shown by clear and convincing evidence.

C. Comparative responsibility shall not be attributed to a plaintiff who is not an individual drug user.
Added by Laws 1994, c. 179, § 9, eff. Sept. 1, 1994.

§63-2-430. Right of contribution - Recovery by plaintiff.

A person subject to liability under this act has a right of action for contribution against another person subject to liability under the Drug Dealer Liability Act. Contribution may be enforced either in the original action or by a separate action brought for that purpose. A plaintiff may seek recovery in accordance with this act and existing law against a person whom a defendant has asserted a right of contribution.
Added by Laws 1994, c. 179, § 10, eff. Sept. 1, 1994.

§63-2-431. Proof of participation in illegal drug market - Standard of proof - Prima facie evidence of participation.

A. Proof of participation in the illegal drug market in an action brought under the Drug Dealer Liability Act shall be shown by clear and convincing evidence. Except as otherwise provided in this act, other elements of the cause of action shall be shown by a preponderance of the evidence.

B. A person against whom recovery is sought who has a criminal conviction pursuant to state drug laws or the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 91-513, 84 Stat. 1236, codified at 21 U.S.C., Section 801 et seq.) is estopped from denying participation in the illegal drug market. Such a conviction is also prima facie evidence of the participation of the person in the illegal drug market during the two (2) years preceding the date of an act giving rise to a conviction.

C. The absence of criminal drug conviction of a person against whom recovery is sought does not bar an action against that person.
Added by Laws 1994, c. 179, § 11, eff. Sept. 1, 1994.

§63-2-432. Attachments of assets - Execution of judgment - Exempt property - Property seized by forfeiture.

A. A plaintiff under the Drug Dealer Liability Act, subject to subsection C of this section, may request an ex parte prejudgment attachment order from the court against all assets of a defendant sufficient to satisfy a potential award. If attachment is instituted, a defendant is entitled to an immediate hearing. Attachment may be lifted if the defendant demonstrates that the assets will be available for a potential award of if the defendant posts a bond sufficient to cover a potential award.

B. A person against whom a judgment has been rendered under the Drug Dealer Liability Act is not eligible to exempt any property, of whatever kind, from process to levy or process to execute on the judgment.

C. Any assets sought to satisfy a judgment under the Drug Dealer Liability Act that are named in a forfeiture section or have been seized for forfeiture by any state or federal agency may not be used to satisfy a judgment unless and until the assets have been released following the conclusion of the forfeiture action or released by the agency that seized the assets.

Added by Laws 1994, c. 179, § 12, eff. Sept. 1, 1994.

§63-2-433. Limitation of action - Accrual of cause of action - Tolling.

A. Except as otherwise provided in this section, a claim under the Drug Dealer Liability Act shall not be brought more than two (2) years after the cause of action accrues. A cause of action accrues under the Drug Dealer Liability Act when a person who may recover has reason to know of the harm from illegal drug use that is the basis for the cause of action and has reason to know that the illegal drug use is the cause of the harm.

B. For a plaintiff, the statute of limitations under this section is tolled when the individual potential plaintiff is incapacitated by the use of an illegal drug to the extent that the individual cannot reasonably be expected to seek recovery under this act or as otherwise provided for by law. For a defendant, the statute of limitations under this section is tolled until six (6) months after the individual potential defendant is convicted of a criminal drug offense as otherwise provided for by law.

C. The statute of limitations under the Drug Dealer Liability Act for a claim based on participation in the illegal drug market that occurred prior to the effective date of the Drug Dealer Liability Act does not begin to run until the effective date of this act.

Added by Laws 1994, c. 179, § 13, eff. Sept. 1, 1994.

§63-2-434. Legal representation of state - Stay of action.

A. A prosecuting attorney may represent the state or a political subdivision of the state in an action under the Drug Dealer Liability Act.

B. On motion by a governmental agency involved in a drug investigation or prosecution, an action brought under this act shall be stayed until the completion of the criminal investigation or prosecution that gave rise to the motion for the stay of the action.

Added by Laws 1994, c. 179, § 14, eff. Sept. 1, 1994.

§63-2-435. Interfamily tort immunity not altered.

The provisions of the Drug Dealer Liability Act are not intended to alter the law regarding interfamily tort immunity.

Added by Laws 1994, c. 179, § 15, eff. Sept. 1, 1994.

§63-2-501. Powers of enforcement personnel.

Any peace officer may:

1. Carry firearms;

2. Execute search warrants, arrest warrants, subpoenas, and summonses issued under the authority of this state;

3. Make an arrest without warrant of any person the officer has probable cause for believing has committed any felony under the Uniform Controlled Dangerous Substances Act or a violation of Section 2-402 of this title;

4. Make seizures of property pursuant to the provisions of the Uniform Controlled Dangerous Substances Act;

5. Perform such other lawful duties as are required to carry out the provisions of the Uniform Controlled Dangerous Substances Act;

6. Conduct investigations and make an arrest of any person the officer has probable cause to believe is involved in money laundering activities, as otherwise set forth by laws of this state; and

7. Conduct investigations and make an arrest of any person the officer has probable cause to believe is involved in human trafficking activities, as otherwise set forth by laws of this state.

Added by Laws 1971, c. 119, § 2-501. Amended by Laws 2004, c. 537, § 1, emerg. eff. June 9, 2004; Laws 2012, c. 186, § 2, eff. Nov. 1, 2012.

§63-2-502. Inspections.

A. Prescriptions, orders, and records, required by this act, and stock of substances specified in this act shall be open for inspection only to specifically designated or assigned state, county, and municipal officers, whose duty it is to enforce the laws of this state relating to controlled dangerous substances. The

Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control may designate noncommissioned personnel as compliance inspectors for the purpose of conducting inspections as contemplated herein. No person having knowledge by virtue of his or her office of any such prescription, order or record shall divulge such knowledge, except where such use is appropriate to the proper performance of his or her official duties in the prevention of the misuse and abuse of controlled dangerous substances or in connection with a prosecution or proceeding in court or before a licensing or registration board or officer, to which prosecution or proceeding the person to whom such prescriptions, orders, or records relate is a party.

B. Any peace officer or agency charged with administration of this act is authorized to make administrative inspections of controlled premises in accordance with the following provisions:

1. For purposes of this act only, "controlled premises" means:
   a. places where persons registered or exempted from registration requirements under this act are required to keep records, and
   b. places including factories, warehouses, establishments, and conveyances where persons registered or exempted from registration requirements under this act are permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled dangerous substance.

2. This section shall not be construed to prevent the inspection of books and records pursuant to the provisions of this act; nor shall this section be construed to prevent entries and administrative inspections at reasonable times without a warrant:
   a. with the consent of the owner, operator, or agent in charge of the controlled premises,
   b. in situations presenting imminent danger to health or safety,
   c. in situations involving inspection of conveyances where there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant,
   d. in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking, and
   e. in all other situations where a warrant is not constitutionally required.

3. Except when the owner, operator, or agent in charge of the controlled premises so consents in writing, no inspection authorized by this section shall extend to:
   a. financial data,
   b. sales data other than shipment data, or

c. pricing data.

Added by Laws 1971, c. 119, § 2-502. Amended by Laws 2017, c. 390, § 5, emerg. eff. June 6, 2017.

§63-2-503. Property subject to forfeiture.

A. The following shall be subject to forfeiture:

1. All controlled dangerous substances and synthetic controlled substances which have been manufactured, distributed, dispensed, acquired, concealed or possessed in violation of the Uniform Controlled Dangerous Substances Act;

2. All raw materials, products and equipment of any kind and all drug paraphernalia as defined by the Uniform Controlled Dangerous Substances Act, which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing or exporting, injecting, ingesting, inhaling, or otherwise introducing into the human body any controlled dangerous substance or synthetic controlled substance in violation of the provisions of the Uniform Controlled Dangerous Substances Act;

3. All property which is used, or intended for use, as a container for property described in paragraphs 1, 2, 5 and 6 of this subsection;

4. All conveyances, including aircraft, vehicles, vessels, or farm implements which are used to transport, conceal, or cultivate for the purpose of distribution as defined in the Uniform Controlled Dangerous Substances Act, or which are used in any manner to facilitate the transportation or cultivation for the purpose of sale or receipt of property described in paragraphs 1 or 2 of this subsection or when the property described in paragraphs 1 or 2 of this subsection is unlawfully possessed by an occupant thereof, except that:

a. no conveyance used by a person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of the Uniform Controlled Dangerous Substances Act unless it shall appear that the owner or other person in charge of such conveyance was a consenting party or privy to a violation of the Uniform Controlled Dangerous Substances Act, and

b. no conveyance shall be forfeited under the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted without the knowledge or consent of such owner, and if the act is committed by any person other than such owner the owner shall establish further that the conveyance was unlawfully in the possession of a person other than the owner in

violation of the criminal laws of the United States, or of any state;

5. All books, records and research, including formulas, microfilm, tapes and data which are used in violation of the Uniform Controlled Dangerous Substances Act;

6. All things of value furnished, or intended to be furnished, in exchange for a controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Act, all proceeds traceable to such an exchange, and all monies, negotiable instruments, and securities used, or intended to be used, to facilitate any violation of the Uniform Controlled Dangerous Substances Act;

7. All monies, coin and currency found in close proximity to any amount of forfeitable substances, to forfeitable drug manufacturing or distribution paraphernalia or to forfeitable records of the importation, manufacture or distribution of substances, which are rebuttably presumed to be forfeitable under the Uniform Controlled Dangerous Substances Act. The burden of proof is upon claimants of the property to rebut this presumption;

8. All real property, including any right, title, and interest in the whole of any lot or tract of land and any appurtenance or improvement thereto, which is used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, a violation of the Uniform Controlled Dangerous Substances Act which is punishable by imprisonment for more than one (1) year, except that no property right, title or interest shall be forfeited pursuant to this paragraph, by reason of any act or omission established by the owner thereof to have been committed or omitted without the knowledge or consent of that owner; and

9. All weapons possessed, used or available for use in any manner to facilitate a violation of the Uniform Controlled Dangerous Substances Act.

B. Any property or thing of value of a person is subject to forfeiture if it is established by a preponderance of the evidence that such property or thing of value was acquired by such person during the period of the violation of the Uniform Controlled Dangerous Substances Act or within a reasonable time after such period and there was no likely source for such property or thing of value other than the violation of the Uniform Controlled Dangerous Substances Act.

C. Any property or thing of value of a person is subject to forfeiture if it is established by a preponderance of the evidence that the person has not paid all or part of a fine imposed pursuant to the provisions of Section 2-415 of this title.

D. All items forfeited in this section shall be forfeited under the procedures established in Section 2-506 of this title. Whenever any item is forfeited pursuant to this section except for items confiscated by the Oklahoma State Bureau of Narcotics and Dangerous

Drugs Control, the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Alcoholic Beverage Laws Enforcement Commission, the Department of Corrections, or the Office of the Attorney General, the district court of the district shall order that such item, money, or monies derived from the sale of such item be deposited by the state, county or city law enforcement agency which seized the item in the revolving fund provided for in Section 2-506 of this title; provided, such item, money or monies derived from the sale of such item forfeited due to nonpayment of a fine imposed pursuant to the provisions of Section 2-415 of this title shall be apportioned as provided in Section 2-416 of this title. Items, money or monies seized pursuant to subsections A and B of this section shall not be applied or considered toward satisfaction of the fine imposed by Section 2-415 of this title. All raw materials used or intended to be used by persons to unlawfully manufacture or attempt to manufacture any controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Act shall be summarily forfeited pursuant to the provisions of Section 2-505 of this title.

E. All property taken or detained under this section by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Alcoholic Beverage Laws Enforcement Commission, the Department of Corrections, or the Office of the Attorney General, shall not be repleviable, but shall remain in the custody of the Bureaus, Departments, Commission, or Office, respectively, subject only to the orders and decrees of a court of competent jurisdiction. The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Commissioner of Public Safety, the Director of the Oklahoma State Bureau of Investigation, the Director of the Alcoholic Beverage Laws Enforcement Commission, the Director of the Department of Corrections, and the Attorney General shall follow the procedures outlined in Section 2-506 of this title dealing with notification of seizure, intent of forfeiture, final disposition procedures, and release to innocent claimants with regard to all property included in this section detained by the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Alcoholic Beverage Laws Enforcement Commission, the Department of Corrections, or the Office of the Attorney General. Property taken or detained by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Alcoholic Beverage Laws Enforcement Commission, the Department of Corrections, or the Office of the Attorney General shall be disposed of or sold pursuant to the provisions of Section 2-508 of this title. Any money, coins, and currency, taken or detained pursuant to this section may be deposited in an interest bearing account by

or at the direction of the State Treasurer if the seizing agency determines the currency is not to be held as evidence. All interest earned on such monies shall be returned to the claimant or forfeited with the money, coins, and currency which was taken or detained as provided by law.

F. The proceeds of any forfeiture of items seized by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall be distributed as follows:

1. To the bona fide or innocent purchaser, conditional sales vendor or mortgagee of the property, if any, up to the amount of his interest in the property, when the court declaring a forfeiture orders a distribution to such person; and

2. The balance to the Bureau of Narcotics Revolving Fund established pursuant to Section 2-107 of this title, provided the Bureau may enter into agreements with municipal, tribal, county, state or federal law enforcement agencies, or other state agencies with CLEET-certified law enforcement officers, assisting in the forfeiture or underlying criminal investigation, to return to such an agency a percentage of said proceeds.

G. Any agency that acquires seized or forfeited property or money shall maintain a true and accurate inventory and record of all such property seized pursuant to this section.

Added by Laws 1971, c. 119, § 2-503. Amended by Laws 1978, c. 194, § 1, emerg. eff. April 14, 1978; Laws 1981, c. 62, § 4, emerg. eff. April 13, 1981; Laws 1982, c. 153, § 1, operative Oct. 1, 1982; Laws 1985, c. 263, § 5, emerg. eff. July 15, 1985; Laws 1986, c. 291, § 1, eff. Nov. 1, 1986; Laws 1987, c. 136, § 5, eff. Nov. 1, 1987; Laws 1987, c. 138, § 9, emerg. eff. June 19, 1987; Laws 1988, c. 236, § 1, eff. Nov. 1, 1988; Laws 1989, c. 348, § 24, eff. Nov. 1, 1989; Laws 1990, c. 117, § 1, eff. Sept. 1, 1990; Laws 1991, c. 306, § 6, emerg. eff. June 4, 1991; Laws 1992, c. 373, § 13, eff. July 1, 1992; Laws 1993, c. 57, § 1, eff. July 1, 1993; Laws 1994, c. 325, § 1, eff. Sept. 1, 1994; Laws 1995, c. 147, § 4, eff. Nov. 1, 1995; Laws 1996, c. 347, § 2, emerg. eff. June 14, 1996; Laws 1997, c. 265, § 17, eff. Sept. 1, 1997; Laws 2004, c. 537, § 2, emerg. eff. June 9, 2004; Laws 2007, c. 223, § 5, eff. July 1, 2007; Laws 2009, c. 442, § 8, eff. July 1, 2009; Laws 2014, c. 154, § 5, eff. Nov. 1, 2014.

NOTE: Laws 1991, c. 216, § 32 repealed by Laws 1992, c. 373, § 22, eff. July 1, 1992.

§63-2-503.1. Transactions involving proceeds derived from illegal drug activity prohibited - Penalties.

A. It is unlawful for any person knowingly or intentionally to receive or acquire proceeds and to conceal such proceeds, or engage in transactions involving proceeds, known to be derived from any violation of the Uniform Controlled Dangerous Substances Act,

Section 2-101 et seq. of this title, or of any statute of the United States relating to controlled dangerous substances as defined by the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of this title. This subsection does not apply to any transaction between an individual and the counsel of the individual necessary to preserve the right to representation of the individual, as guaranteed by the Oklahoma Constitution and by the Sixth Amendment of the United States Constitution. However, this exception does not create any presumption against or prohibition of the right of the state to seek and obtain forfeiture of any proceeds derived from a violation of the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of this title, or of any statute of the United States relating to controlled dangerous substances as defined by the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of this title.

B. It is unlawful for any person knowingly or intentionally to give, sell, transfer, trade, invest, conceal, transport, or maintain an interest in or otherwise make available anything of value which that person knows is intended to be used for the purpose of committing or furthering the commission of any violation of the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of this title, or of any statute of the United States relating to controlled dangerous substances as defined by the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of this title.

C. It is unlawful for any person knowingly or intentionally to direct, plan, organize, initiate, finance, manage, supervise, or facilitate the transportation or transfer of proceeds known to be derived from any violation of the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of this title, or of any statute of the United States relating to controlled dangerous substances as defined by the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of this title.

D. It is unlawful for any person knowingly or intentionally to conduct a financial transaction involving proceeds derived from a violation of the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of this title, or of any statute of the United States relating to controlled dangerous substances as defined by the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of this title, when the transaction is designed in whole or in part to conceal or disguise the nature, location, source, ownership, or control of the proceeds known to be derived from a violation of the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of this title, or of any statute of the United States relating to controlled dangerous substances as defined by the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of this title, or to avoid a transaction reporting requirement under state or federal law.

E. Any person convicted of violating any of the provisions of this section is guilty of a felony and may be punished by imprisonment for not less than two (2) years nor more than ten (10) years or by a fine of not more than Fifty Thousand Dollars ($50,000.00) or by both said imprisonment and fine.
Added by Laws 1990, c. 232, § 8, emerg. eff. May 18, 1990. Amended by Laws 1998, c. 100, § 2, emerg. eff. April 13, 1998.

§63-2-503.1a. Drug Money Laundering and Wire Transmitter Act - Short title.

Sections 2-503.1a through 2-503.1i of this title and Sections 11 through 13 of this act shall be known and may be cited as the "Drug Money Laundering and Wire Transmitter Act".
Added by Laws 2008, c. 170, § 1, eff. July 1, 2008. Amended by Laws 2009, c. 442, § 9, eff. July 1, 2009.

§63-2-503.1b. Criminal financial check on money services business registrations.

A. The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall conduct a criminal financial check on all registration applications submitted pursuant to the provisions of Section 1513 of Title 6 of the Oklahoma Statutes. The applicant for a money services business license shall pay a fee of Fifty Dollars ($50.00) to the Bureau for the criminal financial check prior to licensing. This shall be in addition to all other administrative fees imposed by the Oklahoma Banking Department.

B. The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall have authority to access, review and investigate any registration application and supplier reports submitted to the Oklahoma State Banking Commissioner pursuant to Section 1513 of Title 6 of the Oklahoma Statutes, for the purposes of criminal financial checks, identifying or investigating suspicious or illegal activities or to track illegal drug-related monies. A copy of all money services transaction reports provided to the Oklahoma State Banking Commissioner shall be provided to the Bureau.
Added by Laws 2008, c. 170, § 2, eff. July 1, 2008.

§63-2-503.1c. Financial transactions involving proceeds of unlawful acts.

No person shall conduct or attempt to conduct a financial transaction knowing that the property involved in such a financial transaction represents the proceeds of some form of unlawful activity related to any violation of Sections 2-101 through 2-608 of Title 63 of the Oklahoma Statutes while:

1. Acting with the intent to promote the continuation of the specified unlawful activity;

2. Acting with the intent to engage in conduct which violates Sections 2-101 through 2-608 of Title 63 of the Oklahoma Statutes;

3. Acting with the knowledge that the transaction is designed in whole or part to disguise the nature, location, source, ownership, or control of the proceeds of the specified unlawful activity; or

4. Acting with the knowledge that the transaction is designed in whole or part to avoid a transaction reporting requirement.

Added by Laws 2008, c. 170, § 3, eff. July 1, 2008.

§63-2-503.1d. Certain sales or transfers of money transmitter equipment prohibited - Allowing access to equipment - Penalty.

A. No person shall sell, give, transfer, trade, supply, or provide any money transmitter equipment, as defined by the Oklahoma Financial Transaction Reporting Act, to any person not licensed by the Oklahoma State Banking Commissioner. Any person violating the provisions of this section shall be guilty upon conviction of a misdemeanor, for a first offense, and a felony for any second or subsequent offense. The misdemeanor penalty shall be a fine not exceeding Three Thousand Dollars ($3,000.00), or imprisonment in the county jail not to exceed one (1) year, or both such fine and imprisonment. The felony penalty shall be imprisonment in the custody of the Department of Corrections for five (5) years, or a fine not exceeding Five Thousand Dollars ($5,000.00), or both such fine and imprisonment.

B. Any person who encourages, facilitates, or allows access to any money transmitter equipment in any manner to facilitate any violation of Section 2-503.1 of Title 63 of the Oklahoma Statutes shall be guilty of a felony, upon conviction, punishable as provided in Section 8 of this act.

Added by Laws 2008, c. 170, § 4, eff. July 1, 2008.

§63-2-503.1e. Use of money services business for unlawful acts.

A. Any person who knowingly or intentionally uses a money services business, as defined by the Oklahoma Financial Transaction Reporting Act, or an electronic funds transfer network for any purpose in violation of Section 2-503.1 of Title 63 of the Oklahoma Statutes or Sections 1 through 9 of this act, or with intent to facilitate any violation of the Uniform Controlled Dangerous Substances Act or any statute of the United States relating to controlled substances, or to commit any other crime shall be guilty, upon conviction, of a felony.

B. Any person who, by or through a money services business, as defined in the Oklahoma Financial Transaction Reporting Act, or an electronic funds transfer network, knowingly transmits, exchanges, or processes any securities or negotiable instruments for any purpose in violation of Section 2-503.1 of Title 63 of the Oklahoma

Statutes or Sections 1 through 9 of this act shall be guilty, upon conviction, of a felony.
Added by Laws 2008, c. 170, § 5, eff. July 1, 2008.

§63-2-503.1f. Evasion of certain money reporting requirements.

No person shall, for the purpose of evading the reporting requirements set forth in 31 U.S.C., Section 5311, 31 C.F.R., Part 103, Title 6 or Sections 2-101 through 2-608 of Title 63 of the Oklahoma Statutes, or other federal laws pertaining to money laundering:

1. Cause or attempt to cause the failure to file a report required under Title 6 or Title 63 of the Oklahoma Statutes, or federal monetary reporting requirements under law; or

2. Cause or attempt to cause the filing of a report required under Title 6 or Title 63 of the Oklahoma Statutes, or federal monetary reporting requirements under law, that contains a material omission or misstatement of fact.

Added by Laws 2008, c. 170, § 6, eff. July 1, 2008.

§63-2-503.1g. Structuring of monetary transactions.

A. It shall be unlawful for any person to structure, assist in structuring, attempt to structure, or attempt to assist in structuring any transaction with one or more financial or nonfinancial trades or businesses, to include any importation or exportation of monetary instruments.

B. It shall be unlawful for any person to structure or assist in structuring, or attempt to structure or assist in structuring any transaction with one or more organizations that have a monetary reporting requirement under federal law or under Title 6 or Sections 2-101 through 2-608 of Title 63 of the Oklahoma Statutes.

C. For purposes of this section, "structuring" means a person who, acting alone, in conjunction with others, or on behalf of others, conducts or attempts to conduct one or more transactions in currency, in any amount, at one or more organizations that have a monetary reporting requirement under federal law or under Title 6 or Title 63 of the Oklahoma Statutes, on one or more days, for the purpose of evading the reporting requirements of any federal law or any provision of Title 6 or Title 63 of the Oklahoma Statutes requiring reporting of financial transactions.

Added by Laws 2008, c. 170, § 7, eff. July 1, 2008.

§63-2-503.1h. Violation of act - Penalties - Definitions.

A. Unless otherwise provided, any person convicted of violating any of the provisions of this act is guilty of a felony and may be punished by imprisonment for not less than two (2) years nor more than ten (10) years or by a fine of not more than Fifty Thousand Dollars ($50,000.00) or an amount equal to twice the dollar amount

of each transaction, whichever is greater, or by both such fine and imprisonment.

B. For the purposes of this act, the terms, "money transmitter equipment" or a "money transmitter service" shall include an entity or person engaged in activity in violation of these provisions regardless of whether the person or entity is licensed to conduct such activity under the Oklahoma Financial Transaction Reporting Act.

Added by Laws 2008, c. 170, § 8, eff. July 1, 2008.

§63-2-503.1i. Interception, seizure and forfeiture of funds or equipment.

A. The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall have authority to intercept, seize and forfeit any funds or equipment in violation of any provision of the Drug Money Laundering and Wire Transmitter Act or in violation of Section 2-503.1 of this title.

B. A warrant for the seizure of property pursuant to Section 1222 of Title 22 of the Oklahoma Statutes may be issued by a district judge upon finding of probable cause for funds believed to be used or intended for any violation of the Uniform Controlled Dangerous Substances Act to any licensee under the Oklahoma Financial Transaction Reporting Act.

C. The State Banking Commissioner or designee upon receipt of an affidavit of probable cause from an agent of the Bureau, may issue an emergency notice requiring a temporary freeze on an account to any financial institution or money services business under its jurisdiction. Such freeze shall halt all transactions in the account. During the fifteen-day freeze, an account holder may file an emergency appeal to the district court. The district court shall schedule a hearing on the emergency appeal within three (3) judicial days of the request. The provisions of Section 2201 et seq. of Title 6 of the Oklahoma Statutes shall not apply to this section. This freeze shall not exceed fifteen (15) days and shall automatically expire unless:

1. A subsequent seizure warrant is issued by a district judge; or

2. A notice of forfeiture is filed on the contents of the account pursuant to Section 2-503 of this title.

D. No financial institution shall have liability to an account holder for acting pursuant to this section.

Added by Laws 2008, c. 170, § 9, eff. July 1, 2008. Amended by Laws 2009, c. 442, § 10, eff. July 1, 2009.

§63-2-503.1j. Money and wire transmission fee - Quarterly remittance - Notice of income tax credit - Enforcement.

A. Any licensee of a money transmission, transmitter or wire transmitter business pursuant to the Oklahoma Financial Transaction Reporting Act and their delegates shall collect a fee of Five Dollars ($5.00) for each transaction not in excess of Five Hundred Dollars ($500.00) and in addition to such fee an amount equal to one percent (1%) of the amount in excess of Five Hundred Dollars ($500.00).

B. The fee prescribed by subsection A of this section shall be remitted quarterly to the Oklahoma Tax Commission on such forms as the Commission, with the assistance of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, may prescribe for such purpose. All required forms and remittances shall be filed with the Tax Commission not later than the fifteenth day of the month following the close of each calendar quarter.

C. The Oklahoma Tax Commission shall apportion all revenues derived from the fee to the Drug Money Laundering and Wire Transmitter Revolving Fund.

D. Every licensee and their delegates shall post a notice on a form prescribed by the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control that notifies customers that upon filing an individual income tax return with either a valid social security number or a valid taxpayer identification number the customer shall be entitled to an income tax credit equal to the amount of the fee paid by the customer for the transaction.

E. The Oklahoma Tax Commission shall be afforded all provisions currently under law to enforce the provisions of subsection B of this section. If a licensee fails to file reports or fails to remit the fee authorized by subsection B of this section, the Oklahoma Tax Commission shall have the authority pursuant to Section 212 of Title 68 of the Oklahoma Statutes to suspend the license of the licensee and its delegates. A notification of the suspension shall also be sent to the State Banking Commissioner and the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control. The licensee and its delegates may not reapply for a license until all required reports have been filed and all required fee amounts have been remitted.

F. Upon request from the Oklahoma Tax Commission, the State Banking Commissioner may make a claim against the surety bond of the licensee on behalf of the State of Oklahoma.

G. The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control and its attorneys may assist the Oklahoma Tax Commission in conducting audits and the prosecution and/or seeking of legal remedies to ensure compliance with this act.

Added by Laws 2009, c. 442, § 11, eff. July 1, 2009.

§63-2-503.1k. Prosecution - Venue.

A. A prosecution for an offense under the Drug Money Laundering and Wire Transmitter Act may be brought in:

1. Any county in which the financial or monetary transaction is conducted; or

2. Any county where a prosecution for the underlying specified unlawful activity could be brought, if the defendant participated in the transfer of the proceeds of the specified unlawful activity from that county to the county where the financial or monetary transaction is conducted.

B. A prosecution for an attempt or conspiracy offense under the Drug Money Laundering and Wire Transmitter Act may be brought in the county where venue would lie for the completed offense or in any other county where an act in furtherance of the attempt or conspiracy took place.

C. For purposes of this section, a transfer of funds from one place to another, by wire or any other means, shall constitute a single, continuing transaction. Any person who conducts any portion of the transaction may be charged in any jurisdiction in which the transaction takes place.

Added by Laws 2009, c. 442, § 12, eff. July 1, 2009.

§63-2-503.1*l*. Definitions.

As used in the Drug Money Laundering and Wire Transmitter Act:

1. "Conducts" includes initiating, concluding, or participating in initiating, or concluding a transaction;

2. "Financial institution" includes:

a. any financial institution, as defined in Section 5312(a)(2) of Title 31 of the United States Code, or the regulations promulgated thereunder, and

b. any foreign bank, as defined in Section 3101 of Title 12 of the United States Code;

3. "Financial transaction" means:

a. a transaction which in any way or degree affects state, interstate or foreign commerce:

(1) involving the movement of funds by wire or other means,

(2) involving one or more monetary instruments, or

(3) involving the transfer of title to any real property, vehicle, vessel, or aircraft; or

b. a transaction involving the use of a financial institution which is engaged in, or the activities of which affect, state, interstate or foreign commerce in any way or degree;

4. "Knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity" means that the person knew the property involved in the transaction represented proceeds from some form, though not

necessarily which form, of any violation of the Uniform Controlled Dangerous Substances Act;

5. "Monetary instruments" means:

a. coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or

b. investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;

6. "Money transmitting" includes transferring funds by any and all means including, but not limited to, transfers within this state, country or to locations abroad by wire, check, draft, facsimile, or courier;

7. "Proceeds" means all things of value furnished, or intended to be furnished, in exchange for a controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Act, including all proceeds traceable to such an exchange, and all monies, negotiable instruments, and securities used, or intended to be used to facilitate any violation of the Uniform Controlled Dangerous Substances Act;

8. "Specified unlawful activity" means any violation of the Uniform Controlled Dangerous Substances Act; and

9. "Transaction" includes a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, use of a safe deposit box, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.

Added by Laws 2009, c. 442, § 13, eff. July 1, 2009.

§63-2-503.2. Assessment for violation of acts - Drug Abuse Education and Treatment Revolving Fund.

A. 1. Every person convicted of a violation of the Uniform Controlled Dangerous Substances Act or the Trafficking In Illegal Drugs Act shall be assessed for each offense a sum of not less than One Hundred Dollars ($100.00) nor more than Three Thousand Dollars ($3,000.00).

2. The assessment shall be mandatory and in addition to and not in lieu of any fines, restitution costs, other assessments, or forfeitures authorized or required by law for the offense. The assessment required by this section shall not be subject to any order of suspension. The court shall order either a lump sum payment or establish a payment schedule.

3. Failure of the offender to comply with the payment schedule shall be considered contempt of court.

4. For purposes of collection, the assessment order shall not expire until paid in full, nor shall the assessment order be limited by the term of imprisonment prescribed by law for the offense, nor by any term of imprisonment imposed against the offender, whether suspended or actually served.

B. The assessment provided for in subsection A of this section shall be collected by the court clerk as provided for collection of fines and costs. When assessment payments are collected by the court clerk pursuant to court order, the funds shall be forwarded to the Department of Mental Health and Substance Abuse Services for deposit into its Drug Abuse Education and Treatment Revolving Fund created by this section.

C. 1. There is hereby created in the State Treasury a revolving fund for the Department of Mental Health and Substance Abuse Services to be designated the "Drug Abuse Education and Treatment Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of assessments collected pursuant to this section, court-ordered assessments collected pursuant to Section 11-902 of Title 47 of the Oklahoma Statutes and Section 2-401 of this title, the Oklahoma Drug Court Act, Section 2-2-509 of Title 10A of the Oklahoma Statutes, grants, gifts and other money accruing to the benefit of the fund and the Oklahoma Drug Court Act.

2. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Department of Mental Health and Substance Abuse Services for treatment and drug testing of indigent substance abusing offenders pursuant to the Oklahoma Drug Court Act, Section 2-2-205 of Title 10A of the Oklahoma Statutes, and Sections 2-2-506 through 2-2-509 of Title 10A of the Oklahoma Statutes, for substance abuse prevention, drug courts, and continuing education.

3. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

4. Monies expended from this fund shall not supplant other local, state, or federal funds.

Added by Laws 1990, c. 232, § 9, emerg. eff. May 18, 1990. Amended by Laws 1997, c. 359, § 14, eff. July 1, 1997; Laws 1998, c. 53, § 2, eff. July 1, 1998; Laws 2001, c. 258, § 10, eff. July 1, 2001; Laws 2003, c. 224, § 20, eff. July 1, 2003; Laws 2003, c. 437, § 3, eff. July 1, 2003; Laws 2005, c. 226, § 8, eff. Nov. 1, 2005; Laws 2009, c. 234, § 153, emerg. eff. May 21, 2009; Laws 2012, c. 304, § 500.

§63-2-503A. Drug manufacture vehicle.

Any law enforcement agency in this state that seizes a vehicle in which a controlled dangerous substance has been manufactured that is forfeited pursuant to Section 2-503 of Title 63 of the Oklahoma Statutes may request that the Oklahoma Tax Commission brand the certificate of title with the notation "Drug Manufacture Vehicle". Added by Laws 2010, c. 308, § 1, eff. Nov. 1, 2010.

§63-2-504. Seizure of property.

Any peace officer of this state shall seize property subject to forfeiture under this act when:

1. The seizure is incident to arrest or search warrant;

2. The property has been the subject of a prior judgment in favor of the state in an injunction or forfeiture proceeding under this act;

3. Probable cause exists to believe the property is dangerous to health or safety; or

4. Probable cause exists to believe the property has been used, or will be used, in violation of this act.

Added by Laws 1971, c. 119, § 2-504.

§63-2-505. Summary forfeiture of certain substances.

A. All controlled substances in Schedule I of Section 2-204 of this title and all controlled substances in Schedules II, III, IV, and V that are not in properly labeled containers in accordance with this act that are possessed, transferred, sold, or offered for sale in violation of this act are deemed contraband and shall be seized and summarily forfeited.

B. All hazardous materials and all property contaminated with hazardous materials described in paragraph 2 of subsection A of Section 2-503 of this title, used or intended to be used by persons to unlawfully manufacture or attempt to manufacture any controlled dangerous substance, shall be summarily forfeited to the state and submitted to the Oklahoma State Bureau of Investigation for prompt destruction in accordance with state and federal laws.

C. Species of plants from which controlled substances in Schedules I or II of the Uniform Controlled Dangerous Substances Act may be derived which have been planted or cultivated in violation of the Uniform Controlled Dangerous Substances Act, or of which the owners or cultivators are unknown, or which are wild growths, may be seized by peace officers, summarily forfeited and, in lieu of the eradication procedures contained in Section 2-509 of this title, promptly cut and burned where seized or destroyed by applications of herbicides approved for such purpose and registered for use in Oklahoma by the Oklahoma Department of Agriculture, Food, and Forestry. The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall ensure that persons spraying the plants are trained in the appropriate use of the herbicide and any safety and

protection issues pursuant to the requirements of the Oklahoma Department of Agriculture, Food, and Forestry.
Added by Laws 1971, c. 119, § 2-505. Amended by Laws 1987, c. 138, § 10, emerg. eff. June 19, 1987; Laws 1989, c. 237, § 4, eff. Nov. 1, 1989; Laws 1994, c. 335, § 1, emerg. eff. June 8, 1994; Laws 1997, c. 110, § 1, emerg. eff. April 15, 1997; Laws 2017, c. 25, § 1, eff. Nov. 1, 2017.

§63-2-506. Seizure of property - Notice of seizure and intended forfeiture proceeding - Verified answer and claim to property - Hearing - Evidence and proof - Proceeds of sale

A. Any peace officer of this state shall seize the following property:

1. Any property described in subsection A of Section 2-503 of this title. Such property shall be held as evidence until a forfeiture has been declared or release ordered, except for property described in paragraphs 1, 2 and 3 of subsection A of Section 2-503 of this title, or in the case of money, coins, and currency, deposited as provided in subsection E of Section 2-503 of this title; provided, any money, coins and currency taken or detained pursuant to this section may be deposited in an interest-bearing account by or at the direction of the district attorney in the office of the county treasurer if the district attorney determines the currency is not to be held as evidence. All interest earned on such monies shall be returned to the claimant or forfeited with the money, coins and currency which was taken or detained as provided by law;

2. Any property described in subsection B of Section 2-503 of this title; or

3. Any property described in subsection C of Section 2-503 of this title.

B. Notice of seizure and intended forfeiture proceeding shall be filed in the office of the clerk of the district court for the county wherein such property is seized and shall be given all owners and parties in interest. Notwithstanding any other provision of law, no filing fees shall be assessed by the court clerk for the filing of any forfeiture action.

C. Notice shall be given by the agency seeking forfeiture according to one of the following methods:

1. Upon each owner or party in interest whose right, title or interest is of record in the Tax Commission, by mailing a copy of the notice by certified mail to the address as given upon the records of the Tax Commission;

2. Upon each owner or party in interest whose name and address is known to the attorney in the office of the agency prosecuting the action to recover unpaid fines, by mailing a copy of the notice by registered mail to the last-known address; or

3. Upon all other owners or interested parties, whose addresses are unknown, but who are believed to have an interest in the property, by one publication in a newspaper of general circulation in the county where the seizure was made.

D. Within forty-five (45) days after the mailing or publication of the notice, the owner of the property and any other party in interest or claimant may file a verified answer and claim to the property described in the notice of seizure and of the intended forfeiture proceeding.

E. If at the end of forty-five (45) days after the notice has been mailed or published there is no verified answer on file, the court shall hear evidence upon the fact of the unlawful use and shall order the property forfeited to the state, if such fact is proved. Except as otherwise provided for in Section 2-503 of this title, any such property shall be forfeited to the state and sold under judgment of the court pursuant to the provisions of Section 2-508 of this title.

F. If a verified answer is filed, the forfeiture proceeding shall be set for hearing.

G. At a hearing in a proceeding against property described in paragraphs 3 through 9 of subsection A or subsections B and C of Section 2-503 of this title, the requirements set forth in said paragraph or subsection, respectively, shall be satisfied by the state by a preponderance of the evidence.

H. The claimant of any right, title, or interest in the property may prove a lien, mortgage, or conditional sales contract to be a bona fide or innocent ownership interest and that such right, title, or interest was created without any knowledge or reason to believe that the property was being, or was to be, used for the purpose charged.

I. In the event of such proof, the court shall order the property released to the bona fide or innocent owner, lien holder, mortgagee or vendor if the amount due him is equal to, or in excess of, the value of the property as of the date of the seizure, it being the intention of this section to forfeit only the right, title or interest of the purchaser.

J. If the amount due to such person is less than the value of the property, or if no bona fide claim is established, the property shall be forfeited to the state and sold under judgment of the court, as provided for in Section 2-508 of this title, except as otherwise provided for in Section 2-503 of this title.

K. Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the office of the district attorney of the county wherein the property was seized, subject only to the orders and decrees of the court or the official having jurisdiction thereof; said official shall maintain a true and accurate inventory and record of all such property seized

under the provisions of this section. The provisions of this subsection shall not apply to property taken or detained by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Alcoholic Beverage Laws Enforcement Commission, the Department of Corrections or the Office of the Attorney General. Property taken or detained by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Alcoholic Beverage Laws Enforcement Commission, the Department of Corrections or the Office of the Attorney General shall be subject to the provisions of subsections E and F of Section 2-503 of this title.

L. The proceeds of the sale of any property not taken or detained by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Alcoholic Beverage Laws Enforcement Commission, the Department of Corrections or the Office of the Attorney General shall be distributed as follows, in the order indicated:

1. To the bona fide or innocent purchaser, conditional sales vendor or mortgagee of the property, if any, up to the amount of his or her interest in the property, when the court declaring the forfeiture orders a distribution to such person;

2. To the payment of the actual expenses of preserving the property and legitimate costs related to the civil forfeiture proceedings. For purposes of this paragraph, the term "legitimate costs" shall not include court costs associated with any civil forfeiture proceeding; and

3. The balance to a revolving fund in the office of the county treasurer of the county wherein the property was seized, said fund to be used as a revolving fund solely for enforcement of controlled dangerous substances laws, drug abuse prevention and drug abuse education, and maintained by the district attorney in his or her discretion for those purposes with a yearly accounting to the board of county commissioners in whose county the fund is established and to the District Attorneys Council; provided, one hundred percent (100%) of the balance of the proceeds of such sale of property forfeited due to nonpayment of a fine imposed pursuant to the provisions of Section 2-415 of this title shall be apportioned as provided in Section 2-416 of this title. The revolving fund shall be audited by the State Auditor and Inspector at least every two (2) years in the manner provided in Section 171 of Title 19 of the Oklahoma Statutes. Said audit shall include, but not be limited to, a compliance audit. A district attorney may enter into agreements with municipal, tribal, county or state agencies to return to such an agency a percentage of proceeds of the sale of any property seized by the agency and forfeited under the provisions of this

section. The District Attorneys Council shall adopt guidelines which ensure that such agencies receive a reasonable percentage of such proceeds, considering the relative contribution of each agency to the drug enforcement and prosecution operations relating to the seizure. In formulating said guidelines, the District Attorneys Council shall examine federal guidelines on asset distribution and use said guidelines as a basis for establishing guidelines for this state. The Attorney General is hereby authorized to mediate disputes between district attorneys and such agencies concerning the application of said guidelines in particular instances. Any agency that receives proceeds from an asset distribution shall maintain a true and accurate record of all such assets.

M. Whenever any vehicle, airplane or vessel is forfeited under the Uniform Controlled Dangerous Substances Act, the district court of jurisdiction may order that the vehicle, airplane or vessel seized may be retained by the state, county or city law enforcement agency which seized the vehicle, airplane or vessel for its official use.

N. If the court finds that the state failed to satisfy the required showing provided for in subsection G of this section, the court shall order the property released to the owner or owners.

O. Except as provided for in subsection Q of this section, a bona fide or innocent owner, lien holder, mortgagee or vendor that recovers property pursuant to this section shall not be liable for storage fees.

P. Except as provided for in subsection Q of this section, storage fees shall be paid by the agency which is processing the seizure and forfeiture from funds generated by seizure and forfeiture actions.

Q. The bona fide or innocent owner, lien holder, mortgagee or vendor shall reclaim subject seized property within thirty (30) days of written notice from the seizing agency. If such person fails to reclaim the property within the thirty-day time period, then storage fees may be assessed against their secured interest.

R. 1. At any hearing held relevant to this section, a report of the findings of the laboratory of the Oklahoma State Bureau of Investigation, the medical examiner's report of investigation or autopsy report, or a laboratory report from a forensic laboratory operated by the State of Oklahoma or any political subdivision thereof, which has been made available to the accused by the office of the district attorney or other party to the forfeiture at least five (5) days prior to the hearing, with reference to all or part of the evidence submitted, when certified as correct by the persons making the report shall be received as evidence of the facts and findings stated, if relevant and otherwise admissible in evidence. If such report is deemed relevant by the forfeiture applicant or the respondent, the court shall admit such report without the testimony

of the person making the report, unless the court, pursuant to this subsection, orders such person to appear.

2. When any alleged controlled dangerous substance has been submitted to the laboratory of the OSBI for analysis, and such analysis shows that the submitted material is a controlled dangerous substance, the distribution of which constitutes a felony under the laws of this state, no portion of such substance shall be released to any other person or laboratory except to the criminal justice agency originally submitting the substance to the OSBI for analysis, absent an order of a district court. The defendant shall additionally be required to submit to the court a procedure for transfer and analysis of the subject material to ensure the integrity of the sample and to prevent the material from being used in any illegal manner.

3. The court, upon motion of either party, shall order the attendance of any person preparing a report submitted as evidence in the hearing when it appears there is a substantial likelihood that material evidence not contained in said report may be produced by the testimony of any person having prepared a report. The hearing shall be held and, if sustained, an order issued not less than five (5) days prior to the time when the testimony shall be required.

4. If within five (5) days prior to the hearing or during a hearing, a motion is made pursuant to this section requiring a person having prepared a report to testify, the court may hear a report or other evidence but shall continue the hearing until such time notice of the motion and hearing is given to the person making the report, the motion is heard, and, if sustained, the testimony ordered can be given.

S. In any forfeiture proceeding under this chapter in which the defendant or claimant prevails, the court may order the plaintiff processing the seizure and forfeiture to pay from funds generated by seizure and forfeiture actions:

1. Reasonable attorney fees and other litigation costs reasonably incurred by the defendant or claimant directly related to the claim on which the defendant or claimant prevailed;

2. Postjudgment interest; and

3. In cases involving currency or other negotiable instruments:

   a. interest actually paid to the state from the date of seizure or arrest of the property that resulted from the investment of the property in an interest-bearing account or instrument, and

   b. an imputed amount of interest that such currency, instruments, or proceeds would have earned at the rate applicable to the thirty-day Treasury Bill, for any period during which no interest was paid, not including any period when the property reasonably was in use as evidence in an official proceeding or in

conducting scientific tests for the purpose of collecting evidence, commencing fifteen (15) days after the property was seized by a law enforcement agency or was turned over to a law enforcement agency by a federal law enforcement authority.

Added by Laws 1971, c. 119, § 2-506. Amended by Laws 1978, c. 194, § 2, emerg. eff. April 14, 1978; Laws 1980, c. 102, § 1, eff. Oct. 1, 1980; Laws 1982, c. 153, § 2, operative Oct. 1, 1982; Laws 1985, c. 263, § 6, emerg. eff. July 15, 1985; Laws 1986, c. 240, § 11, eff. Nov. 1, 1986; Laws 1987, c. 136, § 6, eff. Nov. 1, 1987; Laws 1988, c. 236, § 2, eff. Nov. 1, 1988; Laws 1990, c. 117, § 2, eff. Sept. 1, 1990; Laws 1990, c. 264, § 27, operative July 1, 1990; Laws 1991, c. 318, § 1, eff. Sept. 1, 1991; Laws 1992, c. 64, § 1, eff. Sept. 1, 1992; Laws 1993, c. 57, § 2, eff. July 1, 1993; Laws 1994, c. 325, § 2, eff. Sept. 1, 1994; Laws 1995, c. 147, § 5, eff. Nov. 1, 1995; Laws 1996, c. 199, § 5, eff. Nov. 1, 1996; Laws 1996, c. 347, § 3, emerg. eff. June 14, 1996; Laws 1997, c. 93, § 1, emerg. eff. April 11, 1997; Laws 2001, c. 31, § 1, eff. Nov. 1, 2001; Laws 2002, c. 460, § 36, eff. Nov. 1, 2002; Laws 2004, c. 537, § 3, emerg. eff. June 9, 2004; Laws 2007, c. 248, § 4, emerg. eff. June 4, 2007; Laws 2009, c. 442, § 14, eff. July 1, 2009; Laws 2014, c. 284, § 1, eff. Nov. 1, 2014; Laws 2016, c. 225, § 1, eff. Nov. 1, 2016.

NOTE: Laws 1991, c. 216, § 33 repealed by Laws 1992, c. 64, § 4, eff. Sept. 1, 1992.

§63-2-507. Itemization and submission for destruction.

Any peace officer of this state seizing any of the property described in paragraphs 1 and 2 of subsection A of Section 2-503 of this title shall cause a written inventory to be made and maintain custody of the same until all legal actions have been exhausted unless such property has been placed in lawful custody of a court or state or federal law enforcement agency or unless otherwise provided by law. After all legal actions have been exhausted with respect to such property, the property shall be surrendered by the court, law enforcement agency or person having custody of the same to the Oklahoma State Bureau of Investigation to be destroyed as provided in Section 2-508 of this title. The property shall be accompanied with a written inventory on forms to be furnished by the Oklahoma State Bureau of Investigation.

Added by Laws 1971, c. 119, § 2-507. Amended by Laws 2004, c. 537, § 4, emerg. eff. June 9, 2004.

§63-2-508. Disposition of seized property.

A. Except as otherwise provided, all property described in paragraphs 1 and 2 of subsection A of Section 2-503 of this title which is seized or surrendered pursuant to the provisions of the

Uniform Controlled Dangerous Substances Act shall be destroyed. The destruction shall be done by or at the direction of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control (OSBNDD), who shall have the discretion prior to destruction to preserve samples of the substance for testing. In any county with a population of four hundred thousand (400,000) or more according to the latest Federal Decennial Census, there shall be a located site, approved by the OSBNDD, for the destruction of the property. Any such property submitted to the OSBNDD which it deems to be of use for investigative training, educational, or analytical purposes may be retained by the OSBNDD in lieu of destruction.

B. 1. With respect to controlled dangerous substances seized or surrendered pursuant to the provisions of the Uniform Controlled Dangerous Substances Act, municipal police departments, sheriffs, the Oklahoma Bureau of Narcotics and Dangerous Drugs Control Commission, the Oklahoma Highway Patrol, and the Oklahoma State Bureau of Investigation shall have the authority to destroy seized controlled dangerous substances when the amount seized in a single incident exceeds ten (10) pounds. The destroying agency shall:

a. photograph the seized substance with identifying case numbers or other means of identification,

b. prepare a report describing the seized substance prior to the destruction,

c. retain at least one (1) pound of the substance randomly selected from the seized substance for the purpose of evidence, and

d. obtain and retain samples of the substance from enough containers, bales, bricks, or other units of substance seized to establish the presence of a weight of the substance necessary to establish a violation of the Trafficking in Illegal Drugs Act pursuant to subsection C of Section 2-415 of this title, if such a weight is present. If such weight is not present, samples of the substance from each container, bale, brick or other unit of substance seized shall be taken. Each sample taken pursuant to this section shall be large enough for the destroying agency and the defendant or suspect to have an independent test performed on the substance for purposes of identification.

2. If a defendant or suspect is known to the destroying agency, the destroying agency shall give at least seven (7) days' written notice to the defendant, suspect or counsel for the defendant or suspect of:

a. the date, the time, and the place where the photographing will take place and notice of the right to attend the photographing, and

b. the right to obtain samples of the controlled dangerous substance for independent testing and use as evidence.

3. The written notice shall also inform the defendant, suspect or counsel for the defendant or suspect that the destroying agency must be notified in writing within seven (7) days from receipt of the notice of the intent of the suspect or defendant to obtain random samples and make arrangements for the taking of samples. The samples for the defendant or suspect must be taken by a person licensed by the Drug Enforcement Administration. If the defendant or counsel for the defendant fails to notify the destroying agency in writing of an intent to obtain samples and fails to make arrangements for the taking of samples, a sample taken pursuant to subparagraph d of paragraph 1 of this subsection shall be made available upon request of the defendant or suspect.

The representative samples, the photographs, the reports, and the records made under this section and properly identified shall be admissible in any court or administrative proceeding for any purposes for which the seized substance itself would have been admissible.

C. All other property not otherwise provided for in the Uniform Controlled Dangerous Substances Act which has come into the possession of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Alcoholic Beverage Laws Enforcement Commission, the Department of Corrections, the Office of the Attorney General, or a district attorney may be disposed of by order of the district court when no longer needed in connection with any litigation. If the owner of the property is unknown to the agency or district attorney, the agency or district attorney shall hold the property for at least six (6) months prior to filing a petition for disposal with the district court except for laboratory equipment which may be forfeited when no longer needed in connection with litigation, unless the property is perishable. The Director or Commissioner of the agency, the Attorney General, or district attorney shall file a petition in the district court of Oklahoma County or in the case of a district attorney, the petition shall be filed in a county within the jurisdiction of the district attorney requesting the authority to:

1. Conduct a sale of the property at a public auction or use an Internet auction, which may include online bidding; or

2. Convert title of the property to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Alcoholic Beverage Laws Enforcement Commission, the Department of Corrections, the Office of the Attorney General, or to the district attorney's

office for the purposes provided for in subsection J, K or L of this section.

The Director, Commissioner, Attorney General or district attorney shall attach to the petition:

a. a list describing the property, including all identifying numbers and marks, if any,

b. the date the property came into the possession of the agency or district attorney, and

c. the name and address of the owner, if known.

For any item having an apparent value in excess of One Hundred Dollars ($100.00), but less than Five Hundred Dollars ($500.00), the notice of the hearing of the petition for the sale of the property, except laboratory equipment used in the processing, manufacturing or compounding of controlled dangerous substances in violation of the provisions of the Uniform Controlled Dangerous Substances Act, shall be given to every known owner, as set forth in the petition, by first-class mail to the last-known address of the owner at least ten (10) days prior to the date of the hearing. An affidavit of notice being sent shall be filed with the court by a representative of the agency, the Director or Commissioner of the agency, the Attorney General or district attorney. For items in excess of Five Hundred Dollars ($500.00), a notice of the hearing of the petition for the sale of said property shall be delivered to every known owner as set forth in the petition by certified mail. Notice of a hearing on a petition for forfeiture or sale of laboratory equipment used in the processing, manufacturing or compounding of controlled dangerous substances in violation of the Uniform Controlled Dangerous Substances Act shall not be required.

The notice shall contain a brief description of the property, and the location and date of the hearing. In addition, notice of the hearing shall be posted in three public places in the county, one such place being the county courthouse at the regular place assigned for the posting of legal notices. At the hearing, if no owner appears and establishes ownership of the property, the court may enter an order authorizing the Director, Commissioner, Attorney General, or district attorney to donate the property pursuant to subsection J, K or L of this section, to sell the property at a public auction, including an Internet auction, which may include online bidding, to the highest bidder, or to convert title of the property to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Alcoholic Beverage Laws Enforcement Commission, the Department of Corrections, or the Office of the Attorney General for the purposes provided for in subsection J, K or L of this section after at least ten (10) days of notice has been given by publication in one issue of a legal newspaper of the county. If the property is offered for sale at public auction,

including an Internet auction, and no bid is received that exceeds fifty percent (50%) of the value of the property, such value to be announced prior to the sale, the Director, Commissioner, Attorney General, or district attorney may refuse to sell the item pursuant to any bid received. The Director, Commissioner, Attorney General, or district attorney shall make a return of the sale and, when confirmed by the court, the order confirming the sale shall vest in the purchaser title to the property so purchased.

D. The money received from the sale of property by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall be used for general drug enforcement purposes. These funds shall be transferred to the Bureau of Narcotics Revolving Fund established pursuant to Section 2-107 of this title or in the case of a district attorney, the revolving fund provided for in paragraph 3 of subsection L of Section 2-506 of this title.

E. At the request of the Department of Public Safety, the district attorney or a designee of the district attorney may conduct any forfeiture proceedings as described in Section 2-503 of this title on any property subject to forfeiture as described in subsection A, B or C of Section 2-503 of this title. The money received from the sale of property by the Department of Public Safety shall be deposited in the Department of Public Safety Restricted Revolving Fund and shall be expended for law enforcement purposes.

F. The money received from the sale of property by the Alcoholic Beverage Laws Enforcement Commission shall be deposited in the General Revenue Fund of the state.

G. The money received from the sale of property from the Oklahoma State Bureau of Investigation shall be deposited in the OSBI Revolving Fund and shall be expended for law enforcement purposes.

H. The Director of the Department of Corrections shall make a return of the sale and when confirmed by the court, the order confirming the sale shall vest in the purchaser title to the property so purchased. Twenty-five percent (25%) of the money received from the sale shall be disbursed to a revolving fund in the office of the county treasurer of the county wherein the property was seized, said fund to be used as a revolving fund solely for enforcement of controlled dangerous substances laws, drug abuse prevention and drug abuse education. The remaining seventy-five percent (75%) shall be deposited in the Department of Corrections Revolving Fund to be expended for equipment for probation and parole officers and correctional officers.

I. The money received from the sale of property from the Office of the Attorney General shall be deposited in the Attorney General Law Enforcement Revolving Fund and shall be expended for law enforcement purposes. The Office of the Attorney General may enter

into agreements with municipal, county or state agencies to return to such an agency a percentage of proceeds of the sale of any property seized by the agency and forfeited under the provisions of this section.

J. Any property, including but not limited to uncontaminated laboratory equipment used in the processing, manufacturing or compounding of controlled dangerous substances in violation of the provisions of the Uniform Controlled Dangerous Substances Act, upon a court order, may be donated for classroom or laboratory use by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, Department of Public Safety, district attorney, the Alcoholic Beverage Laws Enforcement Commission, the Department of Corrections, or the Office of the Attorney General to any public secondary school or technology center school in this state or any institution of higher education within The Oklahoma State System of Higher Education.

K. Any vehicle or firearm which has come into the possession and title vested in the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Office of the Attorney General or a district attorney, may be transferred, donated or offered for lease to any sheriff's office, tribal law enforcement agency, campus police department pursuant to the provisions of the Oklahoma Campus Security Act, or police department in this state on an annual basis to assist with the enforcement of the provisions of the Uniform Controlled Dangerous Substances Act. Each agency shall promulgate rules, regulations and procedures for leasing vehicles and firearms. No fully automatic weapons will be subject to the leasing agreement. All firearms leased may be utilized only by C.L.E.E.T.-certified officers who have received training in the type and class of weapon leased. Every lessee shall be required to submit an annual report to the leasing agency stating the condition of all leased property. A lease agreement may be renewed annually at the option of the leasing agency. Upon termination of a lease agreement, the property shall be returned to the leasing agency for sale or other disposition. All funds derived from lease agreements or other disposition of property no longer useful to law enforcement shall be deposited in the agency's revolving fund, or in the case of the Department of Public Safety, the Department of Public Safety Restricted Revolving Fund, and shall be expended for law enforcement purposes.

L. Before disposing of any property pursuant to subsections C through I of this section, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Department of Public Safety, the Alcoholic Beverage Laws Enforcement Commission, the Oklahoma State Bureau of Investigation, the Department of Corrections, the Office of the Attorney General, or a district attorney may transfer or

donate the property to another state agency, tribal law enforcement agency, or school district for use upon request. In addition to the provisions of this section, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control may transfer or donate property for any purpose pursuant to Section 2-106.2 of this title. The agencies and any district attorney that are parties to any transfer of property pursuant to this subsection shall enter into written agreements to carry out any such transfer of property. Any such agreement may also provide for the granting of title to any property being transferred as the parties deem appropriate. If the transfer of property is to a school district, a written agreement shall be entered into with the superintendent of the school district. No weapons may be transferred to a school district except as provided for in subsection K of this section.
Added by Laws 1971, c. 119, § 2-508. Amended by Laws 1983, c. 137, § 1, emerg. eff. May 23, 1983; Laws 1983, c. 287, § 6, operative July 1, 1983; Laws 1987, c. 138, § 11, emerg. eff. June 19, 1987; Laws 1987, c. 205, § 56, operative July 1, 1987; Laws 1988, c. 236, § 3, eff. Nov. 1, 1988; Laws 1989, c. 237, § 5, eff. Nov. 1, 1989; Laws 1990, c. 117, § 3, eff. Sept. 1, 1990; Laws 1990, c. 208, § 1, emerg. eff. May 14, 1990; Laws 1991, c. 119, § 1, eff. Sept. 1, 1991; Laws 1992, c. 64, § 2, eff. Sept. 1, 1992; Laws 1992, c. 377, § 1, eff. Sept. 1, 1992; Laws 1993, c. 57, § 3, eff. July 1, 1993; Laws 1994, c. 325, § 3, eff. Sept. 1, 1994; Laws 1996, c. 347, § 4, emerg. eff. June 14, 1996; Laws 1999, c. 152, § 2, eff. Nov. 1, 1999; Laws 2001, c. 33, § 61, eff. July 1, 2001; Laws 2002, c. 111, § 1, eff. Nov. 1, 2002; Laws 2004, c. 168, § 16, emerg. eff. April 27, 2004; Laws 2009, c. 442, § 15, eff. July 1, 2009; Laws 2011, c. 239, § 9, eff. Nov. 1, 2011; Laws 2012, c. 283, § 16, eff. July 1, 2012; Laws 2014, c. 284, § 2, eff. Nov. 1, 2014.

§63-2-509. Eradication - Penalties - Prohibition of suspended or deferred sentences or probation.

A. All species of plants from which controlled dangerous substances in Schedules I and II may be derived are hereby declared inimical to health and welfare of the public, and the intent of the Legislature is to control and eradicate these species of the plants in the State of Oklahoma.

B. It shall be unlawful for any person to cultivate or produce, or to knowingly permit the cultivation, production, or wild growing of any species of such plants, on any lands owned or controlled by such person, and it is hereby declared the duty of every such person to destroy all such plants found growing on lands owned or controlled by the person.

C. 1. Whenever any peace officer of the state shall receive information that any species of any such plants has been found growing on any private lands in the State of Oklahoma, the peace

officer shall notify the sheriff and county commissioners of the county wherein such plants are found growing. Within five (5) days of receipt of such notice, the county commissioners shall notify the owner or person in possession of such lands that such plants have been found growing on the the lands and that the same must be destroyed or eradicated within fifteen (15) days. When the fifteen (15) days have elapsed, the reporting peace officer shall cause an investigation to be made of the aforesaid lands, and if any such plants be found growing thereon, the county commissioners shall cause the same to be destroyed or eradicated by either cutting and burning or by applications of herbicides approved for such purpose and registered for use in Oklahoma by the Oklahoma Department of Agriculture, Food, and Forestry in accordance with Section 2-505 of this title.

2. Whenever any such plants are destroyed or eradicated by order of the county commissioners as provided herein, the cost of the same shall, if the work or labor be furnished by the county commissioners, be taxed against the lands whereon the work was performed, and shall be a lien upon such land in all manner and respects as a lien of judgment, if the owner is charged with a violation of subsection B of this section. If the violation of subsection B of this section is by a person other than the owner of the land, without the knowledge of the owner, the costs shall be paid by the initiating law enforcement agency.

D. Knowingly violating the provisions of subsection B or subsection H of this section is hereby declared, as to the owner, or person in possession of such lands, to be a felony and upon conviction punishable as such by a fine not to exceed Fifty Thousand Dollars ($50,000.00) and imprisonment in the custody of the Department of Corrections for not more than ten (10) years. The fine provided for in this subsection shall be in addition to other punishments provided by law and shall not be in lieu of other punishment. Any person convicted of a second violation of subsection B or subsection H of this section is, upon conviction, punishable by a term of imprisonment in the custody of the Department of Corrections for not less than two (2) years nor more than twenty (20) years and by twice the fine otherwise authorized. Any person convicted of a third or subsequent violation of subsection B or subsection H of this section is punishable by a term of imprisonment in the custody of the Department of Corrections for not less than ten (10) years nor more than life.

E. It shall be the duty of any peace officer of the State of Oklahoma who receives information of such plants growing in the State of Oklahoma, to make notice, in writing, to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control and the future destruction or eradication of the annual growth of such plants shall be supervised by the Oklahoma State Bureau of Narcotics and

Dangerous Drugs Control. Any destruction or eradication of the annual growth of such plants supervised by the Bureau shall be by cutting and burning the same or by destruction and eradication through applications of herbicides approved for such purpose and registered for use in Oklahoma by the Oklahoma Department of Agriculture, Food, and Forestry.

F. Any application of herbicides authorized by this section shall be made pursuant to the provisions of Section 2-505 of this title.

G. In lieu of the eradication procedures provided for in subsections B and C of this section, all species of plants from which controlled dangerous substances in Schedules I and II of the Uniform Controlled Dangerous Substances Act may be derived, may be disposed of pursuant to the provisions of subsection C of Section 2-505 of this title.

H. Except as authorized by the Uniform Controlled Dangerous Substances Act, it shall be unlawful for any person to manufacture or attempt to manufacture any controlled dangerous substance by cooking, burning, or extracting and converting or attempting to extract and convert marihuana or marihuana oil into hashish, hashish oil or hashish powder.

Added by Laws 1971, c. 119, § 2-509. Amended by Laws 1976, c. 259, § 16, operative July 1, 1976; Laws 1987, c. 138, § 12, emerg. eff. June 19, 1987; Laws 1990, c. 220, § 2, eff. Sept. 1, 1990; Laws 1994, c. 335, § 2, emerg eff. June 8, 1994; Laws 1997, c. 133, § 536, eff. July 1, 1999; Laws 1999, 1st Ex. Sess., c. 5, § 387, eff. July 1, 1999; Laws 2011, c. 136, § 1, eff. Nov. 1, 2011; Laws 2017, c. 25, § 2, eff. Nov. 1, 2017; Laws 2018, c. 130, § 3, eff. Nov. 1, 2018.

NOTE: Laws 1997, c. 110, § 2 repealed by Laws 1999, 1st Ex. Sess., c. 5, § 452, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex. Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 536 from July 1, 1998, to July 1, 1999.

§63-2-510. Defenses - Descriptions.

A. An exemption or exception set forth in this act shall constitute an affirmative defense. Such affirmative defense shall be in accordance with the presentation of an alibi defense prescribed in Section 585 of Title 22 of the Oklahoma Statutes.

B. In any prosecution for a violation of any of the provisions of this act relating to a controlled dangerous substance named in any of the schedules set out in the act, it shall be sufficient in any indictment or information to allege a general description of the controlled dangerous substance and the schedule wherein listed without other specific description. Upon a trial under such indictment or information, it shall be sufficient to prove that the

controlled dangerous substance is one listed within a particular schedule without further identification.
Laws 1971, c. 119, § 2-510.

§63-2-511. Judicial review.

Judicial review of final determinations, findings, and conclusions of the Director under this act shall be in the manner provided by the Administrative Procedures Act. A revocation or suspension of a registration based on the revocation or suspension of a professional or occupational license shall be final and conclusive where judicial review is available with respect to the revocation or suspension of the professional or occupational license.
Added by Laws 1971, c. 119, § 2-511. Amended by Laws 2008, c. 359, § 11, emerg. eff. June 3, 2008.

§63-2-512. Drug Eradication and Enforcement Plan Revolving Fund - Creation - Use of funds.

There is hereby created in the State Treasury a revolving fund to be known as the Drug Eradication and Enforcement Plan Revolving Fund. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies appropriated or transferred to the fund and any monies contributed to the fund from any other source. All monies accruing to the credit of such fund are hereby appropriated and may be budgeted and expended for the purpose of providing grants to district attorneys' offices, sheriffs' offices and municipal police departments. The grants shall be used for eradication of illegal drugs and enforcement of drug laws. Allowable expenditure of the grants shall include, but shall not be limited to, the following purposes:

1. Purchase of equipment;
2. Purchase of drug-sniffing dogs;
3. Matching federal grants or funds;
4. Funding advanced training programs;
5. Funding drug education and awareness programs; and
6. Funding drug courts.

Expenditures from such fund shall be made upon warrants issued by the State Treasurer against claims signed by an authorized state employee and filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.
Added by Laws 2001, c. 225, § 8, eff. July 1, 2001. Amended by Laws 2012, c. 304, § 501.

§63-2-551. Appropriate pain management - High dosages of controlled dangerous drugs.

A. Schedule II, III, IV and V controlled dangerous drugs have useful and legitimate medical and scientific purposes and are necessary to maintain the health and general welfare of the people of this state.

B. The State of Oklahoma recognizes that principles of quality medical practice dictate that the people of the State of Oklahoma have access to appropriate and effective pain relief. The appropriate application of up-to-date knowledge and treatment modalities can serve to improve the quality of life for those patients who suffer from pain as well as to reduce the morbidity, and costs associated with untreated or inappropriately treated pain. The State of Oklahoma encourages physicians to view effective pain management as a part of quality medical practice for all patients with pain, acute or chronic. It is especially important for patients who experience pain as a result of terminal illness.

C. If, in the judgment of the medical doctor or the doctor of osteopathic medicine, appropriate pain management warrants a high dosage of controlled dangerous drugs and the benefit of the relief expected outweighs the risk of the high dosage, the medical doctor or doctor of osteopathic medicine may administer such a dosage, even if its use may increase the risk of death, so long as it is not also furnished for the purpose of causing, or the purpose of assisting in causing, death for any reason and so long as it falls within policies, guidelines and rules of the Oklahoma State Board of Medical Licensure and Supervision or the Oklahoma State Board of Osteopathic Examiners.

D. The Oklahoma State Board of Medical Licensure and Supervision and the Oklahoma State Board of Osteopathic Examiners shall issue policies, guidelines or rules that ensure that physicians who are engaged in the appropriate treatment of pain are not subject to disciplinary action, and the Boards shall consider policies and guidelines developed by national organizations with expertise in pain medicine or in a medical discipline for this purpose.

Added by Laws 1998, c. 387, § 1, eff. Nov. 1, 1998.

§63-2-560. Manufacture of controlled dangerous substance restrictions.

Any person who engages in manufacturing any controlled dangerous substance within two thousand (2,000) feet of the real property comprising a family child care home, a child care center, a large family child care home or part-day child care program, as those terms are defined by Section 402 of Title 10 of the Oklahoma Statutes, shall be liable for treble damages for any loss or harm caused thereby.

Added by Laws 2001, c. 225, § 11, eff. July 1, 2001.

§63-2-603. Uniformity of interpretation.

This act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Added by Laws 1971, c. 119, § 2-603.

§63-2-604. Short title.

This act may be cited as the Uniform Controlled Dangerous Substances Act.

Added by Laws 1971, c. 119, § 2-604.

§63-2-608. Headings.

Article and section headings contained in this act shall not affect the interpretation of the meaning or intent of any provisions of this act.

Added by Laws 1971, c. 119, § 2-608.

§63-2-701. Oklahoma State Bureau of Narcotics and Dangerous Drugs Control registry.

A. There is hereby created within the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control a registry of persons who, after November 1, 2010, have been convicted, whether upon a verdict or plea of guilty or upon a verdict or plea of nolo contendere, or received a suspended sentence or any deferred or probationary term, or are currently serving a sentence or any form of probation or parole for a crime or attempt to commit a crime including, but not limited to, unlawful possession, conspiring, endeavoring, manufacturing, distribution or trafficking of a precursor or methamphetamines under the provisions of Section 2-322, 2-332, 2-401, 2-402, 2-408 or 2-415 of this title, or any crime including, but not limited to, crimes involving the possession, distribution, manufacturing or trafficking of methamphetamines or illegal amounts of or uses of pseudoephedrine in any federal court, Indian tribal court, or any court of another state if the person is a resident of the State of Oklahoma or seeks to remain in the State of Oklahoma in excess of ten (10) days.

B. It shall be unlawful for any person who knows that he or she is subject to the registry created in subsection A of this section to purchase, possess or have control of any Schedule V compound, mixture, or preparation containing any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers. A prescription for pseudoephedrine shall not provide an exemption for any person to this law. Any person convicted of violating the provisions of this subsection shall be guilty of a felony, punishable by imprisonment in the custody of the Department of Corrections for not less than two (2) years and not more than ten (10) years, or by a fine of not more than Five Thousand Dollars ($5,000.00), or by both such fine and imprisonment.

C. The registry created in subsection A of this section shall be maintained by the Bureau. The registry shall be made available for registrants who sell or dispense pseudoephedrine-related products and to law enforcement agencies for law enforcement purposes through the electronic methamphetamine precursor tracking service. The electronic methamphetamine precursor tracking service shall generate a stop-sale alert on any sale of pseudoephedrine to any individual listed on the methamphetamine offender registry in real time.

D. The registry shall consist of the following information:

1. Name and address of the person;

2. Date of birth of the person;

3. The offense or offenses which made the person eligible for inclusion on the registry;

4. The date of conviction or the date that a plea of guilty or nolo contendere was accepted by the court for any violation of an offense provided for in subsection A of this section;

5. The county where the offense or offenses occurred; and

6. Such other identifying data as the Bureau determines is necessary to properly identify the person.

E. Beginning November 1, 2010, all district court clerks shall forward a copy of the judgment and sentence or other applicable information relating to the disposition of the criminal case and date of birth of all persons who are subject to the provisions of the Oklahoma Methamphetamine Offender Registry Act for a violation of the offenses described in subsection A of this section to the Bureau. The information shall be sent in an electronic format in a manner prescribed by the Bureau within ten (10) days of the date of final disposition of the case. Any person subject to the registry pursuant to subsection A of this section, having received a deferred sentence or conviction in a federal court, Indian tribal court, or any court of another state, shall be required to register and submit a methamphetamine offender registration form in a format prescribed by the Bureau within ten (10) days of entering the State of Oklahoma or if incarcerated in a federal institution within the boundaries of Oklahoma, within ten (10) days of release from the institution. Knowingly failing to submit the form required by this subsection shall constitute a misdemeanor.

F. Upon receipt of the information provided by the district court clerk, the Bureau shall transmit in an electronic format to the electronic methamphetamine precursor tracking service at least every seven (7) days the name of any person placed on the methamphetamine offender registry as provided in this section. The information transmitted to the electronic tracking service shall include the first, middle, and last name of the person, and the address and the date of birth of the person. The electronic methamphetamine precursor tracking service shall be designed to

generate a stop-sale alert for any person who is on the methamphetamine offender registry and whose name, address and date of birth have been transmitted by the Bureau to the electronic tracking service.

G. The Bureau shall remove from the methamphetamine offender registry the name and other identifying information of a person who has been convicted of a violation of any of the offenses described in subsection A of this section ten (10) years after the date of the most recent judgment and sentence. Any person having received a deferred sentence that expires prior to the ten-year time limitation may apply to the Bureau to be removed from the registry upon the completion of the deferred sentence by providing to the Bureau a certified copy of the dismissal of the case by certified mail. The Bureau may remove the person from the methamphetamine offender registry upon expiration of the deferred sentence. The Bureau shall also be required to notify the provider of the electronic methamphetamine precursor tracking service when a person is removed from the methamphetamine offender registry. Upon notification from the Bureau, the provider of the electronic tracking service shall remove the name of the person from the electronic methamphetamine precursor tracking service and the person shall thereafter be permitted to purchase pseudoephedrine-related products.

H. It shall be a violation for any person to assist another, with knowledge that the person is subject to the registry, in the purchase of any pseudoephedrine products. Any person convicted of violating the provisions of this subsection shall, for a first offense, be guilty of a misdemeanor, punishable by incarceration in the county jail for not more than one (1) year, or by a fine of not more than One Thousand Dollars ($1,000.00), or by both such fine and imprisonment. Any second or subsequent conviction for a violation of this subsection shall be a felony, punishable by incarceration in the custody of the Department of Corrections for not more than two (2) years, or by a fine of not less than Two Thousand Five Hundred Dollars ($2,500.00) or by both such fine and imprisonment.

I. On or prior to November 1, 2011, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall maintain a methamphetamine offender registry website available for viewing by the public.

J. For the purposes of this section, knowledge that a person was subject to the methamphetamine offender registry may be proven through court testimony or any other public notice or publicly available record including, but not limited to, court records maintained by the Oklahoma Supreme Court Network and the Oklahoma Court Information System.

K. The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall take necessary actions through the promulgation of rules and cooperation with pharmacies and the courts to ensure that

notice of the provisions of this section is provided to those persons subject to the methamphetamine offender registry as listed in subsection A of this section.
Added by Laws 2010, c. 458, § 2, eff. Nov. 1, 2010. Amended by Laws 2011, c. 239, § 10, eff. Nov. 1, 2011; Laws 2012, c. 206, § 5, eff. July 1, 2012; Laws 2013, c. 181, § 7, eff. Nov. 1, 2013.

§63-2-801. Definitions.

As used in this act:

1. "Academic medical center" means a medical school and its affiliated teaching hospitals and clinics in this state that:
   a. operate a medical residency program for physicians, and
   b. conduct research that is overseen by the federal Department of Health and Human Services and involves human subjects;

2. "Approved source" means a provider approved by the United States Food and Drug Administration which produces cannabidiol that:
   a. has been manufactured and tested in a facility approved or certified by the United States Food and Drug Administration or similar national regulatory agency in another country which has been approved by the United States Food and Drug Administration, and
   b. has been tested on animals to demonstrate preliminary effectiveness and to ensure that it is safe to administer to humans;

3. "Cannabidiol" means a nonpsychoactive cannabinoid found in the plant Cannabis sativa L. or any other preparation thereof, that has a tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) and that is delivered to the patient in the form of a liquid;

4. "Physician" means a doctor of medicine or doctor of osteopathic medicine licensed by the State Board of Medical Licensure and Supervision or the State Board of Osteopathic Examiners; and

5. "Qualifying patient" means any person who suffers from Lennox-Gastaut Syndrome, Dravet Syndrome, also known as Severe Myoclonic Epilepsy of Infancy, or any other form of refractory epilepsy that is not adequately treated by traditional medical therapies.

Added by Laws 2015, c. 203, § 3, emerg. eff. April 30, 2015. Amended by Laws 2016, c. 299, § 2, eff. Nov. 1, 2016.

§63-2-802. Clinical trials using cannabidiol – Principal investigators.

A. A statewide investigational new drug application may be established in this state, if approved by the United States Food and

Drug Administration, to conduct clinical trials using cannabidiol on qualifying patients with severe forms of epilepsy.

B. Any physician licensed by the State Board of Medical Licensure and Supervision or the State Board of Osteopathic Examiners, practicing in this state, and treating patients with severe forms of epilepsy may serve as the principal investigator for such clinical trials if such physician:

1. Applies to and is approved by the United States Food and Drug Administration as the principal investigator in a statewide investigational new drug application;

2. Receives a license from the United States Drug Enforcement Administration; and

3. Receives a registration from the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

C. Such physician, acting as principal investigator, may include subinvestigators who are also board certified, practice in an academic medical center in this state, and treat patients with severe forms of epilepsy. Such subinvestigators shall be required to comply with the licensing requirement provided in paragraphs 2 and 3 of subsection B of this section.

D. The principal investigator and all subinvestigators shall adhere to the rules and regulations established by the relevant institutional review board for each participating academic medical center and by the United States Food and Drug Administration, the United States Drug Enforcement Administration, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, and the National Institute on Drug Abuse.

E. Nothing in this section shall be construed to prohibit a physician licensed in Oklahoma from applying for Investigational New Drug authorization from the United States Food and Drug Administration.

F. The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall have the authority to inspect and test samples of cannabidiol used in this state pursuant to the provisions of this act.

Added by Laws 2015, c. 203, § 4, emerg. eff. April 30, 2015.

§63-2-803. Approved cannabidiol for use in clinical trials.

A. Clinical trials conducted pursuant to a statewide investigational new drug application established pursuant to the provisions of this act shall only utilize cannabidiol which is:

1. From an approved source; and

2. Approved by the United States Food and Drug Administration to be used for treatment of a condition specified in an investigational new drug application.

B. The principal investigator and any subinvestigator may receive cannabidiol directly from an approved source or authorized distributor for an approved source for use in the clinical trials.
Added by Laws 2015, c. 203, § 5, emerg. eff. April 30, 2015.

§63-2-804. Immunity.

A person acting in compliance with the provisions of this act shall not be subject to arrest, prosecution, or any civil or administrative penalty, including a civil penalty or disciplinary action by a professional licensing board, or be denied any right or privilege, for the use, prescription, administration, possession, manufacture, or distribution of medical cannabidiol.
Added by Laws 2015, c. 203, § 6, emerg. eff. April 30, 2015.

§63-2-805. Approval – Termination date – Reporting – Rules.

A. The State Commissioner of Health shall have the authority to approve physicians conducting clinical trials performed pursuant to the provisions of this act. In the event of a substantial violation of this act, the Commissioner shall provide written notice to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control and the Governor. The Governor, upon receipt of a notice from the Commissioner, shall have the authority to terminate the operations of a clinical trial found to be in violation of any provision of this act.

B. The clinical trials and related research authorized by this act shall adhere to the highest standards of academic research including, but not limited to, peer review of research conducted pursuant to this act.

C. Clinical trials and related research authorized by this act shall conclude no later than December 31, 2017. Nothing in this act shall be construed as to permit the continuation of clinical trials after December 31, 2017, without approval by a concurrent resolution approved by the Legislature expressing approval of such continuation.

D. The State Commissioner of Health shall submit a report to the Chair and Vice Chair of the Senate Health and Human Services Committee, the Chair and Vice Chair of the House Alcohol, Tobacco and Dangerous Drugs Committee, and the Chair and Vice Chair of the House Public Health Committee on or before December 31, 2017. Such report shall include a summary of findings from clinical trials authorized by this act. The Commissioner shall, upon request by the Chair and Vice Chair of the Committees specified in this subsection, make available any data, excluding individual health records, relating to clinical trials authorized by this act.

E. The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the State Board of Health, and the Oklahoma State Regents

for Higher Education shall promulgate rules to implement the provisions of this act.
Added by Laws 2015, c. 203, § 7, emerg. eff. April 30, 2015.

§63-2-901. Drug Possession Diversion Program – District attorney discretion to refer.

A. Subject to the availability of funds, each district attorney may create within the office of the district attorney a Drug Possession Diversion Program and assign sufficient staff and resources for the efficient operation of the program.

B. Referral of a violation of the provisions of Section 2-402 of Title 63 of the Oklahoma Statutes or possession of drug paraphernalia in violation of subsection B of Section 2-405 of Title 63 of the Oklahoma Statutes to the Drug Possession Diversion Program shall be at the discretion of the district attorney. This act shall not limit the power of the district attorney to prosecute a case for possession of a controlled dangerous substance.

C. Upon receipt of a case for possession of a controlled dangerous substance, the district attorney shall determine if the charge is one which is appropriate to be referred to the Drug Possession Diversion Program.

D. In determining whether to refer a case to the Drug Possession Diversion Program, the district attorney shall consider the following:

1. The schedule of the controlled dangerous substance possessed by the defendant;

2. The amount of the controlled dangerous substance possessed by the defendant;

3. If the defendant has a prior criminal record;

4. The number of drug-related crimes against the defendant previously received by the district attorney;

5. Whether or not there are other criminal charges currently pending against the defendant; and

6. The strength of the evidence against the defendant.

Added by Laws 2016, c. 271, § 1, eff. Nov. 1, 2016.

§63-2-902. Deferred prosecution – Fees - Drug Possession Diversion Program Fund.

A. Subject to the provisions of this act, the district attorney may enter into a written agreement with the defendant pursuant to the provisions of Sections 305.1 through 305.6 of Title 22 of the Oklahoma Statutes to defer prosecution of a charge for possession of a controlled dangerous substance, possession of drug paraphernalia or both possession of a controlled dangerous substance and possession of drug paraphernalia for a period to be determined by the district attorney, not to exceed twenty-four (24) months.

B. The defendant shall pay to the district attorney a fee equal to the amount which would have been assessed as court costs upon filing of the case in district court. Funds received by the district attorney pursuant to this act shall be deposited in a special fund with the county treasurer to be known as the "Drug Possession Diversion Program Fund". This fund shall be used by the district attorney to defray any lawful expense of the office of the district attorney. The district attorney shall keep records of all monies deposited to and disbursed from this fund. The records of the fund shall be audited at the same time the records of county funds are audited.

C. Unless the agreement between the defendant and the district attorney provides otherwise, the defendant shall be supervised in the community by the district attorney or by a private supervision program pursuant to the provisions of subsection A of Section 991d of Title 22 of the Oklahoma Statutes.

Added by Laws 2016, c. 271, § 2, eff. Nov. 1, 2016.

§63-2-903. Duties of district attorney staff members.

Staff members of the district attorney shall perform duties in connection with the Drug Possession Diversion Program in addition to any other duties which are assigned by the district attorney.

Added by Laws 2016, c. 271, § 3, eff. Nov. 1, 2016.

§63-2-904. Drug Possession Diversion Program - Annual report.

A. District attorneys shall prepare and submit an annual report to the District Attorneys Council showing total deposits and total expenditures in the Drug Possession Diversion Program.

B. By September 15 of each year, the District Attorneys Council shall publish an annual report for the previous fiscal year of the Drug Possession Diversion Program. An electronic copy of the report shall be distributed to the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the chairs of the House and Senate Appropriation and Budget Committees. Each district attorney shall submit information requested by the District Attorneys Council regarding the Drug Possession Diversion Program. The report shall include the number of charges referred to and accepted into the Drug Possession Diversion Program, the total amount of fees collected and such other information as required by the District Attorneys Council.

Added by Laws 2016, c. 271, § 4, eff. Nov. 1, 2016.

§63-2-1001. Opioid Overdose Fatality Review Board - Powers and duties.

A. There is hereby created until July 1, 2023, in accordance with the Oklahoma Sunset Law, the Opioid Overdose Fatality Review

Board within the Department of Mental Health and Substance Abuse Services. The Board shall have the power and duty to:

1. Coordinate and integrate state and local efforts to address overdose deaths and create a body of information to prevent overdose deaths;

2. Conduct case reviews of deaths of persons eighteen (18) years of age or older due to licit or illicit opioid use in this state;

3. Collect, analyze and interpret state and local data on opioid overdose deaths;

4. Develop a state and local database on opioid overdose deaths;

5. Improve policies, procedures and practices within the agencies in order to prevent fatal opioid overdoses and to serve victims of unintentional overdose; and

6. Enter into agreements with other state, local or private entities as necessary to carry out the duties of the Opioid Overdose Fatality Review Board, including but not limited to, conducting joint reviews with the Child Death Review Board on unintentional overdose cases involving child death and child near-death incidents.

B. In carrying out its duties and responsibilities, the Board shall:

1. Promulgate rules establishing criteria for identifying cases involving an opioid overdose death subject to specific, in-depth review by the Board;

2. Conduct a specific case review of those cases where the cause of death is or may be related to overdose of opioid drugs;

3. Establish and maintain statistical information related to opioid overdose deaths including, but not limited to, demographic and medical diagnostic information;

4. Establish procedures for obtaining initial information regarding opioid overdose deaths from law enforcement agencies;

5. Review the policies, practices and procedures of medical systems and law enforcement systems and other overdose protection and prevention systems, and make specific recommendations to those entities for actions necessary for the improvement of the system;

6. Request and obtain a copy of all records and reports pertaining to an adult whose case is under review including, but not limited to:

a. the report of the medical examiner,

b. hospital records,

c. school records,

d. court records,

e. prosecutorial records,

f. local, state and federal law enforcement records including, but not limited to, the Oklahoma State

Bureau of Investigation (OSBI) and Oklahoma Bureau of Narcotics and Dangerous Drugs Control (OBN),

g. fire department records,

h. State Department of Health records, including birth certificate records,

i. medical and dental records,

j. Department of Mental Health and Substance Abuse Services and other mental health records,

k. emergency medical service records,

l. files of the Department of Human Services, and

m. records in the possession of the Child Death Review Board when conducting a joint review in accordance with paragraph 6 of subsection A of this section.

Confidential information provided to the Board shall be maintained by the Board in a confidential manner as otherwise required by state and federal law. Any person damaged by disclosure of such confidential information by the Board or its members which is not authorized by law may maintain an action for damages, costs and attorney fees pursuant to The Governmental Tort Claims Act;

7. Maintain all confidential information, documents and records in possession of the Board as confidential and not subject to subpoena or discovery in any civil or criminal proceedings; provided however, information, documents and records otherwise available from other sources shall not be exempt from subpoena or discovery through those sources solely because such information, documents and records were presented to or reviewed by the Board;

8. Conduct reviews of specific cases of opioid overdose deaths and request the preparation of additional information and reports as determined to be necessary by the Board including, but not limited to, clinical summaries from treating physicians, chronologies of contact and second-opinion autopsies;

9. Report, if recommended by a majority vote of the Board, to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives any information and guidance regarding the prevention and protection system to advise on changing trends in overdose rates, substances, methods or any other factor impacting overdose deaths, including any systemic issue within the medical, law enforcement or other relevant systems discovered by the Board while performing its duties; and

10. Exercise all incidental powers necessary and proper for the implementation and administration of the Opioid Overdose Fatality Review Board.

C. The review and discussion of individual cases of an opioid overdose death shall be conducted in executive session. All other business shall be conducted in accordance with the provisions of the Oklahoma Open Meeting Act. All discussions of individual cases and any writings produced by or created for the Board in the course of

determining a remedial measure to be recommended by the Board, as the result of a review of an individual case of an opioid overdose death, shall be privileged and shall not be admissible in evidence in any proceeding. The Board shall periodically conduct meetings to discuss organization and business matters and any actions or recommendations aimed at improvement of the medical system or law enforcement system which shall be subject to the Oklahoma Open Meeting Act. Part of any meeting of the Board may be specifically designated as a business meeting of the Board subject to the Oklahoma Open Meeting Act.

D. The Board shall submit an annual statistical report on the incidence and causes of opioid overdose deaths in this state for which the Board has completed its review during the past calendar year including its recommendations, if any, to the medical and law enforcement system. The Board shall also prepare and make available to the public, on an annual basis, a report containing a summary of the activities of the Board relating to the review of opioid overdose deaths, the extent to which the state medical and law enforcement system is coordinated and an evaluation of whether the state is efficiently discharging its responsibilities to prevent opioid overdose deaths. The report shall be completed no later than February 1 of the subsequent year.

Added by Laws 2018, c. 252, § 2, eff. Nov. 1, 2018.

§63-2-1002. Composition of Board.

A. The Opioid Overdose Fatality Review Board shall be composed of twenty (20) members, or their designees, as follows:

1. Ten of the members shall be:
   a. the Attorney General or designee,
   b. the Chief Medical Examiner or designee,
   c. the State Commissioner of Health or designee,
   d. the Chief of Injury Prevention Services of the State Department of Health or designee,
   e. the President of the Oklahoma State Medical Association or designee,
   f. the Director of the Oklahoma Bureau of Narcotics and Dangerous Drugs Control or designee,
   g. the Commissioner of the Department of Mental Health and Substance Abuse Services or designee,
   h. the President of the Oklahoma Osteopathic Association or designee,
   i. the Director of the Department of Human Services or designee, and
   j. the Director of the Oklahoma State Bureau of Investigation or designee; and

2. Ten of the members shall be appointed by the Attorney General, shall serve for terms of two (2) years and shall be

eligible for reappointment. The members shall be persons having training and experience in matters related to opioid abuse and prevention. The appointed members shall include:

a. a county sheriff selected from a list of three names submitted by the executive board of the Oklahoma Sheriffs' Association,
b. a chief of a municipal police department selected from a list of three names submitted by the Oklahoma Association of Chiefs of Police,
c. an attorney licensed in this state who is in private practice selected from a list of three names submitted by the Board of Governors of the Oklahoma Bar Association,
d. a district attorney selected from a list of three names submitted by the District Attorneys Council,
e. a physician with emergency medical training selected from a list of three names submitted by the Oklahoma State Medical Association,
f. a physician with experience in drug addiction treatment and recovery selected from a list of three names submitted by the Oklahoma Osteopathic Association,
g. a nurse selected from a list of three names submitted by the Oklahoma Nurses Association,
h. two individuals, at least one of whom shall be a person who currently receives or formerly has been a consumer of addiction recovery services related to opioid use, selected from a list of three names submitted by the Oklahoma Department of Mental Health and Substance Abuse Services, and
i. a member of the judiciary selected from a list of three names submitted by the Oklahoma Supreme Court.

B. Every two (2) years the Board shall elect from among its membership a chair and a vice-chair. The Board shall meet at least quarterly and may meet more frequently as necessary as determined by the chair. Members shall serve without compensation but may be reimbursed for necessary travel out of funds available to the Office of the Attorney General and the Department of Mental Health and Substance Abuse Services, pursuant to the State Travel Reimbursement Act; provided, that the reimbursement shall be paid in the case of state employee members by the agency employing the member.

C. With funds appropriated or otherwise available for that purpose, the Office of the Attorney General, jointly with the Department of Mental Health and Substance Abuse Services, shall provide administrative assistance and services to the Opioid Overdose Fatality Review Board.

Added by Laws 2018, c. 252, § 3, eff. Nov. 1, 2018.

§63-2-1003. Review of overdose death certificates.

A. Beginning November 1, 2018, the Center for Health Statistics of the State Department of Health shall forward to the Office of the Chief Medical Examiner on a monthly basis, copies of all death certificates of persons over eighteen (18) years of age received by the Center for Health Statistics during the preceding month whereby the cause of death was due to an overdose of licit or illicit drugs including opioids meeting the Centers for Disease Control and Prevention guidelines for opioid-related deaths.

B. The Office of Chief Medical Examiner shall conduct an initial review of overdose death certificates in accordance with the criteria established by the Opioid Overdose Fatality Review Board and refer to the Board those cases that meet the criteria established by the Board for specific case review.

C. Upon the request of the Board, every entity within the medical and law enforcement system shall provide to the Board any information requested by the Board relevant to the discharge of its duties, unless otherwise prohibited by state or federal law.

Added by Laws 2018, c. 252, § 4, eff. Nov. 1, 2018.

§63-2-309Dv1. Central repository information - Confidentiality - Access - Disclosure - Penalties - Liability.

A. The information collected at the central repository pursuant to the Anti-Drug Diversion Act shall be confidential and shall not be open to the public. Access to the information shall be limited to:

1. Peace officers certified pursuant to Section 3311 of Title 70 of the Oklahoma Statutes who are employed as investigative agents of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

2. The United States Drug Enforcement Administration Diversion Group Supervisor;

3. The executive director or chief investigator, as designated by each board, of the following state boards:

a. Board of Podiatric Medical Examiners,
b. Board of Dentistry,
c. State Board of Pharmacy,
d. State Board of Medical Licensure and Supervision,
e. State Board of Osteopathic Examiners,
f. State Board of Veterinary Medical Examiners,
g. Oklahoma Health Care Authority,
h. Department of Mental Health and Substance Abuse Services,
i. Board of Examiners in Optometry,
j. Board of Nursing,
k. Office of the Chief Medical Examiner, and

l. State Board of Health;

4. A multicounty grand jury properly convened pursuant to the Multicounty Grand Jury Act;

5. Medical practitioners employed by the United States Department of Veterans Affairs, the United States Military, or other federal agencies treating patients in this state; and

6. At the discretion of the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, medical practitioners and their staff, including those employed by the federal government in this state.

B. This section shall not prevent access, at the discretion of the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, to investigative information by peace officers and investigative agents of federal, state, tribal, county or municipal law enforcement agencies, district attorneys and the Attorney General in furtherance of criminal, civil or administrative investigations or prosecutions within their respective jurisdictions, designated legal, communications, and analytical employees of the Bureau, and to registrants in furtherance of efforts to guard against the diversion of controlled dangerous substances.

C. This section shall not prevent the disclosure, at the discretion of the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, of statistical information gathered from the central repository to the general public which shall be limited to types and quantities of controlled substances dispensed and the county where dispensed.

D. This section shall not prevent the disclosure, at the discretion of the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, of prescription-monitoring-program information to prescription-monitoring programs of other states provided a reciprocal data-sharing agreement is in place.

E. The Department of Mental Health and Substance Abuse Services and the State Department of Health may utilize the information in the central repository for statistical, research, substance abuse prevention, or educational purposes, provided that consumer confidentiality is not compromised.

F. Any unauthorized disclosure of any information collected at the central repository provided by the Anti-Drug Diversion Act shall be a misdemeanor. Violation of the provisions of this section shall be deemed willful neglect of duty and shall be grounds for removal from office.

G. 1. Registrants shall have access to the central repository for the purposes of patient treatment and for determination in prescribing or screening new patients. The patient's history may be disclosed to the patient for the purposes of treatment of information at the discretion of the physician.

2. a. Prior to prescribing or authorizing for refill, if one hundred eighty (180) days have elapsed prior to the previous access and check, of opiates, synthetic opiates, semisynthetic opiates, benzodiazepine or carisoprodol to a patient of record, registrants or members of their medical or administrative staff shall be required until October 31, 2020, to access the information in the central repository to assess medical necessity and the possibility that the patient may be unlawfully obtaining prescription drugs in violation of the Uniform Controlled Dangerous Substances Act. The duty to access and check shall not alter or otherwise amend appropriate medical standards of care. The registrant or medical provider shall note in the patient file that the central repository has been checked and may maintain a copy of the information.

b. The requirements set forth in subparagraph a of this paragraph shall not apply:

(1) to medical practitioners who prescribe the controlled substances set forth in subparagraph a of this paragraph for hospice or end-of-life care, or

(2) for a prescription of a controlled substance set forth in subparagraph a of this paragraph that is issued by a practitioner for a patient residing in a nursing facility as defined by Section 1-1902 of this title, provided that the prescription is issued to a resident of such facility.

3. Registrants shall not be liable to any person for any claim of damages as a result of accessing or failing to access the information in the central repository and no lawsuit may be predicated thereon.

H. The State Board of Podiatric Examiners, the State Board of Dentistry, the State Board of Medical Licensure and Supervision, the State Board of Examiners in Optometry, the State Board of Nursing, the State Board of Osteopathic Examiners and the State Board of Veterinary Medical Examiners shall have the sole responsibility for enforcement of the provisions of subsection G of this section. Nothing in this section shall be construed so as to permit the Director of the State Bureau of Narcotics and Dangerous Drugs Control to assess administrative fines provided for in Section 2-304 of this title.

I. The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, or a designee thereof, shall provide a monthly list to the Directors of the State Board of Podiatric

Examiners, the State Board of Dentistry, the State Board of Medical Licensure and Supervision, the State Board of Examiners in Optometry, the State Board of Nursing, the State Board of Osteopathic Examiners and the State Board of Veterinary Medical Examiners of the top twenty prescribers of controlled dangerous substances within their respective areas of jurisdiction. Upon discovering that a registrant is prescribing outside the limitations of his or her licensure or outside of drug registration rules or applicable state laws, the respective licensing board shall be notified by the Bureau in writing. Such notifications may be considered complaints for the purpose of investigations or other actions by the respective licensing board. Licensing boards shall have exclusive jurisdiction to take action against a licensee for a violation of subsection G of this section.

J. Information regarding fatal and nonfatal overdoses, other than statistical information as required by Section 2-106 of this title, shall be completely confidential. Access to this information shall be strictly limited to the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control or designee, the Chief Medical Examiner, state agencies and boards provided in subsection A of this section, and the registrant that enters the information. Registrants shall not be liable to any person for a claim of damages for information reported pursuant to the provisions of Section 2-105 of this title.

K. The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall provide adequate means and procedures allowing access to central repository information for registrants lacking direct computer access.

L. Upon completion of an investigation in which it is determined that a death was caused by an overdose, either intentionally or unintentionally, of a controlled dangerous substance, the medical examiner shall be required to report the decedent's name and date of birth to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control. The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall be required to maintain a database containing the classification of medical practitioners who prescribed or authorized controlled dangerous substances pursuant to this subsection.

Added by Laws 1990, c. 210, § 4, eff. Sept. 1, 1990. Amended by Laws 1997, c. 238, § 5, eff. Nov. 1, 1997; Laws 2004, c. 300, § 4, emerg. eff. May 12, 2004; Laws 2005, c. 128, § 4, eff. Nov. 1, 2005; Laws 2010, c. 160, § 3, eff. Nov. 1, 2010; Laws 2012, c. 51, § 1, eff. Nov. 1, 2012; Laws 2013, c. 162, § 1, eff. Nov. 1, 2013; Laws 2014, c. 4, § 18, emerg. eff. April 2, 2014; Laws 2014, c. 153, § 1, eff. Nov. 1, 2014; Laws 2014, c. 293, § 22, eff. Nov. 1, 2014; Laws 2015, c. 1, § 2, eff. Nov. 1, 2015; Laws 2016, c. 210, § 35, emerg. eff. April 26, 2016; Laws 2018, c. 32, § 1, eff. Nov. 1, 2018.

NOTE: Laws 2013, c. 181, § 5 repealed by Laws 2014, c. 4, § 19, emerg. eff. April 2, 2014. Laws 2015, c. 84, § 1 repealed by Laws 2016, c. 210, § 36, emerg. eff. April 26, 2016.

§63-2-309Dv2. Central repository information - Confidentiality - Access - Disclosure - Penalties - Liability.

A. The information collected at the central repository pursuant to the Anti-Drug Diversion Act shall be confidential and shall not be open to the public. Access to the information shall be limited to:

1. Peace officers certified pursuant to Section 3311 of Title 70 of the Oklahoma Statutes who are employed as investigative agents of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

2. The United States Drug Enforcement Administration Diversion Group Supervisor;

3. The executive director or chief investigator, as designated by each board, of the following state boards:

a. Board of Podiatric Medical Examiners,
b. Board of Dentistry,
c. State Board of Pharmacy,
d. State Board of Medical Licensure and Supervision,
e. State Board of Osteopathic Examiners,
f. State Board of Veterinary Medical Examiners,
g. Oklahoma Health Care Authority,
h. Department of Mental Health and Substance Abuse Services,
i. Board of Examiners in Optometry,
j. Board of Nursing,
k. Office of the Chief Medical Examiner, and
l. State Board of Health;

4. A multicounty grand jury properly convened pursuant to the Multicounty Grand Jury Act;

5. Medical practitioners employed by the United States Department of Veterans Affairs, the United States Military, or other federal agencies treating patients in this state; and

6. At the discretion of the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, medical practitioners and their staff, including those employed by the federal government in this state.

B. This section shall not prevent access, at the discretion of the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, to investigative information by peace officers and investigative agents of federal, state, county or municipal law enforcement agencies, district attorneys and the Attorney General in furtherance of criminal, civil or administrative investigations or prosecutions within their respective jurisdictions, designated

legal, communications, and analytical employees of the Bureau, and to registrants in furtherance of efforts to guard against the diversion of controlled dangerous substances.

C. This section shall not prevent the disclosure, at the discretion of the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, of statistical information gathered from the central repository to the general public which shall be limited to types and quantities of controlled substances dispensed and the county where dispensed.

D. This section shall not prevent the disclosure, at the discretion of the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, of prescription-monitoring-program information to prescription-monitoring programs of other states provided a reciprocal data-sharing agreement is in place.

E. The Department of Mental Health and Substance Abuse Services and the State Department of Health may utilize the information in the central repository for statistical, research, substance abuse prevention, or educational purposes, provided that consumer confidentiality is not compromised.

F. Any unauthorized disclosure of any information collected at the central repository provided by the Anti-Drug Diversion Act shall be a misdemeanor. Violation of the provisions of this section shall be deemed willful neglect of duty and shall be grounds for removal from office.

G. 1. Registrants shall have access to the central repository for the purposes of patient treatment and for determination in prescribing or screening new patients. The patient's history may be disclosed to the patient for the purposes of treatment of information at the discretion of the physician.

2. a. Prior to prescribing or authorizing for refill, if one hundred eighty (180) days have elapsed prior to the previous access and check, of opiates, synthetic opiates, semisynthetic opiates, benzodiazepine or carisoprodol to a patient of record, registrants or members of their medical or administrative staff shall be required until October 31, 2020, to access the information in the central repository to assess medical necessity and the possibility that the patient may be unlawfully obtaining prescription drugs in violation of the Uniform Controlled Dangerous Substances Act. The duty to access and check shall not alter or otherwise amend appropriate medical standards of care. The registrant or medical provider shall note in the patient file that the central repository has been checked and may maintain a copy of the information.

b. The requirements set forth in subparagraph a of this paragraph shall not apply:
(1) to medical practitioners who prescribe the controlled substances set forth in subparagraph a of this paragraph for hospice or end-of-life care, or
(2) for a prescription of a controlled substance set forth in subparagraph a of this paragraph that is issued by a practitioner for a patient residing in a nursing facility as defined by Section 1-1902 of this title, provided that the prescription is issued to a resident of such facility.

3. Registrants shall not be liable to any person for any claim of damages as a result of accessing or failing to access the information in the central repository and no lawsuit may be predicated thereon.

4. The failure of a registrant to access and check the central repository as required under state or federal law or regulation shall be grounds for the licensing board of the registrant to take disciplinary action against the registrant.

H. The State Board of Podiatric Examiners, the State Board of Dentistry, the State Board of Medical Licensure and Supervision, the State Board of Examiners in Optometry, the State Board of Nursing, the State Board of Osteopathic Examiners and the State Board of Veterinary Medical Examiners shall have the sole responsibility for enforcement of the provisions of subsection G of this section. Nothing in this section shall be construed so as to permit the Director of the State Bureau of Narcotics and Dangerous Drugs Control to assess administrative fines provided for in Section 2-304 of this title.

I. The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, or a designee thereof, shall provide a monthly list to the Directors of the State Board of Podiatric Examiners, the State Board of Dentistry, the State Board of Medical Licensure and Supervision, the State Board of Examiners in Optometry, the State Board of Nursing, the State Board of Osteopathic Examiners and the State Board of Veterinary Medical Examiners of the top twenty prescribers of controlled dangerous substances within their respective areas of jurisdiction. Upon discovering that a registrant is prescribing outside the limitations of his or her licensure or outside of drug registration rules or applicable state laws, the respective licensing board shall be notified by the Bureau in writing. Such notifications may be considered complaints for the purpose of investigations or other actions by the respective licensing board. Licensing boards shall

have exclusive jurisdiction to take action against a licensee for a violation of subsection G of this section.

J. Information regarding fatal and nonfatal overdoses, other than statistical information as required by Section 2-106 of this title, shall be completely confidential. Access to this information shall be strictly limited to the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control or designee, the Chief Medical Examiner, state agencies and boards provided in subsection A of this section, and the registrant that enters the information. Registrants shall not be liable to any person for a claim of damages for information reported pursuant to the provisions of Section 2-105 of this title.

K. The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall provide adequate means and procedures allowing access to central repository information for registrants lacking direct computer access.

L. Upon completion of an investigation in which it is determined that a death was caused by an overdose, either intentionally or unintentionally, of a controlled dangerous substance, the medical examiner shall be required to report the decedent's name and date of birth to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control. The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall be required to maintain a database containing the classification of medical practitioners who prescribed or authorized controlled dangerous substances pursuant to this subsection.

M. The Oklahoma State Bureau of Narcotics and Dangerous Drugs is authorized to provide unsolicited notification to the licensing board of a pharmacist or practitioner if a patient has received one or more prescriptions for controlled substances in quantities or with a frequency inconsistent with generally recognized standards of safe practice or if a practitioner or prescriber has exhibited prescriptive behavior consistent with generally recognized standards indicating potentially problematic prescribing patterns. An unsolicited notification to the licensing board of the practitioner pursuant to this section:

1. Is confidential;

2. May not disclose information that is confidential pursuant to this section; and

3. May be in a summary form sufficient to provide notice of the basis for the unsolicited notification.

Added by Laws 1990, c. 210, § 4, eff. Sept. 1, 1990. Amended by Laws 1997, c. 238, § 5, eff. Nov. 1, 1997; Laws 2004, c. 300, § 4, emerg. eff. May 12, 2004; Laws 2005, c. 128, § 4, eff. Nov. 1, 2005; Laws 2010, c. 160, § 3, eff. Nov. 1, 2010; Laws 2012, c. 51, § 1, eff. Nov. 1, 2012; Laws 2013, c. 162, § 1, eff. Nov. 1, 2013; Laws 2014, c. 4, § 18, emerg. eff. April 2, 2014; Laws 2014, c. 153, § 1,

eff. Nov. 1, 2014; Laws 2014, c. 293, § 22, eff. Nov. 1, 2014; Laws 2015, c. 1, § 2, eff. Nov. 1, 2015; Laws 2016, c. 210, § 35, emerg. eff. April 26, 2016; Laws 2018, c. 175, § 4, eff. Nov. 1, 2018.
NOTE: Laws 2013, c. 181, § 5 repealed by Laws 2014, c. 4, § 19, emerg. eff. April 2, 2014. Laws 2015, c. 84, § 1 repealed by Laws 2016, c. 210, § 36, emerg. eff. April 26, 2016.

§63-79. Oklahoma Sports Eye Safety Program Revolving Fund.

There is hereby created in the State Treasury a revolving fund to be designated the "Oklahoma Sports Eye Safety Program Revolving Fund" administered by the State Department of Health. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all the monies received by the State Department of Health pursuant to the provisions of Section 2368.25 of Title 68 of the Oklahoma Statutes, any other section of law and any other monies that may be deposited in the fund to implement the provisions of this act. All monies accruing to the credit of the fund are appropriated and may be budgeted and expended by the State Department of Health for the purposes of:

1. Exploring opportunities to utilize nonprofit organizations to provide sports eye safety information or sports eye safety equipment to children age eighteen (18) and under; and

2. Establishing a sports eye safety grant program for the purchase and distribution of sports eye safety programs and materials to classrooms in this state and sports eye safety protective wear to children age eighteen (18) and under.

Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 2011, c. 384, § 3, eff. Nov. 1, 2011. Amended by Laws 2012, c. 304, § 502.

§63-91. State Anatomical Board - Creation and membership – Duties – Organization – Rules - Records of bodies received and distributed - Exemptions.

A. There is hereby re-created, to continue until July 1, 2020, in accordance with the provisions of the Oklahoma Sunset Law, an oversight Board to be known as the State Anatomical Board, to be composed of the following members:

1. The Deans or their designee of each accredited medical school and osteopathic medical school within the State of Oklahoma;

2. The persons heading the Department of Anatomy, or comparable department, in the medical and osteopathic medical schools or their designee;

3. Two persons appointed jointly by the presidents of institutions of higher education within the state which have

educational programs other than medical which require on a regular basis human anatomical materials, provided that these programs have been approved by the State Regents for Higher Education; and

4. One at-large member appointed by the Governor to represent the interests of the citizens of this state.

B. It shall be the duty of the State Anatomical Board to register all anatomical donor programs and non-transplant tissue banks and to designate agents to provide for the collection, preservation, storage, distribution, delivery, recovery from users, cremation and final disposition of all dead human bodies used for health science education and research in the State of Oklahoma.

C. The Board shall elect from its membership a chairperson who shall perform such other duties as the Board may prescribe by rule. The Board shall have full power to establish rules for its government, to appoint and remove officers, and to appoint an executive director who shall keep full and complete minutes of its transactions and manage the affairs of the Board. The expenditures authorized in this section shall not be a charge against the state, but shall be paid by the agent designated by the Board to receive, store, issue, and cremate human anatomical materials. Records shall also be kept by the agent of all bodies received and distributed for the period of time authorized by the Records Disposition Schedule. The name of the oversight Board shall be the State Anatomical Board, hereinafter called the Anatomical Board. The Anatomical Board may, in its discretion, exempt any county, district, or institution from the provisions of this act in any calendar year for any length of time.

Added by Laws 1935, p. 57, § 1, emerg. eff. April 16, 1935. Amended by Laws 1969, c. 141, § 1, emerg. eff. April 9, 1969; Laws 1976, c. 126, § 1, emerg. eff. May 18, 1976; Laws 1982, c. 97, § 1, operative Oct. 1, 1982; Laws 1988, c. 225, § 20; Laws 1994, c. 9, § 1; Laws 2000, c. 92, § 1; Laws 2006, c. 114, § 1, eff. Nov. 1, 2006; Laws 2012, c. 119, § 1, eff. Nov. 1, 2012; Laws 2013, c. 15, § 76, emerg. eff. April 8, 2013; Laws 2016, c. 48, § 1.

NOTE: Laws 2006, c. 54, § 1 repealed by Laws 2007, c. 1, § 53, emerg. eff. Feb. 22, 2007. Laws 2012, c. 62, § 1 repealed by Laws 2013, c. 15, § 77, emerg. eff. April 8, 2013.

§63-92. Conditions for surrendering unclaimed bodies in government custody to Anatomical Board.

In the event that the body of any deceased person required to be buried or cremated at public expense shall enter into the custody of a government official, such as a warden, superintendent, administrator or officer of any state, county or municipal office, the government official shall use reasonable effort to ascertain if the deceased person has any relative, friend or other representative who will assume charge of the body for burial or cremation at his or

her expense. If such effort does not result in the discovery of a claimant within twenty-four (24) hours after death, the government official may notify the Anatomical Board or the Board's agent. The government official shall, without fee or reward, surrender, except as otherwise specifically provided by law, such unclaimed body or bodies to the Anatomical Board's agent and permit the Board or its agents to take and remove all such unclaimed bodies to be used for the advancement of medical and anatomical sciences. The Anatomical Board or the Board's agent may accept or decline such unclaimed bodies, but no such body shall be delivered if:

1. any relative, by blood or marriage, has previously claimed the body for burial or cremation at the expense of such relative, in which event the body shall be surrendered to the claimant for burial or cremation;

2. any government official is authorized pursuant to statutory law of this state to bury or cremate such body; or

3. any representative of a fraternal society of which the deceased was a member, representative of a charitable organization, or friend of the deceased has claimed the body for burial prior to delivery to the Board's agent. In such event, the burial shall be at the expense of the fraternal society, charitable organization, friend, institution or official.

Added by Laws 1935, p. 57, § 2, emerg. eff. April 16, 1935. Amended by Laws 1982, c. 97, § 2, operative Oct. 1, 1982; Laws 1986, c. 9, § 2, eff. Nov. 1, 1986; Laws 2006, c. 114, § 2, eff. Nov. 1, 2006.

§63-93. Autopsies - Request of chief medical examiner or district attorney or consent of Anatomical Board required.

It is unlawful for any person or persons to perform an autopsy on any dead human body mentioned in this article, except at the request of the Chief Medical Examiner or a district attorney of the county where such body is located, without the written, telegraphic or telephonic consent of the executive director of the Anatomical Board, or the Board's agent. Such telegraphic or telephonic consent shall be verified by written consent.

Added by Laws 1935, p. 58, § 3, emerg. eff. April 16, 1935; Laws 2006, c. 114, § 3, eff. Nov. 1, 2006.

§63-94. Board to receive unclaimed or donated bodies - Board approval to donees - Distribution.

A. The Anatomical Board of the State of Oklahoma, or its duly authorized agent, shall take and receive such unclaimed or donated bodies and distribute them on requisition to and among institutions to be used for anatomical purposes as approved by the Anatomical Board. Unclaimed bodies shall be held for thirty (30) days before being issued for use.

B. Any donee receiving a whole body donation from any source shall have approval from the Board prior to receiving such donation.

C. Should the number of bodies available exceed the needs of authorized institutions in this state, excess bodies which would otherwise qualify for anatomical purposes in this state may be issued to authorized institutions in other states.

Added by Laws 1935, p. 59, § 4, emerg. eff. April 16, 1935. Amended by Laws 1976, c. 126, § 2, emerg. eff. May 18, 1976; Laws 1989, c. 163, § 2, emerg. eff. May 8, 1989; Laws 2006, c. 114, § 4, eff. Nov. 1, 2006.

§63-95. Surrender of body when claimed.

After an unclaimed body has been received by the Anatomical Board's agent, and has been preserved and stored, the body may be claimed within thirty (30) days after death, by relatives, friends, fraternal or charitable organizations, for burial or cremation, at the expense of the claimant, and the body shall thereupon be surrendered to such claimant. If a body is claimed for burial or cremation, whether by a private person, organization or a county, and the body was embalmed at the expense of the agent, the claimant shall reimburse the agent for the cost of embalming and transportation.

Added by Laws 1935, p. 59, § 5, emerg. eff. April 16, 1935. Amended by Laws 1976, c. 126, § 3, emerg. eff. May 18, 1976; Laws 2006, c. 114, § 5, eff. Nov. 1, 2006.

§63-96. Authority to dissect, operate or experiment on dead bodies - Record of bodies received.

Any and all schools, colleges, and persons who may be designated by the Anatomical Board shall be, and are, authorized to dissect, operate upon, examine and experiment upon bodies distributed to them by the Board's agent and no others. Such dissections, operations, examinations and experiments shall not be considered as amenable under any already existing laws for the prevention of mutilation of dead human bodies. Such persons, schools or colleges shall keep a record, sufficient for identification, of each body received from the Anatomical Board or agent. The record shall be subject to inspection by the Board or its authorized officer or agent.

Added by Laws 1935, p. 59, § 6, emerg. eff. April 16, 1935. Amended by Laws 1976, c. 126, § 4, emerg. eff. May 18, 1976; Laws 2006, c. 114, § 6, eff. Nov. 1, 2006.

§63-97. Cremation of bodies after scientific study completed.

After the institutions within the State of Oklahoma to whom the bodies have been distributed have completed the scientific study of the bodies, the remains thereof shall in every case be returned to the Anatomical Board for final disposition by cremation. Bodies

sent to other states shall be individually cremated in that state. The cremains shall be returned to the agent issuing the body.
Added by Laws 935, p. 59, § 7, emerg. eff. April 16, 1935. Amended by Laws 1976, c. 126, § 5, emerg. eff. May 18, 1976; Laws 2006, c. 114, § 7, eff. Nov. 1, 2006.

§63-98. Expense of delivery or distribution of unclaimed body.
No county, municipality, officer, agent or servant thereof, shall incur any expense by reason of the delivery or distribution of any such body. All expenses for the storage, distribution or any other related services involved in the use of the bodies shall be borne by those institutions receiving and using the bodies. The Board's agent shall direct the payment into, and disbursements from an appropriate account for such activity at the agent's institution.
Added by Laws 1935, p. 59, § 8, emerg. eff. April 16, 1935. Amended by Laws 1957, p. 19, § 3, emerg. eff. June 1, 1957; Laws 1976, c. 126, § 6, emerg. eff. May 18, 1976; Laws 2006, c. 114, § 8, eff. Nov. 1, 2006.

§63-98.1. Repealed by Laws 2006, c. 114, § 9, eff. Nov. 1, 2006.

§63-99. Neglect to perform duties - Punishment.
Any person having duties enjoined upon him by the provisions of this act, who shall neglect, refuse or omit to perform the same as hereby required shall be deemed guilty of a misdemeanor and shall on conviction thereof, be liable to a fine of not less than Fifty Dollars ($50.00) nor more than Five Hundred Dollars ($500.00) for each offense.
Laws 1935, p. 59, § 9.

§63-100. Effect of partial unconstitutionality.
The Legislature declares that if any portion of this act is determined to be unconstitutional, it would nevertheless have enacted all of the remaining portion of this act, and no such decision shall invalidate the entire act.
Laws 1935, p. 59, § 10.

§63-101. Shipment of dead body.
No railroad or other common carrier shall receive for shipment to any point within the state or to any point outside the state the body of a deceased person unless there is attached to the shipping case, in a strong envelope, a burial-transit permit duly issued and signed by the Chief Medical Examiner.
R.L.1910, § 6815. Amended by Laws 1951, p. 171, § 3; Laws 2013, c. 152, § 1, eff. Nov. 1, 2013.

§63-102. Violation by agent of railroad.

Any agent, or employee, or officer of any railroad, or transportation company, violating any of the provisions of this article, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum of not less than Twenty-five Dollars ($25.00), nor more than One Hundred Dollars ($100.00), or confined in the county jail for a period of not less than thirty (30) days nor more than ninety (90) days.
R.L.1910, § 6817.

§63-103. Post mortem caesarian section - Right to perform - Nonliability of physician and hospital.

It shall be lawful for a physician, legally qualified to practice in the State of Oklahoma, to perform a post mortem caesarian section upon any female who is the victim of accidental death, who at the time of said death, is in the advanced stages of pregnancy and where said physician has reason to believe, following immediate and due examination, that said child is viable in the mother. In the performance of a caesarian section, under such circumstances, the physician and the institution or hospital where such operation is performed, shall not be liable, either civilly or criminally, though performed without the consent by those in whom the law has recognized a legal right of the possession of the body of the deceased, provided the operation be performed in good faith and with due skill and without unnecessary injury or mutilation. Provided, however, said operation shall not be performed over the protest of those in whom the law has recognized a legal right to the possession of the body of the said deceased.
Added by Laws 1943, p. 134, § 1.

§63-104. Nonliability of physician for failure to perform.

Failure on the part of the physician, under such circumstances, to perform a caesarian operation shall not subject said physician to criminal liability, if in his opinion after due examination, the child is not viable at the time of the death of the female, while in the advanced stages of pregnancy.
Laws 1943, p. 134, § 2.

§63-109. Anatomical Donor Program Registration Act.

A. This section shall be known and may be cited as the "Anatomical Donor Program Registration Act".

B. The State Anatomical Board shall register all anatomical donor programs and non-transplant tissue banks in the state which meet the requirements of the Anatomical Donor Program Registration Act.

C. Before an anatomical donor program or a non-transplant tissue bank may receive whole body or partial body donations from any person or entity inside or outside the state, the anatomical

donor program or non-transplant tissue bank shall register with the Board.

D. The Board shall specify the eligibility requirements for registration as an anatomical donor program or non-transplant tissue bank which, at a minimum, shall require such entities to be non-profit organizations.

E. The Board shall prescribe rules of conduct governing the practice of anatomical donor programs or non-transplant tissue banks registered pursuant to the Anatomical Donor Program Registration Act.

F. In order to address persons or entities which violate the provisions of the Anatomical Donor Program Registration Act or any rules promulgated thereto, the Board may:

1. Deny the issuance of a registration or suspend, revoke, or refuse to renew the registration of an anatomical donor program or non-transplant tissue bank, provided, however, that the Board may review, affirm, vacate, or modify a determination to deny, suspend, revoke, or refuse registration if the anatomical donor program or non-transplant tissue bank takes corrective actions;

2. Establish and administer administrative fines;

3. Initiate disciplinary or injunctive proceedings; and

4. Report alleged violations to the Attorney General or a district attorney as appropriate for further investigation or prosecution.

G. The Board shall report any violation it observes of the Oklahoma Uniform Anatomical Gift Act to the State Department of Health for further investigation and appropriate action.

H. The Board shall keep accurate and complete records of any proceedings initiated under the Anatomical Donor Program Registration Act.

I. The Board may issue a temporary registration to an anatomical donor program or non-transplant tissue bank which was previously registered but whose facilities were destroyed or damaged in order that, when appropriate safeguards are in place, the anatomical donor program or non-transplant tissue bank may continue to operate. During the effective period of the temporary registration, the Board may waive certain requirements if the anatomical donor program or non-transplant tissue bank is making a good faith effort to rebuild and restore its operations in order to meet all registration requirements.

J. The Board may maintain an office or secure facilities as deemed necessary by the Board in order to implement the Anatomical Donor Program Registration Act.

K. The Board shall promulgate rules as necessary to implement the provisions of the Anatomical Donor Program Registration Act. Added by Laws 2012, c. 119, § 2, eff. Nov. 1, 2012.

§63-121.1. Definitions.

A. For purposes of this chapter:

1. "Explosive" means any chemical compound or mechanical mixture that is commonly used or which is intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, by chemical reaction, or by detonation of any part of the compound or mixture may cause gaseous pressures capable of producing destructive effects on contiguous objects or of destroying life or limb. Provided, that dynamite, nitroglycerin, gunpowder, blasting powder and trinitrotoluene shall be deemed explosives without further proof of their explosive nature. The term "explosive" shall also include all material which is classified as explosive by the United States Department of Transportation. The term "explosive" shall not include explosives in the forms prescribed in the official UNITED STATES PHARMACOPOEIA; fireworks as defined by Section 1622 of Title 68 of the Oklahoma Statutes; or small arms ammunition and components therefor, which are subject to the Gun Control Act of 1968 (Title 18, Chapter 44, U.S. Code) and regulations promulgated thereunder;

2. "Blasting agent" means any material or mixture consisting of a fuel and oxidizer, intended for blasting, not otherwise classified as an explosive, provided that the finished product, as mixed and packaged for use or shipment, cannot be detonated when unconfined by means of a test blasting cap containing two (2) grams of a mixture eighty percent (80%) mercury fulminate and twenty percent (20%) potassium chlorate, or a cap of equivalent strength. The term "blasting agent" shall not include explosives in the forms prescribed in the official UNITED STATES PHARMACOPOEIA; fireworks as defined by Section 1622 of Title 68 of the Oklahoma Statutes; or small arms ammunition and components therefor, which are subject to the Gun Control Act of 1968 (Title 18, Chapter 44, U.S. Code) and regulations promulgated thereunder; and

3. "Person" means any individual, firm, copartnership, corporation, company, association, joint stock association, and includes any trustee, receiver, assignee or personal representative thereof.

Added by Laws 1971, c. 302, § 1, operative July 1, 1971. Amended by Laws 1992, c. 192, § 6, emerg. eff. May 11, 1992; Laws 1995, c. 344, § 1, eff. Nov. 1, 1995. Renumbered from § 141.1 of this title by Laws 1995, c. 344, § 32, eff. Nov. 1, 1995.

§63-122.1. Short title.

The provisions of this part shall be known and may be cited as the "Oklahoma Explosives and Blasting Regulation Act".

Added by Laws 1995, c. 344, § 2, eff. Nov. 1, 1995.

§63-122.2. Jurisdictional areas of state agencies.

The provisions of this section specify the jurisdictional areas of state agencies relating to the regulation of blasting and explosives. Agencies regulating explosives and blasting are directed to cooperate and coordinate with each other as necessary to carrying out the duties required to regulate explosives. Agencies regulating explosives may enter into interagency agreements with other state agencies and law enforcement agencies of any political subdivision of this state for the purpose of conducting investigations related to the regulation of explosives or criminal activity. The jurisdictional areas of responsibility specified in this section shall be in addition to those otherwise provided by law and assigned to the specific state agency as follows:

1. Department of Mines. The Department of Mines shall have the following jurisdictional areas relating to the regulation of blasting and explosives:

a. the use of explosives and blasting activities for surface and nonsurface mining operations pursuant to Title 45 of the Oklahoma Statutes,

b. except as otherwise provided by this part, the use of explosives and blasting activities for nonmining activities, and

c. except as otherwise provided by this part, the regulation of the use of explosives or of blasting activity not subject to the specific statutory authority of another state agency;

2. State Fire Marshal. The State Fire Marshal shall have regulatory jurisdictional responsibility relating to explosives as follows:

a. the regulation of the manufacture, sale, transportation for hire or storage of explosives or blasting agents for resale pursuant to Division 2 of the Oklahoma Explosives and Blasting Regulation Act,

b. the examination of buildings and premises and reporting and orders authorized pursuant to Section 317 of Title 74 of the Oklahoma Statutes, and

c. licensure, regulation and enforcement of fire extinguishers, pursuant to the Fire Extinguisher Licensing Act;

3. The Department of Public Safety. The Department of Public Safety shall have the regulatory jurisdictional responsibility relating to explosives as follows:

a. the transportation of explosives or blasting agents classified as hazardous materials pursuant to the Oklahoma Motor Carrier Safety and Hazardous Materials Transportation Act,

b. the construction or making of any explosive or explosive device not subject to specific regulatory authority of another state agency,

c. the intentional storage of any materials which are intended to be used to construct or make any explosive or explosive device not subject to specific regulatory authority of another state agency, and

d. the intentional use of any explosive or explosive device in any manner not subject to specific regulatory authority of another state agency.

Provided, nothing in this provision shall be construed to expand jurisdiction of the Department of Public Safety to investigate any crime occurring within the jurisdiction of another law enforcement authority of any political subdivision of this state, and nothing shall prohibit, limit, or restrict any law enforcement officer, agency, or specialized law enforcement unit from investigating or otherwise performing any duty or responsibility for crimes within their respective jurisdiction relating to explosives, blasting agents, or hazardous materials; and

4. Department of Environmental Quality. The Department of Environmental Quality shall have jurisdictional responsibility relating to the regulation and disposal of explosives or blasting agents classified as solid or hazardous waste pursuant to the Oklahoma Environmental Quality Code.

Added by Laws 1995, c. 344, § 3, eff. Nov. 1, 1995. Amended by Laws 2003, c. 168, § 5, eff. July 1, 2003; Laws 2013, c. 111, § 16, eff. Nov. 1, 2013.

§63-123.1. Responsibility for administration, regulation and enforcement of blasting operations or activities - Certification of blasters.

A. Pursuant to the Oklahoma Explosives and Blasting Regulation Act, except as otherwise provided by this part, the Department of Mines shall be responsible for the administration, regulation and enforcement of all blasting operations or activities, and the storage and use of all blasting agents and explosives by any person, which is not located within the area of a mining operation or site.

B. Except as otherwise provided by this part, it shall be unlawful for any person to store or use any blasting agents or explosives, or conduct, supervise or control a blasting operation in this state without first complying with the provisions of the Oklahoma Explosives and Blasting Regulation Act and rules promulgated by the Oklahoma Mining Commission.

C. Except as otherwise required by this part, by January 1, 1996:

1. Any person performing blasting activity shall be certified as a blaster by the Department of Mines;

2. All blasting operations shall be conducted under the direction of a certified blaster. Blaster certification may be obtained from the Department upon application and proof of competency as determined by rules of the Department; and

3. Before January 1, 1996, all blasting operations and activities shall be conducted by competent, experienced persons who understand the hazards involved.

D. Any blaster certification issued by the Department shall be carried by the blaster or shall be on file at the blasting area during blasting operations.

E. A blaster and at least one other person shall be present at the firing of a blast.

Added by Laws 1995, c. 344, § 4, eff. Nov. 1, 1995.

§63-123.2. Permit to manufacture, store, or use explosives or blasting agents - Records.

A. Except as otherwise provided by this part, it is a violation to manufacture, store, or use explosives or blasting agents without first obtaining a permit from the Department of Mines.

B. Permits issued under this division shall not be transferable, and shall be readily available for inspection by representatives of the Department and law enforcement officials.

C. The Department may place such restrictions and limitations on permits as it deems necessary.

D. The Department may issue one-time or limited-time permits or permits for continuous blasting operations.

E. 1. Permits for continuous blasting operations issued under this division shall be valid for the calendar year after the date of issue unless revoked or suspended. Permits for continuous blasting operations may be renewed on each issuance date and a showing of compliance with the Oklahoma Explosives and Blasting Regulation Act and rules promulgated thereto.

2. Permits for one-time or limited-time permits shall be valid only for the time specified in the permit.

F. Any person holding a permit issued under this division shall keep such records as may be required by the Department. Records shall be maintained for not less than two (2) years following the year in which the record is made. All such records shall be open to inspection by the Department or its representatives during normal business hours.

Added by Laws 1995, c. 344, § 5, eff. Nov. 1, 1995.

§63-123.2A. Permit to purchase blasting agents or explosives.

A. No person shall purchase blasting agents or explosives in this state without first obtaining a permit pursuant to the Oklahoma Explosives and Blasting Regulation Act or without first obtaining

written notification from the Department of Mines that the person is exempt from this permit requirement.

B. Distributors or sellers of blasting agents or explosives shall require presentation of either the permit or exemption notification required in subsection A of this section before the sale or transfer of blasting agents or explosives.

C. The Oklahoma Mining Commission shall promulgate rules to implement this section.

Added by Laws 1997, c. 140, § 1, eff. July 1, 1997.

§63-123.3. Issuance, denial, suspension, or revocation of permits - Hearings - Inspections - Injunctions.

The Department shall enforce the provisions of this division and for such purposes shall:

1. Issue permits to applicants found by the Department, after inspection and investigation, to be qualified for such permit under the provisions of this division and the rules promulgated by the Department;

2. Deny, suspend, or revoke permits upon a finding of noncompliance or violation of the provisions of this division or of the applicable rules of the Department;

3. Hold hearings upon the application of any person aggrieved by any order of the Department with respect to the denial, suspension, or revocation of any permit; and

4. Inspect, during normal business hours, any building, structure, or premises subject to the provisions of this division, and, upon the discovery of any violation of this division or the applicable rules, issue such orders as are necessary for the safety of workers and the public, and, in the case of imminent hazard or emergency, apply for an injunction in the appropriate district court.

Added by Laws 1995, c. 344, § 6, eff. Nov. 1, 1995.

§63-123.4. Rules - Fees.

A. The Department of Mines shall promulgate the necessary rules to implement the provisions of this Division. Rules promulgated by the Department shall include but not be limited to requirements for blasting plans, use of explosives, public notices, and records.

B. The Department of Mines may establish a schedule of fees to be charged for applications for or issuance of new and renewed certifications and permits required pursuant to this division. The fees shall be subject to the following provisions:

1. The Department shall follow the procedures required by the Administrative Procedures Act for promulgating rules in establishing or amending any such schedule of fees;

2. The Department shall base its schedule of fees upon the reasonable costs of operating the programs specified by this division; and

3. The fees authorized by this section shall not be implemented by emergency rule but shall be adopted by permanent rules, which shall be submitted to the Legislature for review pursuant to Section 308 of Title 75 of the Oklahoma Statutes prior to implementation. Added by Laws 1995, c. 344, § 7, eff. Nov. 1, 1995.

§63-123.5. Violations - Penalties.

A. In the enforcement of the Oklahoma Explosives and Blasting Regulation Act pursuant to this division, any person who violates any permit condition or who violates any other provision of the Oklahoma Explosives and Blasting Regulation Act or rules promulgated thereto pursuant to this division may be assessed an administrative penalty by the Department. Such penalty shall not exceed Five Thousand Dollars ($5,000.00) for each violation. Each day of continuing violation may be deemed a separate violation for purposes of penalty assessments. In determining the amount of the penalty, consideration shall be given to the person's history of previous violations regarding explosives and blasting operation; the seriousness of the violation, including any irreparable harm to the environment and any hazard to the health or safety of the public; whether the person was negligent; and the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification of the violation.

B. An administrative penalty shall be assessed by the Department only after the person charged with a violation described under subsection A of this section has been given an opportunity for a hearing pursuant to Article II of the Administrative Procedures Act. Where such a hearing has been held, the Department shall make findings of fact, and shall issue a written decision as to the occurrence of the violation and the amount of the penalty which is warranted, incorporating, when appropriate, an order therein requiring that the penalty be paid. When appropriate, the Department shall consolidate such hearings with other proceedings under the Oklahoma Explosives and Blasting Regulation Act. Any hearing under this section shall be of record. Where the person charged with such a violation fails to avail himself of the opportunity for a hearing, an administrative penalty shall be assessed by the Department after determining that a violation did occur, and the amount of the penalty which is warranted, and issuing an order requiring that the penalty be paid.

C. Upon the issuance of a notice or order charging that a violation of the Oklahoma Explosives and Blasting Regulation Act has occurred, the Department shall inform the operator within thirty (30) days of the proposed amount of said penalty. The person

charged with the penalty shall then have thirty (30) days to pay the proposed penalty in full or, if the person wishes to contest either the amount of the penalty or the fact of the violation, forward the proposed amount to the Department for placement in an escrow account. If through administrative or judicial review of the proposed penalty, it is determined that no violation occurred, or that the amount of the penalty should be reduced, the Department shall within thirty (30) days remit the appropriate amount to the person.

D. Administrative penalties owed under the Oklahoma Explosives and Blasting Regulation Act may be recovered in a civil action brought by the Attorney General or any district attorney in the district in which the violation occurred at the request of the Department in the appropriate district court. Such action, also, may be brought by the Department.

E. Any person who willfully and knowingly violates a condition of a permit issued pursuant to this division or fails or refuses to comply with any order issued under this division, or any order incorporated in a final decision issued by the Department under this division, shall, upon conviction, be punished by a fine of not more than Ten Thousand Dollars ($10,000.00) or by imprisonment for not more than one (1) year, or both.

F. Whenever a corporate permittee violates a condition of a permit issued pursuant to this division or fails or refuses to comply with any order issued under this division, or any order incorporated in a final decision issued by the Executive Director of the Department of Mines under this division, any director, officer or agent of such corporation who willfully and knowingly authorized, ordered or carried out such violation, failure or refusal shall be subject to the same administrative penalties, fines and imprisonment that may be imposed upon a person under subsections A and E of this section.

G. Whoever knowingly makes any false statement, representation or certification, or knowingly fails to make any statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this division or any order of decision issued by the Department under this division, shall, upon conviction, be punished by a fine of not more than Ten Thousand Dollars ($10,000.00) or by imprisonment for not more than one (1) year, or both.

H. Any person who fails to correct a violation for which a citation has been issued within the period permitted for its correction shall be assessed an administrative penalty of not less than Seven Hundred Fifty Dollars ($750.00) for each day during which such failure or violation continues.

The period permitted for corrections of violations shall not end until:

1. The entry of a final order by the Department after an expedited hearing which ordered the suspension of the abatement requirements of the citation because it was determined that the person will suffer irreparable loss or damage from the application of the abatement requirements; or

2. The entry of an order by a court in any review proceedings initiated by the person in which the court orders the suspension of the abatement requirements.

I. Any person who shall, except as permitted by law, willfully resist, prevent, impede or interfere with the Department or any of the agents or employees thereof in the performance of duties pursuant to this division shall, upon conviction, be punished by a fine of not more than Five Thousand Dollars ($5,000.00), or by imprisonment for not more than one (1) year, or both.

Added by Laws 1995, c. 344, § 8, eff. Nov. 1, 1995.

§63-123.6. Provisions cumulative to other laws and ordinances.

The provisions of this part shall be in addition to any other state or federal laws or municipal ordinances regulating explosives, blasting agents or similar devices. Each person shall comply with all applicable state and federal laws and regulations and municipal ordinances for the storage, manufacture, transportation and the use of explosives or blasting agents.

Added by Laws 1995, c. 344, § 9, eff. Nov. 1, 1995.

§63-123.7. Deposit of monies.

Any fees, administrative penalties or any other monies obtained by the Department of Mines pursuant to the Oklahoma Explosives and Blasting Regulation Act shall be deposited in the Department of Mines Revolving Fund and shall be expended by the Department of Mines for implementation and enforcement of this part or as otherwise deemed necessary by the Department for complying with its responsibilities and duties according to law.

Added by Laws 1995, c. 344, § 10, eff. Nov. 1, 1995.

§63-123.8. Exemptions.

A. 1. The provisions of the Oklahoma Explosives and Blasting Regulation Act shall not apply to:

a. persons engaged in shooting wells or seismographic operations for the purpose of oil or gas production,

b. mining operations regulated by Title 45 of the Oklahoma Statutes, and

c. persons using explosives or blasting agents for noncommercial use on their own land, owned in fee or by contract, for the removal of trees, rocks and dams or for other normal agricultural purposes.

2. Any person exempted from the provisions of the Oklahoma Explosives and Blasting Regulation Act pursuant to this subsection shall be liable for all damages caused by the use of explosives, or blasting agents and blasting operations, which damages shall be recoverable in any court of competent jurisdiction.

B. In addition, the provisions of the Oklahoma Explosives and Blasting Regulation Act shall not apply to:

1. Any municipalities or counties in this state using any blasting agents, explosives or conducting, supervising or controlling a blasting operation in this state. Any such municipality or county shall comply with rules promulgated by the Oklahoma Mining Commission;

2. The Department of Transportation in the conducting, supervision or controlling of any blasting operation in this state, provided the Department shall comply with rules promulgated by the Oklahoma Mining Commission; and

3. Duly qualified and certified bomb technicians of a federally accredited bomb squad of municipal, county, state, and federal law enforcement agencies for the transportation, storage or disposal of any explosive chemical, compound or device, when such technician is performing responsibilities for the preservation of public peace, safety, or criminal investigation.

4. Any employee of the Oklahoma Department of Agriculture, Food, and Forestry and the United States Department of Agriculture, Animal and Plant Health Inspection Service, Wildlife Services who is trained and certified by the United States Department of Agriculture in the safe handling and use of explosive materials in the course of the official duties of the employee.

Added by Laws 1995, c. 344, § 11, eff. Nov. 1, 1995. Amended by Laws 2003, c. 168, § 6, eff. July 1, 2003; Laws 2007, c. 58, § 1, eff. Nov. 1, 2007.

§63-124. Renumbered as § 128.1 of this title by Laws 1995, c. 344, § 34, eff. Nov. 1, 1995.

§63-124.1. Administration and enforcement - Personnel.

The State Fire Marshal Commission shall:

1. Promulgate rules for the administration and enforcement of this division;

2. Administer the provisions hereof, pursuant to said rules; and

3. Employ such agents and clerical help as may be necessary for such purpose.

Added by Laws 1971, c. 302, § 2, operative July 1, 1971. Amended by Laws 1995, c. 344, § 12, eff. Nov. 1, 1995. Renumbered from § 141.2 of this title by Laws 1995, c. 344, § 33, eff. Nov. 1, 1995.

§63-124.2. Federal rules or regulations to govern.

Any rule or regulation promulgated by a duly authorized federal department, bureau, or agency shall supersede any rule promulgated under this division.

Added by Laws 1971, c. 302, § 3, operative July 1, 1971. Amended by Laws 1995, c. 344, § 13, eff. Nov. 1, 1995. Renumbered from § 141.3 of this title by Laws 1995, c. 344, § 33, eff. Nov. 1, 1995.

§63-124.3. Permits - Information required.

A. No person shall manufacture, sell, transport for hire, or store for resale explosives or blasting agents without first obtaining a permit to engage in such activity from the State Fire Marshal; provided, however, the State Fire Marshal shall waive the state permit requirement where a valid federal license or permit has been issued.

B. Explosives or blasting agents shall not be sold, given, delivered or transferred to any person who does not furnish the information required in subsection C of this section.

C. It shall be unlawful for any person to purchase, receive or obtain explosives or blasting agents without first furnishing to the seller or distributor the following information: a statement of intended use, name, date, quantity, social security number or taxpayer identification number, and place of residence of any natural person to whom explosives or blasting agents are distributed. If explosives or blasting agents are sold or distributed to a corporation or other entity, such information shall include the identity and principal and local places of business, statement of intended use, quantity, date, name, social security number, and place of residence of the natural person acting as agent of the corporation or other entity in arranging the purchase or distribution.

D. An application for a permit under this division shall be accompanied by the payment of a fee in the amount of Ten Dollars ($10.00).

E. All state, county and city agencies that use explosives and blasting agents shall furnish the information required in subsection C of this section.

F. Permits shall be valid for the calendar year in which issued, unless sooner revoked or suspended, and may be renewed annually on January 1 upon the payment of the required fee.

G. It shall be unlawful for any person to possess or use explosives or blasting agents unless such person can furnish proof of compliance with the provisions of this division.

Added by Laws 1971, c. 302, § 4, operative July 1, 1971. Amended by Laws 1995, c. 344, § 14, eff. Nov. 1, 1995. Renumbered from § 141.4 of this title by Laws 1995, c. 344, § 33, eff. Nov. 1, 1995.

§63-124.4. Disposition of permit fees.

All monies derived from the sale of permits as specified in this division shall be transferred to the State Treasurer of the State of Oklahoma, to be placed to the credit of the "General Revenue Fund".
Added by Laws 1971, c. 302, § 5, operative July 1, 1971. Amended by Laws 1995, c. 344, § 15, eff. Nov. 1, 1995. Renumbered from § 141.5 of this title by Laws 1995, c. 344, § 33, eff. Nov. 1, 1995.

§63-124.5. Records.

Every person permitted pursuant to the provisions of this division, including those holding federal licenses or permits, shall keep such records as may be required by the State Fire Marshal. Records shall be maintained for a period of not less than five (5) years following the year in which the record is made. All such records shall be open to inspection by the State Fire Marshal and his assistants during normal business hours.
Added by Laws 1971, c. 302, § 6, operative July 1, 1971. Amended by Laws 1995, c. 344, § 16, eff. Nov. 1, 1995. Renumbered from § 141.6 of this title by Laws 1995, c. 344, § 33, eff. Nov. 1, 1995.

§63-124.6. Inspection of premises.

The Fire Marshal and any assistants of the Fire Marshal may, during normal business hours, inspect any building, structure or premises of any person subject to the provisions of this division, and shall, upon the discovery of any violation of this division or rules promulgated hereunder, issue such orders as are necessary for the safety of occupants and the public.
Added by Laws 1971, c. 302, § 7, operative July 1, 1971. Amended by Laws 1995, c. 344, § 17, eff. Nov. 1, 1995. Renumbered from § 141.7 of this title by Laws 1995, c. 344, § 33, eff. Nov. 1, 1995.

§63-124.7. Denial, revocation or suspension of permit.

Any violation of this division or the rules promulgated hereunder shall constitute grounds for the denial, revocation or suspension of a permit by the State Fire Marshal as deemed appropriate by the State Fire Marshal.
Added by Laws 1971, c. 302, § 8, operative July 1, 1971. Amended by Laws 1995, c. 344, § 18, eff. Nov. 1, 1995. Renumbered from § 141.8 of this title by Laws 1995, c. 344, § 33, eff. Nov. 1, 1995.

§63-124.8. Responsibility of permit holders - Penalties.

A. Any firm, corporation, company or partnership shall ensure that all personnel, field crews, magazine attendants, truck drivers, supervisors and superintendents are fully conversant with all provisions of this division and the rules promulgated hereunder. The permit holder shall be responsible for violations committed by employees working under the company or corporation permit.

B. Any person violating any of the provisions of this division or any rules or regulations made thereunder shall be guilty of a felony and shall be punished by a fine of not more than Five Thousand Dollars ($5,000.00) or by imprisonment for not more than five (5) years, or by both such fine and imprisonment. If such violation was committed with the knowledge or intent that any explosive or blasting agent involved was to be used to kill, injure or intimidate any person or unlawfully to damage any real or personal property, the person or persons committing such violations, upon conviction, shall be guilty of a felony and shall be punished by a fine of not more than Ten Thousand Dollars ($10,000.00) or imprisoned for not more than ten (10) years, or both. If in a case involving such knowledge or intent personal injury results, such person shall be imprisoned for not more than twenty (20) years, or fined not more than Twenty Thousand Dollars ($20,000.00), or both; and if death results such person shall be subject to imprisonment for any term of years or for life.
Added by Laws 1971, c. 302, § 9, operative July 1, 1971. Amended by Laws 1995, c. 344, § 19, eff. Nov. 1, 1995. Renumbered from § 141.9 of this title by Laws 1995, c. 344, § 33, eff. Nov. 1, 1995.

§63-125. Renumbered as § 128.2 of this title by Laws 1995, c. 344, § 34, eff. Nov. 1, 1995.

§63-126. Renumbered as § 128.3 of this title by Laws 1995, c. 344, § 34, eff. Nov. 1, 1995.

§63-127. Renumbered as § 128.4 of this title by Laws 1995, c. 344, § 34, eff. Nov. 1, 1995.

§63-128. Renumbered as § 128.5 of this title by Laws 1995, c. 344, § 34, eff. Nov. 1, 1995.

§63-128.1. Transporting vehicles to be labeled.
Except as otherwise regulated by federal law, every vehicle carrying or transporting nitroglycerine in this state shall have conspicuously marked thereon in letters not less than six (6) inches in height on each side and the rear of such vehicle, the words "Nitroglycerine - Dangerous."
R.L. 1910, § 6972. Amended by Laws 1995, c. 344, § 20, eff. Nov. 1, 1995. Renumbered from § 124 of this title by Laws 1995, c. 344, § 34, eff. Nov. 1, 1995.

§63-128.2. Storage of explosives.
Nothing in this part shall be held to apply to persons, partnerships or corporations who store not to exceed twenty-five (25) pounds of said explosives, except nitroglycerine, in any one

place at any one time, nor to the manufacturing or storing of drugs: Provided, however, that for good cause shown, the Chief Mine Inspector or deputy may issue a permit for temporary storage of any of said explosives, except nitroglycerine, not exceeding five hundred (500) pounds.
R.L. 1910, § 6973. Amended by Laws 1995, c. 344, § 21, eff. Nov. 1, 1995. Renumbered from § 125 of this title by Laws 1995, c. 344, § 34, eff. Nov. 1, 1995.

§63-128.3. Penalty for violation of §§ 128.1 and 128.2.

Whoever, either as principal, agent, servant, or employee of such person, partnership, or corporation violates any of the provisions of Sections 20 and 21 of this act, or fails to procure a valid certificate from the Chief State Mine Inspector, as herein provided, shall be fined not less than Fifty Dollars ($50.00) nor more than Two Thousand Dollars ($2,000.00).
R.L. 1910, § 6974. Amended by Laws 1995, c. 344, § 22, eff. Nov. 1, 1995. Renumbered from § 126 of this title by Laws 1995, c. 344, § 34, eff. Nov. 1, 1995.

§63-128.4. Transportation of nitroglycerine in or near city, town or village.

It shall be unlawful for any person, partnership, or corporation to haul, transport or cause to be hauled or transported in any manner, any nitroglycerin over, across, or upon any street, alley or highway of any city, town or village, or any highway or lands within one-fourth (1/4) mile of any city, town or village within this state.
Added by Laws 1919, c. 246, p. 347, § 1. Amended by Laws 1995, c. 344, § 23, eff. Nov. 1, 1995. Renumbered from § 127 of this title by Laws 1995, c. 344, § 34, eff. Nov. 1, 1995.

§63-128.5. Shooting wells within limits.

If it becomes necessary to shoot a well located within any city, town or village or within the prohibited distance prescribed herein, before such well is shot or any nitroglycerin is taken within any city, town or village or within the prohibited distance herein prescribed, permission to take a sufficient amount of nitroglycerin to shoot said well must first be obtained from the mayor, city council, manager or board of trustees of such city, town or village where said well is to be shot.
Added by Laws 1919, c. 246, p. 347, § 2. Amended by Laws 1995, c. 344, § 24, eff. Nov. 1, 1995. Renumbered from § 128 of this title by Laws 1995, c. 344, § 34, eff. Nov. 1, 1995.

§63-128.6. Penalty for violation of §§ 128.4 and 128.5.

Any person, partnership or corporation violating any of the provisions of Sections 23 and 24 of this act shall be fined not less than Two Hundred Dollars ($200.00) nor more than Five Thousand Dollars ($5,000.00) or by imprisonment in the county jail for a term not exceeding twelve (12) months nor less than sixty (60) days.
Added by Laws 1919, c. 246, p. 347, § 4. Amended by Laws 1995, c. 344, § 25, eff. Nov. 1, 1995. Renumbered from § 130 of this title by Laws 1995, c. 344, § 34, eff. Nov. 1, 1995.

§63-128.7. Authority of officers.

Any municipal, county or state law enforcement officer within this state shall have the right to arrest any person for the violation of any of the provisions of this part.
Added by Laws 1919, c. 246, p. 347, § 3. Amended by Laws 1995, c. 344, § 26, eff. Nov. 1, 1995. Renumbered from § 129 of this title by Laws 1995, c. 344, § 34, eff. Nov. 1, 1995.

§63-129. Renumbered as § 128.7 of this title by Laws 1995, c. 344, § 34, eff. Nov. 1, 1995.

§63-130. Renumbered as § 128.6 of this title by Laws 1995, c. 344, § 34, eff. Nov. 1, 1995.

§63-131. Gasoline kept in red tanks.

All grocers, druggists, and all other vendors of gasoline in quantities of one hundred fifty (150) gallons and less are hereby required to put all gasoline by them hereafter kept for sale, or sold, in a red can, tank, barrel or other receptacle, which receptacle shall be labeled "Gasoline," and vendors of kerosene in quantities of two hundred fifty gallons or less shall not put kerosene in any can, tank, barrel or other receptacle painted red: Provided, that all dealers shall be required to keep for use and shall place all gasoline by them sold in red cans or other receptacles.
R.L.1910, § 6975.

§63-132. Penalty for violations - Civil liability.

Any grocer, druggist, or other person who shall be convicted of a violation of the provisions of the preceding section, shall be deemed guilty of a misdemeanor and shall be fined not less than Ten Dollars ($10.00) nor more than Fifty Dollars ($50.00), and shall in addition thereto be liable in damages in civil suit for any damage resulting from a violation of the preceding section.
R.L.1910, § 6976.

§63-134. Renumbered as § 36 of Title 25 by Laws 1995, c. 344, § 36, eff. Nov. 1, 1995.

§63-135. Repealed by Laws 1990, c. 252, § 14, operative July 1, 1990.

§63-136. Repealed by Laws 1990, c. 252, § 14, operative July 1, 1990.

§63-137. Repealed by Laws 1990, c. 252, § 14, operative July 1, 1990.

§63-141.1. Renumbered as § 121.1 of this title by Laws 1995, c. 344, § 32, eff. Nov. 1, 1995.

§63-141.2. Renumbered as § 124.1 of this title by Laws 1995, c. 344, § 33, eff. Nov. 1, 1995.

§63-141.3. Renumbered as § 124.2 of this title by Laws 1995, c. 344, § 33, eff. Nov. 1, 1995.

§63-141.4. Renumbered as § 124.3 of this title by Laws 1995, c. 344, § 33, eff. Nov. 1, 1995.

§63-141.5. Renumbered as § 124.4 of this title by Laws 1995, c. 344, § 33, eff. Nov. 1, 1995.

§63-141.6. Renumbered as § 124.5 of this title by Laws 1995, c. 344, § 33, eff. Nov. 1, 1995.

§63-141.7. Renumbered as § 124.6 of this title by Laws 1995, c. 344, § 33, eff. Nov. 1, 1995.

§63-141.8. Renumbered as § 124.7 of this title by Laws 1995, c. 344, § 33, eff. Nov. 1, 1995.

§63-141.9. Renumbered as § 124.8 of this title by Laws 1995, c. 344, § 33, eff. Nov. 1, 1995.

§63-142.1. Short title.

This act shall be known and may be cited as the "Oklahoma Underground Facilities Damage Prevention Act".

Laws 1981, c. 94, § 1, eff. Jan. 1, 1982.

§63-142.2. Definitions.

As used in the Oklahoma Underground Facilities Damage Prevention Act:

1. "Certified project" means a project where the public agency responsible for the public project, as part of its procedure,

certifies that the project right-of-way is free and clear of underground facilities or wherein the public agency responsible for such project, as part of its procedure, notifies all persons determined by the public agency to have underground facilities located within the construction right-of-way and certifies that all known underground facilities are duly located or noted on the engineering drawings for the project;

2. "Damage" means any impact upon or removal of support from an underground facility as a result of explosion, excavation or demolition which according to the operating practices of the operator of the underground facilities would necessitate the repair thereof;

3. "Demolish" means to wreck, raze, render, move or remove a structure by means of any equipment or explosive;

4. "Demolition" means the act or operation of demolishing a structure;

5. "Excavate" means to dig, compress or remove earth, rock or other materials in or on the ground by use of mechanized equipment or blasting, including, but not necessarily limited to, augering, boring, backfilling, drilling, grading, pile driving, plowing in, pulling in, trenching, tunneling and plowing; provided, however, that neither:

a. the moving of earth by tools manipulated only by human or animal power, nor

b. any form of cultivation for agricultural purposes, nor any augering, dozing by noncommercial dozer operators or digging for postholes, farm ponds, land clearing or other normal agricultural purposes, nor

c. routine maintenance, nor

d. work by a public agency or its contractors on a preengineered project, nor

e. work on a certified project, nor

f. work on a permitted project, nor

g. the opening of a grave in a cemetery, nor

h. a solid waste disposal site which is a preengineered project, nor

i. any individual excavating on his own property and who is not in the excavating business for hire,

shall be deemed excavation;

6. "Excavation" means the act or operation of excavating;

7. "Excavator" means a person or public agency that intends to excavate or demolish within the State of Oklahoma;

8. "Notification center" means the statewide center currently known as the Oklahoma One-Call System, Inc., which has as one of its purposes to receive notification of planned excavation and demolition in a specified area from excavators, and to disseminate

such notification of planned excavation or demolition to operators who are members and participants;

9. "Operator" shall mean and include any person or public agency owning or operating underground facilities;

10. "Permitted project" means a project where a permit for the work to be performed must be issued by a state or federal agency and, as a prerequisite to receiving such permit, the applicant must locate all underground facilities in the area of the work and in the vicinity of any blasting and notify each owner of such underground facilities;

11. "Person" includes any individual, partnership, corporation, association, cooperative, trust or other entity, including a person engaged as a contractor by a public agency, but not including a public agency;

12. "Preengineered project" means a public project wherein the public agency responsible for such project, as part of its engineering and contract procedures, holds a meeting prior to the commencement of any construction work on such project in which all persons, determined by the public agency to have underground facilities located within the construction area of the project, are invited to attend and given an opportunity to verify or inform the public agency of the location of their underground facilities, if any, within the construction area and where the location of all known underground facilities are duly located or noted on the engineering drawing and specifications for the project;

13. "Public agency" means the state or any board, commission or agency of the state;

14. "Routine maintenance" means the grading of roads and barrow or drainage ditches, the removal and replacement of pavement, including excavation relating thereto and the installation and maintenance of drainage and bridge facilities, signs, guardrails, and electrical and communications facilities in or on the public rights-of-way by a public agency; and

15. "Underground facility" means any underground line, cable, facility, system and appurtenances thereto, for producing, storing, conveying, transmitting or distributing communication (including voice, video, or data information), electricity, power, light, heat, intrastate and interstate gas pipelines, as described in 49 CFR Part 192.1, intrastate and interstate hazardous liquid or carbon dioxide pipelines, as described in 49 CFR Part 195.1, water (including storm water), steam, sewage and other commodities and any oil and gas pipeline located in a public right-of-way.

Added by Laws 1981, c. 94, § 2, eff. Jan. 1, 1982. Amended by Laws 1995, c. 344, § 27, eff. Nov. 1, 1995; Laws 2002, c. 412, § 1, eff. July 1, 2002; Laws 2003, c. 362, § 1, eff. Nov. 1, 2003; Laws 2004, c. 427, § 1, emerg. eff. June 4, 2004; Laws 2017, c. 192, § 1, eff. Nov. 1, 2017; Laws 2018, c. 136, § 1, eff. Nov. 1, 2018.

§63-142.3. Filing of notice - Participation by municipality in statewide one-call notification center.

All operators of underground facilities shall participate in the statewide one-call notification center and shall have on file with the notification center a notice that such operator has underground facilities, the county or counties where such facilities are located, and the address and telephone number of the person or persons from whom information about such underground facilities may be obtained. A municipality shall participate in the statewide one-call notification center as provided for in this section.

Added by Laws 1981, c. 94, § 3, eff. Jan. 1, 1982. Amended by Laws 1992, c. 25, § 1, emerg. eff. March 30, 1992; Laws 2003, c. 362, § 2, eff. Nov. 1, 2003; Laws 2016, c. 151, § 1, eff. Nov. 1, 2016.

§63-142.4. Filing fees.

A. As provided for in this section, the notification center shall charge and collect fees from operators filing notices pursuant to Section 142.3 of this title, except for rural water districts which have less than one thousand one hundred meters and municipalities which have a population of less than three thousand (3,000).

B. Upon the initial filing of a notice or statement and annually thereafter, a fee shall be collected in a manner as provided for in Section 142.10 of this title. The fee shall be due and payable on January 1 of each year. Failure to pay such fee on or before February 1 of such year shall result in the filing being void and the notification center shall remove such operator from the list of operators having underground facilities in the county. Such operator may thereafter file again pursuant to this act, but only upon payment to the notification center of the above-specified initial filing fee and an additional late filing fee of Fifty Dollars ($50.00).

C. The notification center shall maintain a current list of all operators on file pursuant to this act and shall make copies of such list available upon payment of the appropriate fees.

Added by Laws 1981, c. 94, § 4, eff. Jan. 1, 1982. Amended by Laws 2003, c. 362, § 3, eff. Nov. 1, 2003.

§63-142.5. Certain excavations, demolitions and explosions prohibited near certain facilities.

No excavator shall demolish a structure, discharge an explosive or commence to excavate in a highway, street, alley or other public ground or way, a private easement, or on or near the location of the facilities of an operator without first complying with the requirements of the Underground Facilities Damage Prevention Act and the Oklahoma Explosives and Blasting Regulation Act.

Added by Laws 1981, c. 94, § 5, eff. Jan. 1, 1982. Amended by Laws 1995, c. 344, § 28, eff. Nov. 1, 1995.

§63-142.6. Notice of proposed demolition, explosion or excavation - Marking or providing location of facilities - Emergencies.

A. Before an excavator shall demolish a structure, discharge any explosive or commence to excavate in a highway, street, alley or other public ground or way, on or near the location of an operator's underground facilities, or a private easement, such excavator shall first notify all operators in the geographic area defined by the notification center who have on file with the notification center a notice pursuant to Section 142.3 of this title to determine whether any operators have underground facilities in or near the proposed area of excavation or demolition. When an excavator has knowledge that an operator does not have underground facilities within the area of the proposed excavation, the excavator need not notify the operator of the proposed excavation. However, an excavator shall be responsible for damage to the underground facilities of an operator if the notification center was not notified. Notice shall be given no more than ten (10) days nor less than forty-eight (48) hours, excluding Saturdays, Sundays and legal holidays, prior to the commencement of the excavation or demolition.

B. Each operator served with notice in accordance with subsection A above either directly or by notice to the notification center shall, within forty-eight (48) hours after receipt of verification from the notification center that the notice has been accepted and acknowledged, excluding Saturdays, Sundays and legal holidays, unless otherwise agreed to between the excavator and operator, locate and mark or otherwise provide the approximate location of the underground facilities of the operator in a manner as to enable the excavator to employ hand-dug test holes to determine the precise location of the underground facilities in advance of excavation. For the purpose of this act, the approximate location of the underground facilities shall be defined as a strip of land two (2) feet on either side of such underground facilities. Whenever an operator is served with notice of an excavation or demolition and determines that the operator does not have underground facilities located within the proposed area of excavation or demolition, the operator shall communicate this information to the excavator originating the notice prior to the commencement of such excavation or demolition.

C. The only exception to subsection A of this section shall be when an emergency exists that endangers life, health or property. Under these conditions, excavation operations may begin immediately, providing reasonable precautions are taken to protect underground facilities. All operators of underground facilities within the area of the emergency must be notified promptly when an emergency

requires excavation prior to the location of the underground facilities being marked.

D. Every notice given by an excavator to an operator pursuant to this section or to the notification center pursuant to Section 142.3 of this title shall contain at least the following information:

1. The name of the individual serving such notice;

2. The location of the proposed area of excavation or demolition;

3. The name, address and telephone number of the excavator or excavator's company;

4. The excavator's field telephone number, if one is available;

5. The type and the extent of the proposed work;

6. Whether or not the discharging of explosives is anticipated; and

7. The date and time when work is to begin.

E. In marking the approximate location of underground facilities, an operator shall follow the standard color coding described herein:

OPERATOR AND TYPE OF PRODUCT	SPECIFIC GROUP IDENTIFYING COLOR
Electric Power Distribution and Transmission	Safety Red
Municipal Electric Systems	Safety Red
Gas Distribution and Transmission	High Visibility Safety Yellow
Oil Distribution and Transmission	High Visibility Safety Yellow
Dangerous Materials, Product Lines, Steam Lines	High Visibility Safety Yellow
Telephone and Telegraph Systems	Safety Alert Orange
Police and Fire Communications	Safety Alert Orange
Cable Television	Safety Alert Orange
Water Systems	Safety Precaution Blue
Slurry Systems	Safety Precaution Blue
Sewer Systems	Safety Green

Added by Laws 1981, c. 94, § 6, eff. Jan. 1, 1982. Amended by Laws 2003, c. 362, § 4, eff. Nov. 1, 2003; Laws 2016, c. 151, § 2, eff. Nov. 1, 2016.

§63-142.7. Use of powered or mechanized equipment - Exemptions.

A. Except as provided in subsection B of this section, powered or mechanized equipment shall not be used directly over marked routes of underground facilities until the precise location of the underground facilities has been determined by the excavator, and then only after the facilities have been exposed and properly

protected to avoid damage to them. If the precise location of the underground facilities cannot be determined by the excavator, the operator thereof shall be notified by the excavator so that the operator can determine the precise location of the underground facilities prior to continuing excavation or demolition.

B. The only exception to the prohibition of the use of powered or mechanized equipment directly over marked routes of underground facilities shall be for the removal of pavement or masonry, and then only to the depth of such pavement or masonry.

Laws 1981, c. 94, § 7, eff. Jan. 1, 1982.

§63-142.8. Additional notice required.

In addition to the notice required by Section 142.6 of this title, whenever the demolition of a structure is proposed, operators in the geographic area defined by the notification center who have a notice on file with the notification center pursuant to Section 142.3 of this title shall be given at least seven (7) business days' notice of the proposed demolition before the demolition work begins. Such notice shall be initiated by the notification center after the excavator has met local code requirements for a demolition permit. When an operator is served with notice and determines that underground facilities are within the proposed area of demolition and such facilities require additional protection, service removal or termination, the operator shall communicate this information to the excavator and by mutual agreement the operator and excavator shall determine a date to begin the demolition which shall not exceed sixty (60) business days from the original demolition notice. If a public agency determines that the structure endangers the public health or safety, then the public agency may, in the manner provided by law, order the immediate demolition of the structure.

Added by Laws 1981, c. 94, § 8, eff. Jan. 1, 1982. Amended by Laws 2003, c. 362, § 5, eff. Nov. 1, 2003; Laws 2004, c. 427, § 2, emerg. eff. June 4, 2004.

§63-142.9. Damage to underground facilities.

A. When any damage occurs to an underground facility or its protective covering, the operator thereof shall be notified immediately by any person who caused the damage.

B. Upon receiving notice of such damage, the operator shall promptly dispatch personnel to the location to effect temporary or permanent repairs.

C. Should damage occur that endangers life, health or property, the excavator responsible for the work shall keep all sources of ignition away from the damaged area and shall take immediate action to protect the public and property and to minimize the hazard until arrival of the operator's personnel or until the appropriate police

or fire officials shall have arrived and taken charge of the damaged area.

D. An excavator shall delay any backfilling in the immediate area of the damaged underground facilities until the damage has been repaired, unless the operator authorizes otherwise. The repair of such damage must be performed by the operator or by qualified personnel authorized by the operator.

Added by Laws 1981, c. 94, § 9, eff. Jan. 1, 1982. Amended by Laws 2017, c. 192, § 2, eff. Nov. 1, 2017.

§63-142.9a. Damage to underground facilities – Liability - Injunction.

A. Any excavator, except for a public agency who fails to comply with the Oklahoma Underground Facilities Damage Prevention Act and who damages an underground facility owned or operated by a nonprofit rural water corporation organized pursuant to Section 863 of Title 18 of the Oklahoma Statutes or a rural water district organized pursuant to the Rural Water, Sewer, Gas, and Solid Waste Management Districts Act, shall be liable for the underground damage to and responsible for the repair of such facilities. Any new underground facilities installed on and after September 1, 1992, shall contain materials capable of being detected so that the facilities can be accurately located.

B. Any excavator who damages or cuts an underground facility, as a result of negligently failing to comply with the provisions of the Oklahoma Underground Facilities Damage Prevention Act or as a result of failing to take measures for the protection of an underground facility shall be liable to the operator of the underground facility for the repair of the damaged underground facility.

C. Except for public agencies, any excavator who by willful act or by reckless disregard of the rights of others, repeatedly violates the provisions of the Oklahoma Underground Facilities Damage Prevention Act and repeatedly damages underground facilities, thereby threatening the public health, safety, and welfare, may be enjoined by a court of competent jurisdiction from further excavation.

Added by Laws 1992, c. 369, § 1, eff. Sept. 1, 1992. Amended by Laws 2002, c. 412, § 2, eff. July 1, 2002; Laws 2003, c. 362, § 6, eff. Nov. 1, 2003.

§63-142.10. Statewide notification center.

A. This act recognizes the value of and authorizes the establishment of a statewide notification center.

B. Upon establishment, the notification center shall operate twenty-four (24) hours a day, seven (7) days a week. Notification, as required by Section 142.6 of this title, to operators who are

members of or participants in the notification center, shall be given by notifying the notification center by telephone or other acceptable means of communication, the content of such notification to conform to Section 142.6 of this title.

C. All operators who have underground facilities within the defined geographical boundary of the notification center shall be afforded the opportunity to become a member of the notification center on the same terms as the original members. Others may participate as nonmembers on terms and conditions as the members deem appropriate.

D. A suitable record shall be maintained by the notification center to document the receipt of the notices from excavators as required by this act.

Added by Laws 1981, c. 94, § 10, eff. Jan. 1, 1982. Amended by Laws 2003, c. 362, § 7, eff. Nov. 1, 2003.

§63-142.11. Exemptions.

Notwithstanding anything which may be contained in this act to the contrary, public agencies and their contractors engaged in work within the public right-of-way which work is a preengineered project, certified project or routine maintenance shall be exempt from the provisions of this act. Provided, a public agency contractor, prior to engaging in routine maintenance, shall take reasonable steps to determine the location of underground facilities in or near the proposed area of work. Reasonable steps may include utilization of the statewide one-call notification center procedures as provided for in Section 142.6 of this title.

Added by Laws 1981, c. 94, § 11, eff. Jan. 1, 1982. Amended by Laws 1986, c. 114, § 1, eff. Nov. 1, 1986; Laws 2003, c. 362, § 8, eff. Nov. 1, 2003.

§63-142.12. Repealed by Laws 2016, c. 151, § 3, eff. Nov. 1, 2016.

§63-142.13. Enforcement authority - Corporation Commission.

The Corporation Commission is hereby designated as the agency to enforce the provisions of the Oklahoma Underground Facilities Damage Prevention Act, Section 142.1 et seq. of Title 63 of the Oklahoma Statutes, over excavation or demolition on or near or directly over the location of, and notice of damage to, oil and natural gas physical facilities which are described by the currently effective definition of "pipeline" in 49 CFR Part 192.3 and "pipeline" and "pipeline system" in 49 CFR Part 195.2. Enforcement authority granted in this section shall be concurrent with and shall not be construed to modify or limit any private right of action, including those available pursuant to Section 142.9a of Title 63 of the Oklahoma Statutes. Terms used in this section shall be as defined in the Oklahoma Underground Facilities Damage Prevention Act.

Added by Laws 2014, c. 243, § 1, emerg. eff. May 9, 2014.

§63-176. Repealed by Laws 2013, c. 53, § 2, eff. July 1, 2013.

§63-313A. Definitions.

A. As used in this section:

1. a. "Health benefit plan" means a plan that:

(1) provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, and

(2) is offered by any insurance company, group hospital service corporation, the State and Education Employees Group Insurance Board, or a health maintenance organization that delivers or issues for delivery an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an evidence of coverage, or, to the extent permitted by the Employee Retirement Income Security Act of 1974, 29 U.S.C., Section 1001 et seq., by a multiple employer welfare arrangement as defined in Section 3 of the Employee Retirement Income Security Act of 1974, or any other analogous benefit arrangement, whether the payment is fixed or by indemnity.

b. "Health benefit plan" shall not include:

(1) a plan that provides coverage:

(a) only for a specified disease or diseases or under an individual limited benefit policy,

(b) only for accidental death or dismemberment,

(c) for dental or vision care,

(d) a hospital confinement indemnity policy,

(e) disability income insurance or a combination of accident-only and disability income insurance, or

(f) as a supplement to liability insurance,

(2) a Medicare supplemental policy as defined by Section 1882(g)(1) of the Social Security Act (42 U.S.C., Section 1395ss),

(3) worker's compensation insurance coverage,

(4) medical payment insurance issued as part of a motor vehicle insurance policy,

(5) a long-term care policy, including a nursing home fixed indemnity policy, unless a determination is made that the policy provides benefit coverage so comprehensive that the policy meets the definition of a health benefit plan, or

(6) short-term health insurance issued on a nonrenewable basis with a duration of six (6) months or less; and

2. "Prior authorization" means a utilization management criterion utilized to seek permission or waiver of a drug to be covered under a health prior authorization.

B. Notwithstanding any other provision of law to the contrary, in order to establish uniformity in the submission of prior authorization forms, on or after January 1, 2014, a health benefit plan shall utilize prior authorization forms for obtaining any prior authorization for prescription drug benefits. A form shall not exceed three pages in length, excluding any instructions or guiding documentation and a health benefit plan may customize the content of the form specific to the prescription drug for which the prior authorization is being requested. A health benefit plan may make the form accessible through multiple computer operating systems. Additionally, upon request, the health benefit plan shall make a copy of the form available to the Insurance Commissioner.
Added by Laws 2013, c. 362, § 1.

§63-313B. Prior authorization forms for prescription drug benefits.

A. As used in this section:

1. a. "Health benefit plan" means a plan that:

(1) provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, and

(2) is offered by any insurance company, group hospital service corporation, the State and Education Employees Group Insurance Board, or a health maintenance organization that delivers or issues for delivery an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an evidence of coverage, or, to the extent permitted by the Employee Retirement Income Security Act of 1974, 29 U.S.C., Section 1001 et seq., by a multiple employer welfare arrangement as defined in Section 3 of the Employee Retirement Income Security Act of 1974, or any other analogous benefit arrangement, whether the payment is fixed or by indemnity.

b. "Health benefit plan" shall not include:

(1) a plan that provides coverage:

(a) only for a specified disease or diseases or under an individual limited benefit policy,

(b) only for accidental death or dismemberment,

(c) for dental or vision care,

(d) a hospital confinement indemnity policy,
(e) disability income insurance or a combination of accident-only and disability income insurance, or
(f) as a supplement to liability insurance,

(2) a Medicare supplemental policy as defined by Section 1882(g)(1) of the Social Security Act (42 U.S.C., Section 1395ss),
(3) workers' compensation insurance coverage,
(4) medical payment insurance issued as part of a motor vehicle insurance policy,
(5) a long-term care policy, including a nursing home fixed indemnity policy, unless a determination is made that the policy provides benefit coverage so comprehensive that the policy meets the definition of a health benefit plan, or
(6) short-term health insurance issued on a nonrenewable basis with a duration of six (6) months or less; and

2. "Prior authorization" means a utilization management criterion utilized to seek permission or waiver of a drug to be covered under a health prior authorization.

B. Notwithstanding any other provision of law to the contrary, in order to establish uniformity in the submission of prior authorization forms, on or after January 1, 2015, a health benefit plan shall utilize prior authorization forms for obtaining any prior authorization for prescription drug benefits. A form shall not exceed three pages in length, excluding any instructions or guiding documentation and a health benefit plan may customize the content of the form specific to the prescription drug for which the prior authorization is being requested. A health benefit plan may make the form accessible through multiple computer operating systems. Additionally, upon request, the health benefit plan shall make a copy of the form available to the Insurance Commissioner.
Added by Laws 2014, c. 264, § 1, eff. Nov. 1, 2014.

§63-315. Display of sign by retailers as to meat inspection.

All retail establishments selling meats which have been either state or federally inspected shall display a sign adjacent to the meat counter and plainly visible to the customer stating that "meat sold over this counter has been state inspected," or if it is federally inspected it shall state that "meat sold over this counter has been federally inspected." This sign shall be not less than 24"x10" in size with prominent letters.
Added by Laws 1961, p. 692, § 6, emerg. eff. July 29, 1961.

§63-330.21. Repealed by Laws 1990, c. 85, § 3, operative July 1, 1990.

§63-330.22. Repealed by Laws 1990, c. 85, § 3, operative July 1, 1990.

§63-330.23. Repealed by Laws 1990, c. 85, § 3, operative July 1, 1990.

§63-330.24. Repealed by Laws 1990, c. 85, § 3, operative July 1, 1990.

§63-330.25. Repealed by Laws 1990, c. 85, § 3, operative July 1, 1990.

§63-330.26. Repealed by Laws 1990, c. 85, § 3, operative July 1, 1990.

§63-330.27. Repealed by Laws 1990, c. 85, § 3, operative July 1, 1990.

§63-330.31. Independent audits - Reimbursable cost statements.

The superintendent of each hospital operated by the State of Oklahoma or any department, commission, agency, or authority thereof is authorized to employ Certified Public Accountants for the purpose of conducting an independent audit of such hospital's books and records and preparing an audit report and reimbursable cost statement at the close of each fiscal year in accordance with the requirements of third party payors that may reimburse such hospital for care and treatment provided.

Laws 1965, c. 128, § 1, emerg. eff. May 24, 1965.

§63-330.51. Definitions.

For the purposes of this act, and as used herein:

1. “Board” means the Oklahoma State Board of Examiners for Long-Term Care Administrators;

2. “Long-term care administrator” means a person licensed or certified as a nursing facility administrator, an assisted living facility administrator, a residential care facility administrator, or an adult day care center administrator pursuant to this act. A long-term care administrator must devote at least one-half (1/2) of such person’s working time to on-the-job supervision of a long-term care facility; provided that this requirement shall not apply to an

administrator of an intermediate care facility for the mentally retarded with sixteen or fewer beds (ICF-MR/16), in which case the person licensed by the state may be in charge of more than one ICF-MR/16, if such facilities are located within a circle that has a radius of not more than fifteen (15) miles, and the total number of facilities and beds does not exceed six facilities and sixty-four beds. The facilities may be free-standing in a community or may be on campus with a parent institution. The ICF-MR/16 may be independently owned and operated or may be part of a larger institutional ownership and operation;

3. "Nursing facility administrator" means a person licensed by the State of Oklahoma to perform the duties of an administrator serving in a skilled nursing or nursing or ICF/MR facility;

4. "Assisted living facility administrator" means a person licensed or certified by the State of Oklahoma to perform the duties of an administrator serving in an assisted living facility;

5. "Residential care facility administrator" means a person licensed or certified by the State of Oklahoma to perform the duties of an administrator serving in a residential care facility;

6. "Adult day care center administrator" means a person licensed or certified by the State of Oklahoma to perform the duties of an administrator serving in an adult day care center; and

7. "Nursing home", "rest home" and "specialized home" shall have the same meaning as the term "nursing facility" as such term is defined in the Nursing Home Care Act; "assisted living center" and "continuum of care facility" shall have the same meaning as such terms are defined in the Continuum of Care and Assisted Living Act; "home" and "residential care home" shall have the same meaning as the terms are used in the Residential Care Act; and "adult day care center" and "center" shall have the same meaning as such terms are used in the Adult Day Care Act.

Added by Laws 1968, c. 100, § 1, emerg. eff. April 1, 1968. Amended by Laws 1991, c. 168, § 1, eff. July 1, 1991; Laws 1995, c. 289, § 1, eff. Nov. 1, 1995; Laws 1996, c. 118, § 2, eff. Nov. 1, 1996; Laws 2005, c. 168, § 1, emerg. eff. May 13, 2005; Laws 2006, c. 291, § 1, eff. July 1, 2006; Laws 2011, c. 192, § 1, eff. Nov. 1, 2011.

§63-330.52. State Board of Examiners.

A. There is hereby re-created, to continue until July 1, 2022, in accordance with the provisions of the Oklahoma Sunset Law, the Oklahoma State Board of Examiners for Long-Term Care Administrators. The Oklahoma State Board of Examiners for Long-Term Care Administrators shall consist of fifteen (15) members, eight of whom shall be representatives of the professions and institutions of long-term care, with representation from each type of administrator defined in Section 330.51 of this title. In order to be eligible to serve as a member, such administrators shall be licensed or

certified in their defined facility type, and be in good standing and have at least five (5) years of experience as an administrator. Four members shall represent the general public, of which at least two shall be licensed medical professionals concerned with the care and treatment of critically ill or infirm elderly patients. The preceding twelve members shall be appointed by the Governor, with the advice and consent of the Senate. The final three members shall constitute the State Commissioner of Health and the Director of the Department of Human Services, and the Director of the Department of Mental Health and Substance Abuse Services, or their designees.

B. No members other than the eight licensed or certified administrators shall have a direct or indirect financial interest in long-term care facilities.

C. Effective November 1, 2011, all appointed positions of the current Board shall be deemed vacant. The Governor shall make initial appointments pursuant to the provisions of this subsection. Initial appointments shall become effective on November 1, 2011. The new members of the Board shall be initially appointed as follows:

1. Four of the members representing each administrator type, two members representing the general public and two other members shall be appointed for a term of two (2) years to expire on October 31, 2013; and

2. Four of the members representing each administrator type, two members representing the general public and one other member shall be appointed for a term of three (3) years to expire on October 31, 2014.

D. After the initial terms, the terms of all appointive members shall be three (3) years. Any vacancy occurring in the position of an appointive member shall be filled by the Governor, with the advice and consent of the Senate, for the unexpired term.

E. Any member of the Board shall recuse himself or herself from voting on any matter that originated from or involves an entity with which the Board member is affiliated.

Added by Laws 1968, c. 100, § 2, emerg. eff. April 1, 1968. Amended by Laws 1973, c. 264, § 1, emerg. eff. May 24, 1973; Laws 1980, c. 175, § 1, eff. Oct. 1, 1980; Laws 1982, c. 196, § 1, emerg. eff. April 27, 1982; Laws 1988, c. 225, § 21; Laws 1991, c. 168, § 2, eff. July 1, 1991; Laws 1995, c. 17, § 1, emerg. eff. March 31, 1995; Laws 2000, c. 91, § 1; Laws 2005, c. 168, § 2, emerg. eff. May 13, 2005; Laws 2006, c. 291, § 2, eff. July 1, 2006; Laws 2007, c. 347, § 10, eff. Nov. 1, 2007; Laws 2011, c. 192, § 2, eff. Nov. 1, 2011; Laws 2018, c. 295, § 1.

§63-330.53. Qualifications for license or certification.

A. The Oklahoma State Board of Examiners for Long-Term Care Administrators shall have authority to issue licenses or

certifications to qualified persons as long-term care administrators, and shall establish qualification criteria for each type of long-term care administrator.

B. No license or certification shall be issued to a person as a long-term care administrator unless:

1. The person shall have submitted evidence satisfactory to the Board that the person is:

a. not less than twenty-one (21) years of age, and

b. of reputable and responsible character; and

2. The person shall have submitted evidence satisfactory to the Board of the person's ability to supervise the defined facility type in which he or she is licensed or certified to serve as a long-term care administrator.

C. All persons currently licensed or certified or lawfully serving as an administrator in their defined facility type shall be permitted to continue to serve in their current capacity under their current terms of authorization. The Board may promulgate rules pursuant to Section 330.57 of this title to address future certification and licensure requirements for all long-term care administrator types without effect on the licensure or certification status of those currently certified or licensed. The Board shall not include a requirement for a four-year degree in any future licensing or certification requirements for assisted living, residential care or adult day care administrators. Until such rules are promulgated, current licensure and certification processes and standards shall remain in place.

D. The Oklahoma State Board of Examiners for Long-Term Care Administrators shall, on or before July 1, 2017, promulgate rules permitting eligible applicants to sit for the state standards examination at a testing facility using procedures approved by the National Association of Long-Term Care Administrator Board, including but not limited to the use of electronic or online methods for examination.

E. The Oklahoma State Board of Examiners for Long-Term Care Administrators shall promulgate rules to implement the provisions of this section.

Added by Laws 1968, c. 100, § 3, emerg. eff. April 1, 1968. Amended by Laws 1991, c. 168, § 3, eff. July 1, 1991; Laws 1995, c. 289, § 2, eff. Nov. 1, 1995; Laws 2006, c. 291, § 3, eff. July 1, 2006; Laws 2006, c. 273, § 2, emerg. eff. June 7, 2006; Laws 2011, c. 192, § 3, eff. Nov. 1, 2011; Laws 2016, c. 241, § 1, eff. Nov. 1, 2016.

§63-330.54. License fees - Expiration date.

Each person licensed or certified as a long-term care administrator pursuant to the provisions of Section 330.53 of this title shall be required to pay an annual license or certification fee which shall be deposited in the Oklahoma State Board of

Examiners for Long-Term Care Administrators Revolving Fund. Such fee shall be determined by the Oklahoma State Board of Examiners for Long-Term Care Administrators. Each such license or certification shall expire on the 31st day of December following its issuance, and shall be renewable for a calendar year, upon meeting the renewal requirements and upon payment of the annual license fee.
Added by Laws 1968, c. 100, § 4, emerg. eff. April 1, 1968. Amended by Laws 1984, c. 172, § 3, operative July 1, 1984; Laws 1988, c. 171, § 3, operative July 1, 1988; Laws 1991, c. 168, § 4, eff. July 1, 1991; Laws 2006, c. 291, § 4, eff. July 1, 2006; Laws 2011, c. 192, § 4, eff. Nov. 1, 2011.

§63-330.56. Officers - Rules - Travel expenses - Personnel.

The Oklahoma State Board of Examiners for Long-Term Care Administrators shall elect from its membership a chair, vice-chair, and secretary-treasurer, and shall adopt rules to govern its proceedings. Each member shall be allowed necessary travel expenses, as may be approved by the Board pursuant to the State Travel Reimbursement Act. The Board may employ and fix the compensation and duties of necessary personnel to assist it in the performance of its duties.
Added by Laws 1968, c. 100, § 6, emerg. eff. April 1, 1968. Amended by Laws 1985, c. 178, § 46, operative July 1, 1985; Laws 2006, c. 291, § 5, eff. July 1, 2006.

§63-330.57. Qualifications of administrator.

The Oklahoma State Board of Examiners for Long-Term Care Administrators shall have sole and exclusive authority to determine the qualifications, skill and fitness of any person to serve as a long-term care administrator under the applicable provisions of the Nursing Home Care Act, the Continuum of Care and Assisted Living Act, the Residential Care Act, and the Adult Day Care Act. The Board shall promulgate rules to determine the qualifications for licensure or certification for the long-term care administrator types as defined in Section 330.51 of this title. Such rules may include a requirement for licensure instead of certification for certain long-term care administrator types.
Added by Laws 1968, c. 100, § 7, emerg. eff. April 1, 1968. Amended by Laws 1991, c. 168, § 5, eff. July 1, 1991; Laws 2006, c. 291, § 6, eff. July 1, 2006; Laws 2011, c. 192, § 5, eff. Nov. 1, 2011.

§63-330.58. Duties of Board.

The Oklahoma State Board of Examiners for Long-Term Care Administrators shall:

1. Develop, impose, and enforce standards which must be met by individuals in order to receive a license or certification as a long-term care administrator, which standards shall be designed to

ensure that long-term care administrators will be individuals who are of good character and are otherwise suitable, and who, by training or experience in the field of institutional administration, are qualified to serve as long-term care administrators;

2. Develop and apply appropriate techniques, including examinations and investigations, for determining whether an individual meets such standards;

3. Issue licenses or certifications to individuals determined, after the application of such techniques, to meet such standards. The Board may deny an initial application, deny a renewal application, and revoke or suspend licenses or certifications previously issued by the Board in any case where the individual holding any such license or certification is determined substantially to have failed to conform to the requirements of such standards. The Board may also warn, censure, impose administrative fines or use other remedies that may be considered to be less than revocation and suspension. Administrative fines imposed pursuant to this section shall not exceed One Thousand Dollars ($1,000.00) per violation. The Board shall consider the scope, severity and repetition of the violation and any additional factors deemed appropriate by the Board when issuing a fine;

4. Establish and carry out procedures designed to ensure that individuals licensed or certified as long-term care administrators will, during any period that they serve as such, comply with the requirements of such standards;

5. Receive, investigate, and take appropriate action with respect to any charge or complaint filed with the Board to the effect that any individual licensed as a long-term care administrator has failed to comply with the requirements of such standards. The long-term care ombudsman program of the Aging Services Division of the Department of Human Services shall be notified of all complaint investigations of the Board so that they may be present at any such complaint investigation for the purpose of representing long-term care facility consumers;

6. Receive and take appropriate action on any complaint or referral received by the Board from the Department of Human Services or any other regulatory agency. Complaints may also be generated by the Board or staff. A complaint shall not be published on the web site of the Oklahoma State Board of Examiners for Long-Term Care Administrators unless there is a finding by the Board that the complaint has merit. The Board shall promulgate rules that include, but are not limited to, provisions for:

a. establishing a complaint review process,

b. creating a formal complaint file, and

c. establishing a protocol for investigation of complaints;

7. Enforce the provisions of Sections 330.51 through 330.65 of this title against all persons who are in violation thereof including, but not limited to, individuals who are practicing or attempting to practice as long-term care administrators without proper authorization from the Board;

8. Conduct a continuing study and investigation of long-term care facilities and administrators of long-term care facilities within the state with a view toward the improvement of the standards imposed for the licensing or certifying of such administrators and of procedures and methods for the enforcement of such standards with respect to administrators of long-term care facilities who have been licensed or certified;

9. Cooperate with and provide assistance when necessary to state regulatory agencies in investigations of complaints;

10. Develop a code of ethics for long-term care administrators which includes, but is not limited to, a statement that administrators have a fiduciary duty to the facility and cannot serve as guardian of the person or of the estate, or hold a durable power of attorney or power of attorney for any resident of a facility of which they are an administrator;

11. Report a final adverse action against a long-term care administrator to the Healthcare Integrity and Protection Data Bank pursuant to federal regulatory requirements;

12. Refer completed investigations to the proper law enforcement authorities for prosecution of criminal activities;

13. Impose administrative fines, in an amount to be determined by the Board, against persons who do not comply with the provisions of this act or the rules adopted by the Board. Administrative fines imposed pursuant to this section shall not exceed One Thousand Dollars ($1,000.00) per violation. The Board shall consider the scope, severity and repetition of the violation and any additional factors deemed appropriate by the Board when issuing a fine;

14. Assess the costs of the hearing process, including attorney fees;

15. Grant short-term provisional licenses to individuals who do not meet all of the licensing requirements, provided the individual obtains the services of a currently licensed administrator to act as a consultant and meets any additional criteria for a provisional license established by the Board;

16. Order a summary suspension of an administrator’s license or certification or an Administrator in Training (AIT) permit, if, in the course of an investigation, it is determined that a licensee, certificate holder or AIT candidate for licensure has engaged in conduct of a nature that is detrimental to the health, safety or welfare of the public, and which conduct necessitates immediate action to prevent further harm; and

17. Promulgate rules governing the employment of assistant administrators for nursing and skilled nursing facilities including, but not limited to, minimum qualifications.

Added by Laws 1968, c. 100, § 8, emerg. eff. April 1, 1968. Amended by Laws 1980, c. 175, § 2, eff. Oct. 1, 1980; Laws 1991, c. 168, § 6, eff. July 1, 1991; Laws 2005, c. 168, § 3, emerg. eff. May 13, 2005; Laws 2006, c. 291, § 7, eff. July 1, 2006; Laws 2007, c. 347, § 11, eff. Nov. 1, 2007; Laws 2008, c. 411, § 2, eff. Nov. 1, 2008; Laws 2011, c. 192, § 6, eff. Nov. 1, 2011.

§63-330.59. Service as administrator without license prohibited.

It shall be unlawful and a misdemeanor for any person to act or serve in the capacity as a long-term care administrator unless the person is the holder of a license or certification as a long-term care administrator, issued in accordance with the provisions of this act.

Added by Laws 1968, c. 100, § 9, emerg. eff. April 1, 1968. Amended by Laws 2006, c. 291, § 8, eff. July 1, 2006; Laws 2011, c. 192, § 7, eff. Nov. 1, 2011.

§63-330.60. Rules and regulations.

The Board shall establish such rules and regulations governing operations, reporting of fees, and compensation of employees, the maintenance of books, records and manner and time of employee compensation, all as may be in the public interest.

Laws 1968, c. 100, § 10, emerg. eff. April 1, 1968; Laws 1974, c. 48, § 1, emerg. eff. April 13, 1974. Amended by Laws 1990, c. 85, § 1, operative July 1, 1990.

§63-330.61. Additional fees.

A. In addition to fees necessary to implement the provisions of this act, the Oklahoma State Board of Examiners for Long-Term Care Administrators may impose fees for:

1. Training programs conducted or approved by the Board; and
2. Education programs conducted or approved by the Board.

B. All revenues collected as a result of fees authorized in this section and imposed by the Board shall be deposited into the Oklahoma State Board of Examiners for Long-Term Care Administrators Revolving Fund.

Added by Laws 1988, c. 171, § 4, operative July 1, 1988. Amended by Laws 1990, c. 85, § 2, operative July 1, 1990; Laws 1991, c. 168, § 7, eff. July 1, 1991; Laws 2006, c. 291, § 9, eff. July 1, 2006.

§63-330.62. Oklahoma State Board of Examiners for Long-Term Care Administrators Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma State Board of Examiners for Long-Term Care

Administrators to be designated the "Oklahoma State Board of Examiners for Long-Term Care Administrators Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of such sources of income as are provided by law. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma State Board of Examiners for Long-Term Care Administrators to carry out the duties established by law. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.
Added by Laws 1988, c. 171, § 5, operative July 1, 1988. Amended by Laws 1991, c. 168, § 8, eff. July 1, 1991; Laws 2006, c. 291, § 10, eff. July 1, 2006; Laws 2012, c. 304, § 503.

§63-330.63. Repealed by Laws 2006, c. 291, § 13, eff. July 1, 2006.

§63-330.64. Complaints - Registry.

A. Each investigation of a complaint received by the Oklahoma State Board of Examiners for Long-Term Care Administrators shall be initiated within ninety (90) days from the date the complaint is received by the Board. Each complaint investigation shall be completed within twelve (12) months of initiation. The time period may be extended by the Board for good cause.

B. Effective May 13, 2005, the Board shall create and maintain a registry of all complaints or referrals, found by the Board to have merit, complaining of acts or omissions of licensed administrators. The registry shall be maintained in both electronic and paper formats and shall be available for inspection by the public. Such registry shall be organized both in chronological order by the date of the complaint and by the name of the licensed administrator. The registry shall contain information about the nature of the complaint and the action, if any, taken by the Board. The registry shall also contain the number of complaints made against an individual administrator.
Added by Laws 2005, c. 168, § 4, emerg. eff. May 13, 2005. Amended by Laws 2006, c. 291, § 11, eff. July 1, 2006; Laws 2008, c. 411, § 3, eff. Nov. 1, 2008.

§63-330.65. Complaint procedures.

A. Any decision by the Oklahoma State Board of Examiners for Long-Term Care Administrators pursuant to a complaint received against an individual administrator shall be voted upon by a quorum of the Board in an open meeting.

B. Any person or agency may submit to the Board a complaint against a long-term care administrator. Complaints may also be generated by the Board or staff.

C. A committee or committees of three (3) persons appointed by the chair of the Board shall review complaints to determine if probable cause exists that a violation of this act or the rules of the Board has occurred. No committee shall be composed of a majority of board members who are long-term care administrators or owners. The committee may cause the allegations to be investigated, and, if this committee determines that such probable cause exists, this committee shall file a formal complaint against the long-term care administrator alleged to have committed the violation.

D. To ensure the confidentiality of an investigative file obtained during the investigation, the information in the investigative file shall not be deemed to be a record as that term is defined in the Oklahoma Open Records Act nor shall the information be subject to subpoena or discovery in any civil or criminal proceeding, except that the Board may give the information to law enforcement and other state licensing agencies as necessary and appropriate in the discharge of the duties of that agency and only under circumstances that will ensure against unauthorized access to the information. The respondent may acquire information obtained during an investigation, unless the disclosure of the information is otherwise prohibited, except for the investigative report, if the respondent signs a protective order whereby the respondent agrees to use the information solely for the purpose of defense in the Board proceeding and in any appeal therefrom and agrees not to otherwise disclose the information.

E. Upon completion of an investigation, the probable cause committee may make a recommendation to the Board to set the case for hearing, or for dismissal or other action.

F. The respondent may be given an opportunity to participate in an informal resolution of the case. Discussions to resolve the case without a hearing may be conducted by the Director, the prosecutor of the Board, or both the Director and the prosecutor, in consultation with the probable cause committee. Any recommendation for informal resolution shall be presented to the Board for its consideration and approval.

G. If the case is not resolved, the respondent shall be afforded notice and a hearing in accordance with the provisions of Article II of the Administrative Procedures Act. The members of the probable cause committee that reviewed the complaint shall recuse themselves from any participation in a hearing. Any party aggrieved by a decision of the Board following a hearing may appeal directly to district court pursuant to the provisions of Section 318 of Title 75 of the Oklahoma Statutes.

Added by Laws 2005, c. 168, § 5, emerg. eff. May 13, 2005. Amended by Laws 2006, c. 291, § 12, eff. July 1, 2006; Laws 2008, c. 411, § 4, eff. Nov. 1, 2008; Laws 2011, c. 192, § 8, eff. Nov. 1, 2011.

§63-330.71. Repealed by Laws 1990, c. 320, § 20, emerg. eff. May 30, 1990.

§63-330.72. Repealed by Laws 1990, c. 320, § 20, emerg. eff. May 30, 1990.

§63-330.73. Repealed by Laws 1990, c. 320, § 20, emerg. eff. May 30, 1990.

§63-330.74. Repealed by Laws 1990, c. 320, § 20, emerg. eff. May 30, 1990.

§63-330.75. Repealed by Laws 1990, c. 320, § 20, emerg. eff. May 30, 1990.

§63-330.76. Repealed by Laws 1990, c. 320, § 20, emerg. eff. May 30, 1990.

§63-330.77. Repealed by Laws 1990, c. 320, § 20, emerg. eff. May 30, 1990.

§63-330.78. Repealed by Laws 1990, c. 320, § 20, emerg. eff. May 30, 1990.

§63-330.79. Repealed by Laws 1990, c. 320, § 20, emerg. eff. May 30, 1990.

§63-330.80. Repealed by Laws 1990, c. 320, § 20, emerg. eff. May 30, 1990.

§63-330.81. Repealed by Laws 1999, c. 156, § 6, eff. Nov. 1, 1999.

§63-330.82. Repealed by Laws 1990, c. 320, § 20, emerg. eff. May 30, 1990.

§63-330.83. Repealed by Laws 1990, c. 320, § 20, emerg. eff. May 30, 1990.

§63-330.84. Renumbered as § 2451 of this title by Laws 1990, c. 320, § 19, emerg. eff. May 30, 1990.

§63-330.85. Renumbered as § 2452 of this title by Laws 1990, c. 320, § 19, emerg. eff. May 30, 1990.

§63-330.86. Renumbered as § 2453 of this title by Laws 1990, c. 320, § 19, emerg. eff. May 30, 1990.

§63-330.87. Renumbered as § 2454 of this title by Laws 1990, c. 320, § 19, emerg. eff. May 30, 1990.

§63-330.88. Renumbered as § 2455 of this title by Laws 1990, c. 320, § 19, emerg. eff. May 30, 1990.

§63-330.89. Repealed by Laws 1990, c. 320, § 21, emerg. eff. May 30, 1990.

§63-330.90. Repealed by Laws 1999, c. 156, § 6, eff. Nov. 1, 1999.

§63-330.91. Repealed by Laws 1999, c. 156, § 6, eff. Nov. 1, 1999.

§63-330.92. Repealed by Laws 1999, c. 156, § 6, eff. Nov. 1, 1999.

§63-330.93. Repealed by Laws 1999, c. 156, § 6, eff. Nov. 1, 1999.

§63-330.94. Repealed by Laws 1999, c. 156, § 6, eff. Nov. 1, 1999.

§63-330.95. Repealed by Laws 1999, c. 156, § 6, eff. Nov. 1, 1999.

§63-330.96. Repealed by Laws 1999, c. 156, § 6, eff. Nov. 1, 1999.

§63-330.97. Renumbered as § 1-2522 of this title by Laws 2002, c. 374, § 11, eff. July 1, 2002.

§63-420. Medical marijuana license – Application – Fee – Temporary license – Caregiver license.

A. A person in possession of a state issued medical marijuana license shall be able to:

1. Consume marijuana legally;

2. Legally possess up to three (3) ounces of marijuana on their person;

3. Legally possess six (6) mature marijuana plants;

4. Legally possess six (6) seedling plants;

5. Legally possess one (1) ounce of concentrated marijuana;

6. Legally possess seventy-two (72) ounces of edible marijuana; and

7. Legally possess up to eight (8) ounces of marijuana in their residence.

B. Possession of up to one and one-half (1.5) ounces of marijuana by persons who can state a medical condition, but not in possession of a state issued medical marijuana license, shall constitute a misdemeanor offense with a fine not to exceed Four Hundred Dollars ($400.00).

C. A regulatory office shall be established under the Oklahoma State Department of Health which will receive applications for

medical license recipients, dispensaries, growers, and packagers within sixty (60) days of the passage of this initiative.

D. The Oklahoma State Department of Health shall within thirty (30) days of passage of this initiative, make available, on their website, in an easy to find location, an application for a medical marijuana license. The license will be good for two (2) years, and the application fee will be One Hundred Dollars ($100.00), or Twenty Dollars ($20.00) for individuals on Medicaid, Medicare, or SoonerCare. The methods of payment will be provided on the website.

E. A temporary license application will also be available on the Oklahoma Department of Health website. A temporary medical marijuana license will be granted to any medical marijuana license holder from other states, provided that the state has a state regulated medical marijuana program, and the applicant can prove they are a member of such. Temporary licenses will be issued for thirty (30) days. The cost for a temporary license shall be One Hundred Dollars ($100.00). Renewal will be granted with resubmission of a new application. No additional criteria will be required.

F. Medical marijuana license applicants will submit their application to the Oklahoma State Department of Health for approval and that the applicant must be an Oklahoma state resident and shall prove residency by a valid driver’s license, utility bills, or other accepted methods.

G. The Oklahoma State Department of Health shall review the medical marijuana application, approve/reject the application, and mail the applicant's approval or rejection letter (stating reasons for rejection) to the applicant within fourteen (14) days of receipt of the application. Approved applicants will be issued a medical marijuana license which will act as proof of their approved status. Applications may only be rejected based on applicant not meeting stated criteria or improper completion of the application.

H. The Oklahoma State Department of Health will only keep the following records for each approved medical license:

1. A digital photograph of the license holder;
2. The expiration date of the license;
3. The county where the card was issued; and
4. A unique 24 character identification number assigned to the license.

I. The Department of Health will make available, both on its website, and through a telephone verification system, an easy method to validate a medical license holders authenticity by the unique 24 character identifier.

J. The State Department of Health will ensure that all application records and information are sealed to protect the privacy of medical license applicants.

K. A caregiver license will be made available for qualified caregivers of a medical marijuana license holder who is homebound. The caregiver license will give the caregiver the same rights as the medical license holder. Applicants for a caregiver license will submit proof of the medical marijuana license holder's license status and homebound status, that they are the designee of the medical marijuana license holder, must submit proof that the caregiver is age eighteen (18) or older, and must submit proof the caregiver is an Oklahoma resident. This will be the only criteria for a caregiver license.

L. All applicants must be eighteen (18) years or older. A special exception will be granted to an applicant under the age of eighteen (18), however these applications must be signed by two (2) physicians and the applicant's parent or legal guardian.

M. All applications for a medical license must be signed by an Oklahoma Board certified physician. There are no qualifying conditions. A medical marijuana license must be recommended according to the accepted standards a reasonable and prudent physician would follow when recommending or approving any medication. No physician may be unduly stigmatized or harassed for signing a medical marijuana license application.

N. Counties and cities may enact medical marijuana guidelines allowing medical marijuana license holders or caregivers to exceed the state limits set forth in subsection A of this section.

Added by Section 1, State Question No. 788, Initiative Petition No. 412, adopted at election held June 26, 2018, eff. July 26, 2018.

§63-421. Medical marijuana dispensary license application – Fee – Criteria for license – Monthly sales report.

A. The Oklahoma State Department of Health shall within thirty (30) days of passage of this initiative, make available, on their website, in an easy to find location, an application for a medical marijuana dispensary license. The application fee shall be Two Thousand Five Hundred Dollars ($2,500.00) and a method of payment will be provided on the website. Retail applicants must all be Oklahoma state residents. Any entity applying for a retail license must be owned by an Oklahoma state resident and must be registered to do business in Oklahoma. The Oklahoma State Department of Health shall have two (2) weeks to review the application, approve or reject the application, and mail the approval/rejection letter (if rejected, stating reasons for rejection) to the applicant.

B. The Oklahoma State Department of Health must approve all applications which meet the following criteria:

1. Applicant must be age twenty-five (25) or older;

2. Any applicant, applying as an individual, must show residency in the State of Oklahoma;

3. All applying entities must show that all members, managers, and board members are Oklahoma residents;

4. An applying entity may show ownership of non-Oklahoma residents, but that percentage ownership may not exceed twenty-five percent (25%);

5. All applying individuals or entities must be registered to conduct business in the State of Oklahoma;

6. All applicants must disclose all ownership;

7. Applicant(s) with only nonviolent felony conviction(s) in the last two (2) years, any other felony conviction in five 5 (years), inmates, or any person currently incarcerated may not qualify for a medical marijuana dispensary license.

C. Retailers will be required to complete a monthly sales report to the Oklahoma Department of Health. This report will be due on the 15th of each month and provide reporting on the previous month. This report will detail the weight of marijuana purchased at wholesale and the weight of marijuana sold to card holders, and account for any waste. The report will show total sales in dollars, tax collected in dollars, and tax due in dollars. The Oklahoma State Department of Health will have oversight and auditing responsibilities to ensure that all marijuana being grown is accounted for. A retailer will only be subject to a penalty if a gross discrepancy exists and cannot be explained. Penalties for fraudulent reporting occurring within any 2 year time period will be an initial fine of Five Thousand Dollars ($5,000.00) (first) and revocation of licensing (second).

D. Only a licensed medical marijuana retailer may conduct retail sales of marijuana, or marijuana derivatives in the form provided by licensed processors, and these products can only be sold to a medical marijuana license holder or their caregiver. Penalties for fraudulent sales occurring within any 2 year time period will be an initial fine of Five Thousand Dollars ($5,000.00) (first) and revocation of licensing (second).

Added by Section 2, State Question No. 788, Initiative Petition No. 412, adopted at election held June 26, 2018, eff. July 26, 2018.

§63-422. Medical marijuana commercial grower license application – Fee – Criteria for license.

A. The Oklahoma State Department of Health will within thirty (30) days of passage of this initiative, make available, on their website, in an easy to find location, an application for a commercial grower license. The application fee will be Two Thousand Five Hundred Dollars ($2,500.00) and methods of payment will be provided on the website. The Oklahoma State Department of Health has two (2) weeks to review application, approve or reject the application, and mail the approval/rejection letter (if rejected, stating reasons for rejection) to the applicant.

B. The Oklahoma State Department of Health must approve all applications which meet the following criteria:

1. Applicant must be age twenty-five (25) or older;

2. Any applicant, applying as an individual, must show residency in the State of Oklahoma;

3. All applying entities must show that all members, managers, and board members are Oklahoma residents;

4. An applying entity may show ownership of non-Oklahoma residents, but that percentage ownership may not exceed twenty-five percent (25%);

5. All applying individuals or entities must be registered to conduct business in the State of Oklahoma;

6. All applicants must disclose all ownership;

7. Applicant(s) with only nonviolent felony conviction(s) in the last two (2) years, any other felony conviction in five (5) years, inmates, or any person currently incarcerated may not qualify for a commercial grower license.

C. A licensed commercial grower may sell marijuana to a licensed retailer, or a licensed packager. Further, these sales will be considered wholesale sales and not subject to taxation. Under no circumstances may a licensed commercial grower sell marijuana directly to a medical marijuana license holder. A licensed commercial grower may only sell at the wholesale level to a licensed retailer or a licensed processor. If the federal government lifts restrictions on buying and selling marijuana between states, then a licensed commercial grower would be allowed to sell and buy marijuana wholesale from, or to, an out of state wholesale provider. A licensed commercial grower will be required to complete a monthly yield and sales report to the Oklahoma Department of Health. This report will be due on the 15th of each month and provide reporting on the previous month. This report will detail amount of marijuana harvested in pounds, the amount of drying or dried marijuana on hand, the amount of marijuana sold to processors in pounds, the amount of waste in pounds, and the amount of marijuana sold to retailers in lbs. Additionally, this report will show total wholesale sales in dollars. The Oklahoma State Department of Health will have oversight and auditing responsibilities to ensure that all marijuana being grown is accounted for. A licensed grower will only be subject to a penalty if a gross discrepancy exists and cannot be explained. Penalties for fraudulent reporting or sales occurring within any 2 year time period will be an initial fine of Five Thousand Dollars ($5,000.00) (first) and revocation of licensing (second).

D. There shall be no limits on how much marijuana a licensed grower can grow.

Added by Section 3, State Question No. 788, Initiative Petition No. 412, adopted at election held June 26, 2018, eff. July 26, 2018.

§63-423. Medical marijuana processing license application – Fee – Criteria for license.

A. The Oklahoma State Department of Health shall within thirty (30) days of passage of this initiative, make available, on their website, in an easy to find location, an application for a medical marijuana processing license. The application fee shall be Two Thousand Five Hundred Dollars ($2,500.00) and methods of payment will be provided on the website. The Oklahoma State Department of Health shall have two (2) weeks to review the application, approve or reject the application, and mail the approval/rejection letter (if rejected, stating reasons for rejection) to the applicant.

B. The Oklahoma State Department of Health must approve all applications which meet the following criteria:

1. Applicant must be age twenty-five (25) or older;

2. Any applicant, applying as an individual, must show residency in the State of Oklahoma;

3. All applying entities must show that all members, managers, and board members are Oklahoma residents;

4. An applying entity may show ownership of non-Oklahoma residents, but that percentage ownership may not exceed twenty-five percent (25%);

5. All applying individuals or entities must be registered to conduct business in the State of Oklahoma;

6. All applicants must disclose all ownership;

7. Applicant(s) with only nonviolent felony conviction(s) in the last two (2) years, any other felony conviction in five (5) years, inmates, or any person currently incarcerated may not qualify for a medical marijuana processing license.

C. A licensed processor may take marijuana plants and distill or process these plants into concentrates, edibles, and other forms for consumption. As required by subsection D of this section, the Oklahoma State Department of Health will, within sixty (60) days of passage of this initiative, make available a set of standards which will be used by licensed processors in the preparation of edible marijuana products. This should be in line with current food preparation guidelines and no excessive or punitive rules may be established by the Oklahoma State Department of Health. Once a year, the Oklahoma State Department of Health may inspect a processing operation and determine its compliance with the preparation standards. If deficiencies are found, a written report of deficiency will be issued to the processor. The processor will have one (1) month to correct the deficiency or be subject to a fine of Five Hundred Dollars ($500.00) for each deficiency. A licensed processor may sell marijuana products it creates to a licensed retailer, or any other licensed processor. Further, these sales will be considered wholesale sales and not subject to taxation.

Under no circumstances may a licensed processor sell marijuana, or any marijuana product, directly to a medical marijuana license holder. However, a licensed processor may process cannabis into a concentrated form, for a medical license holder, for a fee. Processors will be required to complete a monthly yield and sales report to the Oklahoma State Department of Health. This report will be due on the 15th of each month and provide reporting on the previous month. This report will detail amount of marijuana purchased in pounds, the amount of marijuana cooked or processed in pounds, and the amount of waste in pounds. Additionally, this report will show total wholesale sales in dollars. The Oklahoma State Department of Health will have oversight and auditing responsibilities to ensure that all marijuana being grown is accounted for. A licensed processor will only be subject to a penalty if a gross discrepancy exists and cannot be explained. Penalties for fraudulent reporting occurring within any 2 year time period will be an initial fine of Five Thousand Dollars ($5,000.00) (first) and revocation of licensing (second).

D. The inspection and compliance of processors producing products with marijuana as an additive. The Oklahoma State Department of Health will be compelled to, within thirty (30) days of passage of this initiative, appoint a board of twelve (12) Oklahoma residents, who are marijuana industry experts, to create a list of food safety standards for processing and handling medical marijuana in Oklahoma. These standards will be adopted by the agency and the agency can enforce these standards for processors. The agency will develop a standards review procedure and these standards can be altered by calling another board of twelve (12) Oklahoma marijuana industry experts. A signed letter of twenty (20) operating processors would constitute a need for a new board and standard review.

E. If it becomes permissible, under federal law, marijuana may be moved across state lines.

F. Any device used for the consumption of medical marijuana shall be considered legal to be sold, manufactured, distributed, and possessed. No merchant, wholesaler, manufacturer, or individual may unduly be harassed or prosecuted for selling, manufacturing, or possession of medical marijuana paraphernalia.

Added by Section 4, State Question No. 788, Initiative Petition No. 412, adopted at election held June 26, 2018, eff. July 26, 2018.

§63-424. Marijuana transportation license.

A. A marijuana transportation license will be issued to qualifying applicants for a marijuana retail, growing, or processing license. The transportation license will be issued at the time of approval of a retail, growing, or processing license.

B. A transportation license will allow the holder to transport marijuana from an Oklahoma licensed medical marijuana retailer, licensed growing facility, or licensed processor facility to an Oklahoma licensed medical marijuana retailer, licensed growing facility, or licensed processing facility.

C. All marijuana or marijuana products shall be transported in a locked container and clearly labeled "Medical Marijuana or Derivative".

Added by Section 5, State Question No. 788, Initiative Petition No. 412, adopted at election held June 26, 2018, eff. July 26, 2018.

§63-425. Discrimination against medical marijuana license holder.

A. No school or landlord may refuse to enroll or lease to and may not otherwise penalize a person solely for his status as a medical marijuana license holder, unless failing to do so would imminently cause the school or landlord to lose a monetary or licensing related benefit under federal law or regulations.

B. Unless a failure to do so would cause an employer to imminently lose a monetary or licensing related benefit under federal law or regulations, an employer may not discriminate against a person in hiring, termination or imposing any term or condition of employment or otherwise penalize a person based upon either:

1. The person's status as a medical marijuana license holder; or

2. Employers may take action against a holder of a medical marijuana license holder if the holder uses or possesses marijuana while in the holder's place of employment or during the hours of employment. Employers may not take action against the holder of a medical marijuana license solely based upon the status of an employee as a medical marijuana license holder or the results of a drug test showing positive for marijuana or its components.

C. For the purposes of medical care, including organ transplants, a medical marijuana license holder's authorized use of marijuana must be considered the equivalent of the use of any other medication under the direction of a physician and does not constitute the use of an illicit substance or otherwise disqualify a registered qualifying patient from medical care.

D. No medical marijuana license holder may be denied custody of or visitation or parenting time with a minor, and there is no presumption of neglect or child endangerment for conduct allowed under this law, unless the person's behavior creates an unreasonable danger to the safety of the minor.

E. No person holding a medical marijuana license may unduly be withheld from holding a state issued license by virtue of their being a medical marijuana license holder. This would include such things as a concealed carry permit.

F. No city or local municipality may unduly change or restrict zoning laws to prevent the opening of a retail marijuana establishment.

G. The location of any retail marijuana establishment is specifically prohibited within one thousand (1,000) feet from any public or private school entrance.

H. Research will be provided under this law. A researcher may apply to the Oklahoma Department of Health for a special research license. That license will be granted, provided the applicant meets the criteria listed under Section 421.B. Research license holders will be required to file monthly consumption reports to the Oklahoma Department of Health with amounts of marijuana used for research.
Added by Section 6, State Question No. 788, Initiative Petition No. 412, adopted at election held June 26, 2018, eff. July 26, 2018.

§63-426. Tax on retail medical marijuana.

A. The tax on retail medical marijuana sales will be established at seven percent (7%) of the gross amount received by the seller.

B. This tax will be collected at the point of sale. Tax proceeds will be applied primarily to finance the regulatory office.

C. If proceeds from the levy authorized by subsection A of this section exceed the budgeted amount for running the regulatory office, any surplus shall be apportioned with seventy-five percent (75%) going to the General Revenue Fund and may only be expended for common education. Twenty-five percent (25%) shall be apportioned to the Oklahoma State Department of Health and earmarked for drug and alcohol rehabilitation.
Added by Section 7, State Question No. 788, Initiative Petition No. 412, adopted at election held June 26, 2018, eff. July 26, 2018.

§63-465.20. Smelling, inhaling, etc. of substances which cause unnatural conditions - Exemptions - Penalties.

(a) It shall be unlawful for any person deliberately to smell, inhale, breathe, drink or otherwise consume any compound, liquid, chemical, controlled dangerous substance, prescription drugs or any other substance or chemical containing any ketones, aldehydes, organic acetones, ether, chlorinated hydrocarbons or metallic powders, such as gasoline, glue, fingernailpolish, adhesive cement, mucilage, dope, paint dispensed from pressurized containers or any other substance or combination thereof containing solvents releasing toxic vapors, with the intent to cause conditions of intoxication, inebriation, excitement, elation, stupefaction, paralysis, irrationality, dulling of the brain or nervous system, or any other changing, distorting or disturbing of the eyesight, thinking processes, judgment, balance or coordination of such person.

(b) The provisions of this statute shall not pertain to any person who inhales, breathes, drinks or otherwise consumes such material or substance pursuant to the direction or prescription of any licensed doctor, physician, surgeon, dentist or podiatrist; nor to the consumption of intoxicating liquor.

(c) Any person who violates any provisions of this act relating to inhalation of glue or other substances shall be guilty of a misdemeanor, and upon conviction shall be subject to imprisonment in the county jail for not more than one (1) year or a fine of not more than Five Hundred Dollars ($500.00), or both such imprisonment and fine.

Laws 1971, c. 109, § 1, emerg. eff. April 27, 1971; Laws 1981, c. 52, § 1, emerg. eff. April 13, 1981.

§63-465.21. Sale of certain paint to intoxicated person.

Any person who knowingly sells paint containing metallic powders dispensed from a pressurized container to an obviously intoxicated person shall be guilty of a misdemeanor.

Laws 1981, c. 52, § 2, emerg. eff. April 13, 1981.

§63-472. City jails.

It shall be the duty of the governing bodies of all municipalities to insure compliance with standards governing conditions in municipal jails as prescribed in Section 192 of Title 74 of the Oklahoma Statutes.

R.L.1910, § 6978. Amended by Laws 1978, c. 244, § 26, eff. July 1, 1978.

§63-475. Contagious disease - Isolation.

Should any prisoners in any county or city jail or holdover complain of illness, the county or city physician, whose duty it may be to attend such prisons, shall be summoned, and if such prisoner should be found to have a contagious disease, he shall be immediately removed and isolated to some room or place having no connection with the other prisoners. R.L. 1910 Sec. 6981.

R.L.1910, § 6981.

§63-476. Isolation of prisoners having contagious disease - Jail construction.

It shall be the duty of officials who construct jails, city prisons or holdovers to provide a room for the segregation of prisoners who may be found to have a contagious disease. R.L. 1910 Sec. 6982.

R.L.1910, § 6982.

§63-477. Sanitation of charitable institutions.

The county commissioners shall provide necessary supplies and cause the charitable institutions of their county to be maintained in a clean and sanitary condition at all times. Enforcement of this section shall be the responsibility of the Director of the Department of Public Welfare.
R.L.1910, § 6983. Amended by Laws 1978, c. 244, § 27, eff. July 1, 1978.

§63-479. Violations - Penalty.
Any official failing in any duty prescribed by the provisions of this article shall be deemed guilty of a misdemeanor and shall, upon conviction, be fined in any sum not less than ten dollars nor more than five hundred dollars, and in addition thereto may be removed from office. R.L. 1910 Sec. 6985.
R.L.1910, § 6985.

§63-485.1. Purpose of act.
The purpose of Sections 485.1 through 485.8 of this title shall be to provide a specialized hospital, which shall be named the J.D. McCarty Center for Children with Developmental Disabilities, for the care, maintenance, training, treatment, and general mental and physical rehabilitation of the residents of the state, and when space permits nonresidents, who may be afflicted with cerebral palsy or other developmental disabilities, provided that such specialized hospital shall be able to refuse admission to those patients who after competent examination are determined to be unable to benefit from such training, treatment, and general mental and physical rehabilitation, and provided that such specialized hospital shall be able to discharge and return any child to its parent or guardian if it is determined after admission that such training, treatment, and general mental and physical rehabilitation is not aiding the child. Educational services that may be required during an inpatient stay shall be arranged through and provided by the appropriate local education area (LEA). The term "cerebral palsy" as used in this title shall include all types of cerebral palsy.
Added by Laws 1947, p. 401, § 1, emerg. eff. May 7, 1947. Amended by Laws 1949, p. 433, § 1; Laws 1981, c. 71, § 1, operative July 1, 1981; Laws 1992, c. 307, § 15, eff. July 1, 1992; Laws 1995, c. 262, § 1, eff. July 1, 1995.

§63-485.2. Oklahoma Spastic Paralysis Commission - Creation - Powers and duties.
There is hereby created the Oklahoma Spastic Paralysis Commission, which is designated as an agency of the State of Oklahoma, and is hereby authorized to exercise the powers and duties authorized in this act and all other powers incident and necessary to the purpose of this act.

Laws 1947, p. 401, § 2.

§63-485.3. J.D. McCarty Center for Children with Developmental Disabilities - Establishment and maintenance - Contracts - Payments - Power of Commission - Legal representation – Sale of surplus property and fixtures.

A. The Oklahoma Cerebral Palsy Commission is hereby authorized and empowered to:

1. Establish and maintain the J.D. McCarty Center for Children with Developmental Disabilities, to provide care, maintenance, training, treatment, habilitation and rehabilitation of persons afflicted with cerebral palsy and other developmental disabilities within such institute;

2. Set fees and charges for patient services;

3. Provide care, maintenance, training, treatment and rehabilitation services to children not afflicted with cerebral palsy or developmental disabilities but who may benefit from the services available from the J.D. McCarty Center for Children with Developmental Disabilities, as determined to be practicable by the Oklahoma Cerebral Palsy Commission;

4. Provide services to any adults who may benefit from services available from the J.D. McCarty Center for Children with Developmental Disabilities, as determined to be practicable by the Oklahoma Cerebral Palsy Commission; provided, that services to adults shall not diminish any services available to children;

5. Enter into contracts for the purchase of real estate or other property and to buy or sell real estate, personal property and equipment necessary or incidental to the carrying out of the provisions of Sections 485.1 through 485.11 of this title; and

6. Enter into contracts with the Commission for Human Services and with other agencies of the state and of the counties in furtherance of the provisions of Sections 485.1 through 485.11 of this title; provided, the Oklahoma Cerebral Palsy Commission shall receive from the Commission for Human Services payments aggregating a minimum of One Hundred Thousand Dollars ($100,000.00) annually from funds set aside in the Children with Special Health Care Needs Program; and provided further, the Oklahoma Cerebral Palsy Commission may negotiate with the Commission for Human Services or its successors for additional payments above One Hundred Thousand Dollars ($100,000.00) from such funds.

B. The Commission shall be charged with the duties of management and control of the J.D. McCarty Center for Children with Developmental Disabilities and shall have power to sue or be sued in its own name.

C. The Attorney General shall furnish the Commission with legal representation. The Commission shall not contract for private legal

counsel except for extraordinary situations other than normal day-to-day situations, and when approved by the Attorney General.

D. For the purposes of moving the J.D. McCarty Center for Children with Developmental Disabilities to its new facilities, the Oklahoma Cerebral Palsy Commission may sell surplus property and fixtures. Such sale of surplus property and fixtures shall be exempt from Sections 62.2 through 62.6 of Title 74 of the Oklahoma Statutes. The Commission shall sell such surplus property and fixtures at fair market value as determined by the members of the Commission. The process for the sale and transfer of title shall originate with the Commission. All proceeds from such sale of the property and fixtures shall be deposited into the J.D. McCarty Center for Children with Developmental Disabilities Revolving Fund.
Added by Laws 1947, p. 401, § 3, emerg. eff. May 7, 1947. Amended by Laws 1949, p. 434, § 2, emerg. eff. May 31, 1949; Laws 1976, c. 191, § 4, emerg. eff. June 4, 1976; Laws 1981, c. 71, § 2, operative July 1, 1981; Laws 1988, c. 222, § 4, operative July 1, 1988; Laws 1992, c. 307, § 16, eff. July 1, 1992; Laws 1995, c. 262, § 2, eff. July 1, 1995; Laws 1997, c. 281, § 2, eff. July 1, 1997; Laws 2004, c. 426, § 1, eff. July 1, 2004; Laws 2010, c. 413, § 23, eff. July 1, 2010.
NOTE: Laws 1992, c. 249, § 4 repealed by Laws 1992, c. 373, § 22, eff. July 1, 1992.

§63-485.4. Oklahoma Cerebral Palsy Commission - Gifts and bequests.

The Oklahoma Cerebral Palsy Commission is authorized to accept and receive gifts and bequests of money and property, both real and personal, which may be tendered by will or gift, conditionally or unconditionally, for the use of the Commission in the exercise of its powers and duties described in this act. The Commission shall administer the property or funds in the manner consistent with the terms of the gift and provisions of law. The Commission is hereby directed, authorized, and empowered to hold such funds in trust or invest them and use either principal or interest in keeping with the terms of the gift as stipulated by the donors for the sole benefit of the Commission in the performance of its duties provided herein.
Added by Laws 1947, p. 401, § 4, emerg. eff. May 7, 1947. Amended by Laws 2004, c. 426, § 2, eff. July 1, 2004.

§63-485.5. Members of Commission - Appointment - Term - Travel expenses.

The Oklahoma Cerebral Palsy Commission shall be composed of five (5) members who shall serve without compensation. The three members of the Commission serving on the Commission on June 30, 2004, shall serve the remainder of their respective terms. Beginning July 1, 2004, the Governor of the State of Oklahoma shall appoint to the Commission two additional members who shall be chosen from a list of

ten persons submitted to the Governor by the Grande Voiture of Oklahoma of La Societe des Quarante Hommes et Huit Chevaux. One new member shall be appointed for a two-year term and one new member for a three-year term on the Commission. Thereafter, any member who takes the place of a member whose term is expiring shall be appointed to a three-year term in the same manner and from a list to be submitted as provided in this section for the original Commission pursuant to this section. Each member of the Commission shall be entitled to be reimbursed for necessary travel expenses pursuant to the State Travel Reimbursement Act.
Added by Laws 1947, p. 401, § 5, emerg. eff. May 7, 1947. Amended by Laws 1949, p. 434, § 3, emerg. eff. May 31, 1949; Laws 1969, c. 5, § 1, emerg. eff. Feb. 3, 1969; Laws 1985, c. 178, § 47, operative July 1, 1985; Laws 2004, c. 426, § 3, eff. July 1, 2004.

§63-485.6. Officers - Organization - Director and personnel - Legal assistance.

A. The members of the Oklahoma Cerebral Palsy Commission shall select from among the members of the Commission a chair, a vice-chair, and a secretary, and organize itself for the purpose of carrying out the provisions of Section 485.1 et seq. of this title.

B. The Commission is hereby authorized in its discretion to employ a director who shall employ and hire other persons as may be required in the estimation of the director and in accordance with federal, state, and local laws to carry out the provisions of this act; provided that physical therapists, physical therapist assistants, occupational therapists, certified occupational therapist aides, speech pathologists, and the Director of Nursing so employed shall be unclassified and exempt from the provisions of the Merit System of Personnel Administration. Other positions may be unclassified as provided for in applicable federal, state, and local laws. The Commission is authorized to hire an attorney to provide legal assistance or to contract for such specialized services only as provided for in Section 485.3 of this title.
Added by Laws 1947, p. 401, § 6, emerg. eff. May 7, 1947. Amended by Laws 1949, p. 435, § 5, emerg. eff. May 31, 1949; Laws 1995, c. 262, § 3, eff. July 1, 1995; Laws 1996, c. 326, § 4, eff. July 1, 1996; Laws 2008, c. 328, § 1, eff. Nov. 1, 2008.

§63-485.7. Bonds of members.

Each member of the Commission shall give bond to the State of Oklahoma in the sum of One Thousand Dollars ($1,000.00) conditioned for the honest and faithful performance of his duties, which bonds shall be approved by the Governor and deposited in the office of the Secretary of State.
Added by Laws 1947, p. 402, § 7, emerg. eff. May 7, 1947. Amended by Laws 1949, p. 435, § 6, emerg. eff. May 31, 1949.

§63-485.8. Partial invalidity.

It is the intention of the Legislature to enact each and every part of this act and if any section, paragraph, sentence, item, or clause of this act shall for any reason be held unconstitutional, such decision shall not affect the validity of the remaining portions of this act.

Added by Laws 1947, p. 402, § 9, emerg. eff. May 7, 1947.

§63-485.9. Change of name for Institute and Commission.

A. The names of the "Oklahoma Cerebral Palsy Center", formerly the "Oklahoma Cerebral Palsy Institute", and the "Oklahoma Spastic Paralysis Commission" are hereby changed to the "J.D. McCarty Center for Children with Developmental Disabilities" and the "Cerebral Palsy Commission", respectively.

B. Wherever in the statutes of this state the name "Oklahoma Cerebral Palsy Institute" or "Oklahoma Cerebral Palsy Center" occurs, the reference shall be deemed to be to the "J.D. McCarty Center for Children with Developmental Disabilities"; and wherever in said statutes the name "Oklahoma Spastic Paralysis Commission" appears, this reference shall be deemed to be to the "Cerebral Palsy Commission".

Laws 1961, p. 483, §§ 1, 2, emerg. eff. Jan. 30, 1961; Laws 1981, c. 71, § 3, operative July 1, 1981; Laws 1992, c. 307, § 17, eff. July 1, 1992.

§63-485.10. Annuity contracts - Purchases as salary payments.

A part of the salary, not to exceed the exclusion allowances provided in Section 403(b)(2), Internal Revenue Code, payable to any employee of the J.D. McCarty Center for Children with Developmental Disabilities may, at the request of the employee, be paid by the purchase of an annuity contract from any insurance company authorized to do business in Oklahoma by the J.D. McCarty Center for Children with Developmental Disabilities for the employee, and the employee shall be entitled to have such annuity contract continued in force in succeeding years by the J.D. McCarty Center for Children with Developmental Disabilities. The amounts so contributed or paid by the J.D. McCarty Center for Children with Developmental Disabilities for the annuity contract, or to continue it in force, shall be considered as payment of salary, for the same amounts, to the employee for State Retirement purposes, State Aid purposes, or Social Security purposes, but not for State Income Tax purposes. Provided that the amount received under such annuity contracts shall be income subject to state income tax when actually received.

Laws 1967, c. 243, § 3, emerg. eff. May 8, 1967; Laws 1981, c. 71, § 4, operative July 1, 1981; Laws 1992, c. 307, § 18, eff. July 1, 1992.

§63-485.11. J.D. McCarty Center for Children with Developmental Disabilities Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma Cerebral Palsy Commission to be designated the "J.D. McCarty Center for Children with Developmental Disabilities Revolving Fund". The fund shall consist of all monies received by the Commission pursuant to statutory authority, but not including appropriated funds, gifts and bequests. The revolving fund shall be a continuing fund, not subject to fiscal year limitations and shall be under the control and management of the administrative authorities of the Commission. Expenditures from the fund shall be made pursuant to the laws of the state and the statutes relating to the Commission and may include up to Twenty-five Thousand Dollars ($25,000.00) in expenditures for capital improvements within a single fiscal year or as otherwise provided by the Legislature. Warrants for expenditures from the fund shall be drawn by the State Treasurer, based on claims signed by an authorized employee or employees of the Commission and approved for payment by the Director of the Office of Management and Enterprise Services.

Added by Laws 1986, c. 209, § 5, operative July 1, 1986. Amended by Laws 1988, c. 222, § 5, operative July 1, 1988; Laws 1992, c. 307, § 19, eff. July 1, 1992; Laws 2012, c. 304, § 504.

§63-485.12. Exemptions.

Specialized vehicles utilized by the J.D. McCarty Center for Children with Developmental Disabilities shall not be included in nor subject to provisions of law establishing the State Motor Pool Division within the Office of Management and Enterprise Services.

Added by Laws 1980, c. 345, § 16, emerg. eff. June 25, 1980. Amended by Laws 1983, c. 304, § 27, eff. July 1, 1983; Laws 2002, c. 397, § 29, eff. Nov. 1, 2002. Renumbered from § 159.11 of Title 47 by Laws 2002, c. 397, § 35, eff. Nov. 1, 2002. Amended by Laws 2012, c. 304, § 505.

§63-488.1. Program of immunization.

The State Department of Public Health is hereby authorized to initiate and organize a state-wide program supplementing a program of the National Foundation for Infantile Paralysis and administer vaccine designed to immunize children against that disease. Said Department is authorized to cooperate further with the authorities of the National Foundation for Infantile paralysis and to make such rules and regulations in connection therewith as will assure the administration of vaccine to the greatest possible number of children within the age group most susceptible to the disease and within the limits of the funds made available for that purpose under the provisions of this act.

Laws 1955, p. 348, § 1.

§63-488.2. Funds.

The Governor of the State is hereby authorized to set aside from his Emergency Contingency Fund such monies as he shall determine may be used for such purpose without impairing said fund beyond the amount deemed by him to be necessary as a reserve for possible contingencies involving the primary purpose of said fund. The State Emergency Relief Board is hereby authorized and directed to determine and set aside all funds which said Board shall determine are not necessary now or during the next biennium for the normal function of the Emergency Relief Program directed by said Board. The funds made available under the provisions of this section are hereby appropriated to the State Department of Public Health to be used to defray the expenses of purchasing and administering vaccine under the program authorized by the provisions of Section 1 of this act.

Laws 1955, p. 348, § 2.

§63-535. Repealed by Laws 1963, c. 325, art. 17, § 1705, operative July 1, 1963.

§63-536. Repealed by Laws 1963, c. 325, art. 17, § 1705, operative July 1, 1963.

§63-537. Repealed by Laws 1963, c. 325, art. 17, § 1705, operative July 1, 1963.

§63-538. Repealed by Laws 1963, c. 325, art. 17, § 1705, operative July 1, 1963.

§63-663. Repealed by Laws 2003, c. 329, § 61, emerg. eff. May 29, 2003.

§63-680. Repealed by Laws 2003, c. 329, § 61, emerg. eff. May 29, 2003.

§63-681. School buildings - Protection from tornadoes and severe weather.

School authorities of the State of Oklahoma, its political subdivisions, and its school districts are authorized to plan, design, and construct new school buildings and make additions to existing school buildings that afford protection for the anticipated school body, faculty, and visitors against tornadoes and severe weather. Each school, administration building and institution of higher learning shall have written plans and procedures in place for protecting students, faculty, administrators and visitors from

natural and man-made disasters and emergencies. Plans shall be reviewed and updated annually as appropriate by each school, administration building and institution of higher learning, and placed on file at each school district and each local emergency response organization within the district, which may include police, fire, emergency medical services, sheriff and emergency management of the appropriate jurisdiction. The plans shall be submitted in a format acceptable to the emergency agency no later than November 1 of each year. Each school district and institution of higher learning shall make annual reports to the local school board or Board of Regents detailing the status of emergency preparedness and identified safety needs for each school or institution.
Added by Laws 1967, c. 4, § 2, emerg. eff. Feb. 14, 1967. Amended by Laws 2003, c. 329, § 1, emerg. eff. May 29, 2003; Laws 2008, c. 216, § 3, eff. Nov. 1, 2008; Laws 2013, c. 55, § 1, eff. July 1, 2013.

§63-682. Federal assistance programs - Participation.

Each state institution, agency, board, and department, each political subdivision of the state, and each school district of the state is authorized to participate in such federal assistance programs as may be available or may become available to assist in providing tornado and severe weather protection.
Added by Laws 1967, c. 4, § 3, emerg. eff. Feb. 14, 1967. Amended by Laws 2003, c. 329, § 2, emerg. eff. May 29, 2003.

§63-682.1. Vaccination program for first responders.

A. As used in this section:

1. "Department" means the State Department of Health, Bioterrorism Division;

2. "Director" means the Commissioner of Health;

3. "Bioterrorism" means the intentional use of any microorganism, virus, infectious substance or biological product that may be engineered as a result of biotechnology or any naturally occurring or bioengineered component of any microorganism, virus, infectious substance or biological product, to cause or attempt to cause death, disease or other biological malfunction in any living organism;

4. "Disaster locations" means any geographical location where a bioterrorism attack, terrorist attack, catastrophic or natural disaster or emergency occurs; and

5. "First responders" means state and local law enforcement personnel, fire department personnel and emergency medical personnel who will be deployed to bioterrorism attacks, terrorist attacks, catastrophic or natural disasters and emergencies.

B. The Department shall offer a vaccination program for first responders who may be exposed to infectious diseases when deployed

to disaster locations. The vaccinations shall include, but are not limited to, hepatitis B vaccination, diphtheria-tetanus vaccination, influenza vaccination, and other vaccinations when recommended by the United States Public Health Service and in accordance with Federal Emergency Management Directors Policy. Immune globulin will be made available when necessary.

C. Participation in the vaccination program will be voluntary by the first responders, except for first responders who are classified as having "occupational exposure" to bloodborne pathogens as defined by the Occupational Safety and Health Administration Standard contained at 29 CFR 1910.1030. First responders who are classified as having "occupational exposure" to bloodborne pathogens shall be required to take the designated vaccinations.

D. A first responder shall be exempt from vaccinations when a written statement from a licensed physician is presented indicating that a vaccine is medically contraindicated for that person or the first responder signs a written statement that the administration of a vaccination conflicts with their religious tenets.

E. In the event of a vaccine shortage, the Director, in consultation with the Governor and the Centers for Disease Control and Prevention, shall give priority for vaccination to first responders.

F. The Department shall notify first responders of the availability of the vaccination program and shall provide educational materials on ways to prevent exposure to infectious diseases.

G. The Department may contract with county and local health departments, not-for-profit home health care agencies, hospitals and physicians to administer a vaccination program for first responders.

H. This section shall be effective upon receipt of federal funding and/or federal grants for administering a first responders vaccination program. Upon receipt of such funding, the Department shall make available the vaccines to first responders as provided in this section. If federal funds for these vaccines cease, the state shall not be liable for the continuation or cost of vaccines.
Added by Laws 2003, c. 292, § 1, emerg. eff. May 27, 2003.

§63-683.1. Citation.

This act may be cited as the "Oklahoma Emergency Management Act of 2003".
Added by Laws 1967, c. 33, § 1, emerg. eff. March 21, 1967. Amended by Laws 1999, c. 57, § 1, eff. July 1, 1999; Laws 2003, c. 329, § 3, emerg. eff. May 29, 2003.

§63-683.2. Findings and declarations.

A. Because of the existing and increasing possibility of the occurrence of disasters of unprecedented size and destructiveness

resulting from natural and man-made causes, in order to ensure that preparations of this state will adequately deal with such disasters and emergencies, to generally provide for the common defense and to protect the public peace, health, and safety, to preserve the lives and property of the people of this state, and to carry out the objectives of state and national survival and recovery in the event of a disaster or emergency, it is hereby found and declared to be necessary to:

1. Create the Oklahoma Department of Emergency Management (OEM);

2. Authorize the creation of local organizations for emergency management in the counties and incorporated municipalities of this state;

3. Provide for the formulation and execution of an emergency operations plan for the state;

4. Confer upon the Governor and upon the executive heads or governing bodies of the political subdivisions of the state the emergency powers provided by the Oklahoma Emergency Management Act of 2003;

5. Provide for the rendering of mutual aid among the political subdivisions of this state and with other states to cooperate with the federal government with respect to carrying out emergency management functions and hazard mitigation; and

6. Provide sufficient organization to meet, prevent or reduce emergencies in the general interest and welfare of the public and this state.

B. It is further declared to be the purpose of the Oklahoma Emergency Management Act of 2003 and the policy of this state that all emergency management and hazard mitigation functions of this state be coordinated to the maximum extent with the comparable functions of the federal government, including its various departments and agencies, of other states and localities, and of private agencies of every type, to the end that the most effective preparation and use may be made of available workforce, resources and facilities for dealing with disaster and hazard mitigation.

C. It is also directed that each state agency, board, commission, department or other state entity having responsibilities either indicated in the state Emergency Operations Plan or by the nature of the service it provides to the citizens of Oklahoma shall have written plans and procedures in place to protect individual employees, administrators and visitors from natural and man-made disasters and emergencies occurring at the work place. Plans and procedures shall be in concurrence with the Oklahoma Department of Emergency Management Guidebook titled "Emergency Standard Operating Procedures" for state departments, agencies, offices and employees. Each state agency, board, commission, department or other state entity shall provide a calendar year annual report on the status of

their emergency management program to OEM. OEM shall compile and integrate all reports into a report to the Governor and Legislature on the status of state emergency preparedness.

D. Each state agency, board, commission, department or other state entity shall have written plans and procedures in place to support the responsibilities stated in the state Emergency Operations Plan.

E. The National Incident Management System (NIMS) shall be the standard for incident management in the State of Oklahoma. All on-scene management of disasters and emergencies shall be conducted using the Incident Command System (ICS).

Added by Laws 1967, c. 33, § 2, emerg. eff. Feb. 14, 1967. Amended by Laws 1976, c. 135, § 1, emerg. eff. May 24, 1976; Laws 1984, c. 113, § 1, eff. July 1, 1984; Laws 1999, c. 57, § 2, eff. July 1, 1999; Laws 2003, c.329, § 4, emerg. eff. May 29, 2003; Laws 2006, c. 199, § 1, emerg. eff. May 26, 2006.

§63-683.3. Definitions.

As used in the Oklahoma Emergency Management Act of 2003:

1. "Emergency management" means the preparation for and the coordination of all emergency functions by organized and trained persons, who will extend existent governmental functions and provide other necessary nongovernmental functions, to prevent, minimize and repair injury and damage resulting from natural or man-made disasters developing to such an extent to cause an extreme emergency situation to arise which by declaration of the Governor jeopardizes the welfare of the citizens of this state. These emergency functions include, but are not limited to, fire fighting, law enforcement, medical and health, search and rescue, public works, warnings, communications, hazardous materials and other special response functions, evacuations of persons from affected areas, emergency assistance services, emergency transportation, and other functions related to preparedness, response, recovery and mitigation;

2. "Emergency Operations Plan" means that plan which sets forth the organization, administration and functions for emergency management by the state or local government;

3. “Emergency” means any occasion or instance for which, in the determination of the President of the United States or the Governor of the State of Oklahoma, federal or state assistance is needed to supplement state and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert threat of a catastrophe in any part of the state;

4. “Significant events” means all hazardous material releases of any size and type, earthquakes, fires involving large buildings or facilities and large grass or wild fires, explosions, bomb threats, terrorist/civil disturbance, aircraft crash, natural

disaster, utility disruption, dam breach, technological/man-made incident, search and rescue, structural collapse, and any other incident that poses significant consequences to the jurisdiction;

5. "Hazard mitigation" means any cost-effective measure which will reduce or eliminate the effects of a natural or man-made disaster;

6. "Local organization for emergency management" means an organization created in accordance with the provisions of the Oklahoma Emergency Management Act of 2003 by state or local authority to perform local emergency management functions;

7. “Man-made disaster” means a disaster caused by acts of man including, but not limited to, an act of war, terrorism, chemical spill or release, or power shortages that require assistance from outside the local political subdivision;

8. "Natural disaster" means any natural catastrophe, including, but not limited to, a tornado, severe storm, high water, flood waters, wind-driven water, earthquake, landslide, mudslide, snowstorm, or drought which causes damage of sufficient severity and magnitude to warrant hazard mitigation or the use of resources of the federal government, or the state and political subdivisions thereof to alleviate the damage, loss, hardship or suffering caused thereby; and

9. "Political subdivision" shall mean any county, city, town or municipal corporation of the State of Oklahoma represented by an elected governing body.

Added by Laws 1967, c. 33, § 3, emerg. eff. Feb. 14, 1967. Amended by Laws 1976, c. 135, § 2, emerg. eff. May 24, 1976; Laws 1979, c. 50, § 1, eff. July 1, 1979; Laws 1999, c. 57, § 3, eff. July 1, 1999; Laws 2003, c. 329, § 5, emerg. eff. May 29, 2003.

§63-683.4. Oklahoma Department of Emergency Management – Powers and duties of Director.

A. There is hereby created the Oklahoma Department of Emergency Management (OEM). The Governor shall appoint a Director of the Department, with the advice and consent of the Senate, who shall be the head of the Department. The Governor shall fix the salary of the Director, in cooperation with standards promulgated by the Office of Management and Enterprise Services.

B. The Director may employ personnel and fix their compensation in cooperation with standards promulgated by the Office of Management and Enterprise Services, and may make such expenditures within the appropriation therefor, or from such other available funds as may be necessary to carry out the purposes of the Oklahoma Emergency Management Act of 2003 and other programs specified by law.

C. The Director and other personnel of the Department shall be provided with appropriate office space, furniture, equipment,

supplies, stationery, and printing in the same manner as provided for personnel of other state agencies.

D. The Director, subject to the direction and control of the Governor, shall be the executive head of the Department and shall serve as the chief advisor to the Governor on emergency management and shall:

1. Be responsible to the Governor for carrying out the programs as required by law;

2. Coordinate the activities of all organizations for emergency management within the state;

3. Maintain liaison with and cooperate with the emergency management agencies and organizations of other states and of the federal government;

4. Develop and maintain a comprehensive all-hazards mitigation plan for this state;

5. Implement the Oklahoma Hazard Mitigation Program;

6. Have such additional authority, duties, and responsibilities authorized by the Oklahoma Emergency Management Act of 2003 and as may be prescribed by the Governor;

7. Supervise the Office of Volunteerism in accordance with Section 683.26 of this title; and

8. Report quarterly to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate the balance and outstanding obligations of the State Emergency Fund.

E. The Director shall supervise the formulation, execution, review and revisions of the state Emergency Operations Plan as provided for by Section 683.2 of this title. The plan shall be reviewed annually and revised as necessary.

Added by Laws 1967, c. 33, § 4, emerg. eff. Feb. 14, 1967. Amended by Laws 1982, c. 338, § 48, eff. July 1, 1982; Laws 1984, c. 113, § 2, eff. July 1, 1984; Laws 1991, c. 216, § 13, operative July 1, 1991; Laws 1999, c. 57, § 4, eff. July 1, 1999; Laws 2003, c. 329, § 6, emerg. eff. May 29, 2003; Laws 2010, c. 128, § 1, eff. Nov. 1, 2010; Laws 2012, c. 304, § 506.

§63-683.5a. Repealed by Laws 2003, c. 329, § 61, emerg. eff. May 29, 2003.

§63-683.6. State Hazard Mitigation Team.

A. There is hereby created the State Hazard Mitigation Team, composed of the administrative heads of the following agencies or their designees:

1. Oklahoma Department of Emergency Management, who shall serve as the Team Coordinator;

2. Oklahoma Water Resources Board;

3. Oklahoma Climatological Survey;

4. Oklahoma Conservation Commission;

5. Corporation Commission;
6. Oklahoma Department of Commerce;
7. Department of Environmental Quality;
8. Department of Human Services;
9. State Department of Health;
10. Department of Transportation;
11. Oklahoma Department of Agriculture, Food, and Forestry or the Secretary of Agriculture;
12. Department of Wildlife Conservation;
13. Oklahoma Historical Society;
14. Oklahoma Insurance Department;
15. Association of County Commissioners of Oklahoma;
16. Oklahoma Municipal League;
17. State Fire Marshal;
18. Department of Labor;
19. A local Emergency Management Director as determined by the President of the Oklahoma Emergency Management Association;
20. State Chancellor or his or her representative for The Oklahoma State System of Higher Education; and
21. State Director or his or her representative for the Oklahoma Department of Career and Technology Education.

B. Depending on the circumstances, the Team Coordinator may request participation of the heads of any other state agencies as deemed appropriate.

C. The Team Coordinator shall also request that a representative of the United States Army Corps of Engineers be appointed by the administrative head of the Tulsa District to participate on the Team.

D. The Team Coordinator shall also request a representative of the U.S. Department of Housing and Urban Development be appointed by the administrative head of the Oklahoma City office to participate on the team.

E. The State Hazard Mitigation Team will meet as determined by the Team Coordinator to review and recommend updates to the State Comprehensive All-hazard Mitigation Plan, and shall have those additional responsibilities as provided by the Team Coordinator, including, but not limited to, the review and recommendation for loan and grant application under the Oklahoma Flood Hazard Mitigation Program.

Added by Laws 1967, c. 33, § 6, emerg. eff. Feb. 14, 1967. Amended by Laws 1979, c. 241, § 7, operative July 1, 1979; Laws 1999, c. 57, § 5, eff. July 1, 1999; Laws 2003, c. 329, § 7, emerg. eff. May 29, 2003; Laws 2008, c. 359, § 12, emerg. eff. June 3, 2008; Laws 2010, c. 258, § 1, eff. Nov. 1, 2010; Laws 2013, c. 227, § 15, eff. Nov. 1, 2013.

§63-683.8. Powers and duties of Governor.

A. The Governor shall have general direction and control of the Oklahoma Department of Emergency Management and shall be responsible for carrying out the provisions of the Oklahoma Emergency Management Act of 2003. In the event of an emergency that exceeds local capability, the Governor may assume direct operational control over all or any part of the emergency management functions within this state.

B. The Governor shall have general direction and control of emergency management within the state and all officers, boards, agencies, individual or groups established under the Emergency Operations Plan. The Governor shall have the authority pursuant to the Oklahoma Emergency Management Act of 2003 to establish such offices, boards, agencies, or positions as may be necessary to carry into effect the Emergency Operations Plan.

C. The Governor is authorized to cooperate with the federal government, with other states, and with private agencies in all matters pertaining to the emergency management of this state and of the nation.

D. To effect the policy and purpose of the Oklahoma Emergency Management Act of 2003, the Governor is further authorized and empowered to:

1. Make, amend, and rescind the necessary orders and rules to carry out the provisions of the Oklahoma Emergency Management Act of 2003 within the limits of authority conferred upon the Governor herein, with due consideration of the emergency management plans of the federal government;

2. Cause to be prepared and updated annually a comprehensive plan and program for emergency management of this state, such plans and programs to be integrated into and coordinated with the plans of the federal government and of other states to the fullest possible extent, and to coordinate the preparation of plans and programs for emergency management by the political subdivisions of this state;

3. Procure supplies and equipment in accordance with such plans and programs, institute training programs and public information programs, take all other preparatory steps, including the partial or full activation of emergency management organizations in advance of actual disaster, and to ensure the furnishing of adequately trained and equipped personnel in time of need, during periods of national emergency, or natural disasters that might occur in this state, or which develop into emergency situations;

4. On behalf of this state, enter into mutual aid arrangements with other states and coordinate mutual aid plans between political subdivisions of this state;

5. Delegate any administrative authority vested in the Governor pursuant to the Oklahoma Emergency Management Act of 2003, and provide for subdelegation of any such authority;

6. Confirm the appointment of qualified emergency managers upon recommendations of local authorities as provided in Section 683.11 of this title;

7. Cooperate with the President of the United States and the heads of the Armed Forces, the Federal Emergency Management Agency, and other appropriate federal officers and agencies, with the officers and agencies of other states in matters pertaining to the emergency management of the state and nation, including the direction and control of:

a. state emergency management activations and exercises,

b. warnings for actual or exercise events and the equipment to be used in connection therewith,

c. the conduct of civilians and the movement of and cessation of movement of pedestrians and vehicular traffic during, prior and subsequent to natural and man-made disasters and emergencies,

d. public meetings or gatherings, and

e. the evacuation and reception of the civil population; and

8. Prescribe uniform signals, warnings, alerts, credentials and insignia.

E. In addition to prevention measures included in the state and local comprehensive plans and programs for emergency management, the Governor shall consider on a continuing basis steps that could be taken to mitigate the harmful consequences of emergencies and natural disasters. At the Governor's direction and pursuant to any other authority specified by law, state agencies, including but not limited to those charged with responsibilities in connection with floodplain management, stream encroachment and flow regulation, weather modification, fire prevention and control, air quality, public works, land use and land use planning, and construction standards, shall make studies of matters related to potential to mitigate emergency and natural disasters. The Governor, from time to time, shall make such recommendations to the Legislature, to political subdivisions and to other appropriate public and private entities as may facilitate measures for mitigation of the harmful consequences of emergencies and natural disasters.

Added by Laws 1967, c. 33, § 8, emerg. eff. Feb. 14, 1967. Amended by Laws 1999, c. 57, § 6, eff. July 1, 1999; Laws 2003, c. 329, § 8, emerg. eff. May 29, 2003.

§63-683.9. Natural or man-made emergency - Additional powers of Governor.

The provisions of this section shall be operative only during the existence of a natural or man-made emergency. The existence of such emergency may be proclaimed by the Governor or by concurrent resolution of the Legislature if the Governor in such proclamation,

or the Legislature in such resolution, finds that an emergency or disaster has occurred or is anticipated in the immediate future. Any such emergency, whether proclaimed by the Governor or by the Legislature, shall terminate upon the proclamation of the termination thereof by the Governor, or by passage by the Legislature of a concurrent resolution terminating such emergency. During such period as such state of emergency exists or continues, the Governor shall have and may exercise the following additional emergency powers:

1. To activate the Emergency Operations Plan, and to assume regulatory control over all essential resources of this state, directly or through the boards, agencies, offices and officers established by the Emergency Operations Plan, to determine priorities of such resources and allocate such resources as the Governor may deem necessary in cooperation with the political subdivisions of this state, the federal government, or other states. "Resources" shall mean all economic resources within this state including but not limited to food, manpower, health, water, transportation, economic stabilization, electric power, petroleum, gas, and solid fuel, industrial production, construction and housing.

2. To enforce all laws, rules and regulations relating to emergency management and to assume direct operational control of any or all emergency management forces and helpers in this state.

3. To provide for the evacuation of all or part of the population from any stricken or threatened area or areas within this state and to take such steps as are necessary for the receipt and care of such evacuees.

4. Subject to the provisions of the State Constitution, to remove from office any public officer having administrative responsibilities under this act for willful failure to obey any order, rule or regulation adopted pursuant to this act. Such removal shall be upon charges after service upon such person of a copy of such charges and after giving such person an opportunity to be heard in the defense of such person. Pending the preparation and disposition of charges, the Governor may suspend such person for a period not exceeding thirty (30) days. A vacancy resulting from removal or suspension pursuant to this section shall be filled by the Governor until it is filled as otherwise provided by law.

5. To perform and exercise such other functions, powers, and duties as are necessary to promote and secure the safety and protection of the civilian population and to carry out the provisions of the Emergency Operations Plan in a national or state emergency.

Added by Laws 1967, c. 33, § 9, emerg. eff. Feb. 14, 1967. Amended by Laws 2003, c. 329, § 9, emerg. eff. May 29, 2003; Laws 2013, 1st

Ex.Sess., c. 17, § 2, emerg. eff. Sept. 10, 2013; Laws 2013, 1st Ex.Sess., c. 17, § 3, emerg. eff. Sept. 10, 2013.
NOTE: Laws 2009, c. 78, § 12 repealed by Laws 2010, c. 2, § 52, emerg. eff. March 3, 2010.
NOTE: Laws 2009, c. 228, § 29 was held unconstitutional by the Oklahoma Supreme Court in the case of Douglas v. Cox Retirement Properties, Inc., 2013 OK 37, 302 P.2d 789 (Okla. 2013) and repealed by Laws 2013, 1st Ex.Sess., c. 17, § 1, emerg. eff. Sept. 10, 2013.

§63-683.10. Repealed by Laws 2003, c. 329, § 61, emerg. eff. May 29, 2003.

§63-683.11. Political subdivisions - Emergency management programs - Emergency management directors - Declaration of local emergency.

A. All incorporated jurisdictions of this state are required to develop an emergency management program in accordance with the Oklahoma Emergency Management Act of 2003. County jurisdictions are required to have a qualified emergency management director as outlined in this section. Incorporated municipalities are required to either have an emergency management director or create an agreement with the county for emergency management services. Each local organization for emergency management shall have a director who shall be appointed by the executive officer or governing body of the political subdivision, who shall report directly to the chief executive officer or chief operating officer and who shall have direct responsibility for the organization, administration, and operation of such local organization for emergency management, subject to the direction and control of such executive officer or governing body. Each local organization for emergency management shall perform emergency management functions within the territorial limits of the political subdivisions within which it is organized, and, in addition, shall conduct such functions outside of such territorial limits as may be required pursuant to this act. Each local emergency management organization shall develop, maintain and revise, as necessary, an emergency operations plan for the jurisdiction. Each plan shall address the emergency management system functions of preparedness, response, recovery and mitigation. Such plan shall be based upon a hazard and risk assessment for the jurisdiction and shall include provisions for evacuation of all or a portion of the jurisdiction based upon such risk in the event any disaster, as defined in Section 683.3 of this title, necessitates the evacuation of its citizens. Every political subdivision shall ensure that there is widespread dissemination of the plan and information to citizens as to how and when such plan is activated and how citizens are to participate in evacuating their communities in the event of a disaster. The plan shall be reviewed annually. Such plan shall be coordinated with the state.

B. Emergency Management Directors (EMD) shall meet the qualifications promulgated by the Oklahoma Department of Emergency Management (OEM). The minimum qualifications include:

1. U.S. citizenship;
2. High school diploma or equivalent;
3. Valid Oklahoma driver license;
4. Social security number;
5. Has not been convicted of a felony in Oklahoma; and
6. Within one (1) year of appointment, the EMD must complete basic emergency management training provided by the OEM.

C. Prior to employment, the employing agency shall obtain a name-based background search by the Oklahoma State Bureau of Investigation to determine if the EMD has been convicted of a felony.

D. Each Emergency Management Director shall be responsible for all aspects of emergency management in their jurisdiction including: conducting a hazard analysis detailing risks and vulnerabilities, annually updating the existing all-hazard Emergency Operations Plan (EOP), conducting and arranging for necessary training of all relevant personnel, conducting annual exercises to evaluate the plan, managing resources, determining shortfalls in equipment, personnel and training, revising the EOP as necessary, establishing and maintaining an office of emergency management, communications, warnings, conducting or supervising damage assessment and other pre- and post-disaster-related duties.

E. Local fire departments, law enforcement and other first response agencies shall notify the Emergency Management Director of all significant events occurring in the jurisdiction. Emergency Management Directors shall promptly report significant events to the Oklahoma Department of Emergency Management.

F. In carrying out the provisions of this act, each political subdivision, in which any disaster as defined in Section 683.3 of this title occurs, shall have the authority to declare a local emergency and the power to enter into contracts and incur obligations necessary to combat such disaster, protecting the health and safety of persons and property, and providing emergency assistance to the victims of such disaster. Each political subdivision is authorized to exercise the powers vested under this section in the light of the exigencies of the extreme emergency situation without regard to time-consuming procedures and formalities prescribed by law, excepting mandatory constitutional requirements, pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase of supplies and materials, and the appropriation and expenditure of public funds.

Added by Laws 1967, c. 33, § 11, emerg. eff. Feb. 14, 1967. Amended by Laws 2003, c. 329, § 10, emerg. eff. May 29, 2003; Laws 2006, c. 214, § 1, eff. Nov. 1, 2006.

§63-683.12. Mutual aid arrangements for reciprocal emergency management.

A. The Director of each local organization for emergency management may, in collaboration with other public and private agencies within this state, develop or cause to be developed mutual aid arrangements for reciprocal emergency management aid and assistance in case of disaster too great to be dealt with unassisted. Such arrangements shall be consistent with the state emergency management plan and program, and in time of emergency it shall be the duty of each local organization for emergency management to render assistance in accordance with the provisions of such mutual aid arrangements.

B. The Director of each local organization for emergency management may, subject to the approval of the Governor, enter into mutual aid arrangements with emergency management agencies or organizations in other border states for reciprocal emergency management aid and assistance in case of disaster too great to be dealt with unassisted.

Added by Laws 1967, c. 33, § 12, emerg. eff. Feb. 14, 1967. Amended by Laws 2003, c. 329, § 11, emerg. eff. May 29, 2003.

§63-683.13. Emergency management activities declared as governmental functions - Workers' benefit rights preserved.

A. All functions hereunder and all other activities relating to emergency management are hereby declared to be governmental functions. The provisions of this section shall not affect the right of any person to receive benefits to which the person would otherwise be entitled under this act, or under the workers' compensation law, or under any pension law, nor the right of any such person to receive any benefits or compensation under any Act of Congress. Any municipal fireman or policeman engaged in any emergency management activities, while complying with or attempting to comply with this act or any rule or regulation pursuant thereto, shall be considered as serving in his or her regular line of duty and shall be entitled to all benefits of any applicable pension fund.

B. Any requirement for a license to practice any professional, mechanical, or other skill shall not apply to any authorized emergency management worker from any state rendering mutual aid and who holds a comparable license in that state, who shall practice such professional, mechanical, or other skill during an emergency declared under the provisions of this act, when such professional,

mechanical or other skill is exercised in accordance with the provisions of this act.

C. As used in this section, the term "emergency management worker" shall include any full or part-time paid, volunteer, or auxiliary employee of this state, or other states, territories, possession or the District of Columbia, of the federal government, or any neighboring country, or of any political subdivision thereof, or of any agency or organization, performing emergency management services under state supervision, and who has been properly trained in the performance of emergency management functions, at any place in this state subject to the order or control of, or pursuant to a request of, the state government or any political subdivision thereof. The term "emergency management worker" shall not include any volunteer health practitioner subject to the provisions of the Uniform Emergency Volunteer Health Practitioners Act.

D. Any emergency management worker, as defined in this section, performing emergency management services at any place in this state pursuant to agreements, compacts, or arrangements for mutual aid and assistance, to which the state or a political subdivision thereof is a party, shall possess the same powers, duties, immunities, and privileges the person would ordinarily possess if performing the same duties in the state, province, or political subdivision thereof in which normally employed or rendering services.

Added by Laws 1967, c. 33, § 13, emerg. eff. Feb. 14, 1967. Amended by Laws 2003, c. 329, § 12, emerg. eff. May 29, 2003; Laws 2013, 1st Ex.Sess., c. 17, § 5, emerg. eff. Sept. 10, 2013; Laws 2013, 1st Ex.Sess., c. 17, § 6, emerg. eff. Sept. 10, 2013.

NOTE: Laws 2009, c. 78, § 13 repealed by Laws 2010, c. 2, § 53, emerg. eff. March 3, 2010.

NOTE: Laws 2009, c. 228, § 30 was held unconstitutional by the Oklahoma Supreme Court in the case of Douglas v. Cox Retirement Properties, Inc., 2013 OK 37, 302 P.2d 789 (Okla. 2013) and repealed by Laws 2013, 1st Ex.Sess., c. 17, § 4, emerg. eff. Sept. 10, 2013.

§63-683.14. Exemption from civil liability.

A. Any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises for the purpose of sheltering persons, or providing a mass immunization and prophylaxis site or Strategic National Stockpile storage site during an actual or impending emergency or exercise shall, together with any successors in interest, if any, not be civilly liable for negligently causing the death of, or injury to, any person on or about such real estate or premises for loss of, or damage to, the property of such person; provided, that the injury or death was caused by or incidental to the actual use of such premises for such

real, actual or impending emergency or exercise, and further provided that nothing herein contained shall grant immunity from gross, willful or wanton acts of negligence.

B. Neither the State of Oklahoma nor any political subdivision thereof nor any officer or employee of the State of Oklahoma or of any political subdivision thereof nor volunteer whose services have been accepted and utilized by an officer or employee of the State of Oklahoma or of any political subdivision thereof for carrying out the functions of this act shall be civilly liable for any loss or injury resulting to any person's company, corporation or other legal entity as a result of any decision, determination, order or action of such employee in the performance of assigned duties and responsibilities under this act during a stated emergency unless such loss or injury was caused by the gross negligence, or willfully and unnecessarily or by the wanton act of such state officer or employee or volunteer. Nothing in this act shall be construed to waive the sovereignty or immunity of the State of Oklahoma, or any political subdivision thereof, from being sued.

Added by Laws 1967, c. 33, § 14, emerg. eff. Feb. 14, 1967. Amended by Laws 2003, c. 329, § 13, emerg. eff. May 29, 2003; Laws 2006, c. 199, § 2, emerg. eff. May 26, 2006.

§63-683.15. Limitation on political activity.

No organization for emergency management established under the authority of this act shall participate in any form of political activity, nor shall it be employed directly or indirectly for political purposes.

Added by Laws 1967, c. 33, § 15, emerg. eff. Feb. 14, 1967. Amended by Laws 2003, c. 329, § 14, emerg. eff. May 29, 2003.

§63-683.16. Restriction on employment - Loyalty oath.

No person shall be employed in any capacity in any emergency management organization who advocates or has advocated a change by force or violence in the constitutional form of the government of the United States or in this state or the overthrow of any government in the United States by force or violence, or who has been convicted of or is under indictment or information charging any subversive act against the United States. Each person who is appointed to serve in an organization of emergency management shall, before entering upon employment duties, take the Oklahoma Loyalty Oath, in writing, before a person authorized to administer oaths in this state.

Added by Laws 1967, c. 33, § 16, emerg. eff. Feb. 14, 1967. Amended by Laws 2003, c. 329, § 15, emerg. eff. May 29, 2003.

§63-683.17. Appropriation powers - Gifts, grants and loans.

A. Each political subdivision shall have the power to make appropriations in the manner provided by law for making appropriations for the ordinary expenses of such political subdivision for the payment of expenses of its local organizations for emergency management.

B. Whenever the federal government or any agency or officer thereof shall offer to the state, or through the state to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan, for purposes of emergency management, the state acting through the Governor, or such political subdivision acting with the consent of the Governor and through its executive officer or governing body, may accept such offer and upon such acceptance the Governor of the state or executive officer or governing body of such political subdivision may authorize any officer of the state or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of the state or such political subdivision, and subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.

C. Whenever any person, firm, or corporation shall offer to the state, or to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan, for purposes of emergency management, the state acting through the Governor, or such political subdivision acting through its executive officer or governing body, may accept such offer and upon such acceptance the Governor of the state or executive officer or governing body of such political subdivision may authorize any officer of the state or the political subdivision, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of the state or such political subdivision, and subject to the terms of the offer.

D. Each political subdivision shall have the power to provide, by ordinances or otherwise, for a local emergency management organization, and said subdivisions shall have power to make appropriations for emergency management and disaster relief in the manner provided by law for making appropriations for ordinary expenses of such political subdivisions and shall have power to enter into agreements for the purpose of organizing civil defense units; to provide for a mutual method of financing the organization of such units on a basis approved by the State Emergency Management Director and satisfactory to said political subdivisions, but in which case the funds appropriated by said political subdivisions and any other funds provided for civil defense for such mutual purpose shall be nonfiscal funds and shall be placed on deposit with the county treasurer as custodian of such emergency management funds, and from which expenditures may be made on forms prescribed by the

State Auditor and Inspector, in accordance with procedures approved by the State Emergency Management Director; and shall have power to render aid to other political subdivisions under mutual aid agreements, provided that the functioning of said units shall be coordinated by the State Emergency Management Director and the Director's staff according to plans promulgated for that purpose.
Added by Laws 1967, c. 33, § 17, emerg. eff. Feb. 14, 1967. Amended by Laws 1979, c. 30, § 105, emerg. eff. April 6, 1979; Laws 2003, c. 329, § 16, emerg. eff. May 29, 2003.

§63-683.18. Utilization of services, equipment, etc.

In carrying out the provisions of this act, the Governor and the executive officers or governing bodies of the political subdivisions of the state are directed to utilize the services, equipment, supplies and facilities of existing departments, offices and agencies of the state and of the political subdivisions thereof to the maximum extent practicable, and the officers and personnel of all such departments, offices, and agencies are directed to cooperate with and extend such services and facilities to the Governor and to the emergency management organizations of the state upon request.
Added by Laws 1967, c. 33, § 18, emerg. eff. Feb. 14, 1967. Amended by Laws 2003, c. 329, § 17, emerg. eff. May 29, 2003.

§63-683.19. Repealed by Laws 2003, c. 329, § 61, emerg. eff. May 29, 2003.

§63-683.19a. County and city-county health departments - Benefits, powers, immunities and protections.

The benefits, powers, immunities and protections afforded to political subdivisions under the Oklahoma Emergency Management Act of 2003 shall inure to county and city-county health departments within this state.
Added by Laws 2007, c. 69, § 1, eff. Nov. 1, 2007.

§63-683.21. Repealed by Laws 2003, c. 329, § 61, emerg. eff. May 29, 2003.

§63-683.22. Repealed by Laws 2003, c. 329, § 61, emerg. eff. May 29, 2003.

§63-683.23. Violations - Civil actions - Jurisdiction - Penalties - Enforcement.

A. The Oklahoma Department of Emergency Management (OEM) may request the Attorney General to institute a civil action for relief, including a permanent or temporary injunction, restraining order or

any other appropriate order in the appropriate district court, whenever any person:

1. Violates or fails or refuses to comply with any order or decision issued by the OEM;

2. Interferes with, hinders or delays the OEM in carrying out its duties and responsibilities;

3. Refuses to admit authorized representatives of the OEM;

4. Refuses to permit inspection by authorized representatives of the OEM;

5. Refuses to furnish any information or report requested by the OEM to accomplish its duties and responsibilities;

6. Refuses to permit access to, or copying of, such records as the OEM determines necessary to accomplish its duties and responsibilities.

B. The court shall have jurisdiction to provide such relief as may be appropriate. Any relief granted by the court to enforce an order under subsection A of this section shall continue in effect until the completion or final termination of all proceedings for review of such order is made, unless the district court granting such relief sets it aside or modifies it.

C. Any person willfully violating any rule, regulation or order of the OEM shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by imprisonment in the county jail for not more than six (6) months, or by a fine of not more than Three Thousand Dollars ($3,000.00), or both. Each day of violation shall constitute a separate offense.

D. The Department of Public Safety, the Oklahoma State Bureau of Investigation, and the Oklahoma Tax Commission shall assist the OEM in the enforcement of any rule, regulation or order of the OEM.

Added by Laws 1981, c. 265, § 7, emerg. eff. June 25, 1981. Amended by Laws 2003, c. 329, § 18, emerg. eff. May 29, 2003.

§63-683.24. Emergency Management Disaster Relief Matching Fund.

There is hereby created in the State Treasury a special fund for the Oklahoma Department of Emergency Management, to be designated the Emergency Management Disaster Relief Matching Fund. The fund shall be a continuing fund not subject to fiscal year limitations, and shall be composed of monies that may be appropriated to or otherwise received by said fund. Said fund is to be utilized as the state's share of matching requirements for federal funds advanced under the provisions of Sections 402, 403 and 419, Public Law 93-288, Disaster Relief Act of 1974 and shall not be subject to legislative appropriation.

Added by Laws 1982, c. 374, § 42, emerg. eff. July 20, 1982. Amended by Laws 2003, c. 329, § 19, emerg. eff. May 29, 2003.

§63-683.25. Short title.

This act shall be known and may be cited as the "Oklahoma Volunteerism Act".
Added by Laws 1992, c. 340, § 1. Renumbered from § 8001 of Title 74 by Laws 1996, c. 244, § 11, eff. July 1, 1996.

§63-683.26. Voluntary involvement in emergency management programs – Voluntary emergency management initiatives.

The Oklahoma Department of Emergency Management shall:

1. Support voluntary involvement in public and private emergency management programs to meet the needs of the citizens of the State of Oklahoma;

2. Stimulate new voluntary emergency management initiatives and partnerships; and

3. Serve as a resource and advocate within the State of Oklahoma for volunteer agencies, volunteers and programs which utilize volunteers to support emergency response and disaster recovery operations.

Added by Laws 1992, c. 340, § 2. Amended by Laws 1996, c. 244, § 1, eff. July 1, 1996. Renumbered from § 8002 of Title 74 by Laws 1996, c. 244, § 11, eff. July 1, 1996. Amended by Laws 2003, c. 329, § 20, emerg. eff. May 29, 2003; Laws 2013, c. 227, § 16, eff. Nov. 1, 2013.

§63-683.27. Repealed by Laws 2013, c. 227, § 18, eff. Nov. 1, 2013.

§63-683.28. Oklahoma Department of Emergency Management – Volunteer programs.

The Oklahoma Department of Emergency Management, in cooperation with governmental entities, individual volunteers and volunteer organizations throughout the State of Oklahoma, shall:

1. Assist all state agencies in the development of emergency management volunteer programs;

2. Operate as a statewide information center for volunteer programs and needed services that could be delivered by volunteer programs;

3. Provide or aid in the provision of technical assistance and training for directors and coordinators of volunteers, for staff, and for individual volunteers for state, local or private entities;

4. Assess and recognize the needs of communities throughout the State of Oklahoma and assist volunteer programs to meet emergency preparedness and disaster recovery programs;

5. Promote and coordinate efforts to expand and improve the statewide voluntary network;

6. Develop, implement and maintain a volunteer clearinghouse to disseminate information to support emergency management volunteer programs and to broaden voluntary involvement throughout the State of Oklahoma;

7. Promote communication and collaboration between public and private volunteer programs in the State of Oklahoma and between the public and private sector's initiatives in meeting emergency human needs;

8. Establish methods for supporting and promoting private sector leadership and responsibility for meeting emergency public needs;

9. Cooperate with federal, state, and local volunteer groups in collecting information on federal, state and private resources which may encourage and improve emergency management volunteer projects within the State of Oklahoma;

10. Develop a program to inform the public of the opportunities to volunteer and of the services emergency management volunteers provide within the State of Oklahoma; and

11. Cooperate with federal, state and local governments and voluntary groups in developing a plan and operational procedures for the receiving and disbursement of donated goods during times of disaster or emergency.

Added by Laws 1992, c. 340, § 3. Amended by Laws 1996, c. 244, § 3, eff. July 1, 1996. Renumbered from § 8003 of Title 74 by Laws 1996, c. 244, § 11, eff. July 1, 1996. Amended by Laws 2003, c. 329, § 22, emerg. eff. May 29, 2003; Laws 2013, c. 227, § 17, eff. Nov. 1, 2013.

§63-683.29. Repealed by Laws 2007, c. 93, § 9, eff. Nov. 1, 2007.

§63-683.30. Repealed by Laws 2013, c. 227, § 18, eff. Nov. 1, 2013.

§63-683.31. Repealed by Laws 2013, c. 227, § 18, eff. Nov. 1, 2013.

§63-683.32. Funds, grants, and services from federal government - Receipt and expenditure.

The Director of the Oklahoma Department of Emergency Management may receive and expend funds, grants, and services from the United States Government and agencies and instrumentalities thereof and any other source for reasonable purposes necessary to carry out a coordinated plan of voluntary action throughout the State of Oklahoma. The monies remitted to the Director of the Oklahoma Department of Emergency Management pursuant to this section shall be credited to a separate account in the Revolving Fund for the Oklahoma Department of Emergency Management.

Added by Laws 1992, c. 340, § 6. Amended by Laws 1996, c. 244, § 7, eff. July 1, 1996. Renumbered from § 8006 of Title 74 by Laws 1996, c. 244, § 11, eff. July 1, 1996. Amended by Laws 2003, c. 329, § 23, emerg. eff. May 29, 2003.

§63-683.33. Power to make contracts and agreements.

The Director of the Oklahoma Department of Emergency Management may make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the provisions of the Oklahoma Volunteerism Act.
Added by Laws 1992, c. 340, § 7. Amended by Laws 1996, c. 244, § 8, eff. July 1, 1996. Renumbered from § 8007 of Title 74 by Laws 1996, c. 244, § 11, eff. July 1, 1996. Amended by Laws 2003, c. 329, § 24, emerg. eff. May 29, 2003.

§63-683.34. Rules.
The Director of the Oklahoma Department of Emergency Management shall promulgate rules necessary for the implementation of the provisions of the Oklahoma Volunteerism Act in accordance with Article 1 of the Administrative Procedures Act, Sections 250.3 through 308.2 and Article II, Sections 309 through 323 of Title 75 of the Oklahoma Statutes.
Added by Laws 1992, c. 340, § 8. Amended by Laws 1996, c. 244, § 9, eff. July 1, 1996. Renumbered from § 8008 of Title 74 by Laws 1996, c. 244, § 11, eff. July 1, 1996. Amended by Laws 2003, c. 329, § 25, emerg. eff. May 29, 2003.

§63-683.35. Short title - Oklahoma First Informer Broadcasters Act.
This act shall be known and may be cited as the "Oklahoma First Informer Broadcasters Act".
Added by Laws 2014, c. 129, § 1, emerg. eff. April 22, 2014.

§63-683.36. Definitions – Training and certification program – Access to area affected by emergency or disaster.
A. As defined in this section:
1. "Broadcaster" means a radio broadcasting station or television broadcasting station primarily engaged in, and deriving income from, the business of facilitating speech via over-the-air communications, both as to pure speech and commercial speech; and
2. "First informer broadcaster" means a person who has been certified as a first informer broadcaster pursuant to subsection C of this section.
B. Broadcasters in this state may, in cooperation with the Oklahoma Department of Emergency Management and a statewide organization that represents radio and television broadcasters, develop comprehensive, coordinated plans for preparing for and responding appropriately to an emergency or disaster.
C. A statewide organization that represents radio and television broadcasters may establish a program for training and certifying broadcast engineers and technical personnel as first informer broadcasters. The program established pursuant to this subsection shall:
1. Be consistent with federal law and guidelines;

2. Provide training and education concerning restoring, repairing and resupplying any facilities and equipment of a broadcaster in an area affected by an emergency or disaster; and

3. Provide training and education concerning the personal safety of a first informer broadcaster in an area affected by an emergency or disaster.

D. To the extent practicable and consistent with not endangering public safety or inhibiting recovery efforts, state and local governmental agencies shall allow a first informer broadcaster access to an area affected by an emergency or disaster for the purpose of restoring, repairing, or resupplying any facility or equipment critical to the ability of a broadcaster to acquire, produce, and transmit essential emergency or disaster-related public information programming, including, without limitation, repairing and maintaining transmitters and generators, and transporting fuel for generators.

Added by Laws 2014, c. 129, § 2, emerg. eff. April 22, 2014.

§63-684.1. Entry into Emergency Management Compact.

The Emergency Management Compact is hereby entered into by this state with any and all other states legally joining therein in accordance with its terms, in the form substantially as follows:

Added by Laws 1996, c. 325, § 1, emerg. eff. June 12, 1996.

§63-684.2. Purpose and authorities.

ARTICLE I

Purpose and Authorities

This compact is made and entered into by and between the participating member states, hereinafter called party states, which enact this compact. For the purposes of this compact, the term "states" is taken to mean the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all U.S. territorial possessions.

The purpose of this compact is to provide for mutual assistance between the states entering into this compact in managing any emergency or disaster that is duly declared by the governor of the affected state, whether arising from natural or man-made disasters or emergencies.

This compact shall also provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of the states' National Guard forces, either in accordance with the National Guard Mutual Assistance Compact or by mutual agreement between states.

Added by Laws 1996, c. 325, § 2, emerg. eff. June 12, 1996. Amended by Laws 2003, c. 329, § 26, emerg. eff. May 29, 2003.

§63-684.3. General implementation.

ARTICLE II

General Implementation

Each party state entering into this compact recognizes that many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency. This is because few, if any, individual states have all the resources they need in all types of emergencies or the capability of delivering resources to the area where emergencies occur.

The prompt, full, and effective utilization of resources of the participating states, including any resources on hand or available from the federal government or any other source, that are essential to the safety, care and welfare of the people in the event of any emergency or disaster declared by a party state, shall be the underlying principle on which all articles of this compact shall be understood.

On behalf of the governor of each state participating in the compact, the legally designated state official who is assigned responsibility for emergency management will be responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement this compact.

Added by Laws 1996, c. 325, § 3, emerg. eff. June 12, 1996.

§63-684.4. Party state responsibilities.

ARTICLE III

Party State Responsibilities

A. It shall be the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities listed in this article. In formulating such plans, and in carrying them out, the party states, insofar as practical, shall:

1. Review individual state hazards analyses and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural or man-made disasters or emergencies;

2. Review party states' individual emergency plans and develop a plan which will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency;

3. Develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans;

4. Assist in warning communities adjacent to or crossing the state boundaries;

5. Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, and resources, both human and material;

6. Inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness; and

7. Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the above responsibilities.

B. The authorized representative of a party state may request assistance of another party state by contacting the authorized representative of that state. The provisions of this compact shall only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within thirty (30) days of the verbal request. Requests shall provide the following information:

1. A description of the emergency service function for which assistance is needed, including, but not limited to, fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue;

2. The amount and type of personnel, equipment, materials and supplies needed and a reasonable estimate of the length of time they will be needed; and

3. The specific place and time for staging of the assisting party's response and a point of contact at that location.

C. There shall be frequent consultation between state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the United States Government, with free exchange of information, plans, and resource records relating to emergency capabilities.

D. The Governor of the State of Oklahoma shall not be obligated under this compact to send the requested assistance, except in such Governor's sole and absolute discretion, and may be withdrawn at any time in the sole and absolute discretion of the Governor of Oklahoma.

Added by Laws 1996, c. 325, § 4, emerg. eff. June 12, 1996. Amended by Laws 2003, c. 329, § 27, emerg. eff. May 29, 2003.

§63-684.5. Limitations.

ARTICLE IV

Limitations

Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof; provided that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state.

Each party state shall afford to the emergency forces of any party state, while operating within its state limits under the terms and conditions of this compact, the same powers, except that of arrest unless specifically authorized by the receiving state, duties, rights, and privileges as are afforded forces of the state in which they are performing emergency services. Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency services authorities of the state receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state emergency or disaster by the governor of the party state that is to receive assistance or upon commencement of exercises or training for mutual aid and shall continue as long as the exercises or training for mutual aid are in progress, the state of emergency or disaster remains in effect, or loaned resources remain in the receiving state, whichever is longer.

Added by Laws 1996, c. 325, § 5, emerg. eff. June 12, 1996.

§63-684.6. Licenses and permits.

ARTICLE V

Licenses and Permits

Whenever any person holds a license, certificate, or other permit issued by any state party evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving party state, such person shall be deemed licensed, certified, or permitted by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to such limitations and conditions as the governor of the requesting state may prescribe by executive order or otherwise.

Added by Laws 1996, c. 325, § 6, emerg. eff. June 12, 1996.

§63-684.7. Liability.

ARTICLE VI

Liability

Officers or employees of a party state rendering aid in another state pursuant to this compact shall be considered agents of the requesting state for tort liability and immunity purposes. No party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.
Added by Laws 1996, c. 325, § 7, emerg. eff. June 12, 1996.

§63-684.8. Supplementary agreements.

ARTICLE VII

Supplementary Agreements

Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that among the states that are party hereto, this compact contains elements of a broad base common to all states, and nothing herein shall preclude any state entering into supplementary agreements with another state or affect any other agreements already in force between states. Supplementary agreements may include, but shall not be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.
Added by Laws 1996, c. 325, § 8, emerg. eff. June 12, 1996.

§63-684.9. Compensation.

ARTICLE VIII

Compensation

Each state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of such forces who sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own state.
Added by Laws 1996, c. 325, § 9, emerg. eff. June 12, 1996.

§63-684.10. Reimbursement.

ARTICLE IX

Reimbursement

Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with such requests; provided, that any aiding party state may assume in whole

or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party state without charge or cost; and provided further, that any two or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. Article VIII expenses shall not be reimbursable under this article.
Added by Laws 1996, c. 325, § 10, emerg. eff. June 12, 1996.

§63-684.11. Evacuation.

ARTICLE X
Evacuation

Plans for the orderly evacuation and interstate reception of portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant, shall be worked out and maintained between the party states and the emergency management or services directors of the various jurisdictions where any type of incident requiring evacuations might occur. Such plans shall be put into effect by request of the state from which evacuees come and shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party state receiving evacuees and the party state from which the evacuees come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and medical care, and like items. Such expenditures shall be reimbursed as agreed by the party state from which the evacuees come. After the termination of the emergency or disaster, the party state from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of such evacuees.
Added by Laws 1996, c. 325, § 11, emerg. eff. June 12, 1996.

§63-684.12. Implementation.

ARTICLE XI
Implementation

A. This compact shall become effective immediately upon its enactment into law by any two states. Thereafter, this compact shall become effective as to any other state upon enactment by that state.

B. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until thirty (30) days after the governor of the withdrawing state has given notice in writing of such withdrawal to the governors of

all other party states. Such action shall not relieve the withdrawing state from obligations assumed hereunder prior to the effective date of withdrawal.

C. Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the Federal Emergency Management Agency and other appropriate agencies of the United States government.

Added by Laws 1996, c. 325, § 12, emerg. eff. June 12, 1996.

§63-684.13. Validity.

ARTICLE XII

Validity

Nothing in this compact shall authorize or permit the use of military force by the National Guard of a state at any place outside that state in any emergency for which the President is authorized by law to call into federal service the militia, or for any purpose for which the use of the Army or the United States Air Force would in the absence of express statutory authorization be prohibited under Section 1385 of Title 18 of the United States Code.

Nothing in this compact shall limit or prohibit the Governor's authority to send troops out of state as specified in Section 229 of Title 44 of the Oklahoma Statutes.

Added by Laws 1996, c. 325, § 13, emerg. eff. June 12, 1996.

§63-684.14. Repealed by Laws 2013, 1st Ex. Sess., c. 3, § 1, emerg. eff. Sept. 10, 2013.

NOTE: Laws 2009, c. 228, § 31, which created this section, was held unconstitutional by the Oklahoma Supreme Court in the case of Douglas v. Cox Retirement Properties, Inc., 2013 OK 37, 302 P.2d 789 (Okla. 2013). Now see Title 63, § 684.25.

§63-684.15. Repealed by Laws 2013, 1st Ex. Sess., c. 3, § 1, emerg. eff. Sept. 10, 2013.

NOTE: Laws 2009, c. 228, § 32, which created this section, was held unconstitutional by the Oklahoma Supreme Court in the case of Douglas v. Cox Retirement Properties, Inc., 2013 OK 37, 302 P.2d 789 (Okla. 2013). Now see Title 63, § 684.26.

§63-684.16. Repealed by Laws 2013, 1st Ex. Sess., c. 3, § 1, emerg. eff. Sept. 10, 2013.

NOTE: Laws 2009, c. 228, § 33, which created this section, was held unconstitutional by the Oklahoma Supreme Court in the case of Douglas v. Cox Retirement Properties, Inc., 2013 OK 37, 302 P.2d 789 (Okla. 2013). Now see Title 63, § 684.27.

§63-684.17. Repealed by Laws 2013, 1st Ex. Sess., c. 3, § 1, emerg. eff. Sept. 10, 2013.
NOTE: Laws 2009, c. 228, § 34, which created this section, was held unconstitutional by the Oklahoma Supreme Court in the case of Douglas v. Cox Retirement Properties, Inc., 2013 OK 37, 302 P.2d 789 (Okla. 2013). Now see Title 63, § 684.28.

§63-684.18. Repealed by Laws 2013, 1st Ex. Sess., c. 3, § 1, emerg. eff. Sept. 10, 2013.
NOTE: Laws 2009, c. 228, § 35, which created this section, was held unconstitutional by the Oklahoma Supreme Court in the case of Douglas v. Cox Retirement Properties, Inc., 2013 OK 37, 302 P.2d 789 (Okla. 2013). Now see Title 63, § 684.29.

§63-684.19. Repealed by Laws 2013, 1st Ex. Sess., c. 3, § 1, emerg. eff. Sept. 10, 2013.
NOTE: Laws 2009, c. 228, § 36, which created this section, was held unconstitutional by the Oklahoma Supreme Court in the case of Douglas v. Cox Retirement Properties, Inc., 2013 OK 37, 302 P.2d 789 (Okla. 2013). Now see Title 63, § 684.30.

§63-684.20. Repealed by Laws 2013, 1st Ex. Sess., c. 3, § 1, emerg. eff. Sept. 10, 2013.
NOTE: Laws 2009, c. 228, § 37, which created this section, was held unconstitutional by the Oklahoma Supreme Court in the case of Douglas v. Cox Retirement Properties, Inc., 2013 OK 37, 302 P.2d 789 (Okla. 2013). Now see Title 63, § 684.31.

§63-684.21. Repealed by Laws 2013, 1st Ex. Sess., c. 3, § 1, emerg. eff. Sept. 10, 2013.
NOTE: Laws 2009, c. 228, § 38, which created this section, was held unconstitutional by the Oklahoma Supreme Court in the case of Douglas v. Cox Retirement Properties, Inc., 2013 OK 37, 302 P.2d 789 (Okla. 2013). Now see Title 63, § 684.32.

§63-684.22. Repealed by Laws 2013, 1st Ex. Sess., c. 3, § 1, emerg. eff. Sept. 10, 2013.
NOTE: Laws 2009, c. 228, § 39, which created this section, was held unconstitutional by the Oklahoma Supreme Court in the case of Douglas v. Cox Retirement Properties, Inc., 2013 OK 37, 302 P.2d 789 (Okla. 2013). Now see Title 63, § 684.33.

§63-684.23. Repealed by Laws 2013, 1st Ex. Sess., c. 3, § 1, emerg. eff. Sept. 10, 2013.
NOTE: Laws 2009, c. 228, § 40, which created this section, was held unconstitutional by the Oklahoma Supreme Court in the case of

Douglas v. Cox Retirement Properties, Inc., 2013 OK 37, 302 P.2d 789 (Okla. 2013). Now see Title 63, § 684.34.

§63-684.24. Repealed by Laws 2013, 1st Ex. Sess., c. 3, § 1, emerg. eff. Sept. 10, 2013.
NOTE: Laws 2009, c. 228, § 41, which created this section, was held unconstitutional by the Oklahoma Supreme Court in the case of Douglas v. Cox Retirement Properties, Inc., 2013 OK 37, 302 P.2d 789 (Okla. 2013). Now see Title 63, § 684.35.

§63-684.25. Short title - Uniform Emergency Volunteer Health Practitioners Act.

Sections 3 through 13 of this act shall be known and may be cited as the "Uniform Emergency Volunteer Health Practitioners Act". Added by Laws 2013, 1st Ex. Sess., c. 3, § 3, emerg. eff. Sept. 10, 2013.
NOTE: Text formerly resided under repealed Title 63, § 684.14, which was derived from Laws 2009, c. 228, § 31, which was held unconstitutional by the Oklahoma Supreme Court in the case of Douglas v. Cox Retirement Properties, Inc., 2013 OK 37, 302 P.2d 789 (Okla. 2013).

§63-684.26. Definitions.

As used in the Uniform Emergency Volunteer Health Practitioners Act:

1. "Disaster relief organization" means an entity that provides emergency or disaster relief services that include health or veterinary services provided by volunteer health practitioners and that:
    a. is designated or recognized as a provider of those services pursuant to a disaster response and recovery plan adopted by an agency of the federal government or the State Department of Health, and
    b. regularly plans and conducts its activities in coordination with an agency of the federal government or the State Department of Health;
2. "Emergency" means an event or condition that is an emergency pursuant to the Oklahoma Emergency Management Act of 2003 or the Catastrophic Health Emergency Powers Act;
3. "Emergency declaration" means a declaration of emergency issued by a person authorized to do so under the laws of this state pursuant to the Oklahoma Emergency Management Act of 2003 or the Catastrophic Health Emergency Powers Act;
4. "Emergency Management Assistance Compact" means the interstate compact approved by Congress by Public Law No. 104-321,110 Stat. 3877;
5. "Entity" means a person other than an individual;

6. "Health facility" means an entity licensed under the laws of this or another state to provide health or veterinary services;

7. "Health practitioner" means an individual licensed under the laws of this or another state to provide health or veterinary services;

8. "Health services" means the provision of treatment, care, advice or guidance, or other services, or supplies, related to the health or death of individuals or human populations, to the extent necessary to respond to an emergency, including:

a. the following, concerning the physical or mental condition or functional status of an individual or affecting the structure or function of the body:

(1) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, and

(2) counseling, assessment, procedures, or other services,

b. sale or dispensing of a drug, a device, equipment, or another item to an individual in accordance with a prescription, and

c. funeral, cremation, cemetery, or other mortuary services;

9. "Host entity" means an entity operating in this state which uses volunteer health practitioners to respond to an emergency;

10. "License" means authorization by a state to engage in health or veterinary services that are unlawful without the authorization and includes authorization under the laws of this state to an individual to provide health or veterinary services based upon a national certification issued by a public or private entity;

11. "Person" means an individual, corporation, business trust, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity;

12. "Scope of practice" means the extent of the authorization to provide health or veterinary services granted to a health practitioner by a license issued to the practitioner in the state in which the principal part of the practitioner's services are rendered, including any conditions imposed by the licensing authority;

13. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States;

14. "Veterinary services" means the provision of treatment, care, advice or guidance, or other services, or supplies, related to the health or death of an animal or to animal populations, to the

extent necessary to respond to an emergency, including, but not limited to:

a. diagnosis, treatment, or prevention of an animal disease, injury, or other physical or mental condition by the prescription, administration, or dispensing of vaccine, medicine, surgery, or therapy,

b. use of a procedure for reproductive management, and

c. monitoring and treatment of animal populations for diseases that have spread or demonstrate the potential to spread to humans; and

15. "Volunteer health practitioner" means a health practitioner who provides health or veterinary services, whether or not the practitioner receives compensation for those services and does not include a practitioner who receives compensation pursuant to a preexisting employment relationship with a host entity or affiliate which requires the practitioner to provide health services in this state, unless the practitioner is not a resident of this state and is employed by a disaster relief organization providing services in this state while an emergency declaration is in effect.

Added by Laws 2013, 1st Ex. Sess., c. 3, § 4, emerg. eff. Sept. 10, 2013.

NOTE: Text formerly resided under repealed Title 63, § 684.15, which was derived from Laws 2009, c. 228, § 32, which was held unconstitutional by the Oklahoma Supreme Court in the case of Douglas v. Cox Retirement Properties, Inc., 2013 OK 37, 302 P.2d 789 (Okla. 2013).

§63-684.27. Applicability to volunteer health practitioners.

The Uniform Emergency Volunteer Health Practitioners Act applies to volunteer health practitioners registered with a registration system that complies with Section 7 of this act and who provide health or veterinary services in this state for a host entity while an emergency declaration is in effect.

Added by Laws 2013, 1st Ex. Sess., c. 3, § 5, emerg. eff. Sept. 10, 2013.

NOTE: Text formerly resided under repealed Title 63, § 684.16, which was derived from Laws 2009, c. 228, § 33, which was held unconstitutional by the Oklahoma Supreme Court in the case of Douglas v. Cox Retirement Properties, Inc., 2013 OK 37, 302 P.2d 789 (Okla. 2013).

§63-684.28. Regulation of services during emergency.

A. While an emergency declaration is in effect, the State Department of Health may limit, restrict, or otherwise regulate:

1. The duration of practice by volunteer health practitioners;

2. The geographical areas in which volunteer health practitioners may practice;

3. The types of volunteer health practitioners who may practice; and

4. Any other matters necessary to coordinate effectively the provision of health or veterinary services during the emergency.

B. An order issued pursuant to subsection A of this section may take effect immediately, without prior notice or comment, and is not a rule within the meaning of the Administrative Procedures Act.

C. A host entity that uses volunteer health practitioners to provide health or veterinary services in this state shall:

1. Consult and coordinate its activities with the State Department of Health to the extent practicable to provide for the efficient and effective use of volunteer health practitioners; and

2. Comply with any laws other than this act relating to the management of emergency health or veterinary services, including the Oklahoma Emergency Management Act of 2003 and the Catastrophic Health Emergency Powers Act.

Added by Laws 2013, 1st Ex. Sess., c. 3, § 6, emerg. eff. Sept. 10, 2013.

NOTE: Text formerly resided under repealed Title 63, § 684.17, which was derived from Laws 2009, c. 228, § 34, which was held unconstitutional by the Oklahoma Supreme Court in the case of Douglas v. Cox Retirement Properties, Inc., 2013 OK 37, 302 P.2d 789 (Okla. 2013).

§63-684.29. Volunteer health practitioner registration systems.

A. To qualify as a volunteer health practitioner registration system, a system must:

1. Accept applications for the registration of volunteer health practitioners before or during an emergency;

2. Include information about the licensure and good standing of health practitioners which is accessible by authorized persons;

3. Be capable of confirming the accuracy of information concerning whether a health practitioner is licensed and in good standing before health services or veterinary services are provided under the Uniform Emergency Volunteer Health Practitioners Act; and

4. Meet one of the following conditions:

a. be an emergency system for advance registration of volunteer health practitioners established by a state and funded through the Health Resources Services Administration under Section 319I of the Public Health Services Act, 42 U.S.C., Section 247d-7b,

b. be a local unit consisting of trained and equipped emergency response, public health, and medical personnel formed pursuant to Section 2801 of the Public Health Services Act, 42 U.S.C., Section 300hh,

c. be operated by a:

(1) disaster relief organization,

(2) licensing board,
(3) national or regional association of licensing boards or health practitioners,
(4) health facility that provides comprehensive inpatient and outpatient health-care services, including a tertiary care and teaching hospital, or
(5) governmental entity, or

d. be designated by the State Department of Health as a registration system for purposes of the Uniform Emergency Volunteer Health Practitioners Act.

B. While an emergency declaration is in effect, the State Department of Health, a person authorized to act on behalf of the Department, or a host entity may confirm whether volunteer health practitioners utilized in this state are registered with a registration system that complies with subsection A of this section. Confirmation is limited to obtaining identities of the practitioners from the system and determining whether the system indicates that the practitioners are licensed and in good standing.

C. Upon request of a person in this state authorized under subsection B of this section, or a similarly authorized person in another state, a registration system located in this state shall notify the person of the identities of volunteer health practitioners and whether the practitioners are licensed and in good standing.

D. A host entity shall not be required to use the services of a volunteer health practitioner even if the practitioner is registered with a registration system that indicates that the practitioner is licensed and in good standing.

Added by Laws 2013, 1st Ex. Sess., c. 3, § 7, emerg. eff. Sept. 10, 2013.

NOTE: Text formerly resided under repealed Title 63, § 684.18, which was derived from Laws 2009, c. 228, § 35, which was held unconstitutional by the Oklahoma Supreme Court in the case of Douglas v. Cox Retirement Properties, Inc., 2013 OK 37, 302 P.2d 789 (Okla. 2013).

§63-684.30. Recognition of volunteer health practitioners licensed in other states.

A. While an emergency declaration is in effect, a volunteer health practitioner, registered with a registration system that complies with Section 7 of this act and licensed and in good standing in the state upon which the registration of the practitioner is based, may practice in this state to the extent authorized by the Uniform Emergency Volunteer Health Practitioners Act as if the practitioner were licensed in this state.

B. A volunteer health practitioner qualified under subsection A of this section is not entitled to the protections of the Uniform Emergency Volunteer Health Practitioners Act if the practitioner is licensed in more than one state and any license of the practitioner is suspended, revoked, or subject to an agency order limiting or restricting practice privileges, or has been voluntarily terminated under threat of sanction.

Added by Laws 2013, 1st Ex. Sess., c. 3, § 8, emerg. eff. Sept. 10, 2013.

NOTE: Text formerly resided under repealed Title 63, § 684.19, which was derived from Laws 2009, c. 228, § 36, which was held unconstitutional by the Oklahoma Supreme Court in the case of Douglas v. Cox Retirement Properties, Inc., 2013 OK 37, 302 P.2d 789 (Okla. 2013).

§63-684.31. No effect on credentialing and privileging.

A. For purposes of this section:

1. "Credentialing" means obtaining, verifying, and assessing the qualifications of a health practitioner to provide treatment, care, or services in or for a health facility; and

2. "Privileging" means the authorizing by an appropriate authority, such as a governing body, of a health practitioner to provide specific treatment, care, or services at a health facility subject to limits based on factors that include license, education, training, experience, competence, health status, and specialized skill.

B. The Uniform Emergency Volunteer Health Practitioners Act does not affect credentialing or privileging standards of a health facility and does not preclude a health facility from waiving or modifying those standards while an emergency declaration is in effect.

Added by Laws 2013, 1st Ex. Sess., c. 3, § 9, emerg. eff. Sept. 10, 2013.

NOTE: Text formerly resided under repealed Title 63, § 684.20, which was derived from Laws 2009, c. 228, § 37, which was held unconstitutional by the Oklahoma Supreme Court in the case of Douglas v. Cox Retirement Properties, Inc., 2013 OK 37, 302 P.2d 789 (Okla. 2013).

§63-684.32. Provision of volunteer health or veterinary services - Administrative sanctions.

A. Subject to subsections B and C of this section, a volunteer health practitioner shall adhere to the scope of practice for a similarly licensed practitioner established by the licensing provisions, practice acts, or other laws of this state.

B. Except as otherwise provided in subsection C of this section, the Uniform Emergency Volunteer Health Practitioners Act

does not authorize a volunteer health practitioner to provide services that are outside the scope of practice of the practitioner, even if a similarly licensed practitioner in this state would be permitted to provide the services.

C. The State Department of Health may modify or restrict the health or veterinary services that volunteer health practitioners may provide pursuant to the Uniform Emergency Volunteer Health Practitioners Act. An order under this subsection may take effect immediately, without prior notice or comment, and is not a rule within the meaning of the Administrative Procedures Act.

D. A host entity may restrict the health or veterinary services that a volunteer health practitioner may provide pursuant to the Uniform Emergency Volunteer Health Practitioners Act.

E. A volunteer health practitioner does not engage in unauthorized practice unless the practitioner has reason to know of any limitation, modification, or restriction under this section or that a similarly licensed practitioner in this state would not be permitted to provide the services. A volunteer health practitioner has reason to know of a limitation, modification, or restriction or that a similarly licensed practitioner in this state would not be permitted to provide a service if:

1. The practitioner knows the limitation, modification, or restriction exists or that a similarly licensed practitioner in this state would not be permitted to provide the service; or

2. From all the facts and circumstances known to the practitioner at the relevant time, a reasonable person would conclude that the limitation, modification, or restriction exists or that a similarly licensed practitioner in this state would not be permitted to provide the service.

F. In addition to the authority granted by law of this state other than the Uniform Emergency Volunteer Health Practitioners Act to regulate the conduct of health practitioners, a licensing board or other disciplinary authority in this state:

1. May impose administrative sanctions upon a health practitioner licensed in this state for conduct outside of this state in response to an out-of-state emergency;

2. May impose administrative sanctions upon a practitioner not licensed in this state for conduct in this state in response to an in-state emergency; and

3. Shall report any administrative sanctions imposed upon a practitioner licensed in another state to the appropriate licensing board or other disciplinary authority in any other state in which the practitioner is known to be licensed.

G. In determining whether to impose administrative sanctions under subsection F of this section, a licensing board or other disciplinary authority shall consider the circumstances in which the conduct took place, including any exigent circumstances, and the

scope of practice, education, training, experience, and specialized skill of the practitioner.
Added by Laws 2013, 1st Ex. Sess., c. 3, § 10, emerg. eff. Sept. 10, 2013.
NOTE: Text formerly resided under repealed Title 63, § 684.21, which was derived from Laws 2009, c. 228, § 38, which was held unconstitutional by the Oklahoma Supreme Court in the case of Douglas v. Cox Retirement Properties, Inc., 2013 OK 37, 302 P.2d 789 (Okla. 2013).

§63-684.33. Relation to other laws.

A. The Uniform Emergency Volunteer Health Practitioners Act does not limit rights, privileges, or immunities provided to volunteer health practitioners by laws other than the Uniform Emergency Volunteer Health Practitioners Act. Except as otherwise provided in subsection B of this section, the Uniform Emergency Volunteer Health Practitioners Act does not affect requirements for the use of health practitioners pursuant to the Emergency Management Assistance Compact.

B. The State Department of Health, pursuant to the Emergency Management Assistance Compact, may incorporate into the emergency forces of this state volunteer health practitioners who are not officers or employees of this state, a political subdivision of this state, or a municipality or other local government within this state.
Added by Laws 2013, 1st Ex. Sess., c. 3, § 11, emerg. eff. Sept. 10, 2013.
NOTE: Text formerly resided under repealed Title 63, § 684.22, which was derived from Laws 2009, c. 228, § 39, which was held unconstitutional by the Oklahoma Supreme Court in the case of Douglas v. Cox Retirement Properties, Inc., 2013 OK 37, 302 P.2d 789 (Okla. 2013).

§63-684.34. Regulatory authority.

The State Board of Health may promulgate rules to implement the Uniform Emergency Volunteer Health Practitioners Act. In doing so, the State Department of Health shall consult with and consider the recommendations of the entity established to coordinate the implementation of the Emergency Management Assistance Compact and shall also consult with and consider rules promulgated by similarly empowered agencies in other states to promote uniformity of application of the Uniform Emergency Volunteer Health Practitioners Act and make the emergency response systems in the various states reasonably compatible.
Added by Laws 2013, 1st Ex. Sess., c. 3, § 12, emerg. eff. Sept. 10, 2013.

NOTE: Text formerly resided under repealed Title 63, § 684.23, which was derived from Laws 2009, c. 228, § 40, which was held unconstitutional by the Oklahoma Supreme Court in the case of Douglas v. Cox Retirement Properties, Inc., 2013 OK 37, 302 P.2d 789 (Okla. 2013).

§63-684.35. Uniformity of application and construction.

In applying and construing the Uniform Emergency Volunteer Health Practitioners Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Added by Laws 2013, 1st Ex. Sess., c. 3, § 13, emerg. eff. Sept. 10, 2013.

NOTE: Text formerly resided under repealed Title 63, § 684.24, which was derived from Laws 2009, c. 228, § 41, which was held unconstitutional by the Oklahoma Supreme Court in the case of Douglas v. Cox Retirement Properties, Inc., 2013 OK 37, 302 P.2d 789 (Okla. 2013).

§63-685.1. Citation.

This act shall be known and may be cited as the "Emergency Interim Executive and Judicial Succession Act", and shall be cumulative to the Oklahoma Emergency Management Act of 2003.

Added by Laws 1959, p. 212, § 1, emerg. eff. June 5, 1959. Amended by Laws 1963, c. 270, § 1, emerg. eff. June 13, 1963; Laws 2003, c. 329, § 28, emerg. eff. May 29, 2003.

§63-685.2. Findings and declarations.

Because of the existing possibility of natural and man-made emergencies and disasters in the United States of unprecedented size and destructiveness, and in the event such an incident occurs: to assure continuity of government through legally-constituted leadership, authority and responsibility in offices of the government of the state and its political subdivisions; to provide for the effective operation of governments during an emergency caused by an incident in the United States; and to facilitate the early resumption of functions temporarily suspended, it is found and declared to be necessary: to provide for additional officers who can exercise the powers and discharge the duties of Governor; to provide for emergency interim succession to governmental offices of this state and its political subdivisions in the event incumbents thereof (and their deputies, assistants or other subordinate officers authorized, pursuant to law, to exercise all of the powers and discharge the duties of such offices hereinafter referred to as deputies) are unavailable to perform the duties and functions of such offices; and to provide for special emergency judges who can exercise the powers and discharge the duties of judicial offices in

the event regular judges are unavailable, the provisions of this act are adopted to meet emergency conditions, which result from natural and man-made emergencies and disasters in the United States.
Added by Laws 1959, p. 212, § 2, emerg. eff. June 5, 1959. Amended by Laws 1963, c. 270, § 2, emerg. eff. June 13, 1963; Laws 2003, c. 329, § 29, emerg. eff. May 29, 2003.

§63-685.3. Definitions.

As used in this act:

1. "Unavailable" means either that a vacancy in office exists and there is no deputy authorized to exercise all of the powers and discharge the duties of the office, or that the lawful incumbent of the office, including any deputy exercising the powers and discharging the duties of an office because of a vacancy, and the duly authorized deputy are absent or unable to exercise the powers and discharge the duties of the offices;

2. "Emergency interim successor" means a person designated pursuant to this act, in the event the officer is unavailable, to exercise the powers and discharge the duties of an office until a successor is appointed or elected and qualified as may be provided by the Constitution, statutes, charters and ordinances or until the lawful incumbent is able to resume the exercise of the powers and discharge the duties of the office;

3. "Office" includes all state and local offices, the powers and duties of which are defined by the Constitution, statutes, charters and ordinances, except the office of Governor, and except those in the Legislature and the judiciary;

4. “Emergency” means any occasion or instance for which, in the determination of the President of the United States or the Governor of the State of Oklahoma, federal or state assistance is needed to supplement state and local efforts and capabilities to save lives and protect property and public health and safety, or to lessen or avert threat or catastrophe in any part of the state;

5. "Political subdivision" includes counties, cities, towns, districts, authorities and other public corporations and entities whether organized and existing under charter or general law;

6. "Deputy" means a person legally authorized by an officer to exercise the office or right which the official possesses, for and in place of the officer; and

7. “Man-made disaster” means a disaster caused by acts of man including, but not limited to, an act of war, terrorism, chemical spill or release, and power shortage that require assistance in addition to the assistance of the local political subdivision.
Added by Laws 1959, p. 212, § 3, emerg. eff. June 5, 1959. Amended by Laws 1963, c. 270, § 3, emerg. eff. June 13, 1963; Laws 2003, c. 329, § 30, emerg. eff. May 29, 2003.

§63-685.4. Emergency interim succession to office of Governor.

Whenever a natural or man-made disaster or emergency occurs in the United States, and in the event that the Governor, for any of the reasons specified in Article VI, Section 16 of the Oklahoma Constitution, is not able to exercise the powers and discharge the duties of the Governor's office, or is unavailable, and in the event the Lieutenant Governor, President Pro Tempore of the Senate, and the Speaker of the House of Representatives be for any of the reasons specified in the Constitution not able to exercise the powers and discharge the duties of the office of Governor, or be unavailable, the State Auditor and Inspector, Attorney General, State Treasurer, Superintendent of Public Instruction, Commissioner of Labor, and members of the Corporation Commission in the order of their election districts, shall each in the order named, if no officer higher in the enumerated order is available, exercise the powers and discharge the duties of the office of Governor until a new Governor is elected and qualified; provided, however, that no emergency interim successor to the aforementioned offices may serve as Governor.

Added by Laws 1959, p. 212, § 4, emerg. eff. June 5, 1959. Amended by Laws 1963, c. 270, § 4, emerg. eff. June 13, 1963; Laws 1979, c. 30, § 161, emerg. eff. April 6, 1979; Laws 2003, c. 329, § 31, emerg. eff. May 29, 2003.

§63-685.5. Emergency interim succession to state offices other than Governor.

All state officers, other than the Governor, subject to such regulations as the Governor, or other official authorized under the Constitution and this act to exercise the powers and discharge the duties of the Office of Governor, may issue, upon approval of this act, in addition to any deputy, shall designate, by the title of their office or position, emergency interim successors and specify their order of succession. The officer shall review and revise, as necessary, designations made pursuant to this act to ensure their current status. The officer shall designate a sufficient number of such emergency interim successors so that there will be not less than three nor more than seven deputies or emergency interim successors or any combination thereof, at any time. In the event that any state officer is unavailable following an emergency or disaster, and in the event a deputy, if any, is also unavailable, the said powers of the office shall be exercised and said duties of the office shall be discharged by the designated emergency interim successors in the order specified. The authority of an emergency successor shall cease:

1. When the incumbent of the office, or a deputy or an interim successor higher in designation becomes available to exercise the powers and to perform the duties of the office; or

2. When a successor to the office has been duly elected or appointed and has qualified according to law.

Added by Laws 1959, p. 213, § 5, emerg. eff. June 5, 1959. Amended by Laws 1963, c. 270, § 5, emerg. eff. June 13, 1963; Laws 2003, c. 329, § 32, emerg. eff. May 29, 2003.

§63-685.6. Interim succession to political subdivision offices.

The respective officers of each city or incorporated town, and of all other political subdivisions, of this state, shall designate interim successors, and shall specify the order of succession of deputies and interim successors, in the same manner, and with the same effect, as is provided for state officers by Section 5 hereof.

Laws 1959, p. 213, § 6; Laws 1963, c. 270, § 6, emerg. eff. June 13, 1963.

§63-685.7. Special emergency judges.

Whenever an emergency or disaster occurs in the United States, and in the event that any judge of any court is unavailable to exercise the powers and discharge the duties of the office, and no other judge authorized to act or no special judge appointed in accordance with the provisions of the Constitution or statutes is available to exercise the powers and discharge the duties of such office, the duties of the office shall be discharged and the powers exercised by the special emergency judges, each of whom shall otherwise be qualified to serve as a judge, as hereinafter provided for:

1. The Governor shall designate for each member of the Supreme Court special emergency judges in the number of not less than three nor more than seven for each member of said court, and shall specify the order of their succession.

2. The Governor shall designate for each member of the Court of Criminal Appeals special emergency judges in the number of not less than three nor more than seven for each member of said court, and shall specify the order of their succession.

3. The Chief Justice of the Supreme Court, in consultation with the other members of said court, shall designate for each court of record, except the Supreme Court and the Court of Criminal Appeals, special emergency judges in the number of not less than three nor more than seven for each judge of said courts and shall specify their order of succession.

4. The judge of the district court, or the senior judge of any such district, in consultation with the other district judges of that district, where there is more than one judge shall designate not less than three nor more than seven emergency judges for courts not of record within that district and shall specify their order of succession.

Such special emergency judges shall, in the order specified, exercise the powers and discharge the duties of such office in case of the unavailability of the regular judge or judges or persons immediately preceding them in the designation. The designating authority shall review and revise, as necessary, designations made pursuant to this act to ensure their current status.

Said special emergency judges shall discharge the duties and exercise the powers of such office until such time as a vacancy which may exist shall be filled in accordance with the Constitution and statutes or until the regular judge or one preceding the designee in the order of succession becomes available to exercise the powers and discharge the duties of the office.

Added by Laws 1959, p. 213, § 7, emerg. eff. June 5, 1959. Amended by Laws 1963, c. 270, § 7, emerg. eff. June 13, 1963; Laws 2003, c. 329, § 33, emerg. eff. May 29, 2003.

§63-685.8. Oaths.

At the time of their designation, emergency interim successors and special emergency judges shall take such oath as may be required for them to exercise the powers and discharge the duties of the office to which they may succeed. Notwithstanding any other provision of law, no person, as a prerequisite to the exercise of the powers or discharge of the duties of an office to which he succeeds, shall be required to comply with any other provisions of law relative to taking office.

Laws 1959, p. 214, § 8; Laws 1963, c. 270, § 8, emerg. eff. June 13, 1963.

§63-685.9. Limitation on exercise of powers and duties by interim successors and special emergency judges - Termination of authority by Legislature.

Officials authorized to act as Governor pursuant to this act, emergency interim successors and special emergency judges are empowered to exercise the powers and discharge the duties of an office as herein authorized only after an emergency or disaster occurs in the United States, as defined herein, has occurred. The Legislature by concurrent resolution may, at any time, terminate the authority of said emergency interim successors and special emergency judges to exercise the powers and discharge the duties of office as herein provided.

Added by Laws 1959, p. 214, § 9, emerg. eff. June 5, 1959. Amended by Laws 1963, c. 270, § 9, emerg. eff. June 13, 1963; Laws 2003, c. 329, § 34, emerg. eff. May 29, 2003.

§63-685.10. Removal of successors.

Until such time as the persons designated as emergency interim successors or special emergency judges are authorized to exercise

the powers and discharge the duties of an office in accordance with this act, including Section 9 hereof, said persons may be removed or replaced by said designating authority at any time, with or without cause.
Laws 1959, p. 214, § 10; Laws 1963, c. 270, § 10, emerg. eff. June 13, 1963.

§63-685.11. Disputes.
Any dispute concerning a question of fact arising under this act with respect to an office in the executive branch of the state government (except a dispute of fact relative to the Office of Governor) shall be adjudicated by the Governor (or other official authorized under the Constitution and this act to exercise the powers and discharge the duties of the office of Governor) and his decision shall be final. Such disputes with respect to the Office of Governor shall be determined by the Supreme Court.
Laws 1959, p. 214, § 11; Laws 1963, c. 270, § 11, emerg. eff. June 13, 1963.

§63-686.1. Citation.
This act shall be known as the "Emergency Management Interim Legislative Succession Act" and shall be cumulative to the Oklahoma Emergency Management Act of 2003.
Added by Laws 1959, p. 215, § 1, emerg. eff. June 5, 1959. Amended by Laws 1963, c. 340, § 1, emerg. eff. June 24, 1963; Laws 2003, c. 329, § 35, emerg. eff. May 29, 2003.

§63-686.2. Declarations.
The Legislature declares:
1. Because of existing possibilities of natural or man-made disasters or emergencies of unprecedented destructiveness, which may result in the death or inability to act of a large proportion of the membership of the Legislature; and
2. Because to conform in time of emergency or disaster to existing legal requirements pertaining to the Legislature would be impracticable, and would jeopardize continuity of operation of a legally constituted Legislature; it is therefore necessary to adopt special provisions as hereinafter set out for the effective operation of the Legislature during natural or man-made disasters or emergencies.
Added by Laws 1959, p. 215, § 2, emerg. eff. June 5, 1959. Amended by Laws 1963, c. 340, § 2, emerg. eff. June 24, 1963; Laws 2003, c. 329, § 36, emerg. eff. May 29, 2003.

§63-686.3. Definitions.
As used in this act:

1. ”Emergency” means any occasion or instance for which, in the determination of the President of the United States or the Governor of the State of Oklahoma, federal or state assistance is needed to supplement state and local efforts and capabilities to save lives, protect property, public health and safety, or to lessen or avert threat of a catastrophe in any part of the state;

2. “Man-made disaster” means a disaster caused by acts of man including, but not limited to, an act of war, terrorism, chemical spill or release, or a power shortage that requires assistance from outside the local political subdivision; and

3. "Unavailable" means absent from the place of session, other than on official business of the Legislature, or unable, for physical, mental or legal reasons, to exercise the powers and discharge the duties of a legislator, whether or not such absence or inability would give rise to a vacancy under existing constitutional or statutory provisions.

Added by Laws 1959, p. 215, § 3, emerg. eff. June 5, 1959. Amended by Laws 1963, c. 340, § 3, emerg. eff. June 24, 1963; Laws 2003, c. 329, § 37, emerg. eff. May 29, 2003.

§63-686.4. Designation of emergency interim successor.

Each legislator shall designate not fewer than three nor more than seven emergency interim successors to his powers and duties and specify their order of succession. Each legislator shall review and, as necessary, promptly revise the designations of emergency interim successors to his powers and duties to insure that at all times there are at least three such qualified emergency interim successors.

Laws 1959, p. 215, § 4; Laws 1963, c. 340, § 4, emerg. eff. June 24, 1963.

§63-686.5. Emergency interim successor defined - Qualification - Tenure.

An emergency interim successor is one who is designated for possible temporary succession to the powers and duties, but not the office, of a legislator. No person shall be designated or serve as an emergency interim successor unless he may, under the Constitution and statutes hold the office of the legislator to whose powers and duties he is designated to succeed, but no constitutional or statutory provision prohibiting a legislator from holding another office or prohibiting the holder of another office from being a legislator shall be applicable to an emergency interim successor. An emergency interim successor shall serve at the pleasure of the legislator designating him or of any subsequent incumbent of the legislative office.

Laws 1959, p. 215, § 5; Laws 1963, c. 340, § 5, emerg. eff. June 24, 1963.

§63-686.6. Maintaining minimum number of successors.

Prior to an emergency or disaster, if a legislator fails to designate the required minimum number of emergency interim successors within sixty (60) days following the effective date of this act or, after such period, if for any reason the number of emergency interim successors for any legislator falls below the required minimum and remains below such minimum for a period of sixty (60) days, then the floor leader of the same political party in the same house as such legislator shall, by and with the consent of the Speaker of the House of Representatives or President Pro Tempore of the Senate, promptly designate as many emergency interim successors as are required to achieve such minimum number, but the floor leader shall not assign to any designees a rank in order of succession higher than that of any remaining emergency interim successor previously designated by a legislator for succession to the legislator's own powers and duties. Each emergency interim successor designated by the floor leader shall serve at the pleasure of the designating person, but the legislator for whom the emergency successor is designated or any subsequent incumbent of the office may change the rank in order of succession or replace at the pleasure of the designating person any emergency interim successor so designated.

Added by Laws 1959, p. 215, § 6, emerg. eff. June 5, 1959. Amended by Laws 1963, c. 340, § 6, emerg. eff. June 24, 1963; Laws 2003, c. 329, § 38, emerg. eff. May 29, 2003.

§63-686.7. Effective date of designations and removals - Recording.

Each designation of an emergency interim successor shall become effective when the legislator or party floor leader making the designation files with the Secretary of State the successor's name, address and rank in order of succession. The removal of an emergency interim successor or change in order of succession shall become effective when the legislator or party floor leader, so acting, files this information with the Secretary of State. All such data shall be open to public inspection. The Secretary of State shall inform the Governor, the Oklahoma Department of Emergency Management, the journal clerk of the house concerned and all emergency interim successors, of all such designations, removals and changes in order of succession. The journal clerk of each house shall enter all information regarding emergency interim successors for the house in its public journal at the beginning of each legislative session and shall enter all changes in membership or order of succession as soon as possible after the occurrence.

Added by Laws 1959, p. 216, § 7, emerg. eff. June 5, 1959. Amended by Laws 1963, c. 340, § 7, emerg. eff. June 24, 1963; Laws 2003, c. 329, § 39, emerg. eff. May 29, 2003.

§63-686.8. Oaths.

Promptly after designation each emergency interim successor shall take the oaths required for the legislator to whose powers and duties he is designated to succeed. No other oath shall be required. The oath shall be administered (by the Speaker of the House of Representatives for the emergency interim successors designated for that house, and by the President Pro Tempore of the Senate for the emergency interim successors designated to serve for the Senate.)

Laws 1959, p. 216, § 8; Laws 1963, c. 340, § 8, emerg. eff. June 24, 1963.

§63-686.9. Successors to keep informed.

Each emergency interim successor shall keep himself generally informed as to the duties, procedures, practices and current business of the Legislature, and each legislator shall assist his emergency interim successors to keep themselves so informed.

Laws 1959, p. 216, § 9; Laws 1963, c. 340, § 9, emerg. eff. June 24, 1963.

§63-686.10. Changing place of session.

Whenever, in the event of an emergency or disaster or upon finding that an emergency or disaster may be imminent, the Governor deems the place of session then prescribed to be unsafe, the Governor may change it to any place within the state which the Governor deems safer and more convenient.

Added by Laws 1959, p. 216, § 10, emerg. eff. June 5, 1959. Amended by Laws 1963, c. 340, § 10, emerg. eff. June 24, 1963; Laws 2003, c. 329, § 40, emerg. eff. May 29, 2003.

§63-686.11. Calling of session - Limitations suspended.

In the event of an emergency or disaster, the Governor shall call the Legislature into session as soon as practicable, and in any case within thirty (30) days following the inception of the emergency or disaster. Each legislator and each emergency interim successor, unless the Governor is certain that the legislator to whose powers and duties the legislator is designated to succeed or any emergency interim successor higher in order of succession will not be unavailable, shall proceed to the place of session as expeditiously as practicable. At such session or at any session in operation at the inception of the emergency or disaster, and at any subsequent session, limitations on the length of session and on the subjects which may be acted upon shall be suspended.

Added by Laws 1959, p. 216, § 11, emerg. eff. June 5, 1959. Amended by Laws 1963, c. 340, § 11, emerg. eff. June 24, 1963; Laws 2003, c. 329, § 41, emerg. eff. May 29, 2003.

§63-686.12. Exercise of powers and duties by successors - Ouster provisions applicable.

If, in the event of an emergency or disaster a legislator is unavailable, the emergency interim successor highest in order of succession who is not unavailable shall, except for the power and duty to appoint emergency interim successors, exercise the powers and assume the duties of such legislator. An emergency interim successor shall exercise these powers and assume these duties until the incumbent legislator, an emergency interim successor higher in order of succession, or a legislator appointed or elected and legally qualified can act. Each house of the Legislature shall, in accordance with its own rules, determine who is entitled under the provisions of this act to exercise the powers and assume the duties of its members. All constitutional and statutory provisions pertaining to ouster of a legislator shall be applicable to an emergency interim successor who is exercising the powers and assuming the duties of a legislator.

Added by Laws 1959, p. 216, § 12, emerg. eff. June 5, 1959. Amended by Laws 1963, c. 340, § 12, emerg. eff. June 24, 1963; Laws 2003, c. 329, § 42, emerg. eff. May 29, 2003.

§63-686.13. Privileges and immunities - Compensation and allowances.

When an emergency interim successor exercises the powers and assumes the duties of a legislator, the emergency interim successor shall be accorded the privileges and immunities, compensation, allowances and other perquisites of office to which a legislator is entitled. In the event of an emergency or disaster, each emergency interim successor, whether or not called upon to exercise the powers and assume the duties of a legislator, shall be accorded the privileges and immunities of a legislator while traveling to and from a place of session and shall be compensated for travel in the same manner and amount as a legislator. This section shall not in any way affect the privileges, immunities, compensation, allowances or other perquisites of office of an incumbent legislator.

Added by Laws 1959, p. 216, § 13, emerg. eff. June 5, 1959. Amended by Laws 1963, c. 340, § 13, emerg. eff. June 24, 1963; Laws 2003, c. 329, § 43, emerg. eff. May 29, 2003.

§63-686.14. Termination of authority.

The authority of emergency interim successors to succeed to the powers and duties of legislators, the operation of the provisions of this act relating to quorum, the number of affirmative votes required for legislative action, and limitations on the length of sessions and the subjects which may be acted upon shall expire two (2) years following the inception of an emergency or disaster, but

nothing herein shall prevent the resumption before such time of the filling of legislative vacancies and the calling of elections for the Legislature in accordance with applicable constitutional and statutory provisions. The Governor, acting by proclamation, or the Legislature, acting by concurrent resolution, may from time to time extend or restore such authority or the operation of any of such provisions upon a finding that events render the extension or restoration necessary, but no extension or restoration shall be for a period of more than one (1) year.
Added by Laws 1959, p. 217, § 14, emerg. eff. June 5, 1959. Amended by Laws 1963, c. 340, § 14, emerg. eff. June 24, 1963; Laws 2003, c. 329, § 44, emerg. eff. May 29, 2003.

§63-687.1. Citation.
This act shall be known as the "Emergency Interim Relocation Act", and shall be cumulative to the Oklahoma Emergency Management Act of 2003.
Added by Laws 1961, p. 587, § 1, emerg. eff. July 11, 1961. Amended by Laws 2003, c. 329, § 45, emerg. eff. May 29, 2003.

§63-687.2. Definitions.
As used in this act:
1. “Emergency” means any occasion or instance for which, in the determination of the President of the United States or the Governor of the State of Oklahoma, federal or state assistance is needed to supplement state and local efforts and capabilities to save lives, protect property, public health and safety, or to lessen or avert the threat of a catastrophe in any part of the state; and
2. “Man-made disaster” means a disaster caused by acts of man including, but not limited to, an act of war, terrorism, chemical spill or release, or power shortage that requires assistance from outside the local political subdivision.
Added by Laws 1961, p. 587, § 2, emerg. eff. July 11, 1961. Amended by Laws 2003, c. 329, § 46, emerg. eff. May 29, 2003.

§63-687.3. Temporary disaster locations for seat of state government.
A. Whenever a disaster makes it imprudent or impossible to conduct the affairs of state government at its seat in Oklahoma City, Oklahoma, the Governor may proclaim temporary locations for the seat of state government at any place he deems advisable, either inside or outside of the state. The Governor may issue necessary orders for orderly transition of the affairs of government to any temporary emergency or man-made disaster location, which remains the seat of state government until the Legislature establishes a new location, or until the emergency or man-made disaster is declared

ended by the Legislature and the seat is returned to its normal location in Oklahoma City, Oklahoma.

B. Any official act or meeting required to be performed at the seat of state government is valid when performed at a temporary emergency or man-made disaster location under this section.

Added by Laws 1961, p. 588, § 3, emerg. eff. July 11, 1961. Amended by Laws 2003, c. 329, § 47, emerg. eff. May 29, 2003.

§63-687.4. Temporary disaster locations for seat of local government.

A. Whenever an emergency or man-made disaster makes it imprudent or impossible to conduct the affairs of any local government at its regular location, the governing body may meet at any place, inside or outside the limits of the political subdivision, at the call of the presiding officer or any two members of the governing body, and designate by ordinance a temporary emergency or man-made disaster location of the local government, which remains the seat of the local government until the governing body establishes a new location or until the emergency or man-made disaster is declared ended by the Legislature and the seat is returned to its normal location.

B. Any official act or meeting required to be performed at the seat of the local government is valid when performed at a temporary emergency or man-made disaster location under this section.

Added by Laws 1961, p. 588, § 4, emerg. eff. July 11, 1961. Amended by Laws 2003, c. 329, § 48, emerg. eff. May 29, 2003.

§63-688.1. Repealed by Laws 2006, c. 199, § 13, emerg. eff. May 26, 2006.

§63-688.2. Repealed by Laws 2006, c. 199, § 13, emerg. eff. May 26, 2006.

§63-688.3. Repealed by Laws 2006, c. 199, § 13, emerg. eff. May 26, 2006.

§63-688.4. Repealed by Laws 2006, c. 199, § 13, emerg. eff. May 26, 2006.

§63-688.5. Repealed by Laws 2006, c. 199, § 13, emerg. eff. May 26, 2006.

§63-689. Repealed by Laws 2003, c. 292, § 2, emerg. eff. May 27, 2003.

§63-689.1. Renumbered as § 4-2-102 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-689.1B. Renumbered as § 4-2-104 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-689.2. Renumbered as § 4-2-105 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-690.1. Short title – Purposes.

A. Sections 7 through 12 of this act shall be known and may be cited as the "Oklahoma Flood Hazard Mitigation Program".

B. The purposes of the Oklahoma Flood Hazard Mitigation Program are to provide:

1. An orderly and continuing means of assistance by the state government to political subdivisions of this state in carrying out their responsibilities to alleviate the suffering and damage that result from flooding by:

a. providing state assistance programs for public losses and needs sustained in flood disasters,

b. encouraging the development of comprehensive disaster preparedness and assistance plans, programs, capabilities, and organizations by the state and political subdivisions,

c. achieving greater coordination and responsiveness of flood disaster preparedness and relief programs, and

d. encouraging hazard mitigation measures, such as development of land-use and construction regulations, floodplain management, and environmental planning, to reduce losses from flood disasters in municipalities;

2. For the protection of life and property and to limit the repetitive expenditures of public funds in areas that are subject to chronic flooding and other flood disasters;

3. Financial assistance to local governments for the development and implementation of flood hazard mitigation projects;

4. For the cooperation of state environmental agencies and other state and federal agencies in the development and implementation of the Oklahoma Flood Hazard Mitigation Program; and

5. For the establishment of land development principles which will eliminate inappropriate and unsafe real estate development in municipal areas subject to repetitive or chronic flooding.

Added by Laws 1999, c. 57, § 7, eff. July 1, 1999.

§63-690.2. Definitions.

For purposes of the Oklahoma Flood Hazard Mitigation Program:

1. "Board" means the Oklahoma Water Resources Board;

2. "Department" means the Oklahoma Department of Emergency Management;

3. "Dwelling unit" means a place of residence and may be a single- or multiple-dwelling building;

4. "Flood" or "flooding" means general and temporary conditions of partial or complete inundation of normally dry land areas from the overflow of lakes, streams, rivers, or any other inland waters and from surface run-off;

5. "Flood hazard mitigation" means any cost-effective measure which will reduce or eliminate the effects of a flood disaster;

6. "Flood hazard mitigation projects" means those projects designed to correct, alleviate or eliminate a condition or situation which poses a repetitive threat to life, property, or public safety from the effects of a flood disaster;

7. "Flood disaster" means any flood catastrophe, including but not limited to high water, flood waters, or wind-driven water which causes damage of sufficient severity and magnitude to warrant flood hazard mitigation or the use of resources of the federal government, or the state and political subdivisions thereof to alleviate the damage, loss, hardship, or suffering caused thereby;

8. "Political subdivision" means any county, city, town, or municipal corporation of the State of Oklahoma;

9. "Real property" includes all lands, including improvements and fixtures thereon, and property of any nature which is appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein including terms for years; and

10. "State Hazard Mitigation Team" means the entity created pursuant to Section 683.6 of this title.

Added by Laws 1999, c. 57, § 8, eff. July 1, 1999. Amended by Laws 2003, c. 329, § 49, emerg. eff. May 29, 2003.

§63-690.3. Duties of Department of Emergency Management.

A. In addition to other responsibilities and duties specified by law, the Oklahoma Department of Emergency Management:

1. Shall develop and maintain flood hazard mitigation measures for this state, as a component of the state's comprehensive hazard mitigation plan and consistent with the flood hazard mitigation plans of the federal government to the fullest possible extent. The Department shall coordinate and encourage the development and publication of flood hazard mitigation plans by political subdivisions to ensure that such political subdivision plans are consistent with the flood hazard mitigation measures in the comprehensive hazard mitigation plan of this state to the fullest possible extent;

2. Shall provide guidance, information and training sufficient to allow political subdivisions to request state and federal natural disaster assistance;

3. Shall coordinate the development and maintenance of flood hazard mitigation projects with other state and federal programs;

4. Shall set mitigation priorities based upon recommendations of the State Hazard Mitigation Team;

5. May, after recommendation from the State Hazard Mitigation Team, approve applications for grants and loans to political subdivisions for flood hazard mitigation projects from any funds available for such purposes pursuant to the considerations specified by Section 690.4 of this title;

6. Shall evaluate, after recommendation from the State Hazard Mitigation Team, and award grant or loan applications based upon minimum eligibility criteria and state priorities;

7. Shall be the initial recipient of applications for loans and grants for flood hazard mitigation activities from political subdivisions; and

8. Shall have the State Hazard Mitigation Team meet as needed to review loan and grant applications and provide recommendations thereon to the Department.

B. The Department shall be the lead agency and shall compile and submit to the Federal Emergency Management Agency an application to receive funds pursuant to the Flood Hazard Mitigation Financial Assistance Program, the Hazard Mitigation Grant Program or any other flood assistance programs, and other public or private planning or project grants to implement measures to reduce flood losses.

C. The Department shall also have authority to:

1. Establish advisory councils with sufficient geographic balance to ensure statewide representation;

2. Coordinate central files and clearinghouse procedures for flood hazard mitigation resource data information and encourage the use of compatible information and standards; and

3. Provide to the extent practicable financial, technical, research, and other assistance to effectuate the purposes of the Oklahoma Flood Hazard Mitigation Program.

D. The Department shall promulgate, by rule, procedures and criteria for the evaluation of grant and subgrant applications that seek to receive a portion of those funds made available to this state for flood hazard mitigation.

Added by Laws 1999, c. 57, § 9, eff. July 1, 1999. Amended by Laws 2003, c. 329, § 50, emerg. eff. May 29, 2003.

§63-690.4. Grants or loans for flood hazard mitigation.

A. A political subdivision of this state may apply to the Oklahoma Department of Emergency Management for a grant or loan for flood hazard mitigation projects on forms provided by the Department.

B. Grants or loans for flood hazard mitigation shall be prioritized by the State Hazard Mitigation Team based on the following considerations:

1. The extent and effectiveness of flood mitigation measures already implemented by the political subdivision requesting the grant;

2. The feasibility, practicality, and effectiveness of the proposed flood mitigation measures and the associated benefits and detriments;

3. The level of assistance that should be provided to the political subdivision, based on available facts regarding the nature, extent, and severity of the flood hazard problems;

4. The frequency of occurrence of flooding disasters that has resulted in declaration of the area as a flood disaster area by the Governor of this state or by the President of the United States;

5. The economic, social, and environmental benefits and detriments of the proposed flood mitigation measures;

6. Whether the floodplain management ordinance or regulation adopted by the political subdivision meets the minimum standards established by the Federal Emergency Management Agency, the degree of enforcement of the ordinance or regulation, and whether the political subdivision is complying with the ordinance or regulation;

7. The financial capability of the political subdivision to solve its flood hazard problems without financial assistance; and

8. The estimated cost and method of financing of the proposed flood mitigation measures based on local money and federal and state financial assistance.

C. A grant shall not exceed seventy-five percent (75%) of the total cost of the proposed mitigation project and a loan shall not exceed the total cost of the proposed mitigation project.

Added by Laws 1999, c. 57, § 10, eff. July 1, 1999. Amended by Laws 2003, c. 329, § 51, emerg. eff. May 29, 2003.

§63-690.5. Recommendation of priorities for flood hazard mitigation projects.

In addition to other responsibilities designated or assigned to it by the Department, the State Hazard Mitigation Team shall have the power and duty to recommend priorities for flood hazard mitigation projects for purposes of providing grants or loans for such projects, based upon considerations specified by Section 690.4 of this title.

Added by Laws 1999, c. 57, § 11, eff. July 1, 1999. Amended by Laws 2003, c. 329, § 52, emerg. eff. May 29, 2003.

§63-690.6. Funding of acquisition of real property by municipalities.

A. The Legislature declares it to be necessary for the public health and welfare to provide a means for municipalities in this state to implement measures to reduce losses from flood disasters. The acquisition of real property for this objective shall constitute a public purpose for which public funds may be expended.

B. Municipalities are empowered and authorized to acquire fee title to real property and easements therein by purchase, gift, devise, lease or otherwise for flood control.

C. Title information, appraisal reports, offers, and counteroffers are confidential until an option contract is executed or, if no option contract is executed, until thirty (30) days before a contract or agreement for purchase is considered for approval by the governing board of the municipality. However, each municipality may, at its discretion, disclose appraisal reports to private landowners during negotiations for acquisitions using alternatives to fee simple techniques, if the municipality determines that disclosure of such reports will bring the proposed acquisition to closure. In the event that negotiation is terminated by the municipality, the title information, appraisal report, offers, and counteroffers shall become available to the public.

D. Real property acquired for the purposes enumerated in this section may also be used for recreational purposes, and whenever practicable such real property shall be open to the general public for recreational uses. Except when prohibited by a covenant or other restriction, real property managed and controlled by the municipality may be used for multiple purposes, including, but not limited to, agriculture and silviculture, as well as boating and other recreational uses.

E. The provisions of this section shall not limit the exercise of similar powers delegated by statute to any state or political subdivision of this state.

Added by Laws 1999, c. 57, § 12, eff. July 1, 1999.

§63-695.1. Short title.

Sections 3 through 12 of this act shall be known and may be cited as the “Oklahoma Intrastate Mutual Aid Compact”.

Added by Laws 2006, c. 199, § 3, emerg. eff. May 26, 2006.

§63-695.2. Purpose - Definitions - Statewide mutual aid system - Reimbursement.

A. The purpose of the Oklahoma Intrastate Mutual Aid Compact is to create a system of intrastate mutual aid between participating jurisdictions in the state.

B. As used in the Oklahoma Intrastate Mutual Aid Compact:

1. "Jurisdiction" means any county, city, town or municipal corporation of the State of Oklahoma represented by an elected

governing body and city-county health department created pursuant to the Oklahoma Public Health Code.

Sovereign Tribal Nations in the State of Oklahoma shall also be considered jurisdictions under the Oklahoma Intrastate Mutual Aid Compact and participating unless electing not to participate or later withdrawing from the system.

Public universities in this state which maintain CLEET-certified law enforcement agencies may elect to be considered jurisdictions under the provisions of this act and shall retain the right to later withdraw from the system;

2. "Emergency" means any occasion or instance for which assistance is needed to supplement local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe; and

3. "Emergency responder" means anyone with special skills, qualifications, training, knowledge, and experience in the public or private sectors that would be beneficial to a participating jurisdiction in response to a local emergency as defined in applicable law or ordinance or authorized drill or exercise.

C. Each participant of the system shall recognize that emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential for the protection of lives and property and for best use of available assets both public and private. The system shall provide for mutual assistance among the participating jurisdictions in the prevention of, response to, and recovery from, any disaster or emergency, or any other activity, as determined by the participating jurisdictions. The system shall provide for mutual cooperation among the participating jurisdictions in conducting disaster-related exercises, testing, or other training activities outside actual declared emergency periods. This legislation provides no immunity, rights, or privileges for any individual responding to a state of emergency that is not requested and/or authorized to respond by a participating jurisdiction. Participating jurisdictions will be ensured eligibility, to the fullest extent possible, for state and federal disaster funding.

D. All jurisdictions within the state, upon enactment of this legislation, are automatically a part of the statewide mutual aid system. A jurisdiction within the state may elect not to participate or to later withdraw from the system upon enacting an appropriate resolution by its governing body declaring that it elects not to participate in the statewide mutual aid system and providing a copy of the resolution to the Oklahoma Department of Emergency Management. This legislation does not preclude participating jurisdictions from entering into supplementary agreements with another jurisdiction and does not affect any other agreement to which a jurisdiction may currently be a party or decide to be a party to.

E. Many disasters begin as emergencies where local jurisdictions require fire service and/or law enforcement assistance. These services would normally be requested and provided at the department level as normal day-to-day operations with no reimbursement. If an incident response expands beyond a normal day-to-day emergency into a disaster situation, reimbursement for mutual aid services may be necessary and will be in accordance with the Federal Emergency Management Agency reimbursement policy.

F. In support of the Emergency Management Compact, Section 684.1 et seq. of this title, the Governor or the representative of the Governor may request mutual aid assistance from local jurisdictions for other states or their jurisdictions. In such situations, the assisting local jurisdiction shall be considered an agent of the state.

Added by Laws 2006, c. 199, § 4, emerg. eff. May 26, 2006. Amended by Laws 2009, c. 79, § 1, eff. Nov. 1, 2009; Laws 2010, c. 258, § 2, eff. Nov. 1, 2010; Laws 2013, c. 201, § 1, eff. Nov. 1, 2013.

§63-695.3. Prompt, full and effective response - Legally designated jurisdiction official.

Each jurisdiction recognizes that there will be emergencies which require immediate actions and implementation of procedures to apply outside resources to make prompt and effective response to such an emergency. This is because few, if any, individual jurisdictions have all the resources they need in all types of emergencies and the capability of delivering resources to the area where emergencies occur.

The prompt, full and effective utilization of resources of the participating jurisdictions, including any resources on hand or available from any other source, that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster shall be the underlying principle on which all articles of this Compact shall be understood.

On behalf of the chief elected officer of each jurisdiction participating in the Compact, the legally designated jurisdiction official who is assigned responsibility for emergency management will be responsible for the formulation of the appropriate aid plans and procedures necessary to implement the Compact.

Added by Laws 2006, c. 199, § 5, emerg. eff. May 26, 2006. Amended by Laws 2010, c. 258, § 3, eff. Nov. 1, 2010.

§63-695.4. Procedural plans and programs - Requests for assistance - Consultation between jurisdictions - Discretion.

A. It shall be the responsibility of each jurisdiction to formulate procedural plans and programs for interjurisdictional cooperation in the performance of the responsibilities listed in

this section. In formulating such plans, and in carrying them out, the jurisdictions, insofar as practical, shall:

1. Review individual jurisdictional hazards analyses and, to the extent reasonably possible, determine all those potential emergencies the jurisdictions might jointly suffer, whether due to natural or man-made disasters or emergencies;

2. Review individual emergency plans of the jurisdictions and develop a plan that will determine the mechanism for the interjurisdictional management and provision of assistance concerning any potential emergency;

3. Develop interjurisdictional procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans;

4. Assist in warning communities adjacent to or crossing the jurisdictional boundaries;

5. Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, critical lifeline equipment, and resources, both human and material;

6. Inventory and set procedures for the interjurisdictional loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness; and

7. Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the above responsibilities.

All jurisdictions should use and conform to the current national standard for on-scene management and command systems.

B. The authorized representative of a jurisdiction may request assistance of another jurisdiction by contacting the authorized representative of that jurisdiction. The provisions of the Oklahoma Intrastate Mutual Aid Compact shall apply only to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within thirty (30) days of the verbal request. Requests shall provide the following information:

1. A description of the emergency service function for which assistance is needed including, but not limited to, fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue;

2. The amount and type of personnel, equipment, materials and supplies needed and a reasonable estimate of the length of time they will be needed; and

3. The specific place and time for staging of the response of the assisting party and a point of contact at that location.

C. There shall be frequent consultation between jurisdiction officials who have assigned emergency management responsibilities

and other appropriate representatives of the jurisdictions with affected jurisdictions, with free exchange of information, plans, and resource records relating to emergency capabilities.

D. Jurisdictions shall not be obligated under the Compact to send the requested assistance, and assistance may be withdrawn at any time in the sole and absolute discretion of the jurisdiction.

Added by Laws 2006, c. 199, § 6, emerg. eff. May 26, 2006.

§63-695.5. Necessary actions and provisions - Powers, duties, rights and privileges of emergency forces - Command and control.

Any jurisdiction requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by the Oklahoma Intrastate Mutual Aid Compact in accordance with the terms hereof; provided that it is understood that the jurisdiction rendering aid may withhold resources to the extent necessary to provide reasonable protection for its own jurisdiction.

Each jurisdiction shall afford the emergency forces of any jurisdiction, while operating within its jurisdictional limits under the terms and conditions of the Compact, the same powers, duties, rights, and privileges as are afforded forces of the jurisdiction in which they are performing emergency services. Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under operational control of the emergency services authorities of the jurisdiction receiving assistance and must report to the incident check-in location for assignment.

Added by Laws 2006, c. 199, § 7, emerg. eff. May 26, 2006.

§63-695.6. Professional, mechanical or other licenses, certificates or permits.

Whenever any person holds a license, certificate, or other permit issued by any jurisdiction party evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving jurisdiction, such person shall be deemed licensed, certified, or permitted by the jurisdiction requesting assistance to render aid involving such skill to meet an emergency or disaster, or a nondisaster incident or activity as determined by the participating jurisdictions, subject to such limitations and conditions as the requesting jurisdiction may prescribe by executive order or otherwise.

Added by Laws 2006, c. 199, § 8, emerg. eff. May 26, 2006. Amended by Laws 2010, c. 258, § 4, eff. Nov. 1, 2010.

§63-695.7. Liability and immunity.

Officers or employees of a jurisdiction rendering aid in another jurisdiction pursuant to the Oklahoma Intrastate Mutual Aid Compact

shall be considered within the scope of employment of the requesting jurisdiction for tort liability and immunity purposes. No jurisdiction or its officers or employees rendering aid in another jurisdiction pursuant to the Compact shall be liable on account of any act or omission in good faith on the jurisdiction of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith shall not include willful misconduct, gross negligence, or recklessness.
Added by Laws 2006, c. 199, § 9, emerg. eff. May 26, 2006.

§63-695.8. Compensation and death benefits.

Each jurisdiction shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that jurisdiction and representatives of deceased members of such forces who sustain injuries or are killed while rendering aid pursuant to the Oklahoma Intrastate Mutual Aid Compact, in the same manner and on the same terms as if the injury or death were sustained within its own jurisdiction.
Added by Laws 2006, c. 199, § 10, emerg. eff. May 26, 2006.

§63-695.9. Reimbursement for loss, damage, expense or cost.

Any jurisdiction rendering aid in another jurisdiction pursuant to the Oklahoma Intrastate Mutual Aid Compact shall be reimbursed by the jurisdiction receiving such aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with such requests; provided, that any aiding jurisdiction may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving jurisdiction without charge or cost; and provided further, that any two or more jurisdictions may enter into supplementary agreements establishing a different allocation of costs among those jurisdictions. Compensation expenses shall not be reimbursable under this section.
Added by Laws 2006, c. 199, § 11, emerg. eff. May 26, 2006.

§63-695.10. Plans for evacuation and interjurisdiction reception of civilian population.

Plans for the orderly evacuation and interjurisdiction reception of portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant, shall be worked out and maintained between the party jurisdictions of the Oklahoma Intrastate Mutual Aid Compact and the emergency management or services directors of the various jurisdictions where any type of incident requiring evacuations might occur. Such plans shall be put into effect by request of the jurisdiction from which evacuees come and shall include the manner of transporting such evacuees, the

number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors.
Added by Laws 2006, c. 199, § 12, emerg. eff. May 26, 2006.

§63-701. Shooting galleries - Standards and specifications.

(A) Open air shooting galleries constructed from and after the effective date of this act shall conform to the following standards and specifications:

(a) There shall be a backstop not less than seven and one-half (7 1/2) feet high, which shall be constructed of steel of a thickness not less than U.S. standard eight-gauge steel and shall be well lapped at the joints; the backstop shall be not less than eight (8) nor more than twenty-five (25) feet wide.

(b) Attached to each side of the backstop at ninety (90) degree angles, extending toward the counter, shall be side walls of the same height as the backstop, which side walls shall be constructed of steel of a thickness not less than U.S. standard sixteen-gauge steel and shall be from six (6) to twenty-five (25) feet in length. In the event the steel side walls do not extend to the counter, the remaining portion of the side walls shall be so constructed as to prevent any person from getting into the line of fire.

(c) The inside edge of the counter from which the shooting takes place shall be placed not less than twenty-five (25) feet from the backstop or any metal target.

(d) All targets shall be placed not less than twelve (12) inches from the ends of the backstop, and shall be not less than twenty-four (24) inches from the top and not less than twelve (12) inches from the bottom of the backstop.

(B) Closed shooting galleries constructed after the effective date of this act shall be lawful of any size, provided that closed shooting galleries shall be constructed so that they at least conform to the minimum requirements of open air shooting galleries.
Laws 1955, p. 187, § 1.

§63-702. Ammunition.

The only type of ammunition which shall be lawful for use in shooting galleries shall be twenty-two (22) caliber shorts.
Added by Laws 1955, p. 187, § 2.

§63-703. Operators and employees - 21 years of age.

No person under the age of twenty-one (21) years shall operate or be employed at any shooting gallery. Violation of this section

shall be cause for revocation of the inspection statement provided for in Section 4 of this act.
Laws 1955, p. 187, § 3.

§63-704. Inspection statement.

Before any shooting gallery shall begin to operate in any county, city or town of this state, it shall be inspected by the sheriff of said county, or his authorized deputy, for safety, and the owner must have a statement in writing by said sheriff or his authorized deputy that he has inspected the premises and is of the opinion that it is safe to operate. Such statement shall not be furnished by the sheriff or his authorized deputy unless the shooting gallery meets the requirements of this act. In the event a shooting gallery is moved from one place to another, a new inspection statement must be secured by the owner or operator prior to beginning operation. It is hereby made the duty of the sheriff of each county personally or through his authorized deputy to make the inspection required herein upon request of the owner or operator. Shooting galleries constructed prior to the effective date of this act shall be furnished an inspection statement as required herein even though such shooting gallery does not meet the requirements of this act if, in the opinion of the sheriff or his authorized deputy, it is safe to operate.
Laws 1955, p. 187, § 4.

§63-705. License tax.

Cities and towns wherein shooting galleries are operated are hereby authorized to levy and collect a license tax upon their operation, which license tax shall not exceed Twenty Dollars ($20.00) per year.
Laws 1955, p. 187, § 5.

§63-706. Hours for opening and closing - Exception.

In cities and towns and in areas outside the corporate limits of a city or town, shooting galleries shall close from 11:59 o'clock p.m. Saturday until 8:00 a.m. Monday, except that cities having a population in excess of fifty thousand (50,000), according to the next preceding Federal Decennial Census, may permit the operation of shooting galleries during the period from 11:59 o'clock p.m. Saturday and 8:00 a.m. Monday.
Laws 1955, p. 188, § 6.

§63-707. Penalties.

Any violation of this act is hereby made a misdemeanor punishable by a fine of not less than Twenty-five Dollars ($25.00) nor more than One Hundred Dollars ($100.00) or by imprisonment in

the county jail for a period not to exceed thirty (30) days, or by both such fine and imprisonment.
Laws 1955, p. 188, § 7.

§63-708. Public shootings sponsored by non-profit organizations exempt.

Nothing in this act shall apply to turkey shoots or similar types of public shootings sponsored by civic, fraternal, veterans, or other nonprofit organizations.
Laws 1955, p. 188, § 8.

§63-709. Repealed by Laws 1997, c. 256, § 1, emerg. eff. May 23, 1997.

§63-709.1. Repealed by Laws 1997, c. 256, § 1, emerg. eff. May 23, 1997.

§63-709.2. Noise - Exemption from liability.

A. Notwithstanding any municipal ordinance or rule regulating noise to the contrary, a governmental official may not seek a civil or criminal penalty or injunction against a shooting range, or its owner or operators, on the basis of noise emanating from the range, provided the noise at the property line of the shooting range does not exceed one hundred fifty (150) decibels.

B. No person shall bring any suit in law or equity or any other claim for relief against a shooting range, or its owners or operators, based upon noise emanating from the shooting range, provided the noise at the property line of the range does not exceed one hundred fifty (150) decibels.

C. Notwithstanding any law to the contrary, any ordinance or rule relating to noise adopted by any local unit of government, whether before, on, or after the effective date of this act, shall not be deemed to be enforceable against a shooting range, provided the noise at the property line of the range does not exceed one hundred fifty (150) decibels. The ordinance or rule shall not serve as the basis for any suit in law or equity, whether brought by a governmental official or person. In no event shall the provisions of this subsection affect the outcome of any suit brought prior to the effective date of this act in which a final order of judgment or relief has been entered.
Added by Laws 1996, c. 191, § 23, emerg. eff. May 16, 1996.

§63-931. Board of Medicolegal Investigations - Membership - Compensation - Meetings.

The Board of Medicolegal Investigations is hereby re-created. The members of the Board shall be:

1. The Director of the State Bureau of Investigation, or a designee;
2. The State Commissioner of Health, or a designee;
3. The Dean of the College of Medicine of the University of Oklahoma, or a designee;
4. The President or Dean of the Oklahoma State University Center for Health Sciences, or a designee;
5. The President of the Oklahoma Bar Association, or a designee;
6. The President of the Oklahoma Osteopathic Association, or a designee;
7. The President of the Oklahoma State Medical Association, or a designee; and
8. A funeral director, as provided by Section 396.3 of Title 59 of the Oklahoma Statutes, appointed by the Oklahoma Funeral Board.

The Chief Medical Examiner shall be an ex officio nonvoting member of the Board. The Board shall elect one of its members as chair and one of its members as vice-chair. Elections of board members shall be held annually. An elected member shall not serve in the same capacity as chair or vice-chair for more than two (2) consecutive years. Members of the Board shall receive no compensation for their services on this Board. Regular meetings of the Board shall be held at such times as determined by its members, and special meetings may be called by the chair. Four members shall constitute a quorum.
Added by Laws 1961, p. 604, § 1, eff. Jan. 2, 1962. Amended by Laws 1969, c. 143, § 1, emerg. eff. April 9, 1969; Laws 1972, c. 246, § 1, emerg. eff. April 7, 1972; Laws 1980, c. 112, § 1, emerg. eff. April 10, 1980; Laws 1983, c. 333, § 23, emerg. eff. June 29, 1983; Laws 1987, c. 231, § 7, eff. July 1, 1987; Laws 1996, c. 234, § 1, eff. July 1, 1996; Laws 2005, c. 410, § 1, eff. July 1, 2005; Laws 2014, c. 293, § 1, eff. Nov. 1, 2014; Laws 2015, c. 85, § 1, eff. Nov. 1, 2015.

§63-932. Rules and regulations.

The Board is hereby authorized to promulgate rules and regulations necessary or appropriate to carry out effectively the provisions of this act. Such rules and regulations shall be filed with the Secretary of State and shall not be effective until ten (10) days after the date of filing. The Board shall, on the date of filing, send a copy of the rules and regulations by the United States mail to the state regulatory board the licensees of which are affected thereby.
Laws 1961, p. 605, § 2.

§63-933. Office of Chief Medical Examiner.

The Office of the Chief Medical Examiner of the State of Oklahoma is hereby established to be operated under the control and

supervision of the Board. The Office shall be directed by the Chief Medical Examiner, and the Chief Medical Examiner may employ such other staff members as the Board shall specify.
Laws 1961, p. 605, § 3; Laws 1972, c. 246, § 2, emerg. eff. April 7, 1972.

§63-934. Appointment and qualifications of Chief Medical Examiner.
The Board of Medicolegal Investigations shall appoint a Chief Medical Examiner who shall be a physician licensed to practice in Oklahoma and a Diplomate of the American Board of Pathology or the American Osteopathic Board of Pathology in forensic pathology. The Chief Medical Examiner shall serve at the pleasure of the Board. In addition to the duties prescribed by law, the Chief Medical Examiner may teach in any educational capacity.
Added by Laws 1961, p. 605, § 4, eff. Jan. 2, 1962. Amended by Laws 1972, c. 246, § 3, emerg. eff. April 7, 1972; Laws 1996, c. 234, § 2, eff. July 1, 1996; Laws 2014, c. 293, § 2, eff. Nov. 1, 2014.

§63-935. Responsibility of Examiner - Delegation of duties.
The Chief Medical Examiner shall be directly responsible to the Board for the performance of the duties provided for in this act and for the administration of the office of the Chief Medical Examiner. The Chief Medical Examiner may, however, delegate specific duties to competent and qualified personnel who may act for the Chief Medical Examiner within the scope of the express authority granted by the Chief Medical Examiner, subject, however, to such rules as the Board may prescribe.
Added by Laws 1961, p. 605, § 5, eff. Jan. 2, 1962. Amended by Laws 1972, c. 246, § 4, emerg. eff. April 7, 1972; Laws 2006, 2nd Ex.Sess., c. 83, § 9, eff. Oct. 1, 2006; Laws 2008, c. 269, § 5, eff. July 1, 2008; Laws 2014, c. 293, § 3, eff. Nov. 1, 2014.

§63-935.1. Office of the State Medical Examiner relocation
The Office of the State Medical Examiner and the Board of Medicolegal Investigations are authorized to relocate the Office of the State Medical Examiner to a location determined by the Board as provided by law.
Added by Laws 2010, c. 329, § 1, emerg. eff. June 6, 2010. Amended by Laws 2015, c. 85, § 2, eff. Nov. 1, 2015; Laws 2016, c. 94, § 1, emerg. eff. Apr. 19, 2016.

§63-936. Office and laboratory.
The Board shall provide for a central and eastern office and shall see that there is maintained a laboratory suitably equipped with facilities for performance of the duties imposed by Section 931 et seq. of this title.

Added by Laws 1961, p. 605, § 6, eff. Jan. 2, 1962. Amended by Laws 1972, c. 246, § 5, emerg. eff. April 7, 1972; Laws 2014, c. 293, § 4, eff. Nov. 1, 2014; Laws 2015, c. 85, § 3, eff. Nov. 1, 2015.

§63-937. Appointment and qualifications of county medical examiners.

The Chief Medical Examiner shall appoint medical examiners for the state. Each medical examiner so appointed shall be a Doctor of Medicine or Osteopathic Medicine, shall hold a valid board certification to practice forensic pathology in Oklahoma, and shall hold office at the pleasure of the Chief Medical Examiner. The Chief Medical Examiner shall appoint a Deputy Chief Medical Examiner to serve in the capacity of the Chief Medical Examiner in the event the Chief Medical Examiner is absent, ill, or disqualified by personal interest.

Added by Laws 1961, p. 605, § 7, eff. Jan. 2, 1962. Amended by Laws 1963, c. 302, § 1, emerg. eff. June 19, 1963; Laws 1965, c. 258, § 1, emerg. eff. June 21, 1965; Laws 1972, c. 246, § 6, emerg. eff. April 7, 1972; Laws 2014, c. 293, § 5, eff. Nov. 1, 2014; Laws 2015, c. 85, § 4, eff. Nov. 1, 2015.

§63-938. Types of deaths to be investigated - Autopsies.

A. All human deaths of the types listed herein shall be investigated as provided by law:

1. Violent deaths, whether apparently homicidal, suicidal, or accidental;

2. Deaths under suspicious, unusual or unnatural circumstances;

3. Deaths related to disease which might constitute a threat to public health;

4. Deaths unattended by a licensed physician for a fatal or potentially-fatal illness;

5. Deaths that are medically unexpected and that occur in the course of a therapeutic procedure;

6. Deaths of any persons detained or occurring in custody of penal incarceration; and

7. Deaths of persons whose bodies are to be cremated, transported out of the state, donated to educational entities, to include limited portions of the body, or otherwise made ultimately unavailable for pathological study.

B. The Chief Medical Examiner shall state on the certificate of death of all persons whose death was caused by execution pursuant to a lawful court order that the cause of death was the execution of such order.

Added by Laws 1961, p. 605, § 8, eff. Jan. 2, 1962. Amended by Laws 1963, c. 302, § 2, emerg. eff. June 19, 1963; Laws 1972, c. 246, § 7, emerg. eff. April 7, 1972; Laws 2000, c. 161, § 1, eff. July 1, 2000; Laws 2014, c. 293, § 6, eff. Nov. 1, 2014.

§63-939. Production of records, documents, evidence or other material.

Except as otherwise provided by law, the Chief Medical Examiner shall produce records, documents, evidence or other material of any nature only upon the order of a court of competent jurisdiction. An interested party or litigant in a civil or criminal action may make application for an order to produce such materials. The court, after notice to all parties, including the Chief Medical Examiner, and a hearing on the application, may, upon the showing of good cause, direct the release of a copy or any part of such material. In addition, the court may also direct the payment of reasonable costs by the requesting party for the production of the material. The production of such material shall take place at the Office of the Chief Medical Examiner unless, upon a showing of good cause, specifically ordered otherwise by the court.

Added by Laws 1961, p. 606, § 9, eff. Jan. 2, 1962. Amended by Laws 1972, c. 246, § 8, emerg. eff. April 7, 1972; Laws 1996, c. 234, § 3, eff. July 1, 1996; Laws 2014, c. 293, § 7, eff. Nov. 1, 2014.

§63-940. Cooperation of state and county officials - Notification of deaths.

A. All law enforcement officers and other state and county officials shall cooperate with the Chief Medical Examiner and all other medical examiners in making investigations required pursuant to the provisions of Sections 931 through 954 of this title. Said officials and the physician in attendance of the deceased, or other persons when the deceased was unattended by a physician, shall promptly notify the medical examiner of the occurrence of all deaths coming to their attention which, pursuant to the provisions of Sections 931 through 954 of this title, are subject to investigation, and shall assist in making dead bodies and related evidence available for investigation.

Subject to the provisions of Sections 931 through 954 of this title, bodies shall not be disturbed until authorized by the Chief Medical Examiner or his or her designee and the representative of any law enforcement agency which has begun an investigation of the cause of death. Said authorization may be given by telephone. Nothing in Sections 931 through 954 of this title shall prevent the district attorney or his or her designee from authorizing the removal of a body when the removal is determined to be in the public interest and conditions at the scene are adequately documented and preserved by photographs and measurements.

B. The death of any patient, inmate, ward, or veteran in a state hospital or other institution shall be reported by the chief administrative officer of the hospital or institution or his or her

designee to the Office of the Chief Medical Examiner at the time of the death and prior to release of the body.

1. Within thirty-six (36) hours, a written report shall be submitted and shall be accompanied by true and correct copies of all medical records of the hospital or institution concerning the deceased patient.

2. The Chief Medical Examiner shall have the authority to require production of any records, documents, or equipment or other items regarding the deceased patient deemed necessary to investigate the death.

Added by Laws 1961, p. 606, § 10, eff. Jan. 2, 1962. Amended by Laws 1972, c. 246, § 9, emerg. eff. April 7, 1972; Laws 1978, c. 114, § 1, emerg. eff. March 31, 1978; Laws 1980, c. 178, § 1, emerg. eff. May 14, 1980; Laws 1984, c. 36, § 1, emerg. eff. March 28, 1984; Laws 1988, c. 326, § 34, emerg. eff. July 13, 1988; Laws 2014, c. 293, § 8, eff. Nov. 1, 2014.

§63-940a. Liability for removal of body.

No funeral establishment or its employees shall be liable for the action, per se, of removing a body when ordered to do so by any public official having the authority to order such removal.

Added by Laws 1999, c. 188, § 1, emerg. eff. May 21, 1999.

§63-941. Investigation by county examiner.

Upon receipt of notice of death of any person which under Section 931 et seq. of this title is subject to investigation, a representative Death Investigator from the Office of the Chief Medical Examiner shall immediately initiate an investigation and shall document in detail, by the end of his or her assigned shift, all the known and available facts of the death scene in the electronic database of the Chief Medical Examiner. Decedent specimens, evidence, and photographs shall be sent to the Office of the Chief Medical Examiner. The investigating official of the Office of the Chief Medical Examiner may take charge of any object or writing found on or near the body which is deemed necessary for the purpose of establishing the cause and/or manner of death.

Upon conclusion of the investigation and determination that such objects or writings are no longer needed as evidence, the medical examiner or the medical examiner's designee may deliver them to the district attorney, law enforcement agency, or family for disposition.

The investigating medical examiner or the medical examiner's designee shall have access at all times to any and all medical and dental records and history of the deceased, including, but not limited to, radiographs and medical records, in the course of his or her official investigation to determine the cause and manner of death. Such records may not be released to any other person by the

medical examiner, and the custodians of such records shall incur no liability by reason of the release of such records to the medical examiner. The body of the deceased shall be turned over to the funeral director designated by the person responsible for burial within twenty-four (24) hours of receipt of the decedent unless a longer period is necessary to complete the required investigation.
Added by Laws 1961, p. 606, § 11, eff. Jan. 2, 1962. Amended by Laws 1972, c. 246, § 10, emerg. eff. April 7, 1972; Laws 2014, c. 293, § 9, eff. Nov. 1, 2014; Laws 2015, c. 85, § 5, eff. Nov. 1, 2015.

§63-941a. Custody of the body.

Upon completion of an investigation by the Office of the Chief Medical Examiner, the body of the deceased shall be released to the person legally entitled to the custody thereof, or his or her representative, unless:

1. A release is signed by the person legally entitled to the custody of the body; or

2. The attending physician has notified the Chief Medical Examiner of the State of Oklahoma, or his or her designee, of the need for further investigation into the cause of death, or has notified the appropriate district attorney of such need; or

3. The laws of this state or the regulations of the Board of Medicolegal Investigations require additional information or examination that cannot be obtained or completed within the above period of time.

Added by Laws 1975, c. 174, § 1. Amended by Laws 2014, c. 293, § 10, eff. Nov. 1, 2014; Laws 2015, c. 85, § 6, eff. Nov. 1, 2015.

§63-941b. Condition of the body.

When attending a patient at time of death, physicians shall take care that the remains of the deceased are left in such a state that will not hinder or unnecessarily complicate the preparation for burial or other disposition, provided that nothing herein shall interfere with or restrict a physician's sworn duty to do all things necessary to save the patient's life.
Added by Laws 1975, c. 174, § 2. Amended by Laws 2015, c. 85, § 7, eff. Nov. 1, 2015.

§63-942. Report of findings.

A. 1. Upon completion of an investigation, the medical examiner shall reduce his or her findings to writing upon the form supplied to the medical examiner which shall be promptly sent to the Chief Medical Examiner by mail.

2. If the medical examiner finds that the deceased had illicit, prescription or nonprescription drugs in his or her system at the

time of death, the medical examiner shall document in his or her findings if the death was:

a. a natural or accidental death with drug involvement,
b. a homicide by drugs,
c. a suicide by drug overdose, or
d. a death with drug involvement, but the manner of death could not be determined.

3. A fatality shall not be considered a drug-related death unless the medical examiner determines that the drug or drugs present in the deceased materially contributed to the death.

B. Copies of reports shall be furnished by the Chief Medical Examiner to investigating agencies having official interest therein. Copies of reports shall also be furnished to the spouse of the deceased or any person within one degree of consanguinity of the deceased upon request and within five (5) business days of the request once the cause and manner of death have been determined and the death certificate has been issued.

Added by Laws 1961, p. 606, § 12, eff. Jan. 2, 1962. Amended by Laws 1963, c. 302, § 3, emerg. eff. June 19, 1963; Laws 1972, c. 246, § 11, emerg. eff. April 7, 1972; Laws 2011, c. 344, § 2, eff. Nov. 1, 2011; Laws 2014, c. 293, § 11, eff. Nov. 1, 2014.

§63-942a. Appeal of medical examiner's findings.

A. The next of kin of the deceased may appeal the findings of the medical examiner to the district court of Oklahoma County under a petition for judicial review within two (2) years from the completion of the report. Such appeal shall be made in writing, shall state the nature and reasons for the appeal, and shall be supported by affidavit. The burden of proof shall be on the petitioner to establish by a preponderance of the evidence that the death certificate is in error. The petitioner shall notify the Office of the Chief Medical Examiner in writing upon filing the petition for judicial review. No jury shall be impaneled and no monetary damages shall be awarded under a cause of action filed pursuant to this subsection.

B. The court shall conduct an evidentiary hearing. Should the court find that the findings of the medical examiner are erroneous, the court shall immediately order the Chief Medical Examiner to correct the report and transmit the appropriate paperwork to the State Department of Health for the correction of the death certificate.

Added by Laws 2011, c. 344, § 3, eff. Nov. 1, 2011. Amended by Laws 2014, c. 293, § 12, eff. Nov. 1, 2014.

§63-943. Repealed by Laws 2014, c. 293, § 23, eff. Nov. 1, 2014.

§63-944. Autopsy - Public interest - Collection of specimens.

When necessary in connection with an investigation to determine the cause and/or manner of death and when the public interest requires it, the Chief Medical Examiner, his or her designee or a district attorney shall require and authorize an autopsy to be conducted. In determining whether the public interest requires an autopsy the medical examiner or district attorney involved shall take into account but shall not be bound by request therefor from private persons or from other public officials.

The medical examiner or his or her designee may collect and retain such blood, tissue, bone, fluid or body waste specimens as are deemed necessary to carry out his or her duties as specified in Section 931 et seq. of this title. No autopsy authorization shall be required as a prerequisite to the collection of such specimens. Added by Laws 1961, p. 606, § 14, eff. Jan. 2, 1962. Amended by Laws 1965, c. 258, § 2, emerg. eff. June 21, 1965; Laws 1968, c. 182, § 1; Laws 1972, c. 246, § 13, emerg. eff. April 7, 1972; Laws 2014, c. 293, § 13, eff. Nov. 1, 2014; Laws 2015, c. 85, § 8, eff. Nov. 1, 2015.

§63-944.1. Repealed by Laws 2014, c. 293, § 23, eff. Nov. 1, 2014.

§63-944.2. Unconstitutional.
NOTE: Editorially renumbered from § 944.1 to avoid a duplication in numbering.
NOTE: Section, derived from Laws 1985, c. 245, § 3, mandating sharing of costs of operation by requiring a fee for autopsies performed by State Medical Examiner, declared unconstitutional by State ex rel, Jordan v. City of Bethany, Okl., 769 P.2d 164(1989).

§63-945. Person to perform autopsy - Extent - Report of findings.

A. When properly authorized, an autopsy shall be performed by the Chief Medical Examiner or such person as may be designated by him or her for such purpose. The Chief Medical Examiner or a person designated by him or her may authorize arterial embalming of the body prior to the autopsy when such embalming would in his or her opinion not interfere with the autopsy. The extent of the autopsy shall be made as is deemed necessary by the person performing the autopsy.

B. A full and complete report of the facts developed by the autopsy together with the findings of the person making it shall be prepared and filed in the Office of the Chief Medical Examiner without unnecessary delay. Copies of such reports and findings shall be furnished to district attorneys and law enforcement officers making a criminal investigation in connection with the death.

C. Upon receiving a written, signed and dated records request, a copy of the full and complete report of the facts developed by the

autopsy, together with the findings of the person making the report, shall be released by the Office of the Chief Medical Examiner to the public in the most expedient manner available or as requested by the records requester and, under the following conditions, shall be furnished to:

1. District attorneys and any law enforcement agency with authority to make a criminal investigation in connection with the death; provided, such copies shall not be shared with any other entity unless otherwise provided by law;

2. The spouse of the deceased or any person related within two (2) degrees of consanguinity to the deceased, unless the district attorney or law enforcement agency making a criminal investigation objects to the release of documents to any family member. District attorneys and law enforcement agencies shall be prohibited from objecting to the release of the full and complete autopsy report to the family if the decedent was in state custody, in custody of law enforcement or is deceased due to lethal action of a law enforcement officer; and

3. Any insurance company conducting an insurer's investigation of any insurance claim arising from the death of the individual upon whom the autopsy was performed.

D. The full and complete report of the facts developed by the autopsy, together with the findings of the person making the report, shall be withheld from public inspection and copying for ten (10) business days following the date the report is generated by the Office of the Chief Medical Examiner, except as provided for in subsection C of this section.

E. The Office of the Chief Medical Examiner shall produce a summary report of investigation by the medical examiner at the same time the full and complete report of the facts developed by the autopsy, together with the findings of the person making the report, is released to the parties listed in subsection C of this section. The summary report of investigation shall be made available for public inspection and copying without delay. Any person may obtain a copy of the summary report of investigation in the most expedient manner available or as requested by the records requester.

F. The summary report of investigation shall include, but not be limited to the following information, if known:

1. Decedent name, age, birth date, race, sex, home address, examiner notified by name and title and including date and time, location where decedent was injured or became ill, including name of facility, address, city, county, type of premises, date and time; location of death including name of facility, city, county, type of premises, date and time, and location body was viewed by medical examiner including address, city, county, type of premises and date and time;

2. If the death was a motor vehicle accident, whether the decedent was the driver, passenger or pedestrian, and the type of vehicle involved in the accident;

3. A description of the body, including but not limited to the external physical examination, rigor, livor, external observations including hair, eye color, body length and weight, and other external observations, as well as the presence and location of blood; and

4. The probable cause of death, other significant conditions contributing to the death but not resulting in the underlying cause given, manner of death, case disposition, case number, and name and contact information of the medical examiner performing the autopsy, including a signature and certification statement that the facts contained in the report are true and correct to the best of their knowledge and the date the report was signed and generated.

G. At the conclusion of the ten (10) business-day-period, the full and complete report shall be made available as a public record except when a district attorney or law enforcement agency with authority to make a criminal investigation in connection with the death declares that the full and complete report contains information that would materially compromise an ongoing criminal investigation. Such declaration shall be in writing to the Office of the Medical Examiner and be an open record available from the Office of Medical Examiner.

1. Upon such declaration, the district attorney or law enforcement agency shall request from the appropriate district court a hearing for an extension of time during which the full and complete autopsy report, not including information in the summary report, may be withheld.

2. When a request for an extension of time has been filed with the court, the full and complete autopsy report in question may be withheld until the court has issued a ruling on the requested extension of time to release the autopsy report. Such requests for an extension of time during which the autopsy may be withheld shall be made on the grounds that release of the full and complete autopsy report will materially compromise an ongoing criminal investigation.

3. Courts considering such requests shall conduct a hearing and consider whether the interests of the public outweigh the interests asserted by the district attorney or law enforcement agency.

4. If an extension of time is granted by the court, the initial extension shall be ordered by the court for a period of six (6) months. Subsequent extensions shall only be ordered after a hearing by the court for an additional one year and cumulative time extensions shall not exceed more than four (4) years and six (6) months; provided, under no circumstance shall an extension of time be granted by the court if the deceased person was in state custody,

in custody of law enforcement or was deceased due to lethal action of a law enforcement officer.

5. In the event that six (6) months have expired from the date of the initial release of the autopsy report without any person being criminally charged in the case in question and release of the autopsy or portions of the autopsy have been denied on the grounds of materially compromising a criminal investigation, an appeal of such denial may be made to the appropriate district court. Courts considering appeals for temporarily withholding an autopsy report shall conduct a hearing and consider whether the interests of the public outweigh the interests asserted by the district attorney or law enforcement agency. In response to such appeals, the district court shall order that the autopsy report be made available for public inspection and copying with no redaction, or shall order an extension of time during which the autopsy report may be withheld under the provisions of this section.

6. Any court order obtained pursuant to this subsection shall be served upon the Office of the Chief Medical Examiner by the party requesting or granted the extension by the court.

H. An order granting an extension of time shall be applicable to the autopsy report for the duration of the extension; provided, each subsequent time extension shall only be ordered by the district court for an additional twelve-month period of time or less and cumulative time extensions shall not exceed four (4) years and six (6) months; provided, charges being filed against a person in the case in question or an autopsy report being entered into evidence as part of a criminal prosecution nullifies any granted extension of time.

I. The opportunities to withhold an autopsy report or portions of an autopsy report provided in this section shall expire in totality four (4) years and six (6) months after the date the autopsy report was generated, at which time the autopsy report previously withheld on the grounds provided for in this section shall be made available for public inspection and copying.

J. Nothing in this section shall prohibit a district attorney or law enforcement agency with authority to make a criminal investigation in connection with the death from immediately releasing portions of information contained in the full and complete autopsy report for the purposes of assisting with the criminal investigation or apprehension of any person involved in a criminal act that resulted in the death of another person.

K. After ten (10) business days from the release of the full and complete report, nothing in this section shall prohibit the spouse of the deceased or any person related within two (2) degrees of consanguinity to the deceased who has received a copy of the full and complete autopsy report from the Office of the Chief Medical Examiner from authorizing the Office of the Chief Medical Examiner's

office to release the full and complete autopsy report to any other person subject to approval by the court.
Added by Laws 1961, p. 607, § 15, eff. Jan. 2, 1962. Amended by Laws 1972, c. 246, § 14, emerg. eff. April 7, 1972; Laws 2014, c. 293, § 14, eff. Nov. 1, 2014; Laws 2017, c. 385, § 1, eff. Nov. 1, 2017.

§63-946. Exhuming of bodies - Hearing - Autopsy - Reports.

A. If death occurred under circumstances as enumerated in Section 938 of this title, and if the body has been buried without proper certification of death, it shall be the duty of the investigating official, upon ascertaining such facts, to notify the Chief Medical Examiner and the district attorney of the county in which the body was buried. The district attorney shall present facts to the judge of the district court of that county, and the judge, after a hearing, may by written order require the body to be exhumed and an autopsy performed by the Chief Medical Examiner or his or her designee. A copy of the court order for exhumation shall be provided to the State Department of Health. A complete report of the facts developed by the autopsy and the findings of the person making the same shall be filed with the Chief Medical Examiner without unnecessary delay and a copy furnished the district attorney of the county within which the death occurred or within which the body was buried, or both.

B. No order for exhumation, as provided for in subsection A of this section, shall be made without notice of the hearing being served upon the decedent's next of kin, five (5) days prior to the hearing. The notice shall be served in the same manner as provided for by law for the service of summons in a civil action, shall include the date, time and place of the hearing and shall advise the person so notified that he or she has the right to appear and be heard by the court at that time. Provided, that the district attorney may, by affidavit, advise the court that the identity or whereabouts of any persons required to be served with notice under this subsection is unknown and cannot be ascertained with due diligence. Upon finding that the facts stated in the affidavit are true, the court shall not require notice be given.
Added by Laws 1961, p. 607, § 16, eff. Jan. 2, 1962. Amended by Laws 1972, c. 246, § 15, emerg. eff. April 7, 1972; Laws 1981, c. 87, § 1, eff. Oct. 1, 1981; Laws 2011, c. 105, § 37, eff. Nov. 1, 2011; Laws 2014, c. 293, § 15, eff. Nov. 1, 2014.

§63-947. Certificate of death.

A. The certification of death of any person whose death is investigated under Section 931 et seq. of this title shall be made by the Chief Medical Examiner or his or her designee upon a medical examiner death certificate provided by the State Registrar of Vital

Statistics. Such death certificates shall be valid only when signed by the Chief Medical Examiner or his or her designee. Copies of all such certificates shall be forwarded immediately upon receipt by the State Registrar of Vital Statistics to the Office of the Chief Medical Examiner.

B. Any certification of death by an attending physician may be referred by the State Registrar of Vital Statistics to the Chief Medical Examiner for investigation and the amending of the original certificate of death by the filing of a medical examiner death certificate by the Chief Medical Examiner or his or her designee when the death is determined by the Chief Medical Examiner to be one properly requiring investigation under Section 938 of this title.

C. Medical examiner death certificates will not be required in cases investigated solely for the purpose of issuing a permit for transport of a body out of state.

Added by Laws 1961, p. 607, § 17, eff. Jan. 2, 1962. Amended by Laws 1972, c. 246, § 16, emerg. eff. April 7, 1972; Laws 1989, c. 163, § 1, emerg. eff. May 8, 1989; Laws 2014, c. 293, § 16, eff. Nov. 1, 2014.

§63-948. Storage of biological specimens - Storage fees - Drug screens.

A. The Office of the Chief Medical Examiner (OCME) shall store biological specimens in the control of the OCME for the potential purpose of independent analyses in matters of civil law, only upon receipt of a written request for such storage and payment of a storage fee. The fee shall be paid by the person requesting storage to the Office of the Chief Medical Examiner. The Board shall promulgate rules establishing a fee for storage of such biological specimens which shall not exceed One Hundred Dollars ($100.00) per year for a period of time not to exceed five (5) years. All fees collected pursuant to the provisions of this subsection shall be deposited to the credit of the Chief Medical Examiner Revolving Fund.

B. 1. The Office of the Chief Medical Examiner (OCME) is authorized to perform drug screens on specimens in the custody of the OCME, provided the request is made by an agency or party authorized to receive such information. The OCME may limit drug screens within the technical and physical capabilities of the OCME.

2. The authorization for drug screens shall apply only to specimens from cases already within the jurisdiction of the OCME and only when the analyses are deemed by the Chief Medical Examiner or Deputy Chief Medical Examiner not to conflict with any investigation of the case by the state.

3. The Board of Medicolegal Investigations shall establish a fee for drug screen services by rule. All fees collected pursuant

to the provisions of this subsection shall be deposited to the Chief Medical Examiner Revolving Fund.
Added by Laws 1961, p. 607, § 18, eff. Jan. 2, 1962. Amended by Laws 1963, c. 302, § 4, emerg. eff. June 19, 1963; Laws 1968, c. 182, § 2; Laws 1972, c. 246, § 17, emerg. eff. April 7, 1972; Laws 1996, c. 234, § 4, eff. July 1, 1996; Laws 2004, c. 559, § 1, eff. Nov. 1, 2004; Laws 2014, c. 293, § 17, eff. Nov. 1, 2014; Laws 2017, c. 343, § 2.

§63-948.1. Fee schedule - Exemptions.

A. The Board of Medicolegal Investigations may establish a fee schedule for forensic services, permits and reports rendered to members of the public and other agencies.

1. No fee schedule may be established or amended by the Board except during a regular legislative session. The Board shall comply with the Administrative Procedures Act for adoption of rules and establishing or amending any such fee schedule.

2. Except as otherwise specified in this section, the Board shall charge fees only within the following ranges:

a. permit for cremations that occur within the state: One Hundred Dollars ($100.00) to Two Hundred Dollars ($200.00),

b. forensic science service: One Hundred Dollars ($100.00) to Three Thousand Dollars ($3,000.00),

c. report copies: Ten Dollars ($10.00) for report of investigation, including toxicology, and Twenty Dollars ($20.00) for an autopsy report, including toxicology,

d. x-rays: Fifteen Dollars ($15.00) each,

e. microscopic slides, Hematoxylin, and Eosin (H&E): Ten Dollars ($10.00) each,

f. special stains: Fifteen Dollars ($15.00) each, and

g. photographs: Twenty-five Dollars ($25.00) per compact disc (CD) or other suitable digital storage media.

3. Medical examiner permit certificates shall be required in cases investigated solely for the purpose of issuing a permit for transporting a body out of state.

4. The Board of Medicolegal Investigations shall charge a fee for out-of-state shipment of human remains whenever the Office of the Chief Medical Examiner has not been required to conduct an investigation of the death.

5. An out-of-state transport permit and cremation permit shall both be required for bodies containing body parts sent out of state or out of country, while remaining body parts remain unused.

B. The Board shall base the fee schedule for forensic science services, permits and reports upon reasonable costs of review, investigation and forensic science service delivery; provided,

however, the fee schedule shall be within the ranges specified in subsection A of this section. The Board shall continue a system of basic and continuing educational service and training for all personnel who render forensic science services in order to ensure uniform statewide application of the rules of the Board. The Board shall consider the reasonable costs associated with such training and continuing education in setting the forensic science service fees.

C. The Board may exempt by rule any agency or class of individuals from the requirements of the fee schedule if the Board determines that the fees would cause an unreasonable economic hardship or would otherwise hinder or conflict with an agency's responsibilities.

D. All statutory fees currently in effect for permits or forensic science services administered by the Chief Medical Examiner and the Board of Medicolegal Investigations within the jurisdiction of the Office of the Chief Medical Examiner shall remain in effect until such time as the Board acts to implement new schedules pursuant to the provisions of this section and Section 948 of this title.

Added by Laws 2004, c. 559, § 2, eff. Nov. 1, 2004. Amended by Laws 2014, c. 293, § 18, eff. Nov. 1, 2014; Laws 2015, c. 85, § 9, eff. Nov. 1, 2015.

§63-949. Records - Evidence - Sudden Unexpected Death in Infants and Children.

A. 1. a. The Office of the Chief Medical Examiner shall keep full and complete records, properly indexed, giving the name, if known, of every person whose death is investigated, the place where the body was found, the date, cause, and manner of death and all other relevant information concerning the death. The full report and detailed findings of the autopsy, if any, shall be a part of the record in each case.

b. The Chief Medical Examiner shall track and forward, within seventy-two (72) hours after the examination, demographic information on sudden, unexpected and nontraumatic infant deaths including, but not limited to, Sudden Infant Death Syndrome (SIDS), to the Oklahoma SIDS Coordinator at the State Department of Health and the SIDS Foundation of Oklahoma. As used in this subparagraph, "Sudden Unexpected Death in Infants and Children" (SUDIC) means the sudden, unexpected death of an apparently healthy infant less than one (1) year of age which remains unexplained following a complete medicolegal analysis and death scene investigation. The Chief Medical Examiner shall

follow up with further notification upon final determination of a cause of death. Such notification shall be for statistical reporting purposes only.

2. The office shall promptly deliver to each district attorney having jurisdiction of the case, copies of all cases relating to a death for which further investigation may be advisable. Any district attorney or other law enforcement official may, upon request, obtain copies of such records or other information deemed necessary to the performance of such district attorney's or other law enforcement official's official duties.

B. No report, findings, testimony, or other information of a medical examiner shall be admitted in evidence in any civil action in any court in this state, except under the following circumstances:

1. Certified copies of reports pertaining to the factual determinations of views and examination of or autopsies upon the bodies of deceased persons by the Chief Medical Examiner or anyone under his or her supervision or control may be admitted in evidence in any civil case in a court of competent jurisdiction in this state by stipulation of all parties in the case;

2. If a party refuses to stipulate to admission, the reports may be requested by any party seeking to admit the records as evidence. The request shall be made to the Office of the Chief Medical Examiner, who shall furnish same;

3. The party seeking admission of the reports shall then serve interrogatories concerning the facts to be answered under oath by the person preparing the records. The interrogatories and answers thereto shall be subject to the rules of evidence and may be admissible in evidence in any civil case in a court of competent jurisdiction. Objections to the interrogatories shall be made by any party in accordance with law just as if the interrogatories had been served on the objecting party. Cross interrogatories shall be submitted and shall be answered and admitted in evidence in the same manner as interrogatories;

4. The taking of depositions shall then be allowed pursuant to the provisions of Section 3230 of Title 12 of the Oklahoma Statutes; provided, however, depositions shall take place at the Office of the Chief Medical Examiner or anyone under his or her supervision or control whose testimony is sought, unless all parties, including the medical examiner, agree the deposition can be taken elsewhere;

5. No other testimony of the Chief Medical Examiner or anyone under his or her supervision and control shall be admitted in evidence in any civil action in any court of this state, unless timely application is made to the court by an interested party or litigant and timely notice of the application is given to the medical examiner. After a hearing, the court, for good cause shown, may order the appearance of the Chief Medical Examiner or anyone

under his or her supervision and control for the purpose of testifying and may order that a subpoena be issued for that appearance; provided, however, that such order by the court shall be the exception and not the rule; and

6. The cost of the records or certified copies thereof shall be paid by the party requesting same. The reasonable fee charged by the Chief Medical Examiner or anyone under his or her supervision and control for answering interrogatories or cross interrogatories, submitting to depositions, or providing testimony shall be paid by the party submitting same. This fee shall be in place of any other witness fee allowed by law.

C. Certified copies of reports and findings, exclusive of hearsay evidence, may be admitted in evidence in preliminary hearings and criminal trials by stipulation.

D. Certified copies of reports of investigations by a medical examiner, laboratory reports and/or autopsy reports may be furnished to the next of kin or others having need for them upon written statement and payment of a reasonable fee set by the Board of Medicolegal Investigations.

Added by Laws 1961, p. 607, § 19, eff. Jan. 2, 1962. Amended by Laws 1972, c. 246, § 18, emerg. eff. April 7, 1972; Laws 1974, c. 275, § 1, emerg. eff. May 29, 1974; Laws 1976, c. 63, § 1; Laws 1999, c. 55, § 2, emerg. eff. April 5, 1999; Laws 2004, c. 190, § 1, eff. July 1, 2004; Laws 2014, c. 293, § 19, eff. Nov. 1, 2014.

§63-950. Repealed by Laws 2014, c. 293, § 23, eff. Nov. 1, 2014.

§63-951. Transporting of bodies for autopsy or scientific tests.

The Chief Medical Examiner shall maintain a contract transport service authorized to transport bodies of deceased persons of whose death he or she is officially informed to an appropriate place for autopsy or for the performance of scientific tests; provided that, after the autopsy shall have been performed or such tests made, the bodies of such deceased persons shall be returned to the county from which they were brought, or, when so authorized by the district attorney of the county and upon request of the nearest relative of the deceased or other person who may be responsible for burial, the body may be transported to some place other than the county. The Chief Medical Examiner or his or her designee may authorize payment for the services in transporting the body to the place designated for autopsy, which shall be submitted upon a claim filed with the Board of Medicolegal Investigations.

Added by Laws 1961, p. 608, § 21, eff. Jan. 2, 1962. Amended by Laws 1963, c. 302, § 6, emerg. eff. June 19, 1963; Laws 1972, c. 246, § 20, emerg. eff. April 7, 1972; Laws 2014, c. 293, § 20, eff. Nov. 1, 2014.

§63-952. Persons excluded from serving as examiners or deputies.

It is specifically provided that no embalmer, funeral director, or employee of a funeral home shall be employed in any capacity with the Office of the Chief Medical Examiner, nor shall any member of law enforcement including but not limited to peace officers, deputy sheriffs, and reserve deputies.

Added by Laws 1961, p. 608, § 22, eff. Jan. 2, 1962. Amended by Laws 2014, c. 293, § 21, eff. Nov. 1, 2014.

§63-953. Penalties.

Any person who willfully fails to comply with the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be fined not to exceed Five Hundred Dollars ($500.00), or by imprisonment in the county jail for a term not to exceed thirty (30) days, or by both such fine and imprisonment.

Laws 1961, p. 608, § 23.

§63-954. Chief Medical Examiner Revolving Fund.

A. The Board of Medicolegal Investigations is authorized to accept grants, gifts, fees or funds from persons, associations, corporations, or foundations for any purpose authorized by the Board.

B. There is hereby created in the State Treasury a revolving fund for the Office of the Chief Medical Examiner to be designated the "Chief Medical Examiner Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all moneys received from:

1. Laboratory analysis fees pursuant to the provisions of Section 1313.2 of Title 20 of the Oklahoma Statutes;

2. Grants, gifts, fees or funds from persons, associations, corporations or foundations pursuant to this section;

3. Document fees pursuant to the Oklahoma Open Records Act, Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes;

4. Specimen storage and drug screen service fees pursuant to the provisions of Section 948 of Title 63; and

5. Cremation, burial at sea or other recognized means of dissolution permit fees pursuant to Section 1-329.1 of this title.

All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Office of the Chief Medical Examiner for the duties imposed upon the Board of Medicolegal Investigations by law. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1961, p. 608, § 24, eff. Jan. 2, 1962. Amended by Laws 1963, c. 302, § 7, emerg. eff. June 19, 1963; Laws 1972, c. 246, § 21, emerg. eff. April 7, 1972; Laws 1987, c. 5, § 73, emerg.

eff. March 11, 1987; Laws 1987, c. 236, § 121, emerg. eff. July 20, 1987; Laws 1988, c. 74, § 2, eff. Nov. 1, 1988; Laws 1994, c. 382, § 33, eff. Sept. 1, 1994; Laws 2012, c. 304, § 508; Laws 2017, c. 343, § 3.

§63-981. Activity within six (6) feet of high voltage overhead line or conductorprohibited.

No person, firm, corporation or association shall, individually or through an agent or employee and no person as an agent or employee of any person, firm, corporation or association, shall perform or permit any agent or employee to perform any function or activity upon any land, building, highway, or other premises, when it is possible during the performance of such activity for any person or employee engaged in performing work connected with or related to such function or activity to move to or to be placed in a position within six feet of any high voltage overhead electrical line or conductor, or when it is possible for any part of any tool, equipment, machinery or material to be used by any such person or employee to be brought within six (6) feet of any such overhead high voltage line or conductor through any lateral, vertical or swinging motion during the performance of such function or activity.
Added by Laws 1963, c. 118, § 1, emerg. eff. May 31, 1963.

§63-982. Storing, moving, etc. of equipment, materials, or buildings within six feet of lines prohibited.

No person, firm, corporation or association shall, individually or through an agent or employee, and no person as an agent or employee of any person, firm, corporation or association, shall store, operate, erect, maintain, move or transport any tools, machinery, equipment, supplies, materials, apparatus, house or other building, or any part thereof, within six (6) feet of any high voltage overhead conductor.
Laws 1963, c. 118, § 2, emerg. eff. May 31, 1963.

§63-983. Posting of warning signs in cranes, derricks and similar apparatus.

No person, firm, corporation or association shall, individually or through an agent or employee, or as an agent or employee, operate any crane, derrick, power shovel, drilling rig, hoisting equipment, or similar apparatus, any part of which is capable of vertical, lateral or swinging motion, unless there is posted and maintained in plain view of the operator thereof, a durable warning sign legible at twelve (12) feet, reading:

"Unlawful to operate this equipment within six feet of high voltage lines."

Each day's failure to post or maintain such signs shall constitute a separate violation.

Laws 1963, c. 118, § 3, emerg. eff. May 31, 1963.

§63-984. Violations and penalties.

Every person, firm, corporation, association, and every agent or employee of any such person, firm, corporation, or association, who violates any of the provisions of this act, shall be guilty of a misdemeanor, and upon conviction thereof, shall be liable to a fine of not more than Five Hundred Dollars ($500.00), or imprisonment in the county jail for a term not to exceed six (6) months, or both such fine and imprisonment; and in addition thereof, if such violation results in physical or electrical contact with any overhead high voltage line or conductor, the person, firm, corporation or association violating the provisions of this act, shall be liable to the owner or operator of such high voltage line or conductor for all damage to such facilities and for all liability incurred by such owner or operator as a result of any such accidental contact.

Added by Laws 1963, c. 118, § 4, emerg. eff. May 31, 1963.

§63-985. Definitions.

For the purpose of this act: (a) "high voltage" shall mean a voltage in excess of seven hundred fifty (750) volts between conductors, or between any single conductor and the ground; (b) "overhead lines or overhead conductors" shall mean all bare or insulated electrical conductors installed above ground excepting those conductors that are deenergized and grounded or that are enclosed in iron pipe or other metal covering of equal strength.

Laws 1963, c. 118, § 5, emerg. eff. May 31, 1963.

§63-986. Temporary clearance of lines - Costs.

When any person, firm or corporation desires to temporarily carry on any function, activity, work or operation in closer proximity to any high-voltage line or conductor than permitted by this act, the person or persons responsible for the work to be done shall promptly notify the operator of the high-voltage conductors of the work to be performed and make appropriate arrangements with the operator of the high-voltage conductors for temporary mechanical barriers, temporary deenergization and grounding of the conductors, or temporarily raising of the conductors before proceeding with any work which would impair the clearances required by this act.

The actual costs incurred by any operator of high-voltage conductors in providing clearances as above set out shall be paid by the persons, firms or corporations requesting the operator of the high-voltage conductors to provide said temporary clearances. Unless and until arrangements satisfactory to the operator of the high-voltage conductors for such payment have been made, such operator shall be under no duty to provide clearances as set out herein.

Laws 1963, c. 118 § 6, emerg. eff. May 31, 1963.

§63-987. Operations and activities exempt.

This act shall not be construed as applying to, nor shall it apply to: (a) construction, reconstruction, operation or maintenance of any high-voltage overhead conductor, supporting structures or appurtenances for the support or operation of high-voltage conductor by person authorized by the owner or operator; nor (b) to work being done on telephone or communication circuits or their supporting structures; nor (c) to the operation or maintenance of any equipment traveling or moving upon fixed rails of any railroad company subject to the jurisdiction of the Interstate Commerce Commission and/or to the Corporation Commission of the State of Oklahoma.

Laws 1963, c. 118, § 7, emerg. eff. May 31, 1963.

§63-1051. Short title.

This act may be cited as the "Oklahoma Housing Authorities Act."

Laws 1965, c. 251, § 1, emerg. eff. June 18, 1965.

§63-1052. Application of act.

The provisions of this act shall apply in all counties of this state.

Laws 1965, c. 251, § 2, emerg. eff. June 18, 1965.

§63-1053. Finding and declaration of necessity.

It is hereby declared:

(a) that there exists in urban and rural areas in certain counties in the state unsanitary, unsafe, and overcrowded dwelling accommodations; that in such urban and rural areas within the state there is a shortage of safe or sanitary dwelling accommodations available at rents or prices which persons of low income can afford and that such shortage forces such persons to occupy unsanitary, unsafe, and overcrowded dwelling accommodations;

(b) that the aforesaid conditions cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals and welfare of the residents of the state; that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection, and other public services and facilities;

(c) that these slum areas cannot be cleared nor can the shortage of safe and sanitary dwelling for persons of low income be adequately relieved through the operation of private enterprise and that housing projects for persons of low income as herein defined would therefore not be competitive with private enterprise;

(d) that such projects would also make housing available for persons of low income who are displaced in the rehabilitation,

clearance, or redevelopment of slums and blighted areas or as the result of other governmental action, and for veterans of low income who are unable to provide themselves with decent housing on the basis of the benefits heretofore made available to them through certain government guarantees of loans to veterans for the purchase of residential property;

(e) that the clearance, replanning and preparation for rebuilding of these areas and the providing of safe and sanitary dwelling accommodations and maintaining a wholesome living environment for persons of low income are charitable and public uses and purposes for which public money may be spent and private property acquired and are governmental functions of state concern;

(f) that residential construction activity is closely correlated with general economic activity and that the undertakings authorized by this act to aid the provision of better housing and more desirable neighborhood and community development at lower costs will make possible a more stable and larger volume of residential construction activity which will assist materially in maintaining full employment; and

(g) that it is in the public interest that preparations for such projects and activities be made now, and that the necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

Laws 1965, c. 251, § 3, emerg. eff. June 18, 1965.

§63-1054. Definitions.

The following terms, wherever used or referred to in this act, shall have the following respective meanings, unless a different meaning clearly appears from the context:

(a) "Authority" means any public body corporate and politic created by this act.

(b) "City" means any incorporated city or town in the state. "County" means any county in the state.

(c) "Governing body" means, in the case of a city, the council or other governing body of the city in which is vested legislative authority customarily imposed on the city council, and, in the case of a county, the board of county commissioners.

(d) "Mayor" means the mayor of the city or the officer thereof charged with the duties customarily imposed on the mayor or executive head of a city.

(e) "Clerk" means the city clerk or the county clerk, as the case may be.

(f) "Area of operation" means:

(1) in the case of an authority of a city, the city and the area within one (1) mile of the territorial boundaries thereof, except that the area of operation of an authority of any city shall not

include any area which lies within the territorial boundaries of some other city;

(2) in the case of an authority of a county, all of the county for which it is created: Provided, that a county authority shall not undertake any project within the boundaries of any city unless a resolution shall have been adopted by the governing body of the city and by any authority which shall have been theretofore established and authorized to exercise its powers in the city declaring that there is need for the county authority to exercise its powers within that city. No authority shall operate in any area in which an authority already established is operating without the consent by resolution of the authority already operating therein.

(g) "Federal government" includes the United States of America, the Public Housing Administration, or any other agency or instrumentality, corporate or otherwise, of the United States of America.

(h) "Slum" means any area where dwellings predominate which by reason of dilapidation, overcrowding, faulty arrangement or design, lack of ventilation, light, or sanitary facilities, or any combination of these factors, are detrimental to safety, health and morals.

(i) "Housing project" or "project" means any work or undertaking on contiguous or noncontiguous sites:

(1) to demolish, clear, or remove buildings from any slum area;

(2) to provide or assist in providing (by any suitable method, including but not limited to: rental; sale of individual units in single or multifamily structures under conventional, condominium, or cooperative sales contract; lease-purchase agreement; loans; or subsidizing of rentals or charges) decent, safe and sanitary urban or rural dwellings, apartments, or other living accommodations for persons of low income; or

(3) to accomplish a combination of the foregoing. Such work or undertaking may include buildings, land, equipment, facilities, and other real or personal property for necessary, convenient or desirable appurtenances; streets, sewers, water service, utilities, parks, site preparation, and landscaping; and facilities for administrative, community, health, recreational, welfare, or other purposes. The term "housing project" or "project" also may be applied to the planning of the buildings and improvements, the acquisition of property or any interest therein, the demolition of existing structures, the construction, reconstruction, rehabilitation, alteration or repair of the improvements and all other work in connection therewith; and the term shall include all other real and personal property and all tangible or intangible assets held or used in connection with the housing project.

(j) "Persons of low income" shall mean persons or families who lack the amount of income which is necessary (as determined by the authority undertaking the housing project) to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding, however, the local housing authority shall not exceed the guidelines in establishing incomes set forth by the Department of Housing and Urban Development.

(k) "Bonds" means any bonds, notes, interim certificates, debentures, or other obligations issued by an authority pursuant to this act.

(l) "Real property" includes all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein including terms for years.

(m) "Obligee of an authority" or "obligee" includes any bondholder, agent or trustee for any bondholder, or lessor demising to the authority property used in connection with a project, or any assignee or assignees of such lessor's interest or any part thereof, and the federal government when it is a party to any contract with the authority.

(n) "Persons engaged in national defense activities" means persons in the Armed Forces of the United States; employees of the Department of Defense; and workers engaged or to be engaged in activities connected with national defense. The term also includes the families of the persons, employees, and workers who reside with them.

(o) "Major disaster" means any flood, drought, fire, hurricane, tornado, earthquake, storm, or other catastrophe which, in the determination of the governing body, is of sufficient severity and magnitude to warrant the use of available resources of the federal, state, and local governments to alleviate the damage, hardship, or suffering caused thereby.

(p) "State public body" means any city, county, municipal corporation, commission, district, authority, agency, subdivision, or public body of the state.

Added by Laws 1965, c. 251, § 4, emerg. eff. June 18, 1965. Amended by Laws 1967, c. 339, § 1; Laws 1969, c. 281, § 1; Laws 1971, c. 218, § 1, emerg. eff. June 11, 1971.

§63-1055. Creation of city and county authorities.

In each city and in each county of the state there is hereby created a public body corporate and politic to be known as the "housing authority" of the city or county; provided, that the authority shall not transact any business or exercise its powers hereunder until or unless the governing body of the city or county, as the case may be, by proper resolution declares that there is need for an authority to function in the city or county.

The governing body shall give consideration as to the need for an authority (1) on its own motion or (2) upon the filing of a petition signed by not less than five percent (5%) of the qualified voters of the city or county, as the case may be, asserting that there is need for an authority to function in the city or county and requesting that its governing body so declare.

The governing body shall adopt a resolution declaring there is need for an authority in the city or county, as the case may be, if it finds (1) that insanitary or unsafe inhabited dwelling accommodations exist in the city or county, and (2) that there is a shortage of safe and sanitary dwelling accommodations in the city or county available to persons of low income at rentals or prices they can afford. If the governing body declares a need for housing exists, as set forth in (1) and (2) of this paragraph, said governing body shall issue notice of such need and the number of housing units proposed in a newspaper having a general circulation in the area in which the need is certified. Such notice shall set forth the facts that said declaration of need is final, if not protested within thirty (30) days from date of said notice by the method provided in the next succeeding paragraph.

Provided, however, that if a petition signed by not less than five percent (5%) of the legal registered voters of the city or county affected, as the case may be, is submitted to the governing body within thirty (30) days of the adoption of said resolution then said resolution shall be ineffective until approved by a majority of those voting on the question at a special or general election; provided that in the event said resolution is not approved by a majority of those voting at any special or general election, then the same or a similar resolution shall not be adopted by the governing body for a period of one (1) year thereafter.

Provided further, however, in all cities and counties of less than two hundred thousand (200,000) population, according to the last Federal Decennial Census, all projects not authorized prior to July 1, 1968, shall be ineffective until approved by a majority of those voting on the question at a special or general election; except projects authorized under the provisions of Section 1057 of this act.

In any suit, action or proceeding involving the validity or enforcement of or relating to any contract of the authority, an authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers upon proof of the adoption of the resolution and proof of the approval by a majority of the voters as herein prescribed. A copy of the resolution duly certified by the clerk shall be admissible in evidence in any suit, action or proceeding.

Laws 1965, c. 251, § 5; Laws 1967, c. 339, § 2; Laws 1969, c. 281, § 2, emerg. eff. April 25, 1969.

§63-1055.1. Certain housing authorized to use state controlled communication towers.

Any city, county, Rural Electric Cooperative or Indian housing authority created pursuant to Sections 1055 and 1057 of Title 63 of the Oklahoma Statutes is hereby authorized subject to approval of the state agency controlling such communication towers to use state controlled communication towers; provided such use shall meet engineering specifications to ensure that such towers shall not be damaged or the purpose of such towers shall not be interfered with. Added by Laws 1986, c. 94, § 1.

§63-1056. Petitions and elections to discontinue the construction of additional public housing projects.

A. 1. Upon the filing of a petition by five percent (5%) of the qualified voters of the city or county, as the case may be, asserting there is need for limiting an authority to its existing operations and prohibiting such authority from engaging in additional projects or additions to existing projects, or upon its own motion, the governing body of that city or county, as the case may be, shall call an election of the qualified voters residing in the area of the authority for the purpose of deciding whether or not the authority shall be limited to its existing operations and prohibited from engaging in additional projects or additions to existing projects.

2. The date for such election shall be set by the governing body by resolution; provided, that such election shall be held not less than eight (8) weeks nor more than twelve (12) weeks after the date such petition is filed.

B. If a protest to such petition is filed, the burden of proving the insufficiency of such petition shall be upon the protestants. The hearing on such protest shall be held and the protest decided by the governing body within four (4) weeks after the filing thereof.

C. 1. At such election the question before the voters shall be:

Shall the Public Housing Authority of _____ be limited to its existing operations and prohibited from engaging in additional projects or making additions to existing projects?

( ) YES

( ) NO

2. The question shall be decided by a majority of those voting thereon.

D. The authority shall be limited to its existing operations and prohibited from engaging in additional projects or additions to existing projects upon certification that a majority of those voting thereon have voted in the affirmative.

E. 1. If an authority has been so limited and prohibited as a result of such an election the filing of a petition by five percent (5%) of the qualified voters of the city or county, as the case may be, asserting that there is a need for restoring the power of an authority to engage in additional projects and additions to existing projects, the governing body shall, by resolution, call an election of the qualified voters residing in the area of the authority for the purpose of deciding whether such power shall be restored.

2. Such election shall be held not less than eight (8) weeks nor more than twelve (12) weeks after the date such petition is filed.

3. If a protest to such petition is filed, the burden of proving the insufficiency of such petition shall be upon the protestants. The hearing on such protest shall be held and the protest decided by the governing body within four (4) weeks after the filing thereof.

4. At such election the question before the voters shall be:

a. Shall the power of the Public Housing Authority of _____ to engage in additional projects and to make additions to existing projects be restored?

( ) YES

( ) NO

b. The question shall be decided by a majority of those voting thereon.

F. No election under subsection C or E of this section shall be called or held within twelve (12) months after the last election thereunder.

G. A public housing authority whose powers have been limited by an election held pursuant to this section prior to November 1, 1998, shall have its powers fully restored by operation of law if a period of at least fifteen (15) years has elapsed from the date the election results were certified.

Added by Laws 1965, c. 251, § 6, emerg. eff. June 18, 1965. Amended by Laws 1998, c. 99, § 1, eff. Nov. 1, 1998.

§63-1057. Creation of Indian housing authorities – Transfer of management and control.

A. There is hereby created, with respect to each Indian tribe, band, or nation in the state, a public body corporate and politic, to function in the operating area of each Indian tribe, band, or nation to be known as the "housing authority" of the Indian tribe, band, or nation. The Indian housing authority shall be an agency of the State of Oklahoma, possessing all powers, rights, and functions herein specified for city and county authorities created pursuant to this act. The Indian housing authority shall not transact any business nor exercise its powers hereunder until or unless the governing council of the tribe, band, or nation, as the case may be,

by proper resolution, declares that there is a need for a housing authority to function for the tribe, band, or nation.

B. Except as otherwise provided in this act, all the provisions of law applicable to housing authorities created for cities and counties and the commissioners of such authorities shall be applicable to Indian housing authorities and commissioners, unless a different meaning clearly appears from the context. The Chief or other governing head of an Indian tribe, band, or nation is hereby authorized to exercise all appointing and other powers with respect to an Indian housing authority that are vested by this act in the mayor of a city relating to a city housing authority.

C. The Oklahoma Legislature finds that, under the authority of this section, state agency Indian housing authorities may be operated in the area of federally recognized Indian tribes, bands and nations in this state, upon proper resolution declaring that there is a need for a housing authority to function in the operating area of the tribe, band or nation. State agency Indian housing authorities are funded exclusively with federal funds designated for the purpose of providing housing in the area of the tribe, band or nation for whose benefit the housing authority was established. The state agency Indian housing authorities are managed by tribal members appointed by the governing head of the tribe. At the time that state agency Indian housing authorities were authorized to operate for the benefit of the tribe, band or nation, the tribes, bands and nations were not eligible to receive federal funding for housing purposes. Federally recognized Indian tribes, bands and nations are now eligible to receive federal funding for housing purposes and many have received federal funds, and many have created tribal housing authorities for the purpose of providing housing for their tribal members. In the exercise of their sovereign powers, some tribes, bands and nations desire or may in the future desire to undertake the control and management of the state agency Indian housing authorities created for their benefit and to assume all the assets and liabilities, while other tribes, bands or nations may wish to consolidate the state agency Indian housing authority created or which may be created for their benefit into tribal housing programs. In the interest of the sovereign power of federally recognized Indian tribes, economy of efforts, and the maintenance of cooperative relationships between the state and federally recognized Indian tribes, and in light of the above findings, the state hereby authorizes any federally recognized Indian tribe, band or nation for whose benefit a state agency housing authority was or may be created, to assume management and control of the state agency Indian housing authority and all its assets, as provided in this section.

D. Any federally recognized Indian tribe, band or nation for whose benefit a state agency housing authority has been or will be

created is hereby empowered to undertake the management and control of the program of the state agency upon:

1. The assumption of all present and future liabilities of the state agency housing authority;

2. The acceptance of all assets of the state agency housing authority;

3. Upon agreeing to continue to operate a housing authority or program; and

4. Upon entering into local cooperative agreements for payments in lieu of taxes in an amount that is not more than the amount authorized under the Native American Housing Assistance and Self-Determination Act and rules implementing the act.

E. The governing body of any federally recognized Indian tribe, band or nation may exercise the power to undertake management and control of the state agency Indian housing authority created for its benefit by adopting an ordinance or resolution to undertake management and control. The resolution or ordinance shall provide that the tribe, band or nation will assume all the assets and all the liabilities of the state agency Indian housing authority and agrees to continue to operate the housing program for the benefit of its members, and will enter into local cooperative agreements with payments in lieu of taxes as required in paragraph 4 of subsection D of this section and in accordance with Section 1066 of this title.

F. Upon the filing of a resolution or ordinance as provided for in subsection E of this section with the office of the Secretary of State, the Oklahoma Attorney General, and the office of the county clerk in the county in which any land being transferred is located, the management and control of the state agency Indian housing authority created for the tribe, band or nation, together with the ownership of all housing authority assets and liabilities shall transfer to the tribe, band or nation, and the state agency Indian housing authority for that tribe, band or nation shall cease to exist. No further action on the state's part is necessary to transfer title of all state agency Indian housing authority real property to the tribe, band or nation. The filing of a copy of this statute, a certified copy of the required resolution or ordinance and the legal description of the land(s) shall transfer title. The land so transferred, until transferred to the ownership of individual tribal members, is declared to be used for charitable purposes and to be public property used for essential public and governmental purposes. The property shall be exempt from ad valorem taxes, as long as the tribe, band or nation continues to make the in lieu of tax payments as required in this section.

Added by Laws 1965, c. 251, § 7, emerg. eff. June 18, 1965. Amended by Laws 2010, c. 172, § 1, emerg. eff. April 26, 2010.

§63-1058. Appointment, qualifications, tenure and meetings of authority commissioners.

A. When a housing authority is authorized to transact business and exercise powers hereunder, five (5) persons shall be appointed as commissioners of the authority as follows:

1. In the case of a city, by the mayor with the advice and consent of the governing body; or

2. In the case of a county, by the board of county commissioners, and at least one of the persons so appointed shall be a tenant in a housing project under the jurisdiction of such authority. The term of office of each commissioner shall be for three (3) years, except that of the commissioners first appointed one shall serve for a term of one (1) year and two shall serve for terms of two (2) years. All vacancies shall be filled for the unexpired term. Each commissioner shall qualify by taking the official oath of office prescribed by statute or ordinance for elected officials of the county or city, as the case may be.

B. A commissioner shall receive no compensation for his services, but may be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties or, except as otherwise provided in this subsection, receive a per diem payment of not to exceed Thirty-five Dollars ($35.00) plus mileage as provided by the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74, for expenses incurred in attending meetings of the housing authority. An Indian housing authority or the tribal government the authority serves may elect to set a different monetary amount for per diem and mileage payments than specified in this subsection for the commissioners of that Indian housing authority. Each commissioner shall hold office until his successor has been appointed and qualified. A certificate of appointment or reappointment of any commissioner shall be filed with the authority and this certificate shall be conclusive evidence of the due and proper appointment of the commissioner.

C. The powers of each authority shall be vested in the commissioners thereof in office from time to time. A majority of the commissioners of an authority shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies. Action may be taken by the authority upon a vote of a majority of the commissioners present, unless in any case the bylaws of the authority shall require a larger number. Meetings of the commissioners of an authority may be held anywhere within the area of operation of the authority or within any additional area in which the authority is authorized to undertake a project. Such meetings shall be held pursuant to the provisions of the Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes.

D. The commissioners of an authority shall elect a chairman and vice chairman from among the commissioners. An authority may employ an executive director, legal and technical experts and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. An authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper.
Added by Laws 1965, c. 251, § 8, emerg. eff. June 18, 1965. Amended by Laws 1967, c. 339, § 3; Laws 1974, c. 97, § 1; Laws 1977, c. 254, § 1; Laws 1982, c. 305, § 1, emerg. eff. May 28, 1982; Laws 1987, c. 34, § 1, eff. Nov. 1, 1987; Laws 2008, c. 62, § 2, emerg. eff. April 21, 2008.

§63-1059. Interest of commissioners, officers, or employees.

A. During his tenure and for one (1) year thereafter, no commissioner, officer, or employee of the local housing authority shall voluntarily acquire any interest, direct or indirect, in any project or in any property included or planned to be included in any project, or in any contract or proposed contract relating to any housing project. If any such commissioner, officer, or employee involuntarily acquired any such interest, or voluntarily or involuntarily acquired any such interest prior to appointment or employment as commissioner, officer, or employee, the commissioner, officer, or employee, in any such event, shall immediately disclose his interest in writing to the authority, and such disclosure shall be entered upon the minutes of the authority, and the commissioner, officer, or employee shall not participate in any action by the authority relating to the property or contract in which he has any such interest. Any violation of the foregoing provisions of this section shall constitute misconduct in office. This section shall not be applicable to the acquisition of any interest in notes or bonds of an authority issued in connection with any housing project, or to the execution of agreements by banking institutions for the deposit or handling of funds in connection with a project or to act as trustee under any trust indenture, or to utility services the rates for which are fixed or controlled by a governmental agency.

B. Nothing in this section shall be construed to apply to the housing authority commissioner who is a tenant.
Amended by Laws 1988, c. 233, § 4, operative July 1, 1988.

§63-1060. Removal of commissioners.

For inefficiency, neglect of duty or misconduct in office, or allowing any portion of any project to become dilapidated, unsanitary or unkept, a commissioner of an authority may be removed by the governing body, or, in the case of an authority for a county, by the board of county commissioners, but a commissioner shall be removed only after a hearing and after he shall have been given a

copy of the charges at least ten (10) days prior to the hearing and had an opportunity to be heard in person or by counsel. In the event of the removal of any commissioner, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the clerk.
Laws 1965, c. 251, § 10, emerg. eff. June 18, 1965.

§63-1061. Power of authority.

Every authority shall have all powers necessary or convenient to carry out and effectuate the purposes and provisions of this act, including the following powers in addition to others herein specifically granted:

(a) To sue and to be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority; and to make and from time to time amend and repeal bylaws, rules and regulations.

(b) Within its area of operation: to prepare, carry out and operate projects and to provide for the acquisition, construction, reconstruction, improvement, extension, alteration or repair of any project or any part thereof. Provided, however, that a public hearing to consider a proposed project requiring construction, purchasing, leasing or renting of more than twenty new housing units shall be held together by the authority and governing body, and any such project must be found to be in the public interest by a majority of the members constituting said authority and a majority of the members constituting said governing body as a condition precedent to the implementation of any such project. Notice of the public hearing required by this provision shall be given by publication in a newspaper of general circulation within the jurisdiction of the authority at least ten (10) days and not more than thirty (30) days prior to said hearing; provided that an additional public hearing shall be held by the authority before the same shall select any location for any contiguous or noncontiguous area of land on which the authority proposes to construct more than twenty additional new housing units, and such hearing shall have as its subject the location of the proposed additional units. Notice of the public hearing required by this provision shall be given in a newspaper of general circulation within the jurisdiction of the authority at least ten (10) days and not more than thirty (30) days prior to said hearing and three members of the Commission must concur in the selection of any such location, except that the aforesaid proviso concerning an additional public hearing shall not apply to a location in an approved urban renewal project area.

(c) To undertake and carry out studies and analyses of housing needs within its area of operation and ways of meeting such needs, including data with respect to population and family groups and the

distribution thereof according to income groups, the amount and quality of available housing and its distribution according to rental and sale prices, employment, wages and other factors affecting the local housing needs and the meeting thereof, and to make the results of such studies and analyses available to the public and the building, housing and supply industries; and to engage in research and disseminate information on housing and slum clearance.

(d) To utilize, contract with, act through, assist and cooperate or deal with any person, agency, institution or organization, public or private, for the provision of services, privileges, works or facilities for or in connection with its projects; and, notwithstanding anything to the contrary contained in this act or in any other provision of law, to agree to any conditions attached to federal financial assistance relating to the determination of prevailing salaries or wages or payment of not less than prevailing salaries or wages or compliance with labor standards, in the development or administration of projects, and to include in any contract awarded or entered into in connection with a project stipulations requiring that the contractor and all subcontractors comply with requirements as to minimum salaries or wages and maximum hours of labor, and comply with any conditions attached to the financial aid of the project. Construction, restitution, improvement, extension, alteration or major repair of any project or any part thereof shall be open to competitive bidding: provided, however, nothing in this section shall prevent a local housing authority from requesting proposals from property owners and/or developers to provide certain kinds of housing to the housing authority either presently existing or to be developed; provided, that the local authority establish safeguards relating to laws and regulations of the United States wherein the same has entered into contracts with the authority to provide financial assistance in acquiring the same; provided, further, that no authority shall discriminate in its seeking, or in the award, of any contract for services, acquisition of real or personal property, construction of buildings, dwelling units, streets, utilities, site grading, landscaping and repairs to any of its holdings or upon property that the authority plans to acquire, to include renovations, solely based on the race, sex, color, religious beliefs or national origin of a person or firm; except an Indian authority may give preference in its awarding of a contract in all forms so long as the services to be performed, or the construction of buildings, dwellings, site improvements, repairs or renovation is to be performed or carried out on a federally recognized tribal reservation or former reservations and only then upon land held in trust by, or owned by, the respective Indian tribe; and provided, further, that all previously listed restrictions and regulations concerning public

hearings and locations of said projects are complied with in their entirety.

(e) To lease, rent, sell or lease with option to purchase any dwelling, accommodations, lands, buildings, structures or facilities embraced in any project and, subject to the limitations contained in this act with respect to the rental of or charges for dwellings in housing projects, to establish and revise the rents or charges therefor; to own, hold and improve real or personal property; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise or otherwise any real or personal property or any interest therein; to acquire by the exercise of the power of eminent domain any real property or interest therein; to sell, lease, exchange, transfer, assign, pledge or dispose of any real or personal property or any interest therein, provided, however, that before any such personal property shall be sold it shall be advertised for sale in a newspaper of general circulation within the jurisdiction of the authority, and such advertisement shall state the time and place where written bids shall be received, or public auction shall be held, that such property shall be sold to the highest bidder, and that the authority may, within its discretion, reject all bids and readvertise such property for sale in the event any property, real or personal, acquired by the authority, by eminent domain or otherwise, is later found to be in excess of its needs, or unsuitable or unuseable for any reason, such property shall, before being sold, leased, exchanged, transferred, assigned, pledged or disposed of in any other manner, be first offered to those persons, individuals, groups, organizations, corporations, municipalities or their successors from whom it was first procured by the authority, at the same price as paid by the authority at the time of acquiring same, and except that lands acquired by the authority may be sold to other governmental agencies for public purposes, as long as such parcel of land does not exceed one percent (1%) of the total land held by the authority and the sale is made within ninety (90) days of the effective date of this act; to make loans for the provisions of housing for occupancy by persons of low income; to insure or provide for the insurance of any real or personal property or operations of the authority against any risks or hazards; to procure or agree to the procurement of government insurance or guarantees of the payment of any bonds or parts thereof issued by the authority, including the power to pay premiums on any such insurance; provided, however, that notwithstanding any provisions in this law, the authority may develop programs for the sale of individual homes and/or two-family units to low income families or to families who have at one time qualified as low income families under this act, under terms which the housing authority may establish under conditions acceptable to bondholders, other lenders and the federal government.

(f) To invest any funds held in reserves or sinking funds or any funds not required for immediate disbursement in property or securities in which public funds in the custody of a county treasurer or the Treasurer of the State of Oklahoma may be legally invested; to redeem its bonds at the redemption price established therein or to purchase its bonds at less than such redemption price, all bonds so redeemed or purchased to be cancelled.

(g) Within its area of operation: to determine where slum areas exist or where there is unsafe, unsanitary or overcrowded housing; to make studies and recommendations relating to the problem of clearing, replanning and reconstruction of slum areas and the problem of eliminating unsafe, unsanitary or overcrowded housing and providing dwelling accommodations for persons of low income; and to cooperate with the state or any state public body in action taken in connection with such problems. Provided, however, the authority shall not have the power to relocate any persons to other areas until housing has been provided for such persons under this act.

(h) Acting through one or more commissioners or other persons designated by the authority: to conduct examinations and investigations and to hear testimony and take proof under oath at public hearings on any matter material for its information; to administer oaths, issue subpoenas requiring the attendance of witnesses or the production of books and papers and to issue commissions for the examination of witnesses who are outside of the state or unable to attend before the authority, or excused from attendance; to make available to appropriate agencies, including those charged with the duty of abating or requiring the correction of nuisances or like conditions or of demolishing unsafe or unsanitary structures within its area of operation, its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, morals, safety or welfare.

(i) To exercise all or any part or combination of powers herein granted.

The powers of an authority shall not include: (1) the power to appropriate funds of a city or county; (2) the power to levy taxes and assessments; (3) the power to zone or rezone; or (4) the power to make exceptions to zoning ordinances or building regulations of a city or county.

No provision by law with respect to the acquisition, operation or disposition of property by other public bodies shall be applicable to an authority unless the Legislature shall specifically so state.

Amended by Laws 1982, c. 305, § 2, emerg. eff. May 28, 1982.

§63-1062. Operation of housing not for profit.

It is hereby declared to be the policy of this state to accomplish the charitable and public purposes of this act that each authority shall manage and operate its housing projects in an efficient manner so as to enable it to fix the rentals or payments for dwelling accommodations at low rates consistent with its providing decent, safe and sanitary dwelling accommodations for persons of low income and that no authority shall construct or operate any housing project for profit, or as a source of revenue to the city or county. To this end an authority shall fix the rentals or payments for dwellings in its projects at no higher rates than it shall find to be necessary in order to produce revenues which, together with all other available monies, revenues, income and receipts of the authority from whatever sources derived, including Federal financial assistance necessary to maintain the low-rent character of the project, will be sufficient:

(a) to pay, as the same become due, the principal and interest on the bonds of the authority;

(b) to create and maintain such reserves as may be required to assure the payment of principal and interest as it becomes due on its bonds;

(c) to meet the cost of, and to provide for, maintaining and operating the projects, including necessary reserves therefor and the cost of any insurance, and the administrative expenses of the authority; and

(d) to make such payments in lieu of taxes and, after payment in full of all obligations for which federal annual contributions are pledged, to make such repayments of federal and local contributions as it determines are consistent with the maintenance of the low-rent character of projects.

Rentals or payments for dwellings shall be established and the projects administered, insofar as possible, so as to assure that any federal financial assistance required shall be strictly limited to amounts and periods necessary to maintain the low-rent character of the projects. Nothing herein shall be construed to limit the amount an authority may charge for nondwelling facilities. All such income, together with other income and revenue, shall be used in the operation of the projects to aid in accomplishing the charitable and public purposes of this act.

Laws 1965, c. 251, § 12, emerg. eff. June 18, 1965.

§63-1063. Tenant eligibility.

An authority shall issue regulations establishing eligibility requirements, consistent with the purposes and objectives of this act, for admission to and continued occupancy in its projects.

Nothing contained in this or the preceding section shall be construed as limiting the power of an authority with respect to a housing project, to vest in an obligee the right, in the event of a

default by the authority, to take possession or cause the appointment of a receiver thereof, free from all of the restrictions imposed by this or the preceding section.
Laws 1965, c. 251, § 13, emerg. eff. June 18, 1965.

§63-1064. Cooperation between authorities.

Any two or more authorities may join or cooperate with one another in the exercise, either jointly or otherwise, of any or all of their powers for the purpose of financing, including the issuance of bonds, notes or other obligations and giving security therefor, planning, undertaking, owning, constructing, operating or contracting with respect to a housing project or projects located within the area of operation of any one or more of said housing authorities. For such purpose a housing authority may by resolution prescribe and authorize any other housing authority or authorities, so joining or cooperating with it, to act on its behalf with respect to any or all powers, as its agent or otherwise, in the name of the housing authority or authorities so joining or cooperating, or in its own name.
Laws 1965, c. 251, § 14, emerg. eff. June 18, 1965.

§63-1065. Dwellings for disaster victims and defense workers.

Notwithstanding the provisions of this or any other act relating to rentals of, preferences or eligibility for admission to, or occupancy of dwellings in housing projects, during a time of war as declared by Congress an authority determines that there is an acute need for housing to assure the availability of dwellings for persons engaged in national defense activities or for victims of a major disaster at any time the same may occur, the authority may undertake the development and administration of housing projects for the federal government, and dwellings in any housing project under the jurisdiction of the authority may be made available to persons engaged in national defense activities or to victims of a Major disaster, as the case may be. An authority is authorized to contract with the federal government or the state or a state public body for advance payment or reimbursement for the furnishing of housing to victims of a major disaster, including the furnishing of the housing free of charge to needy disaster victims during any period covered by a determination of acute need by the authority as herein provided.
Laws 1965, c. 251, § 15; Laws 1967, c. 339, § 6.

§63-1066. Tax exemption and payments in lieu of taxes.

The property and funds of a housing authority are declared to be used for charitable purposes and to be public property used for essential public and governmental purposes, and such property and the authority are exempt from all taxes, including sales and use

taxes and special assessments of the state or any state or local public body. In lieu of taxes on its property an authority shall agree to make such payments to the state or any state or local public body as the governing body of the city or county finds consistent with the maintenance of the low-rent character of housing projects and the achievement of the purposes of this act, provided that not less than one-half (1/2) of the annual amount of such payment in lieu of taxes shall be paid to the school district within which the property of the housing authority is located. The amount of money collected under the provisions of this act shall not be considered as chargeable income to the district receiving such funds. The tax exemption provided by this section does not apply to any portion of a project used by a profit-making enterprise, but in taxing such portions appropriate allowance shall be made for any expenditure by an authority for utilities or other public services which it provides to serve the property.
Laws 1965, c. 251, § 16; Laws 1969, c. 341, § 1, emerg. eff. May 8, 1969.

§63-1067. Planning, zoning and building laws.

All projects of an authority shall be subject to the planning, zoning, sanitary and building laws, ordinances and regulations applicable to the locality in which the project is situated.
Laws 1965, c. 251, § 17, emerg. eff. June 18, 1965.

§63-1068. Bonds.

An authority shall have power to issue bonds from time to time, in its discretion, for any of its corporate purposes. It shall also have power to issue refunding bonds for the purpose of paying or retiring bonds previously issued by it. An authority may issue such types of bonds as it may determine, including, without limiting the generality of the foregoing, bonds on which the principal and interest are payable:

(a) exclusively from the income and revenues of the project financed with the proceeds of such bonds;

(b) exclusively from the income and revenues of certain designated projects whether or not they are financed in whole or in part with the proceeds of such bonds; or

(c) from its revenues generally.

Any such bonds may be additionally secured by a pledge of any loan, grant, or contributions, or parts thereof, from the federal government or other source, or a pledge of any income or revenues of the authority.

Neither the members of an authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of an authority, and such bonds and obligations shall so state on their face, shall

not be a debt of the city or county, or of the state or any political subdivision thereof, and neither the city or county nor the state or any political subdivision thereof shall be liable thereon, and in no event shall such bonds or obligations be payable out of any funds or properties other than those of the authority. The bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. Bonds of an authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, shall be exempt from taxes. The provisions of this act exempting from taxation the properties of an authority and its bonds and interest thereon and income therefrom shall be considered part of the contract for the security of the bonds and shall have the force of contract, by virtue of this act and without the necessity of the same being restated in said bonds, between the bondholders and each and every one thereof, including all transferees of said bonds from time to time on the one hand and an authority and the state on the other.
Laws 1965, c. 251, § 18, emerg. eff. June 18, 1965.

§63-1069. Form and sale of bonds.

Bonds of an authority shall be authorized by its resolution and may be issued in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, not exceeding six percent (6%) per annum, be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption, with or without premium, as such resolution or its trust indenture may provide.

The bonds must be sold at public sale at not less than par. Bonds of the authority shall not be purchased by members of the authority or its employees or members of their immediate families.

In case any of the members or officers of an authority whose signatures appear on any bonds or coupons shall cease to be such members or officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such members or officers had remained in office until such delivery. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this act shall be fully negotiable.

In any suit, action or proceeding involving the validity or enforceability of any bond of an authority or the security therefor, any such bond reciting in substance that it has been issued by the authority to aid in financing a project, as herein defined, shall be

conclusively deemed to have been issued for such purposes and such project shall be conclusively deemed to have been planned, located and carried out in accordance with the purposes and provisions of this act.
Laws 1965, c. 251, § 19; Laws 1968, c. 254, § 1; Laws 1969, c. 341, § 2, emerg. eff. May 8, 1969.

§63-1070. Provisions of bonds and trust indentures.

In connection with the issuance of bonds or the incurring of obligations under leases and in order to secure the payment of such bonds or obligations, an authority, in addition to its other powers, shall have power:

(a) to pledge all or any part of its gross or net rents, fees or revenues to which its right then exists or may thereafter come into existence.

(b) to covenant against pledging all or any part of its rents, fees and revenues, or against permitting or suffering any lien on such revenues or property; to covenant with respect to limitations on its right to sell, lease or otherwise dispose of any housing project or any part thereof; and to covenant as to what other or additional debts or obligations may be incurred by it.

(c) to covenant as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof; to provide for the replacement of lost, destroyed, or mutilated bonds; to covenant against extending the time for the payment of its bonds or interest thereon; and to covenant for the redemption of the bonds and to provide the terms and conditions thereof.

(d) to covenant, subject to the limitations contained in this act, as to the rents and fees to be charged in the operation of a housing project or projects, the amount to be raised each year or other period of time by rents, fees, and other revenues, and as to the use and disposition to be made thereof; to create or to authorize the creation of special funds for monies held for construction or operating costs, debt service, reserves, or other purposes, and to covenant as to the use and disposition of the monies held in such funds.

(e) to prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the proportion of outstanding bonds the holders of which must consent to such action, and the manner in which such consent may be given.

(f) to covenant as to the use, maintenance, and replacement of any or all of its real or personal property, the insurance to be carried thereon and the use and disposition of insurance monies.

(g) to covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition, or obligations; and to covenant and prescribe as to events of default

and terms and conditions upon which any or all of its bonds or obligations shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.

(h) to vest in any obligee of the authority or any specified proportion of them the right to enforce the payment of the bonds or any covenants securing or relating to the bonds; to vest in such obligees the right, in the event of a default by said authority, to take possession of and use, operate and manage any project or any part thereof or any funds connected therewith, and to collect the rents and revenues arising therefrom and to dispose of such monies in accordance with the agreement of the authority with such obligees; to provide for the powers and duties of such obligees and to limit the liabilities thereof; and to provide the terms and conditions upon which such obligees may enforce any covenant or rights securing or relating to the bonds.

(i) to exercise all or any part or combination of the powers herein granted; to make such covenants, other than and in addition to the covenants herein expressly authorized, and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or, in the absolute discretion of said authority, as will tend to make the bonds more marketable notwithstanding that such covenants, acts or things may not be enumerated herein.

Laws 1965, c. 251, § 20, emerg. eff. June 18, 1965.

§63-1071. Housing bonds, legal investments and security.

The state and all public officers, private citizens, municipal corporations, political subdivisions, and public bodies, all banks, bankers, trust companies, savings banks and institutions, building and loan associations and savings and loan associations, investment companies, insurance companies, insurance associations and other persons carrying on a banking or insurance business, and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any monies or funds belonging to them or within their control in any bonds or other obligations issued by a housing authority created by the Housing Authorities Law of this state or issued by any public housing authority or agency in the United States, any of its territories, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands, when such bonds or other obligations are secured by a pledge of annual contributions or other financial assistance to be paid by the United States Government or any agency thereof, or when such bonds or other obligations are secured by an agreement between the United States Government or any agency thereof and the public housing authority or agency in which the United States Government or any agency thereof agrees to lend to the public housing authority or agency, prior to the maturity of the

bonds or other obligations, monies in an amount which (together with any other monies irrevocably committed to the payment of interest on the bonds or other obligations) will suffice to pay the principal of the bonds or other obligations with interest to maturity, which monies under the terms of the agreement are required to be used for this purpose, and such bonds and other obligations shall be authorized security for all public deposits and shall be fully negotiable in this state; it being the purpose of this section to authorize any of the foregoing to use any funds owned or controlled by them, including (but not limited to) sinking, insurance, investment, retirement, compensation, pension and trust funds, and funds held on deposit, for the purchase of any such bonds or other obligations: Provided, however, that nothing contained in this section shall be construed as relieving any person, firm or corporation from any duty of exercising reasonable care in selecting securities. The provisions of this section shall apply notwithstanding any restrictions on investments contained in other laws.
Laws 1965, c. 251, § 21, emerg. eff. June 18, 1965.

§63-1072. Construction of bond provisions.
This act without reference to other statutes of the state shall constitute full authority for the authorization and issuance of bonds hereunder. No other law with regard to the authorization or issuance of obligations or the deposit of the proceeds thereof that requires a bond election or in any way impedes or restricts the carrying out of the acts herein authorized to be done shall be construed as applying to any proceedings taken hereunder or acts done pursuant hereto.
Added by Laws 1965, c. 251, § 22, emerg. eff. June 18, 1965.

§63-1073. Remedies of an obligee.
An obligee of an authority shall have the right, in addition to all other rights which may be conferred on such obligee, subject only to any contractual restrictions binding upon such obligee:
(a) by mandamus, suit, action or proceeding at law or in equity, to compel an authority and the commissioners, officers, agents or employees thereof to perform each and every term, provision and covenant contained in any contract of the authority with or for the benefit of such obligee, and to require the carrying out of any or all such covenants and agreements of the authority and the fulfillment of all duties imposed upon it by this act.
(b) by suit, action or proceeding in equity, to enjoin any acts or things which may be unlawful, or the violation of any of the rights of an obligee of the authority.
Laws 1965, c. 251, § 23, emerg. eff. June 18, 1965.

§63-1074. Additional remedies conferrable by the authority.

An authority shall have power, by its resolution, trust indenture, lease or other contract, to confer upon any obligee the right, in addition to all rights that may otherwise be conferred, upon the happening of an event of default as defined in such resolution or instrument, by suit, action or proceeding in any court of competent jurisdiction:

(a) to cause possession of any project or any part thereof to be surrendered to any such obligee.

(b) to obtain the appointment of a receiver of any project of the authority or any part thereof and of the rents and profits therefrom. if such receiver be appointed, he may enter and take possession of such project or any part thereof and operate and maintain same, and collect and receive all fees, rents, revenues, or other charges thereafter arising therefrom, and shall keep such monies in a separate account or accounts and apply the same in accordance with the obligations of the authority as the court shall direct.

(c) to require the authority and the commissioners, officers, agents and employees thereof to account as if it and they were the trustees of an express trust.

Laws 1965, c. 251, § 24, emerg. eff. June 18, 1965.

§63-1075. Exemption of property from execution sale.

All property, including funds acquired or held by an authority pursuant to this act, shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall any judgment against the authority be a charge or lien upon such property; provided, however, that the provisions of this section shall not apply to or limit the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by the authority on its rents, fees, or revenues, or the right of the federal government to pursue any remedies conferred upon it pursuant to the provisions of this act. An authority may waive its exemption hereunder with respect to claims against any profit-making enterprise occupying any portion of a project provided that such waiver does not affect or impair the rights of any obligee of the authority.

Laws 1965, c. 251, § 25, emerg. eff. June 18, 1965.

§63-1076. Aid from federal government.

In addition to the powers conferred upon an authority by other provisions of this act, an authority is empowered to borrow money or accept contributions, grants, or other financial assistance from the federal government for or in aid of any project or related activities concerning health, environmental and similar problems of persons of low income, to take over or lease or manage any project

or undertaking constructed or owned by the federal government and, to these ends, to comply with such conditions and enter into such contracts, covenants, trust indentures, leases or agreements as may be necessary, convenient or desirable. It is the purpose and intent of this act to authorize any authority to do any and all things necessary or desirable to secure the financial aid or cooperation of the federal government in the provision of decent, safe, and sanitary dwellings and maintaining a wholesome living environment for persons of low income by the authority. To accomplish this purpose an authority, notwithstanding the provisions of any other law, may include in any contract for financial assistance with the federal government any provisions which the federal government may require as conditions to its financial aid not inconsistent with the purposes of this act.
Laws 1965, c. 251, § 26, emerg. eff. June 18, 1965.

§63-1077. Transfer of possession or title to federal government.

In any contract with the federal government for annual contributions to any authority the authority may obligate itself, which obligation shall be specifically enforceable and shall not constitute a mortgage, notwithstanding any other laws, to convey to the federal government possession of or title to the project to which such contract relates, upon the occurrence of a substantial default, as defined in such contract, with respect to the covenants and conditions to which the authority is subject; such contract may further provide that in case of such conveyance, the federal government may complete, operate, manage, lease, convey, or otherwise deal with the project and funds in accordance with the terms of such contract; provided, that the contract requires that, as soon as practicable after the federal government is satisfied that all defaults with respect to the project have been cured and that the project will thereafter be operated in accordance with the terms of the contract, the federal government shall reconvey to the authority the project as then constituted.
Laws 1965, c. 251, § 27, emerg. eff. June 18, 1965.

§63-1078. Eminent domain.

An authority shall have the right to acquire by the exercise of the power of eminent domain any real property or interest therein which it may deem necessary for its purposes under this act after the adoption by it of a resolution declaring that the acquisition of the real property described therein is necessary for such purposes. An authority may exercise the power of eminent domain in the same manner and by like proceedings as provided for railroad corporations under the laws of this state.

Property already devoted to a public use may be acquired in like manner, provided that no real property belonging to any city,

county, or any other political subdivision of the state may be acquired without its consent.

In the event any housing authority in exercising any of the powers conferred by this act makes necessary the relocation, raising, rerouting or changing the grade of or altering the construction of any railroad, common carrier, public utility property or facility, all such relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the expense of the housing authority, provided that the housing authority shall not disturb the possession or operation of any railroad, common carrier, or public utility in or to the appropriated property or facility until the relocated property or facilities are available for use and until marketable title thereto has been transferred to the railroad, common carrier or public utility.

Laws 1965, c. 251, § 28, emerg. eff. June 18, 1965.

§63-1079. Reports and audits.

At least once a year an authority shall file with the clerk of the governing body of the jurisdiction within which the authority operates a complete financial and operating report of the preceding fiscal year which shall be and remain a public record. When required by federal law, an authority shall file an audit of all financial and other transactions for the previous fiscal year and shall file such audit with the clerk as a public record and make recommendations with reference to such additional legislation or other action as it deems necessary in order to carry out the purposes of this act.

Added by Laws 1965, c. 251, § 29, emerg. eff. June 18, 1965.
Amended by Laws 2003, c. 79, § 1, eff. July 1, 2003.

§63-1080. Cooperation in undertaking projects.

For the purpose of aiding and cooperating in the planning, undertaking, construction, or operation of projects located within its jurisdiction, any state or local public body may, upon such terms, with or without consideration, as it may determine:

(a) dedicate, sell, convey, or lease any of its interest in any property, or grant easements, licenses, or any other rights or privileges therein to a housing authority, or to the federal government;

(b) cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with such projects;

(c) furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, alleys, sidewalks, or other places which it is otherwise empowered to undertake;

(d) plan or replan, zone or rezone any parts of such state or local public body; make exceptions from building regulations and ordinances; make changes in its map;

(e) cause services to be furnished to a housing authority of the character which such state or local public body is otherwise empowered to furnish;

(f) enter into agreements with respect to the exercise by such state or local public body of its powers relating to the repair, improvement, condemnation, closing or demolition of unsafe, unsanitary, or unfit buildings;

(g) do any and all things necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of such projects;

(h) incur the entire expense of any public improvements made by such state or local public body in exercising the powers granted in this act; and

(i) enter into agreements with a housing authority respecting action to be taken by such state or local public body pursuant to any of the powers granted by this act.

If at any time title to or possession of any project is held by any public body or governmental agency authorized by law to engage in the development or administration of low-rent housing or slum clearance projects, including any agency or instrumentality of the United States of America, the provisions of such agreements shall inure to the benefit of and may be enforced by such public body or governmental agency. Except as heretofore provided in Section 11, subsection (e), for resale to prior owners, any sale, conveyance, lease or agreement provided for in this section shall be made by a state or local public body with appraisal, public notice, advertisement and public bidding.

Laws 1965, c. 251, § 30, emerg. eff. June 18, 1965.

§63-1081. Agreements as to payments by housing authority.

In connection with any project of a housing authority located wholly or partly within the area in which any state or local public body is authorized to act, any state or local public body shall agree with the housing authority with respect to the payment by the authority of such sums in lieu of taxes for any year or period of years as are determined by the governing body of the city or county to be consistent with the maintenance of the low-rent character of housing projects or the achievement of the purposes of this act.

Laws 1965, c. 251, § 31, emerg. eff. June 18, 1965.

§63-1082. Other state and local aid.

In addition to other aids provided herein, the state or any state or local public body is authorized to make contributions in the form of donation of land, buildings or personal property for or

in aid of the charitable purpose of housing persons or families of low income in decent, safe, and sanitary dwellings.
Laws 1965, c. 251, § 32, emerg. eff. June 18, 1965.

§63-1083. Rural electric cooperative housing authority.

There is hereby created, with respect to each rural electric cooperative in the state, a public body corporate and politic, to function in the operating area of such rural electric cooperative to be known as the "housing authority" of said cooperative which shall be an agency of the State of Oklahoma possessing all powers, rights and functions provided by law for city and county housing authorities. No rural electric cooperative housing authority shall transact any business or exercise any powers unless the governing board of said cooperative, by proper resolution, declares that there is a need for an authority to function for said cooperative.

Except as otherwise provided in this act, all the provisions of law applicable to housing authorities created for cities and counties and the commissioners of such authorities shall be applicable to rural electric cooperative housing authorities and the commissioners thereof unless a different meaning clearly appears from the context. The chief executive officer of each rural electric cooperative is authorized to exercise all appointing and other powers with respect to a rural electric cooperative housing authority that are vested by law in the mayor of a city relating to a city housing authority.
Added by Laws 1971, c. 218, § 2, emerg. eff. June 11, 1971.

§63-1083.1. Rural electric cooperative housing authorities - Exemption from publication of notice, petition and election procedure.

There is hereby created, with respect to each rural electric cooperative in the state, a public body corporate and politic, to function in the operating area of such rural electric cooperative to be known as the "housing authority" of said cooperative which shall be an agency of the State of Oklahoma possessing all powers, rights and functions provided by law for city and county housing authorities. No rural electric cooperative housing authority shall transact any business or exercise any powers unless the governing board of said cooperative, by proper resolution, declares that there is a need for an authority to function for said cooperative.

Except as otherwise provided in this act, all the provisions of law applicable to housing authorities created for cities and counties and the commissioners of such authorities shall be applicable to rural electric cooperative housing authorities and the commissioners thereof unless a different meaning clearly appears from the context. The chief executive officer of each rural electric cooperative is authorized to exercise all appointing and

other powers with respect to a rural electric cooperative housing authority that are vested by law in the mayor of a city relating to a city housing authority. The requirements of Section 1055 of Title 63 of the Oklahoma Statutes as to publication of notice, petition and election and the provisions of Section 1056 of Title 63 of the Oklahoma Statutes shall not apply to rural electric cooperative housing authorities.
Added by Laws 1973, c. 274, § 1, emerg. eff. May 30, 1973.

§63-1084. Industrial housing - Adoption of Federal standards.
Notwithstanding any other provisions of law, or of any municipal or county ordinance or local building code, the standards for factory-built housing, housing prototypes, subsystems, materials and components certified as acceptable by the Federal Department of Housing and Urban Development are hereby deemed acceptable and approved for use in housing construction in this state. A certificate from the State Director of the Federal Housing Administration of the Department of Housing and Urban Development shall constitute prima facie evidence that the products or materials listed therein are acceptable and such certificates shall be furnished by the building contractor to any local building inspector or other local housing authority upon request. The provisions of this act will not preclude on-site inspections by cities and towns of the service connections for electrical and sanitary facilities.
Added by Laws 1971, c. 254, § 1, emerg. eff. June 16, 1971.

§63-1092.1. Short title.
Sections 3 and 4 of this act and Sections 1093, 1094, 1095, 1097, 1098 and 1099 of Title 63 of the Oklahoma Statutes shall be known and may be cited as the "Oklahoma Relocation Assistance Act".
Added by Laws 1988, c. 315, § 3, emerg. eff. July 6, 1988.

§63-1092.2. Compliance with Federal Uniform Relocation Act - Compensation and reimbursement payments.
A. When any department, agency or instrumentality of the state, or any county, municipality, or other political subdivision of the state, or any other public or private entity subject to the provisions of the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, Public Laws 91-646, and 100-17, Title IV, hereinafter referred to as the Federal Uniform Relocation Act, undertakes any project which results in the acquisition of real property or in any person being displaced from the home, business, or farm of such person, such department, agency or instrumentality of the state, county, municipality or other political subdivision of the state, or other public or private entity may provide relocation assistance, and make relocation payments to such displaced person and do such other acts and follow

such procedures and practices as may be necessary to comply with the provisions of the Federal Uniform Relocation Act.

B. Any payment made or to be made pursuant to the authority granted in this section shall be for compensating or reimbursing the displaced person or owner of real property in accordance with the requirements of the Federal Uniform Relocation Act and such payment shall not for any purpose be deemed or considered compensation for real property acquired or compensation for damages to remaining property.

Added by Laws 1988, c. 315, § 4, emerg. eff. July 6, 1988.

§63-1093. Responsibility for conduct of assistance programs.

Except as provided in this section, the responsibility for the conduct of the relocation assistance programs shall be with the entity authorizing or requiring the relocation. An entity authorizing or requiring relocation may enter into contracts with any individual, firm, association or corporation for services in connection with such programs, or may carry out its functions pursuant to Section 4 of this act through any federal or state agency or instrumentality having an established organization for conducting relocation assistance programs.

Amended by Laws 1988, c. 315, § 5, emerg. eff. July 6, 1988.

§63-1094. Availability of funds.

Funds appropriated or otherwise available to any state agency for the acquisition of real property or any interest therein for a particular program or project shall be available also for obligation and expenditure to carry out the provisions of this act as applied to that program or project.

Added by Laws 1971, c. 342, § 10, operative July 1, 1971.

§63-1095. Costs to units of local government.

If a unit of local government acquires real property, and federal-state financial assistance is available to pay the cost, in whole or in part, of the acquisition of such real property, or of the improvement for which such property is acquired, the cost to the unit of local government of providing the payments and services prescribed by this act shall be included as part of the costs of the project for which state financial assistance is available to such unit of local government, and shall be eligible for state financial assistance in the same manner and to the same extent as other project costs.

Added by Laws 1971, c. 342, § 11, operative July 1, 1971.

§63-1097. Payments not considered as income or resources.

No payment received by a displaced person under this act shall be considered as income or resources for the purpose of determining

the eligibility or extent of eligibility of any person for assistance under any state law or for the purposes of the state's personal income tax law, corporation tax law or other tax laws. Such payments shall not be considered as income or resources of any recipient of public assistance and such payments shall not be deducted from the amount of aid to which the recipient would otherwise be entitled.
Added by Laws 1971, c. 342, § 13, operative July 1, 1971.

§63-1098. Act not to create new elements of value or damage.
Nothing in this act shall be construed as creating in any condemnation proceedings brought under the power of eminent domain any element of value or of damage not in existence immediately prior to the date of enactment of this act.
Added by Laws 1971, c. 342, § 14, operative July 1, 1971.

§63-1099. Appeals.
Any person or business concern aggrieved by final administrative determination, as provided by the Administrative Procedures Act, concerning eligibility for relocation payments authorized by this act may appeal such determination to the district court of the district in which the land taken for public use is located or in which the project is conducted.
Added by Laws 1971, c. 342, § 15, operative July 1, 1971.

§63-2051. Citation.
This act shall be cited as the Oklahoma Community Social Service Centers Act.
Laws 1967, c. 211, § 1, emerg. eff. May 1, 1967.

§63-2052. Purpose.
It is the purpose of this act to provide and aid in providing in Oklahoma communities suitable and adequate space for housing state departments and other governmental and nongovernmental entities which provide social and/or health services for individuals or groups.
Laws 1967, c. 211, § 2, emerg. eff. May 1, 1967.

§63-2053. Community defined.
For purposes of this act, community shall be defined as follows:
community shall be an area comprised of all or parts of one or more counties or a delineated area within one or more municipalities or counties as determined by the State Board of Health.
Laws 1967, c. 211, § 3; Laws 1971, c. 104, § 1, emerg. eff. April 27, 1971.

§63-2054. Community Social Service Center Authority - Powers, rights and privileges.

The State Health Department is hereby designated as the Oklahoma Community Social Service Center authority and is authorized to exercise the following powers, rights, and privileges in carrying out the purposes of this act:

(a) To prepare and publish guidelines, procedures, priorities, and regulations following consultation with other state departments and approval by the State Board of Health.

(b) To acquire by purchase, lease, sublease, or gift, any and all property, real, personal, or mixed, necessary to the exercise of the powers, rights, privileges, and functions conferred upon it by this act.

(c) To acquire, build, extend, and improve any and all facilities which, in the judgment of the Authority, will benefit the people of the state, or which are necessary to the accomplishment of the purpose of this act.

(d) To maintain and operate or enter into contracts with official or nonprofit public bodies to maintain and operate facilities acquired under the provisions of this act.

(e) To fix and contract concerning annual charges to tenants occupying space in facilities acquired under the provisions of this act.

(f) To enter into agreements with any person or entity for the acquisition of property to accomplish the purposes of this act.

(g) To receive, allocate, or otherwise expend appropriations made by the Government of the State of Oklahoma to accomplish the purposes of this act.

(h) To apply for and receive directly, or through public bodies in which the state has taken a beneficial interest, grants or allocations from instrumentalities of the Government of the United States which will assist in accomplishing the purposes of this act.

(i) To deposit all funds received by it from Community Social Service Centers properties in a special account in the Office of the State Treasurer, which said account in the Office of the State Treasurer, which said account hereby is authorized and designated the County Social Service Centers Account. Any funds in said account shall be disbursed by the State Treasurer at the direction of the authority for expenditures relative to the establishment, improvement, maintenance and operation of County Social Service Centers.

Laws 1967, c. 211, § 4, emerg. eff. May 1, 1967.

§63-2055. Title to property.

Title to all property acquired under the provision of this act shall vest in the State of Oklahoma.

Laws 1967, c. 211, § 5, emerg. eff. May 1, 1967.

§63-2056. Building of centers on leased land.

Any community social service center may be built on leased land owned by any other governmental agency subject to the approval of the Office of Management and Enterprise Services.

Added by Laws 1971, c. 104, § 2, emerg. eff. April 27, 1971. Amended by Laws 1983, c. 304, § 63, eff. July 1, 1983; Laws 2012, c. 304, § 509.

§63-2057. East Central Oklahoma Health and Social Service Center at Ada - Transfer of management and operation.

The management and operation of the property used by the East Central Oklahoma Health and Social Service Center at Ada, Oklahoma, under the Oklahoma Community Social Service Centers Act, Section 2051 et seq. of this title, shall be transferred from the State Department of Health and shall be vested in the Office of Public Affairs, on April 7, 1972, which shall have sole authority to rent space in all buildings of the facility and to operate and maintain such buildings. All income derived from the operations of the property shall be deposited in the Building and Facility Revolving Fund.

Amended by Laws 1983, c. 304, § 64, eff. July 1, 1983; Laws 1984, c. 279, § 12, operative July 1, 1984.

§63-2058. Transfer of property, records, funds, etc. - Assumption of obligations.

All property, records, equipment, supplies, funds, including trust funds and revolving funds, and other assets, owned or possessed by the State Department of Health for the East Central Oklahoma Health and Social Service Center at Ada, Oklahoma, are hereby transferred on April 7, 1972, to the Office of Public Affairs. All contracts, leases, agreements, and obligations to which the State Department of Health is a party for or on behalf of said Health Center shall be assumed by the Director of the Office of Management and Enterprise Services for the benefit of the East Central Oklahoma Health and Social Service Center at Ada, Oklahoma.

Added by Laws 1972, c. 134, § 8, emerg. eff. April 7, 1972. Amended by Laws 1983, c. 304, § 65, eff. July 1, 1983; Laws 2012, c. 304, § 510.

§63-2059. National Guard Advocacy Program.

A. The State Regents for Higher Education, Oklahoma Military Department, and schools of social work in this state shall develop a Guard Advocacy Program (GAP) for Oklahoma National Guard soldiers and airmen. The Program shall include curricula designed to:

1. Facilitate and improve access to community resources that improve health;

2. Increase social support;
3. Increase productivity; and
4. Prevent life-skills and life-crisis issues from developing into behavioral health emergencies.

B. The information, records, materials and reports related to the provision of services authorized under subsection A of this section shall remain confidential and contain privileged information. Such records, materials and reports shall not be open to public inspection nor their contents disclosed.

C. The State Regents for Higher Education, the Adjutant General and the State Board of Licensed Social Workers shall promulgate rules to implement the provisions of this act.

Added by Laws 2017, c. 163, § 1, eff. July 1, 2017.

§63-2060. Short title – Oklahoma Certified Healthy Communities Act.

A. This section shall be known and may be cited as the "Oklahoma Certified Healthy Communities Act".

B. The State Department of Health shall establish and maintain a program for the voluntary certification of communities that promote wellness, encourage the adoption of healthy behaviors, and establish safe and supportive environments.

C. The Department shall develop criteria for certification. The criteria may include, but shall not be limited to:

1. The development and publication of educational materials that promote health;
2. The development, implementation, and enforcement of local social host policies;
3. The implementation of local ordinances that promote the establishment of sidewalks, walking trails, and bicycle lanes;
4. The development of parks and recreation areas;
5. The establishment of community gardens;
6. Incentives and support for farmers' markets;
7. Incentives and support for community health services, such as free clinics;
8. Incentives and support for community mental health services; and
9. Incentives and support for improved housing, including energy efficiency.

D. The Department shall develop an online scoring system based on the criteria developed pursuant to subsection C of this section. The program shall recognize three levels of certification based on the online scoring system as follows:

1. Basic certification;
2. Merit certification; and
3. Excellence certification.

E. The State Board of Health, giving consideration to the recommendations of the Advancement of Wellness Advisory Council

created in Section 44 of this act, may promulgate rules as necessary to implement the provisions of this section.
Added by Laws 2010, c. 217, § 2, eff. Nov. 1, 2010. Amended by Laws 2013, c. 229, § 73, eff. Nov. 1, 2013.

§63-2061. Short title – Oklahoma Certified Healthy Schools Act.

A. This section shall be known and may be cited as the "Oklahoma Certified Healthy Schools Act".

B. The State Department of Health shall establish and maintain a program for the voluntary certification of schools that promotes wellness, encourages the adoption of healthy behaviors, and establishes safe and supportive environments.

C. The program shall recognize three levels of certification as follows:

1. Basic certification;
2. Merit certification; and
3. Excellence certification.

D. The Department shall develop criteria for certification, which, at a minimum, may include the following for each level of certification:

1. Basic certification: The school shall meet at least two criteria in each of the components of the Center for Disease Control and Prevention's Coordinated School Health Program model;
2. Merit certification: The school shall meet at least three criteria in each of the components of the Center for Disease Control and Prevention's Coordinated School Health Program model; and
3. Excellence certification: The school shall meet at least four criteria in each of the components of the Center for Disease Control and Prevention's Coordinated School Health Program model.

E. Subject to available funding specifically appropriated for this purpose, the Department may provide a monetary reward to schools that earn certification as follows:

1. Basic certification: Two Thousand Five Hundred Dollars ($2,500.00);
2. Merit certification: Five Thousand Dollars ($5,000.00); and
3. Excellence certification: Ten Thousand Dollars ($10,000.00).

F. Schools that obtain a reward pursuant to subsection E of this section shall use the funds for the enhancement of wellness activities and the promotion of healthy environments. Such activities may include, but are not limited to:

1. Improving playgrounds;
2. Purchasing sports equipment; and
3. Equipping school kitchens for healthy cooking.

G. The Department shall develop an online application form for schools seeking to become an Oklahoma Certified Healthy School.

H. The State Board of Health, giving consideration to the recommendations of the Advancement of Wellness Advisory Council created in Section 44 of this act, may promulgate rules as necessary to implement the provisions of this section.
Added by Laws 2010, c. 217, § 3, eff. Nov. 1, 2010. Amended by Laws 2013, c. 229, § 74, eff. Nov. 1, 2013.

§63-2071. Declaration - definition.
Family planning services are declared to be essential to the health and welfare of the citizens of Oklahoma. The term "family planning" as used herein shall encompass the spacing of children and infertility or sterility in husbands and/or wives.
Laws 1967, c. 342, § 1, emerg. eff. May 18, 1967.

§63-2072. Establishment and operation of centers.
The State Department of Health is authorized to establish family planning Centers. These centers may be operated as a part of the services of a county, district, cooperative or city-county department of health, or may be operated directly by the State Department of Health, or by the State Department of Health in cooperation with nongovernmental agencies or organizations.
Laws 1967, c. 342, § 2, emerg. eff. May 18, 1967.

§63-2073. Educational materials and information - Physician to direct.
The family planning centers shall furnish educational materials and information with respect to achieving a planned parenthood, including advice as to contraceptive practices, medical surgery devices and pharmaceuticals. These centers are authorized to carry out clinical activities incident to child spacing, including medical examinations, insertion of contraceptive devices, prescription of pharmaceuticals, and may furnish drugs and devices to eligible persons. The family planning centers shall be under the direction of a physician, licensed by the State of Oklahoma to practice medicine.
Laws 1967, c. 342, § 3, emerg. eff. May 18, 1967.

§63-2074. Rules, regulations and standards.
The State Board of Health is authorized to promulgate rules, regulations and standards for the operation of family planning centers as follows:

a. Eligibility of persons for service.

b. Approval of contraceptives, practices, devices and pharmaceuticals, and the methods of their utilization.

c. Clinical procedures.

d. Medical services to applicants.

e. Establish a fee schedule to be charged applicants who are financially able to pay for services and devices, pharmaceuticals or other equipment and supplies furnished.

f. Records to be maintained.

g. Any other rules, regulations or standards required to carry out the legislative intent expressed in this act.

Laws 1967, c. 342, § 4, emerg. eff. May 18, 1967.

§63-2075. Fees.

Fees collected in family planning centers shall be forwarded to the State Department of Health, and shall be deposited in the Public Health Special Fund, and expended as is now provided by statute, or as may be provided in the future. Provided, however, that where family planning centers are a part of the services of a county, district, cooperative or city-county department of health the State Commissioner of Health may direct that such fees be deposited with the county treasurer of the county where the center is located, and the Commissioner may direct that such fees be added to a specified item or items of appropriations for the county, district, cooperative or city-county health department, and no further action or appropriation by the county excise board shall be required to make such funds available for expenditure.

Laws 1967, c. 342, § 5, emerg. eff. May 18, 1967.

§63-2151. Blood products or tissues - Addition to human body - Warranty.

The procurement, processing, distribution or use of whole blood, plasma, blood products, blood derivatives and other human tissues such as corneas, bones or organs for the purpose of injecting, transfusing or transplanting any of them into the human body, for compensation or otherwise, shall be deemed a transaction for the purposes of this act. No such transaction shall give rise to any implied warranty of the fitness, quality, suitability of purpose, safety, acceptability to the body of the patient or of any other characteristic or circumstance incident to the transaction involved bearing upon the propriety of the transaction, as applied to the recipient, on the part of the person or persons rendering such service, in the absence of negligence. Provided, that the provisions of this act shall in no way be deemed to affect the operations of the Oklahoma State Penitentiary.

Laws 1968, c. 209, § 1.

§63-2151.1. Organ and tissue donations from HIV positive persons.

No reproductive tissue(s) shall be procured for donation purposes from any person testing positive for the human immunodeficiency virus (HIV) infection. Organ(s) and tissue(s) may be procured for donation purposes from any person testing positive

for HIV infection, provided such procurement and donation are consistent with the HIV Organ Policy Equity (HOPE) Act (P.L. 113-51, 127 Stat. 579 (2013)) and the regulations promulgated thereunder by the Organ Procurement and Transplantation Network and the United States Food and Drug Administration.

1. Every donor, donor candidate or tissue(s) or organ(s) to be donated shall be tested for the virus infection immediately prior to the donation of reproductive tissue(s) or tissue(s) or organ(s) for transplant. If such test has not been conducted immediately prior to the donation, then the test shall be conducted immediately prior to the implantation of the donor organ(s) or tissue(s).

2. If the donor is living, the donor shall be notified of the test results. Notification shall be consistent with donor confidentiality and with the requirements of state and federal law. The hospital or other facility responsible for the reproductive tissue, tissue or organ donation shall provide directly or otherwise make available appropriate information and counseling services to reproductive tissue donors and to living tissue or organ donors.

Added by Laws 1988, c. 153, § 5, eff. July 1, 1988. Amended by Laws 2017, c. 198, § 1, eff. Nov. 1, 2017.

§63-2152. Donation of blood.

Any person sixteen (16) years of age with parental permission or authorization, or seventeen (17) years of age or older without parental permission or authorization shall be eligible to donate blood voluntarily; provided that only persons eighteen (18) years of age or older may receive compensation for blood so donated.

Added by Laws 1969, c. 196, § 1, emerg. eff. April 18, 1969. Amended by Laws 1974, c. 15, § 1; Laws 1984, c. 124, § 1, eff. Nov. 1, 1984; Laws 2010, c. 197, § 1, eff. Nov. 1, 2010.

§63-2153. Preplacement or replacement of blood as a condition of treatment.

No hospital or blood donor organization shall require either preplacement or replacement of blood as a condition of treatment. Every statement of policy to or request of a patient or his next of kin by a physician or the personnel of a hospital or a blood donor organization regarding preplacement or replacement of blood through voluntary donations on behalf of the patient pursuant to any scheduled transfusion of whole blood or one or more of the component parts of whole blood, shall be made in a manner not calculated or likely to result in a marked increase in anxiety or emotional disturbance on the part of the patient or his next of kin. Every blood donor organization shall adopt policies and procedures for directed blood donations. Such designated donations must be medically suitable of purpose, safety, and acceptability to the body of the recipient.

Any hospital or blood donor organization that violates the provisions of this section may be denied all benefits and privileges granted by state law to such institutions.
Amended by Laws 1986, c. 146, § 1, operative June 1, 1986.

§63-2154. Statement of benefits from donation of blood.
Every hospital or blood donor organization shall furnish the donor, preceding or at the time of a blood donation, a concise, complete, written statement as to any benefits which may arise from his donation of blood.
This statement shall include, at least, the agency policy regarding blood replacement, financial benefit, if any, for blood program participation and designation of who shall be the recipient of any such financial benefit.
Laws 1978, c. 174, § 2.

§63-2161. Short title.
This act shall be known and may be cited as the "Oklahoma Blood Exchange Act".
Laws 1980, c. 281, § 1, eff. Oct. 1, 1980.

§63-2162. Purpose of act.
The purpose of the Oklahoma Blood Exchange Act is to insure cooperation among and between the regional blood service and distribution systems operating within the state and to provide whole blood, blood components and blood derivatives at the lowest possible cost to all persons in the state.
Laws 1980, c. 281, § 2, eff. Oct. 1, 1980.

§63-2163. Definitions.
As used in this act:
"Blood service systems" means regional providers of whole blood, blood components or blood derivatives; provided, for purposes of this act, all regional providers operating with the same establishment license number of the United States Department of Health and Human Services will be considered one blood service system. For purposes of this act, blood service systems shall not include individual hospital blood banks.
Amended by Laws 1986, c. 14, § 1, eff. July 1, 1986.

§63-2166. Contracts for blood and blood products.
Regional blood service systems operating within the state shall establish plans and procedures for the exchange of blood and blood products on a basis of regularly scheduled shipments based upon past use and anticipated needs. Prior to contracting with out-of-state blood suppliers for blood products, blood service systems operating within the state shall first seek to contract with other systems

operating within the state and shall not enter into contracts for shipments of blood and blood products from service systems not operating within the state until after exhausting efforts to establish a contractual agreement for shipments from blood service systems operating within the state.
Laws 1980, c. 281, § 6, eff. Oct. 1, 1980.

§63-2167. Blood solicitation and donation.

A. It shall be the intent of the Legislature that each blood service system operating in this state use only blood and blood products obtained from volunteer donors, except in an emergency calling for a rare blood type that is not available from a nonpaid donor or in an unusual disaster situation when normal supply is interrupted or depleted. Blood collected from inmates in correctional facilities shall not be used to transfuse patients in this state.

B. Blood solicitation or donation as a prerequisite for surgical or medical reasons is hereby prohibited.

C. Every blood donor organization shall adopt policies and procedures for directed blood donations. Such designated donations must be medically suitable of purpose, safety, and acceptability to the body of the recipient.

D. Appeals for blood donations should be directed at the community at large, including organized groups within the community. While appeals to the family and friends of the hospitalized patients are an acceptable part of total donor recruitment program, blood service establishments should exercise discretion in such appeals and should carefully avoid the use of any undue pressure or coercion.
Amended by Laws 1986, c. 146, § 2, operative June 1, 1986.

§63-2167.1. Test for detection of antibodies to human T-lymphotropic virus type III - Notification of donors.

Each blood service system shall have a test to detect the presence of antibodies to the human T-lymphotropic virus type III. Such test shall be performed on each donation of blood prior to the use, disposal, distribution, or exchange of such blood. If antibodies to the human T-lymphotropic virus type III are found to be present in such blood donation, the blood shall not be used for any blood transfusion. The donor of any blood donation containing antibodies to the human T-lymphotropic virus type III shall be notified of such results upon completion of specific confirmatory testing by the blood service system that took the donation. The notification shall be made in a manner consistent with donor confidentiality.
Added by Laws 1986, c. 146, § 3, operative June 1, 1986.

§63-2168. Statement of benefits arising from donation of blood - Donor forms - Unlawful representations.

A. Every blood service system shall furnish a blood donor, preceding or at the time of a blood donation, a concise, complete, written statement as to any benefit which may arise from the donation of blood. This statement shall include, at least, the system policy regarding blood replacement, benefits, if any, for blood program participation and designation of who shall be the recipient of any such benefits.

B. Every blood service system shall provide a form to the donor to be filled in by the donor, preceding or at the time of the blood donation. The form shall provide for the name, address, or location where the donor may be located for notification pursuant to Section 3 of this act.

C. It shall be unlawful for any blood service system, or its agent or employee, to make any representation, oral or written, that a donation of blood will or may result in benefits to the blood donor or his designee, such as the refund of any fees, blood credits, family protection and the like, unless such benefits will, in fact, accrue to the blood donor or his designee.

D. It shall be unlawful for any blood service system, or its agent or employee, to make any representation, oral or written, that blood or blood products are or will be provided free if such blood service system receives any fee or remuneration, whether directly or indirectly, for providing and/or transfusing blood or blood products.

Amended by Laws 1986, c. 146, § 4, operative June 1, 1986.

§63-2169. Financial statements and reports.

Each blood service system operating within this state shall publish annually a financial statement which clearly identifies, on an individual system basis, its assets, liabilities, income, expenses and net worth and shall maintain an accounting system which facilitates a determination that its system of charges is reasonably related to the costs for blood, blood components and related services and activities.

Amended by Laws 1986, c. 14, § 2, eff. July 1, 1986.

§63-2170. Violations - Penalties.

Any violation of this act shall be a misdemeanor and upon conviction thereof, shall result in a fine of not more than Five Hundred Dollars ($500.00).

Laws 1980, c. 281, § 10, eff. Oct. 1, 1980.

§63-2171. Repealed by Laws 2005, c. 108, § 5, eff. July 1, 2005.

§63-2172. Repealed by Laws 2005, c. 108, § 5, eff. July 1, 2005.

§63-2173. Short title.

This act shall be known and may be cited as the "Danielle Martinez Act".

Added by Laws 2005, c. 87, § 1, emerg. eff. April 21, 2005.

§63-2174. Repealed by Laws 2017, c. 47, § 1, eff. Nov. 1, 2017.

§63-2175. Public umbilical cord blood bank – Education program – Donation to bank.

A. Contingent on the provision of appropriated funds designated for the State Department of Health or the donation of private funds to the State Department of Health for such purpose, on or before January 1, 2009, the State Department of Health, in collaboration with a private blood donor or private blood bank organization, shall establish, operate and maintain a public umbilical cord blood bank or cord blood collection operation for the purpose of collecting and storing umbilical cord blood and placental tissue donated by maternity patients at hospitals licensed in this state.

B. On or before January 1, 2009, the State Department of Health, in collaboration with a private blood donor or private blood bank organization shall establish a program to educate maternity patients with respect to the subject of cord blood banking. The program shall provide maternity patients with sufficient information to make an informed decision on whether or not to participate in a private or public umbilical cord blood banking program and shall include, but not be limited to, explanations and information on:

1. The difference between public and private umbilical cord blood banking;

2. The medical process involved in umbilical cord blood banking;

3. The current and potential future medical uses of stored umbilical cord blood;

4. The benefits and risks involved in banking umbilical cord blood; and

5. The availability and cost of storing umbilical cord blood and placental tissue in public and private umbilical cord blood banks.

C. 1. Each physician licensed in this state and each hospital licensed in this state shall inform each pregnant patient under the care of the physician or hospital, not later than thirty (30) days from the commencement of the patient's third trimester of pregnancy, of the opportunity to donate to the public umbilical cord blood bank, established under subsection A of this section, blood and tissue extracted from the umbilical cord and placenta, following delivery of a newborn child, at no cost to the patient.

2. Nothing in this section shall be construed to:

a. obligate a hospital to collect umbilical cord blood or placental tissue if, in the professional judgment of a physician licensed in this state, the collection would threaten the health of the mother or child,
b. prohibit a maternity patient from donating or storing blood extracted from the umbilical cord or placenta of the patient's newborn child to a private umbilical cord blood and placental tissue bank, or
c. impose a requirement upon attending medical personnel who object to umbilical cord blood or placental tissue donation as being in conflict with their religious tenets and practice.

Added by Laws 2008, c. 151, § 1, eff. July 1, 2008.

§63-2175.1. State Commissioner request for information about public cord blood collection operation.

A. On or before July 1, 2008, the State Commissioner of Health shall request information from one or more umbilical cord blood banks concerning the establishment of a public cord blood collection operation within this state to collect, transport, process and store cord blood units from Oklahoma residents for therapeutic and research purposes. Any such request for information shall contain provisions inquiring about the ability of the umbilical cord blood bank to:

1. Establish and operate one or more collection sites within the state to collect a targeted number of cord blood units;

2. Implement collection procedures designed to collect cord blood units that reflect the state's racial and ethnic diversity;

3. Set up public cord blood collection operations not later than six (6) months after execution of a contract with the state, provided the umbilical cord blood bank is able to negotiate any necessary contracts related to the collection sites within that time frame;

4. Participate in the National Cord Blood Coordinating Center or similar national cord blood inventory center by listing cord blood units in a manner that assures maximum opportunity for use;

5. Have a program that provides cord blood units for research and agree to provide cord blood units that are unsuitable for therapeutic use to researchers located within the state at no charge; and

6. Maintain national accreditation by an accrediting organization recognized by the federal Health Resources and Services Administration.

B. On or before January 1, 2009, the Commissioner of Health shall submit, as and in the manner provided for by law, a summary of the responses to the request for information, along with any recommendations, to the Governor, the Speaker of the House of

Representatives, the President Pro Tempore of the Senate, and the chairs of those committees of the Legislature with legislative responsibility over matters relating to public health.
Added by Laws 2008, c. 151, § 2, eff. July 1, 2008.

§63-2200.1. Repealed by Laws 2009, c. 139, § 31, eff. Nov. 1, 2009.
NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2200.1A. Short title.
This act shall be known and may be cited as the "Oklahoma Uniform Anatomical Gift Act".
Added by Laws 2009, c. 139, § 1, eff. Nov. 1, 2009.

§63-2200.2. Repealed by Laws 2009, c. 139, § 31, eff. Nov. 1, 2009.
NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2200.2A. Definitions.
As used in the Oklahoma Uniform Anatomical Gift Act:
1. "Adult" means an individual who is at least eighteen (18) years of age;
2. "Agent" means an individual:
   a. authorized to make health care decisions on the principal's behalf by a power of attorney for health care, or
   b. expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal;
3. "Anatomical donor program" means an entity that is registered with the State Anatomical Board to receive and issue bodies or body parts for education or research;
4. "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research, or education;
5. "Decedent" means a deceased individual whose body or part is or may be the source of an anatomical gift and includes a stillborn infant and, subject to restrictions imposed by any other provisions of law, a fetus;
6. "Disinterested witness" means a witness other than the spouse, child, parent, sibling, grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an anatomical gift, or another adult who exhibited special care and concern for the individual and does not include a person to whom an anatomical gift could pass under Section 2200.11A of this title;

7. "Document of gift" means a donor card or other record used to make an anatomical gift, including a statement or symbol on a driver license, identification card, or donor registry;

8. "Donor" means an individual whose body or part is the subject of an anatomical gift;

9. "Donor registry" means a database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts;

10. "Driver license" means a license or permit issued by the Department of Public Safety to operate a vehicle, whether or not conditions are attached to the license or permit;

11. "Eye bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes;

12. "Guardian" means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual and does not include a guardian ad litem;

13. "Hospital" means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state;

14. "Identification card" means an identification card issued by the Department of Public Safety;

15. "Know" means to have actual knowledge;

16. "Minor" means an individual who is under eighteen (18) years of age;

17. "Organ procurement organization" means a person designated by the Secretary of the United States Department of Health and Human Services as an organ procurement organization;

18. "Non-transplant tissue bank" means an entity that is registered with the State Anatomical Board to engage in the recovery, screening, testing, processing, storage, or distribution of tissue for education and research;

19. "Parent" means a parent whose parental rights have not been terminated;

20. "Part" means an organ, an eye, or tissue of a human being and does not include the whole body;

21. "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity;

22. "Physician" means an individual authorized to practice medicine or osteopathy under the law of any state;

23. "Procurement organization" means an eye bank, organ procurement organization, or tissue bank;

24. "Prospective donor" means an individual who is dead or near death and who has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research, or education and does not include an individual who has made a refusal;

25. "Reasonably available" means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift;

26. "Recipient" means an individual into whose body a decedent's part has been or is intended to be transplanted;

27. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

28. "Refusal" means a record created under Section 2200.7A of this title that expressly states an intent to bar other persons from making an anatomical gift of an individual's body or part;

29. "Sign" means, with the present intent to authenticate or adopt a record, to:

a. execute or adopt a tangible symbol, or

b. attach to or logically associate with the record an electronic symbol, sound, or process;

30. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States;

31. "Technician" means an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law, including an enucleator;

32. "Tissue" means a portion of the human body other than an organ or an eye and does not include blood unless the blood is donated for the purpose of research or education;

33. "Tissue bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue; and

34. "Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

Added by Laws 2009, c. 139, § 2, eff. Nov. 1, 2009. Amended by Laws 2012, c. 119, § 3, eff. Nov. 1, 2012.

§63-2200.3. Repealed by Laws 2009, c. 139, § 31, eff. Nov. 1, 2009.
NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2200.3A. Applicability.

This act applies to an anatomical gift or amendment to, revocation of, or refusal to make an anatomical gift, whenever made. Added by Laws 2009, c. 139, § 3, eff. Nov. 1, 2009.

§63-2200.4. Repealed by Laws 2009, c. 139, § 31, eff. Nov. 1, 2009. NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2200.4A. Persons authorized to make anatomical gift before donor's death.

Subject to Section 6 of this act, an anatomical gift of a donor's body or part may be made during the life of the donor for the purpose of transplantation, therapy, research, or education in the manner provided in Section 5 of this act by:

1. The donor, if the donor is an adult or if the donor is a minor and is:
   a. emancipated, or
   b. authorized under state law to apply for a driver license because the donor is at least sixteen (16) years of age;
2. An agent of the donor, unless the power of attorney for health care or other record prohibits the agent from making an anatomical gift;
3. A parent of the donor, if the donor is an unemancipated minor; or
4. The donor's guardian.

Added by Laws 2009, c. 139, § 4, eff. Nov. 1, 2009.

§63-2200.5. Repealed by Laws 2009, c. 139, § 31, eff. Nov. 1, 2009. NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2200.5A. Manner of making anatomical gift before donor's death.

A. A donor may make an anatomical gift:

1. By authorizing a statement or symbol indicating that the donor has made an anatomical gift to be imprinted on the donor's driver license or identification card;
2. In a will;
3. During a terminal illness or injury of the donor, by any form of communication addressed to at least two adults, at least one of whom is a disinterested witness; or
4. As provided in subsection B of this section.

B. A donor or other person authorized to make an anatomical gift under Section 4 of this act may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating that the donor has made an anatomical gift be included on a donor registry. If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and must:

1. Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

2. State that it has been signed and witnessed as provided in paragraph 1 of this subsection.

C. Revocation, suspension, expiration, or cancellation of a driver license or identification card upon which an anatomical gift is indicated does not invalidate the gift.

D. An anatomical gift made by will takes effect upon the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.

E. The making of an anatomical gift shall not of itself be construed to authorize or direct the denial of health care when the withholding or withdrawal of such health care will result in or hasten death of the donor.

Added by Laws 2009, c. 139, § 5, eff. Nov. 1, 2009.

§63-2200.6. Repealed by Laws 2009, c. 139, § 31, eff. Nov. 1, 2009.
NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2200.6A. Amending or revoking anatomical gift before donor's death.

A. Subject to Section 8 of this act, a donor or other person authorized to make an anatomical gift under Section 4 of this act may amend or revoke an anatomical gift by:

1. A record signed by:
   a. the donor,
   b. the other person, or
   c. subject to subsection B of this section, another individual acting at the direction of the donor or the other person if the donor or other person is physically unable to sign; or

2. A later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.

B. A record signed pursuant to subparagraph c of paragraph 1 of subsection A of this section must:

1. Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

2. State that it has been signed and witnessed as provided in paragraph 1 of this subsection.

C. Subject to Section 8 of this act, a donor or other person authorized to make an anatomical gift under Section 4 of this act may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.

D. A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

E. A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in subsection A of this section.

Added by Laws 2009, c. 139, § 6, eff. Nov. 1, 2009.

§63-2200.7. Repealed by Laws 2009, c. 139, § 31, eff. Nov. 1, 2009.

NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2200.7A. Refusal to make anatomical gift - Effect of refusal.

A. An individual may refuse to make an anatomical gift of the individual's body or part by:

1. A record signed by:

a. the individual, or

b. subject to subsection B of this section, another individual acting at the direction of the individual if the individual is physically unable to sign;

2. The individual's will, whether or not the will is admitted to probate or invalidated after the individual's death; or

3. Any form of communication made by the individual during the individual's terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

B. A record signed pursuant to subparagraph b of paragraph 1 of subsection A of this section must:

1. Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the individual; and

2. State that it has been signed and witnessed as provided in paragraph 1 of this subsection.

C. An individual who has made a refusal may amend or revoke the refusal:

1. In the manner provided in subsection A of this section for making a refusal;

2. By subsequently making an anatomical gift pursuant to Section 4 of this act that is inconsistent with the refusal; or

3. By destroying or canceling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.

D. Except as otherwise provided in subsection H of Section 8 of this act, in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or part bars all other persons from making an anatomical gift of the individual's body or part.

Added by Laws 2009, c. 139, § 7, eff. Nov. 1, 2009.

§63-2200.8. Repealed by Laws 2009, c. 139, § 31, eff. Nov. 1, 2009.
NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2200.8A. Preclusive effect of anatomical gift, amendment, or revocation.

A. Except as otherwise provided in subsection G of this section and subject to subsection F of this section, in the absence of an express, contrary indication by the donor, a person other than the donor is barred from making, amending, or revoking an anatomical gift of a donor's body or part if the donor made an anatomical gift of the donor's body or part under Section 5 of this act or an amendment to an anatomical gift of the donor's body or part under Section 6 of this act.

B. A donor's revocation of an anatomical gift of the donor's body or part under Section 6 of this act is not a refusal and does not bar another person specified in Section 4 or 9 of this act from making an anatomical gift of the donor's body or part under Section 5 or 10 of this act.

C. If a person other than the donor makes an unrevoked anatomical gift of the donor's body or part under Section 5 of this act or an amendment to an anatomical gift of the donor's body or part under Section 6 of this act, another person may not make, amend, or revoke the gift of the donor's body or part under Section 10 of this act.

D. A revocation of an anatomical gift of a donor's body or part under Section 6 of this act by a person other than the donor does not bar another person from making an anatomical gift of the body or part under Section 5 or 10 of this act.

E. In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under

Section 4 of this act, an anatomical gift of a part is neither a refusal to give another part nor a limitation on the making of an anatomical gift of another part at a later time by the donor or another person.

F. In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under Section 4 of this act, an anatomical gift of a part for one or more of the purposes set forth in Section 4 of this act is not a limitation on the making of an anatomical gift of the part for any of the other purposes by the donor or any other person under Section 5 or 10 of this act.

G. If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part.

H. If an unemancipated minor who signed a refusal dies, a parent of the minor who is reasonably available may revoke the minor's refusal.

Added by Laws 2009, c. 139, § 8, eff. Nov. 1, 2009.

§63-2200.9. Repealed by Laws 2009, c. 139, § 31, eff. Nov. 1, 2009.
NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2200.9A. Persons authorized to make anatomical gift of decedent's body or part.

A. Subject to subsections B and C of this section and unless barred by Section 7 or 8 of this act, an anatomical gift of a decedent's body or part for purpose of transplantation, therapy, research, or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed:

1. An agent of the decedent at the time of death who could have made an anatomical gift under paragraph 2 of Section 4 of this act immediately before the decedent's death;
2. The spouse of the decedent;
3. Adult children of the decedent;
4. Parents of the decedent;
5. Adult siblings of the decedent;
6. Adult grandchildren of the decedent;
7. Grandparents of the decedent;
8. An adult who exhibited special care and concern for the decedent;
9. The persons who were acting as the guardians of the person of the decedent at the time of death; and
10. Any other person having the authority to dispose of the decedent's body.

B. If there is more than one member of a class listed in paragraph 1, 3, 4, 5, 6, 7 or 9 of subsection A of this section entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to whom the gift may pass under Section 11 of this act knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

C. A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under subsection A of this section is reasonably available to make or to object to the making of an anatomical gift.

Added by Laws 2009, c. 139, § 9, eff. Nov. 1, 2009.

§63-2200.10. Repealed by Laws 2009, c. 139, § 31, eff. Nov. 1, 2009.

NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2200.10A. Manner of making, amending, or revoking anatomical gift of decedent's body or part.

A. A person authorized to make an anatomical gift under Section 9 of this act may make an anatomical gift by a document of gift signed by the person making the gift or by that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.

B. Subject to subsection C of this section, an anatomical gift by a person authorized under Section 9 of this act may be amended or revoked orally or in a record by any member of a prior class who is reasonably available. If more than one member of the prior class is reasonably available, the gift made by a person authorized under Section 9 of this act may be:

1. Amended only if a majority of the reasonably available members agree to amending the gift; or

2. Revoked only if a majority of the members agree to the revoking of the gift or if they are equally divided as to whether to revoke the gift.

C. A revocation under subsection B of this section is effective only if, before an incision has been made to remove a part from the donor's body or before invasive procedures have begun to prepare the recipient, the procurement organization, transplant hospital, or physician or technician knows of the revocation.

Added by Laws 2009, c. 139, § 10, eff. Nov. 1, 2009.

§63-2200.11. Repealed by Laws 2009, c. 139, § 31, eff. Nov. 1, 2009.
NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2200.11A. Persons who may receive anatomical gift - Purpose of gift.

A. An anatomical gift may be made to the following persons named in the document of gift:

1. A hospital; accredited medical school, dental school, college, or university; organ procurement organization; or other appropriate person, for research or education as designated by the State Anatomical Board;

2. Subject to subsection B of this section, an individual designated by the person making the anatomical gift if the individual is the recipient of the part; or

3. An eye bank or tissue bank.

B. If an anatomical gift to an individual under paragraph 2 of subsection A of this section cannot be transplanted into the individual, the part passes in accordance with subsection G of this section in the absence of an express, contrary indication by the person making the anatomical gift.

C. If an anatomical gift of one or more specific parts or of all parts is made in a document of gift that does not name a person described in subsection A of this section but identifies the purpose for which an anatomical gift may be used, the following rules apply:

1. If the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank;

2. If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank;

3. If the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ; and

4. If the part is an organ, an eye, or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate anatomical donor program or non-transplant tissue bank registered with the State Anatomical Board.

D. For the purpose of subsection C of this section, if there is more than one purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift must be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

E. If an anatomical gift of one or more specific parts is made in a document of gift that does not name a person described in subsection A of this section and does not identify the purpose of the gift, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection G of this section.

F. If a document of gift specifies only a general intent to make an anatomical gift by words such as "donor", "organ donor", or "body donor", or by a symbol or statement of similar import, the gift may be used for transplantation, research, or therapy, and the gift passes in accordance with subsection G of this section.

G. For purposes of subsections B, E and F of this section, the following rules apply:

1. If the part is an eye, the gift passes to the appropriate eye bank;

2. If the part is tissue, the gift passes to the appropriate tissue bank; and

3. If the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.

H. An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under paragraph 2 of subsection A of this section, passes to the organ procurement organization as custodian of the organ.

I. If an anatomical gift does not pass pursuant to subsections A through H of this section or the decedent's body or part is not used for transplantation, therapy, research, or education, custody of the body or part passes to the person under obligation to dispose of the body or part.

J. A person may not accept an anatomical gift if the person knows that the gift was not effectively made under Sections 2200.5A or 2200.10A of this title or if the person knows that the decedent made a refusal under Section 2200.7A of this title that was not revoked. For purposes of this subsection, if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

K. Except as otherwise provided in paragraph 2 of subsection A of this section, nothing in the Oklahoma Uniform Anatomical Gift Act affects the allocation of organs for transplantation or therapy.
Added by Laws 2009, c. 139, § 11, eff. Nov. 1, 2009. Amended by Laws 2012, c. 119, § 4, eff. Nov. 1, 2012.

§63-2200.12. Repealed by Laws 2009, c. 139, § 31, eff. Nov. 1, 2009.
NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2200.12A. Search and notification.

A. The following persons shall make a reasonable search of an individual who the person reasonably believes is dead or near death for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal:

1. A law enforcement officer, firefighter, paramedic, or other emergency rescuer finding the individual; and

2. If no other source of the information is immediately available, a hospital, as soon as practical after the individual's arrival at the hospital.

B. If a document of gift or a refusal to make an anatomical gift is located by the search required by paragraph 1 of subsection A of this section and the individual or deceased individual to whom it relates is taken to a hospital, the person responsible for conducting the search shall send the document of gift or refusal to the hospital.

C. A person is not subject to criminal or civil liability for failing to discharge the duties imposed by this section but may be subject to administrative sanctions.

Added by Laws 2009, c. 139, § 12, eff. Nov. 1, 2009.

§63-2200.13. Repealed by Laws 2009, c. 139, § 31, eff. Nov. 1, 2009.

NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2200.13A. Delivery of document of gift not required - Right to examine.

A. A document of gift need not be delivered during the donor's lifetime to be effective.

B. Upon or after an individual's death, a person in possession of a document of gift or a refusal to make an anatomical gift with respect to the individual shall allow examination and copying of the document of gift or refusal by a person authorized to make or object to the making of an anatomical gift with respect to the individual or by a person to which the gift could pass under Section 11 of this act.

Added by Laws 2009, c. 139, § 13, eff. Nov. 1, 2009.

§63-2200.14. Repealed by Laws 2009, c. 139, § 31, eff. Nov. 1, 2009.

NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2200.14A. Rights and duties of procurement organization and others

A. When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of the records of the Department of Public Safety and any donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

B. A procurement organization must be allowed reasonable access to information in the records of the Department of Public Safety to ascertain whether an individual at or near death is a donor.

C. When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

D. Unless prohibited by any other provisions of law, at any time after a donor's death, the person to whom a part passes under Section 2200.11A of this title may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

E. Unless prohibited by any other provisions of law, an examination under subsection C or D of this section may include an examination of all medical and dental records of the donor or prospective donor.

F. Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

G. Upon referral by a hospital under subsection A of this section, a procurement organization shall make a reasonable search for any person listed in Section 2200.9A of this title having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.

H. Subject to subsection I of Section 2200.11A of this title and Section 2200.23A of this title, the rights of the person to which a part passes under Section 2200.11A of this title are superior to the rights of all others with respect to the part. The

person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this act, a person that accepts an anatomical gift of an entire body may allow embalming, burial or cremation, and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under Section 2200.11A of this title, upon the death of the donor and before embalming, burial, or cremation, shall cause the part to be removed without unnecessary mutilation.

I. Neither the physician who attends the decedent at death nor the physician who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part from the decedent.

J. A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.

K. A hospital may adopt guidelines for the interaction between organ procurement organizations and hospital staff. Nothing in the Oklahoma Uniform Anatomical Gift Act shall be construed as to authorize an organ procurement organization to use coercion or emotional abuse of patients, families of patients, physicians or hospital staff in any aspect of the organ donation process, including, but not limited to, the testing and screening of potential donors and the procurement of organs. For purposes of this subsection, "emotional abuse" shall include, but not be limited to, demanding, insisting or pressuring families in a manner that fails to exhibit sympathy, compassion or sensitivity to the emotional well-being of those involved.

Added by Laws 2009, c. 139, § 14, eff. Nov. 1, 2009. Amended by Laws 2016, c. 284, § 1, eff. Nov. 1, 2016.

§63-2200.15. Repealed by Laws 2009, c. 139, § 31, eff. Nov. 1, 2009.

NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2200.15A. Coordination of procurement and use of gifts.

Each hospital in this state shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.

Added by Laws 2009, c. 139, § 15, eff. Nov. 1, 2009.

§63-2200.16. Repealed by Laws 2009, c. 139, § 31, eff. Nov. 1, 2009.

NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2200.16A. Sale or purchase of parts prohibited - Reasonable fees.

A. Except as otherwise provided in subsection B of this section, a person that, for valuable consideration, knowingly purchases or sells a part for transplantation or therapy if removal of a part from an individual is intended to occur after the individual's death commits a felony and upon conviction is subject to a fine of not more than Fifty Thousand Dollars ($50,000.00) or imprisonment for not more than five (5) years, or both such fine and imprisonment.

B. A person may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a part.

Added by Laws 2009, c. 139, § 16, eff. Nov. 1, 2009.

§63-2200.17. Repealed by Laws 2009, c. 139, § 31, eff. Nov. 1, 2009.

NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2200.17A. Falsification, etc. of document of gift for financial gain - Penalties.

A person that, in order to obtain a financial gain, intentionally falsifies, forges, conceals, defaces, or obliterates a document of gift, an amendment or revocation of a document of gift, or a refusal commits a felony and upon conviction is subject to a fine of not more than Fifty Thousand Dollars ($50,000.00) or imprisonment for not more than five (5) years, or both such fine and imprisonment.

Added by Laws 2009, c. 139, § 17, eff. Nov. 1, 2009.

§63-2200.18. Repealed by Laws 2009, c. 139, § 31, eff. Nov. 1, 2009.

NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2200.18A. Immunity.

A. A person who acts in accordance with this act or with the applicable anatomical gift law of another state or attempts in good faith to do so, is not liable for the act in a civil action, criminal prosecution, or administrative proceeding.

B. Neither the person making an anatomical gift nor the donor's estate is liable for any injury or damage that results from the making or use of the gift.

C. In determining whether an anatomical gift has been made, amended, or revoked under this act, a person may rely upon representations of an individual listed in paragraph 2, 3, 4, 5, 6, 7 or 8 of subsection A of Section 9 of this act relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.
Added by Laws 2009, c. 139, § 18, eff. Nov. 1, 2009.

§63-2200.19. Repealed by Laws 2009, c. 139, § 31, eff. Nov. 1, 2009.
NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2200.19A. Law governing validity and interpretation - Presumption of validity.

A. A document of gift is valid if executed in accordance with:

1. This act;

2. The laws of the state or country where it was executed; or

3. The laws of the state or country where the person making the anatomical gift was domiciled, has a place of residence, or was a national at the time the document of gift was executed.

B. If a document of gift is valid under this section, the law of this state governs the interpretation of the document of gift.

C. A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked.
Added by Laws 2009, c. 139, § 19, eff. Nov. 1, 2009.

§63-2200.20. Repealed by Laws 2009, c. 139, § 31, eff. Nov. 1, 2009.
NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2200.20A. Life Share Donor Registry.

A. 1. There is hereby established within the State Department of Health, an organ, eye and tissue donor registry for the State of Oklahoma to be known as the "Life Share Donor Registry". The Department is authorized to contract with the designated organ procurement organization who shall act on behalf of the Department by carrying out the functions of the Department in the administration of the registry, in compliance with 18 U.S.C. Section 2721. The contract between the Department and the designated organ procurement organization shall be subject to the concurrence and approval of the Department of Public Safety.

2. The registry shall maintain and update as needed the pertinent information on all Oklahomans who have indicated a willingness to be an organ donor, eye donor or tissue donor by a designation on a driver license, a state identification card, a donor card, an online or other organ donor registry enrollment form, or any other document of gift.

3. The registry and all information therein shall be confidential and shall be subject to access only by the designated organ procurement organization and by eye banks and tissue banks licensed by the State of Oklahoma seven (7) days a week, twenty-four (24) hours per day; however, the personal information and highly restricted personal information shall only be available to the designated organ, tissue, and eye procurement organizations solely for the purpose of identifying a potential donor and only when acting on behalf of the State Department of Health as prescribed in paragraph 1 of this subsection. The placement of any personal information and highly restricted personal information on the registry that, at the time of placement, was confidential under the Open Records Act or the Driver's Privacy Protection Act (DPPA), 18 U.S.C. Sections 2721 through 2725, shall remain confidential.

4. The purpose of the registry shall include, but not be limited to:

a. providing a means of recovering an anatomical gift for transplantation or research, and

b. collecting data to develop and evaluate the effectiveness of educational initiatives promoting organ, eye and tissue donation.

B. Procedures to administer the Life Share Donor Registry shall specify:

1. The information placed in the registry may include personal information and highly restricted personal information, as defined in 18 U.S.C. Section 2721, and access to such information shall conform to the Driver's Privacy Protection Act (DPPA), 18 U.S.C. Sections 2721 through 2725;

2. Authorization for the designated organ procurement organization or an eye or tissue bank, licensed by the State of Oklahoma, to analyze registry data under research protocols directed toward determination and identification of the means to promote and increase organ, eye and tissue donation within this state;

3. A process for updating information in the registry including a method whereby an individual may revoke his or her intent to be an organ, eye, or tissue donor;

4. The method for making information on the registry available to the designated organ procurement organizations and to tissue banks and eye banks licensed by the State of Oklahoma;

5. Limitations on the use of and access to the registry;

6. A toll-free telephone number, available twenty-four (24) hours a day, for use by the public to obtain information on becoming an organ, tissue or eye donor;

7. A process for establishing, implementing, maintaining, and administering an online organ, eye and tissue donor registration process and ensuring the confidentiality of information provided;

8. A process for a donor who has registered online to sign a confirmation card that will be returned to the designated organ procurement organization and made part of the registry record; and

9. Procedures for collaborating with the Department of Public Safety to transmit stored driver license data by the Department of Public Safety, in conformance with 18 U.S.C. Section 2721, to the Life Share Donor Registry maintained by the designated organ procurement organization, and to ensure the confidentiality of such information for present and potential donors. Monies credited to the Oklahoma Organ Donor Education and Awareness Program Revolving Fund created in Section 2220.3 of Title 63 of the Oklahoma Statutes may be used for a one-time transfer to the Department of Public Safety for the reasonable costs associated with the initial installation and setup of equipment and software for electronic transfer of donor information. All actual electronic transfers of donor information shall be at no charge to the designated organ procurement organization; however, all costs associated with the creation and maintenance of the Life Share Donor Registry shall be paid by the designated organ procurement organization.

C. Information obtained by the designated organ procurement organization shall be used for the purpose of:

1. Establishing a statewide organ, eye, and tissue donor registry that is accessible to designated organ procurement organizations and to eye banks and tissue banks, licensed by the State of Oklahoma, for the recovery, preservation, transportation, and placement of organs, eyes, and tissue; and

2. Designated organ procurement organizations in other states when an Oklahoma resident is a donor of an anatomical gift and is not located in Oklahoma at the time of death or immediately before the death of the donor.

Added by Laws 2009, c. 139, § 20, eff. Nov. 1, 2009.

§63-2200.21. Repealed by Laws 2009, c. 139, § 31, eff. Nov. 1, 2009.

NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2200.21A. Effect of anatomical gift on advance health care directive.

A. As used in this section:

1. "Advance health care directive" means a power of attorney for health care or a record signed or authorized by a prospective donor containing the prospective donor's direction concerning a health care decision for the prospective donor;

2. "Declaration" means a record signed by a prospective donor specifying the circumstances under which a life support system may be withheld or withdrawn from the prospective donor; and

3. "Health care decision" means any decision regarding the health care of the prospective donor.

B. If a prospective donor has a declaration or advance health care directive and the terms of the declaration or directive and the express or implied terms of a potential anatomical gift are in conflict with regard to the administration of measures necessary to ensure the medical suitability of a part for transplantation or therapy, the prospective donor's attending physician and prospective donor shall confer to resolve the conflict. If the prospective donor is incapable of resolving the conflict, an agent acting under the prospective donor's declaration or directive, or, if none or the agent is not reasonably available, another person authorized by law other than this act to make health care decisions on behalf of the prospective donor, shall act for the donor to resolve the conflict. The conflict must be resolved as expeditiously as possible. Information relevant to the resolution of the conflict may be obtained from the appropriate procurement organization and any other person authorized to make an anatomical gift for the prospective donor under Section 9 of this act. Before resolution of the conflict, measures necessary to ensure the medical suitability of the part may not be withheld or withdrawn from the prospective donor if withholding or withdrawing the measures is not contraindicated by appropriate end-of-life care.

Added by Laws 2009, c. 139, § 21, eff. Nov. 1, 2009.

§63-2200.22. Repealed by Laws 2009, c. 139, § 31, eff. Nov. 1, 2009.

NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2200.22A. Cooperation between medical examiner and procurement organizations.

A. A medical examiner shall cooperate with procurement organizations to maximize the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, or education.

B. If a medical examiner receives notice from a procurement organization that an anatomical gift might be available or was made with respect to a decedent whose body is under the jurisdiction of

the medical examiner and a postmortem examination is going to be performed, unless the medical examiner denies recovery in accordance with Section 23 of this act, the medical examiner or designee shall conduct a postmortem examination of the body or the part in a manner and within a period compatible with its preservation for the purposes of the gift.

C. A part may not be removed from the body of a decedent under the jurisdiction of a medical examiner for transplantation, therapy, research, or education unless the part is the subject of an anatomical gift. The body of a decedent under the jurisdiction of the medical examiner may not be delivered to a person for research or education unless the body is the subject of an anatomical gift. This subsection does not preclude a medical examiner from performing the medicolegal investigation upon the body or parts of a decedent under the jurisdiction of the medical examiner.

Added by Laws 2009, c. 139, § 22, eff. Nov. 1, 2009.

§63-2200.23. Repealed by Laws 2009, c. 139, § 31, eff. Nov. 1, 2009.

NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2200.23A. Facilitation of anatomical gift from body of decedent under medical examiner's jurisdiction.

A. Upon request of a procurement organization, a medical examiner shall release to the procurement organization the name, contact information, and available medical and social history of a decedent whose body is under the jurisdiction of the medical examiner. If the decedent’s body or part is medically suitable for transplantation, therapy, research, or education, the medical examiner shall release postmortem examination results to the procurement organization. The procurement organization may make a subsequent disclosure of the postmortem examination results or other information received from the medical examiner only if relevant to transplantation, therapy, research or education.

B. The medical examiner may conduct a medicolegal investigation by reviewing all medical records, laboratory test results, x-rays, other diagnostic results, and other information that any person possesses about a donor or prospective donor whose body is under the jurisdiction of the medical examiner that the medical examiner determines may be relevant to the investigation.

C. A person who has any information requested by a medical examiner pursuant to subsection B of this section shall provide that information as expeditiously as possible to allow the medical examiner to conduct the medicolegal investigation within a period

compatible with the preservation of parts for the purpose of transplantation, therapy, research, or education.

D. If an anatomical gift has been or might be made of a part of a decedent whose body is under the jurisdiction of the medical examiner and a postmortem examination is not required, or the medical examiner determines that a postmortem examination is required but that the recovery of the part that is the subject of an anatomical gift will not interfere with the examination, the medical examiner and procurement organization shall cooperate in the timely removal of the part from the decedent for the purpose of transplantation, therapy, research, or education.

E. The medical examiner and procurement organizations shall enter into an agreement setting forth protocols and procedures to govern relations between the parties when an anatomical gift of a part from the decedent under the jurisdiction of the medical examiner has been or might be made, but the medical examiner believes that the recovery of the part could interfere with the postmortem investigation into the decedent's cause or manner of death. Decisions regarding the recovery of organs, tissue and eyes from such a decedent shall be made in accordance with the agreement. In the event that the medical examiner denies recovery of an anatomical gift, the procurement organization may request the Chief Medical Examiner to reconsider the denial and to permit the recovery to proceed. The parties shall evaluate the effectiveness of the protocols and procedures at regular intervals but no less frequently than every two (2) years.

F. If the medical examiner or designee allows recovery of a part under subsection D or E of this section, the procurement organization, upon request, shall cause the physician or technician who removes the part to provide the medical examiner with a record describing the condition of the part, a biopsy, a photograph, and any other information and observations that would assist in the postmortem examination.

G. If a medical examiner or designee is required to be present at a removal procedure under subsection E of this section, upon request the procurement organization requesting the recovery of the part shall reimburse the medical examiner or designee for the additional costs incurred in complying with subsection E of this section.

Added by Laws 2009, c. 139, § 23, eff. Nov. 1, 2009.

§63-2200.24. Repealed by Laws 2009, c. 139, § 31, eff. Nov. 1, 2009.

NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2200.24A. Uniformity of application and construction.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Added by Laws 2009, c. 139, § 24, eff. Nov. 1, 2009.

§63-2200.25. Repealed by Laws 2009, c. 139, § 31, eff. Nov. 1, 2009.

NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2200.25A. Relation to Electronic Signatures in Global and National Commerce Act.

This act modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit or supersede Section 101(a) of that act, 15 U.S.C. Section 7001, or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

Added by Laws 2009, c. 139, § 25, eff. Nov. 1, 2009.

§63-2200.26. Repealed by Laws 2009, c. 139, § 31, eff. Nov. 1, 2009.

NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2200.26A. References to act.

Any references in the Oklahoma Statutes to the Uniform Anatomical Gift Act shall mean the Oklahoma Uniform Anatomical Gift Act.

Added by Laws 2009, c. 139, § 26, eff. Nov. 1, 2009.

§63-2200.27. Repealed by Laws 2009, c. 139, § 31, eff. Nov. 1, 2009.

NOTE: This section was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2200.27A. Office of Chief Medical Examiner - Compensation from recovery organizations.

Neither the Office of the Chief Medical Examiner nor any employee of the Office of the Chief Medical Examiner of this state shall receive compensation of any kind from any organ, eye or tissue recovery organization except as provided in subsection G of Section 23 of this act.

Added by Laws 2009, c. 139, § 27, eff. Nov. 1, 2009.

§63-2201. Repealed by Laws 2009, c. 139, § 30, eff. Nov. 1, 2009. NOTE: Laws 2008, c. 382, § 318, which repealed this section, was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2202. Repealed by Laws 2009, c. 139, § 30, eff. Nov. 1, 2009. NOTE: Laws 2008, c. 382, § 318, which repealed this section, was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2203. Repealed by Laws 2009, c. 139, § 30, eff. Nov. 1, 2009. NOTE: Laws 2008, c. 382, § 318, which repealed this section, was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2204. Repealed by Laws 2009, c. 139, § 30, eff. Nov. 1, 2009. NOTE: Laws 2008, c. 382, § 318, which repealed this section, was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2205. Repealed by Laws 2009, c. 139, § 30, eff. Nov. 1, 2009. NOTE: Laws 2008, c. 382, § 318, which repealed this section, was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2206. Repealed by Laws 2009, c. 139, § 30, eff. Nov. 1, 2009. NOTE: Laws 2008, c. 382, § 318, which repealed this section, was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2207. Repealed by Laws 2009, c. 139, § 30, eff. Nov. 1, 2009. NOTE: Laws 2008, c. 382, § 318, which repealed this section, was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2208. Repealed by Laws 2009, c. 139, § 30, eff. Nov. 1, 2009. NOTE: Laws 2008, c. 382, § 318, which repealed this section, was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2209. Repealed by Laws 2009, c. 139, § 30, eff. Nov. 1, 2009. NOTE: Laws 2008, c. 382, § 318, which repealed this section, was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2209.1. Permits - Rules.

A. On or after November 1, 1999, no person, corporation, partnership, association or other legal entity shall establish, operate or maintain a tissue bank that procures bone, skin, or connective tissue unless that entity has been issued a permit by the State Department of Health.

B. The State Board of Health shall promulgate rules necessary to implement the provisions of this section which shall include, but not be limited to:

1. Requirements for the tissue banks to submit an initial permit application that identifies the proposed service area, the tissue transplantation patient needs in the service area, the probable impact of the establishment and operation of the entity on other tissue banks currently servicing the area, and whether the tissue bank is a for profit or not for profit entity;

2. A requirement that tissue banks, within one (1) year after receipt of a permit, be accredited by the American Association of Tissue Banks or another nationally recognized accreditation organization for tissue agencies;

3. Provisions that all tissue banks employ a procurement technician or other technical operations personnel certified as a Certified Tissue Bank Specialist by the American Association of Tissue Banks or another nationally recognized accreditation or certification organization for tissue agencies and personnel;

4. A requirement that each tissue bank maintain compliance with federal Food and Drug Administration regulations;

5. A provision that each tissue bank have a medical director who is a physician licensed to practice medicine in this state;

6. Requirements for tissue banks to give priority in tissue distribution to the Oklahoma medical community and Oklahoma patients; and

7. A requirement that each tissue bank submit an annual report to the Department which shall provide the accreditation status of the entity, report of regulatory or internal inspections that affect quality, the certification status of personnel employed by the tissue agency, identity and qualification of the current medical director, type and geographic origins of donor tissue obtained, and units of processed tissue used for patients in the service area of the tissue bank.

C. A permit application or renewal thereof, shall be accompanied by a non-refundable fee established by the Board of Health not to exceed One Thousand Dollars ($1,000.00).

D. Upon receipt of a complete initial permit application, the Department shall cause a public notice of the proposed tissue bank to be published in a newspaper with the greatest circulation. The Department shall also provide written notice of the permit application to existing tissue banks in the state. Any person or

organization may submit written comments regarding the proposed tissue bank to the Department.

E. The Department shall issue or deny an initial permit within seventy-five (75) days after publication of the notice. All permits shall be issued for a period not to exceed thirty-six (36) months and shall automatically expire unless renewed.

F. The Department may deny, revoke, suspend or not renew a permit for failure of a tissue bank to comply with the provisions of this section or rules promulgated pursuant thereto. Any tissue bank that has been determined by the Department to have violated any provision of this section or rule promulgated pursuant thereto, is liable for an administrative penalty of no more than One Hundred Dollars ($100.00) for each day on which a violation occurs or continues. The maximum administrative penalty shall not exceed Ten Thousand Dollars ($10,000.00) for any related series of violations.

G. The issuance, denial, suspension, non-renewal or revocation of a permit may be appealed under the provisions of Article II of the Administrative Procedures Act, Section 308a of Title 75 of the Oklahoma Statutes.

H. The Department may bring an action in a court of competent jurisdiction for equitable relief to redress or restrain any entity from providing tissue bank services without a valid permit. Said court shall have jurisdiction to determine said action, and to grant the necessary appropriate relief, including but not limited to, mandatory or prohibitive injunctive relief or interim equitable relief.

Added by Laws 1999, c. 278, § 4, eff. July 1, 1999. Amended by Laws 2001, c. 353, § 5, eff. Nov. 1, 2001.

§63-2210. Eye recovery by certified eye bank technicians - Eye banks.

A. 1. With respect to a gift of eyes as provided for in this chapter, eye bank technicians who have successfully completed a course in eye recovery in the State of Oklahoma or elsewhere and have received a certificate of competence from the Eye Bank Association of America, may recover eyes for such gift after proper certification of death by a physician and compliance with the extent of such gift as required by the Oklahoma Uniform Anatomical Gift Act.

2. No such properly certified eye bank technician acting in accordance with the terms of this chapter shall have any liability, civil or criminal, for such eye recovery.

B. No eye bank shall operate in Oklahoma unless the eye bank:

1. Within one (1) year after beginning operation, is accredited by the Eye Bank Association of America or other nationally recognized accrediting association for eye banks;

2. Employs an eye bank technician certified by the Eye Bank Association of America or other nationally recognized accrediting or certifying association for eye banks;

3. Has as its medical director a board-certified ophthalmic surgeon licensed to practice in this state; and

4. Gives priority to the needs of patients being treated in Oklahoma.

C. Before developing a new eye bank, the person proposing to operate the eye bank shall apply to the State Commissioner of Health for a permit. The permit application shall be in such form as the Commissioner shall prescribe and shall include a demonstration of the eye bank's probable impact on existing eye banks serving the area where the new eye bank is to be located. The permit application shall be accompanied by a filing fee equal to one quarter of one percent (.25%) of the capital cost of the proposed eye bank, with a minimum fee of Five Hundred Dollars ($500.00).

D. Upon receipt of a completed permit application, the Commissioner shall cause public notice to be published in a newspaper of general circulation in the area where the eye bank is to be located and in a newspaper of general circulation in the area where the application is available for inspection. Any person may submit written comments regarding the proposed eye bank to the Commissioner.

E. The Commissioner shall issue or deny the permit within seventy-five (75) days after publication of the notice. A permit shall expire thirty-six (36) months from the date of issue. If construction is not completed on or before the permit's expiration date, the permit shall be null and void.

F. Any issuance or denial of a permit may be appealed under Article II of the Administrative Procedures Act, Section 308a of Title 75 of the Oklahoma Statutes.

G. Each eye bank operating in this state shall report annually to the Commissioner on a form prescribed by the Commissioner. The form shall include information on the following:

1. The accreditation status of the eye bank;

2. The certification status of the eye bank technician;

3. The identity and qualifications of the medical director;

4. The numbers and geographic origins of donor corneas and whole eyes; and

5. The numbers and geographic destinations of corneas and other parts of eyes.

Added by Laws 1971, c. 147, § 1, emerg. eff. May 21, 1971, Amended by Laws 1978, c. 137, § 1; Laws 1997, c. 281, § 3, eff. July 1, 1997; Laws 2009, c. 139, § 28, eff. Nov. 1, 2009.

NOTE: Laws 2008, c. 382, § 314 was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d

143, 2008 OK 102 (2009) and repealed by Laws 2009, c. 139, § 29, eff. Nov. 1, 2009.

§63-2210.1. Repealed by Laws 2009, c. 139, § 30, eff. Nov. 1, 2009. NOTE: Laws 2008, c. 382, § 318, which repealed this section, was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2211. Donor notation on driver license.

In order to provide an expeditious procedure for a person to make a gift of all or part of the body of the person pursuant to the provisions of the Uniform Anatomical Gift Act, the Department of Public Safety shall make space available on the front and back of the driver license and the identification card for an organ and tissue donor notation. The donor notation shall identify the licensee or cardholder as an organ and tissue donor for the purposes of the Uniform Anatomical Gift Act. Any person may have the organ and tissue donor notation removed from the records of the person maintained by the Department by notifying the Department in writing or by presenting the license or identification card to the Department or a motor license agent for replacement and payment of the appropriate fee, pursuant to the provisions of Section 6-114 or subsection H of Section 6-105 of Title 47 of the Oklahoma Statutes, and informing the Department or motor license agent that the person desires to have the organ and tissue donor notation removed from the license or identification card.

Added by Laws 1983, c. 173, § 1, eff. Jan. 1, 1984. Amended by Laws 1987, c. 2, § 1, eff. Nov. 1, 1987; Laws 1992, c. 217, § 18, eff. July 1, 1992; Laws 2004, c. 395, § 3, eff. July 1, 2004.

§63-2212. Repealed by Laws 2009, c. 139, § 30, eff. Nov. 1, 2009. NOTE: Laws 2008, c. 382, § 318, which repealed this section, was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2213. Repealed by Laws 2009, c. 139, § 30, eff. Nov. 1, 2009. NOTE: Laws 2008, c. 382, § 318, which repealed this section, was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2214. Repealed by Laws 2009, c. 139, § 30, eff. Nov. 1, 2009. NOTE: Laws 2008, c. 382, § 318, which repealed this section, was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2215. Repealed by Laws 2009, c. 139, § 30, eff. Nov. 1, 2009.

NOTE: Laws 2008, c. 382, § 318, which repealed this section, was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2216. Repealed by Laws 2009, c. 139, § 30, eff. Nov. 1, 2009.
NOTE: Laws 2008, c. 382, § 318, which repealed this section, was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2217. Repealed by Laws 2009, c. 139, § 30, eff. Nov. 1, 2009.
NOTE: Laws 2008, c. 382, § 318, which repealed this section, was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2218. Repealed by Laws 2009, c. 139, § 30, eff. Nov. 1, 2009.
NOTE: Laws 2008, c. 382, § 318, which repealed this section, was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2220.1. Short title.

This act shall be known and may be cited as the "Cheryl Selman Organ Donor Education and Awareness Act". Any references in the statutes to the Oklahoma Organ Donor Education and Awareness Program Act shall be deemed references to the Cheryl Selman Organ Donor Education and Awareness Act.

There is hereby created the Organ Donor Education and Awareness Program (ODEAP), the purpose of which shall be to promote and encourage organ donor education and awareness in this state.
Added by Laws 2000, c. 279, § 1, eff. Nov. 1, 2000.

§63-2220.2. Organ donor education and awareness programs.

A. The State Department of Health and the State Department of Education, giving consideration to the recommendations of the Advancement of Wellness Advisory Council created in Section 44 of this act, shall develop organ donor education awareness programs to educate the general public on the importance of organ donation and shall recommend priorities in the expenditures from the Oklahoma Organ Donor Education and Awareness Program Fund.

B. In administering this act, the State Department of Health and the State Department of Education are authorized, but not limited to:

1. Develop and implement educational programs and campaigns to increase organ donation in Oklahoma;

2. Make policy recommendations for the promotion of organ donation in Oklahoma;

3. Recommend priorities in the expenditures from the Oklahoma Organ Donor Education Program Fund;

4. Accept and hold property; and

5. Utilize local resources including volunteers when appropriate.

C. The State Department of Health and the State Department of Education shall annually submit to the Governor and the Legislature a report detailing its expenditures of fund monies, its activities, the status of organ donation in the state, and any recommendations for legislative changes by the first day of December beginning December 1, 2002.

Added by Laws 2000, c. 279, § 2, eff. Nov. 1, 2000. Amended by Laws 2013, c. 229, § 75, eff. Nov. 1, 2013.

§63-2220.3. Oklahoma Organ Donor Education and Awareness Program Revolving Fund.

A. There is hereby created in the State Treasury a revolving fund for the State Department of Health, to be designated the "Oklahoma Organ Donor Education and Awareness Program Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the State Department of Health from:

1. Any state monies appropriated for the purpose of implementing the provisions of the Oklahoma Organ Donor Education and Awareness Program Act; and

2. Any monies collected pursuant to this section or any other monies available to the State Department of Health to implement the provisions of the Oklahoma Organ Donor Education and Awareness Program Act.

B. All monies accruing to the credit of the fund are hereby appropriated and shall be budgeted and expended to promote and encourage organ donor education and awareness.

C. Monies credited to the fund, excluding administrative fees paid to the Oklahoma Tax Commission, may be used for, but are not limited to:

1. Administration of the Oklahoma Organ Donor Education and Awareness Program Act;

2. Development and promotion of organ donor public education and awareness programs in cooperation with the Oklahoma Organ Sharing Network including, but not limited to, the American Red Cross and the Oklahoma Lions Eye Bank;

3. To assist in the publication of information pamphlets or booklets by the State Department of Health and the State Superintendent of Public Instruction regarding organ donation and donations to the Oklahoma Organ Donor Education and Awareness Program Revolving Fund. The State Department of Health shall distribute such informational pamphlets or booklets to the Department of Public Safety for distribution to applicants for original, renewal, or replacement driver licenses and identification

cards when making a voluntary contribution pursuant to Section 2220.5 of this title and to the Oklahoma Tax Commission for distribution to individuals when making a voluntary contribution pursuant to the state income tax check off provided for in Section 2220.4 of this title;

4. Implementation of organ donor education and awareness programs in the elementary and secondary schools of this state by the State Department of Education;

5. Grants by the State Department of Health to certified organ procurement organizations for the development and implementation of organ donor education and awareness programs in this state;

6. Encouraging the incorporation of organ donor information into the medical and nursing school curriculums of the state's medical and nursing schools. If funds are provided to a university for this educational purpose, the university shall annually evaluate the extent to which the curriculum has affected the attitudes of its students and graduates with regard to organ donation and shall forward the evaluation results to the State Department of Health; and

7. A reserve fund in an interest-bearing account with five percent (5%) of the monies received by the fund annually to be placed in this account. No funds may be expended from the reserve fund account until the required balance has reached One Hundred Thousand Dollars ($100,000.00) and then these funds may only be used in years when donations do not meet the average normal operating fee incurred by the fund, and funds are expended to meet expenses. Once the balance in the reserve fund account reaches One Hundred Thousand Dollars ($100,000.00), excess funds earned by interest, and yearly allocations may be used at the discretion of the State Department of Health to cover operating costs and to provide additional funds.

D. The fund may accept bequests and grants from individuals, corporations, organizations, associations, and any other source. The fund supplements and augments services provided by state agencies and does not take the place of such services.

E. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 2000, c. 279, § 3, eff. Nov. 1, 2000. Amended by Laws 2001, c. 131, § 13, eff. July 1, 2001; Laws 2012, c. 304, § 511; Laws 2013, c. 229, § 76, eff. Nov. 1, 2013.

§63-2220.4. Income tax return contributions.

A. Each individual taxpayer required to file a state income tax return who desires to contribute to the Oklahoma Organ Donor Education and Awareness Program Fund, as created in Section 2220.3 of this title, may designate the contribution on the appropriate

income tax form. The contribution may not increase or decrease the income or liability of the taxpayer and may be made by reducing the income tax refund of a taxpayer by the amount designated or by accepting additional payment from the taxpayer by the amount designated, whichever is appropriate.

B. 1. The Oklahoma Tax Commission shall include on each state individual income tax return form for tax years beginning after December 31, 2001, an opportunity for the taxpayer to donate for the benefit of the Oklahoma Organ Donor Education and Awareness Program Fund. The instructions accompanying the income tax form shall be provided to the Oklahoma Tax Commission by the State Department of Health and shall contain a description of the purpose for which the Oklahoma Organ Donor Education and Awareness Program Revolving Fund was established and information on the use of monies from the income tax contribution.

2. Taxpayers who are entitled to refunds shall have the refunds reduced by the amount designated by the taxpayer. The Oklahoma Tax Commission shall annually determine the total amount designated plus the amount received in excess payments and shall report the total amount to the Office of the State Treasurer. The State Treasurer shall credit the total amount to the Oklahoma Organ Donor Education and Awareness Program Fund created in Section 2220.3 of this title at the earliest possible time.

C. The incremental cost of administration of contributions shall be paid out of the fund to the Oklahoma Tax Commission from amounts received pursuant to this section before funds are expended for the purposes of the fund.

Added by Laws 2000, c. 279, § 4, eff. Nov. 1, 2000. Amended by Laws 2001, c. 358, § 27, eff. July 1, 2001.

§63-2220.5. Driver license or identification applications - Voluntary contributions.

A. 1. An applicant for an original or replacement driver license or identification card shall be given an opportunity to make a voluntary contribution of One Dollar ($1.00) to be credited to the Oklahoma Organ Donor Education and Awareness Program Revolving Fund established in Section 2220.3 of this title. Any voluntary contribution shall be added to the driver license or identification card fee and then be referred to the State Treasurer and credited to the Oklahoma Organ Donor Education and Awareness Program Revolving Fund as provided in Section 2220.3 of this title.

2. An applicant for a vehicle title or transfer of title or for a vehicle license plate shall be given an opportunity to make a minimum voluntary contribution of One Dollar ($1.00) to be credited to the Oklahoma Organ Donor Education and Awareness Program Revolving Fund established in Section 2220.3 of this title. Any voluntary contribution shall be added to the title or license plate

fee and then be referred to the State Treasurer and credited to the Oklahoma Organ Donor Education and Awareness Program Revolving Fund as provided in Section 2220.3 of this title.

3. The contribution prescribed in this section is voluntary and may be refused by the applicant. The Department of Public Safety and the Oklahoma Tax Commission shall make available an information booklet or other informational sources on the importance of organ donation to applicants for licensure, as designed and provided by the State Department of Health and the State Superintendent of Public Instruction.

B. The Department of Public Safety and motor license agents shall inquire of each applicant at the time of presentation of a completed application for an original driver license or identification card whether the applicant is interested in making the One Dollar ($1.00) contribution prescribed in subsection A of this section and whether the applicant is interested in being an organ and tissue donor. The Department of Public Safety or motor license agents shall also specifically inform the applicant of the ability to make an organ and tissue donation. The Department of Public Safety shall notify the State Commissioner of Health of the name, address, date of birth, and driver license number or identification card number of applicants who indicate that they are interested in being an organ donor.

C. The incremental cost of administration of contributions to the fund, not to exceed one percent (1%) of the monies received pursuant to the provisions of this section, shall be paid by the fund to the Department of Public Safety or the Oklahoma Tax Commission, as applicable, from amounts received pursuant to the provisions of this section before funds are expended for the purposes of the fund.

Added by Laws 2000, c. 279, § 5, eff. Nov. 1, 2000. Amended by Laws 2001, c. 131, § 14, eff. July 1, 2001; Laws 2004, c. 395, § 4, eff. July 1, 2004; Laws 2013, c. 229, § 77, eff. Nov. 1, 2013.

§63-2220.6. Education and awareness curricula for elementary and secondary schools.

The State Superintendent of Public Instruction shall develop and implement in conjunction with the State Department of Health an organ donor education and awareness curriculum for use in the elementary and secondary schools of this state. The State Board of Education shall promulgate rules to enact the provisions of this section not later than the 2001-2002 school year.

Added by Laws 2000, c. 279, § 6, eff. Nov. 1, 2000. Amended by Laws 2013, c. 229, § 78, eff. Nov. 1, 2013.

§63-2220.10. Repealed by Laws 2009, c. 139, § 30, eff. Nov. 1, 2009.

NOTE: Laws 2008, c. 382, § 318, which repealed this section, was held unconstitutional by the Oklahoma Supreme Court in the case of Weddington v. Henry, 202 P.3d 143, 2008 OK 102 (2009).

§63-2220.11. Renumbered as § 848-2.20B of Title 74 by Laws 2002, c. 451, § 2, eff. July 1, 2002.

§63-2251. Renumbered as § 1-2300 of this title by Laws 1990, c. 217, § 10, eff. Sept. 1, 1990. Also renumbered as § 1-2300 of this title by Laws 1990, c. 225, § 11, eff. Sept. 1, 1990.

§63-2252. Renumbered as § 1-2301 of this title by Laws 1990, c. 217, § 10, eff. Sept. 1, 1990. Amended and also renumbered as § 1-2301 of this title by Laws 1990, c. 225, §§ 1 and 11, respectively, eff. Sept. 1, 1990.

§63-2253. Renumbered as §1-2302 of this title by Laws 1990, c. 217, § 10, eff. Sept. 1, 1990.

§63-2254. Renumbered as § 1-2303 of this title by Laws 1990, c. 217, § 10, eff. Sept. 1, 1990. Amended and also renumbered as § 1-2303 of this title by Laws 1990, c. 225, §§ 3 and 11, respectively, eff. Sept. 1, 1990.

§63-2255.1. Renumbered as § 1-2401 of Title 63 by Laws 1990, c. 217, § 10, eff. Sept. 1, 1990. Renumbered as § 1-2401 of Title 63 by Laws 1990, c. 225, § 11, eff. Sept. 1, 1990.

§63-2255.2. Renumbered as § 1-2402 of Title 63 by Laws 1990, c. 217, § 10, eff. Sept. 1, 1990. Renumbered as § 1-2402 of Title 63 by Laws 1990, c. 225, § 11, eff. Sept. 1, 1990.

§63-2255.3. Renumbered as § 1-2403 of Title 63 by Laws 1990, c. 217, § 10, eff. Sept. 1, 1990. Renumbered as § 1-2403 of Title 63 by Laws 1990, c. 225, § 11, eff. Sept. 1, 1990.

§63-2255.4. Renumbered as § 1-2404 of Title 63 by Laws 1990, c. 217, § 10, eff. Sept. 1, 1990. Renumbered as § 1-2404 of Title 63 by Laws 1990, c. 225, § 11, eff. Sept. 1, 1990.

§63-2255.4A. Renumbered as § 1-2405 of Title 63 by Laws 1990, c. 217, § 10, eff. Sept. 1, 1990. Renumbered as § 1-2405 of Title 63 by Laws 1990, c. 225, § 11, eff. Sept. 1, 1990.

§63-2255.5. Renumbered as § 1-2406 of Title 63 by Laws 1990, c. 217, § 10, eff. Sept. 1, 1990. Renumbered as § 1-2406 of Title 63 by Laws 1990, c. 225, § 11, eff. Sept. 1, 1990.

§63-2255.6. Renumbered as § 1-2407 of Title 63 by Laws 1990, c. 217, § 10, eff. Sept. 1, 1990. Renumbered as § 1-2407 of Title 63 by Laws 1990, c. 225, § 11, eff. Sept. 1, 1990.

§63-2255.7. Renumbered as § 1-2408 of Title 63 by Laws 1990, c. 217, § 10, eff. Sept. 1, 1990. Renumbered as § 1-2408 of Title 63 by Laws 1990, c. 225, § 11, eff. Sept. 1, 1990.

§63-2255.8. Renumbered as § 1-2409 of Title 63 by Laws 1990, c. 217, § 10, eff. Sept. 1, 1990. Renumbered as § 1-2409 of Title 63 by Laws 1990, c. 225, § 11, eff. Sept. 1, 1990.

§63-2255.9. Renumbered as § 1-2410 of Title 63 by Laws 1990, c. 217, § 10, eff. Sept. 1, 1990. Renumbered as § 1-2410 of Title 63 by Laws 1990, c. 225, § 11, eff. Sept. 1, 1990.

§63-2255.10. Renumbered as § 1-2411 of Title 63 by Laws 1990, c. 217, § 10, eff. Sept. 1, 1990. Renumbered as § 1-2411 of Title 63 by Laws 1990, c. 225, § 11, eff. Sept. 1, 1990.

§63-2256. Renumbered as § 1-2412 of Title 63 by Laws 1990, c. 225, § 11, eff. Sept. 1, 1990.

§63-2257. Renumbered as § 1-2413 of Title 63 by Laws 1990, c. 217, § 10, eff. Sept. 1, 1990 and Laws 1990, c. 225, § 11, eff. Sept. 1, 1990.

§63-2258. Renumbered as § 1-2414 of this title by Laws 1990, c. 217, § 10, eff. Sept. 1, 1990 and by Laws 1990, c. 225, § 11, eff. Sept. 1, 1990.

§63-2258.2. Renumbered as § 1-2415 of Title 63 by Laws 1990, c. 217, § 10, eff. Sept. 1, 1990 and by Laws 1990, c. 225, § 11, eff. Sept. 1, 1990.

§63-2258.3. Renumbered as § 1-2416 of Title 63 by Laws 1990, c. 210, § 10, eff. Sept. 1, 1990 and by Laws 1990, c. 225, § 11, eff. Sept. 1, 1990.

§63-2258.4. Renumbered as § 1-2416.1 of this title by Laws 1991, c. 336, § 10, eff. July 1, 1991.

§63-2259. Renumbered as § 1-2417 of Title 63 by Laws 1990, c. 217, § 10, eff. Sept. 1, 1990 and by Laws 1990, c. 225, § 11, eff. Sept. 1, 1990.

§63-2259.1. Repealed by Laws 1990, c. 225, § 12, eff. Sept. 1, 1990.

§63-2260. Renumbered as § 1-2418 of this title by Laws 1990, c. 217, § 10, eff. Sept. 1, 1990 and by Laws 1990, c. 225, § 11, eff. Sept. 1, 1990.

§63-2261. Renumbered as § 1-2419 of Title 63 by Laws 1990, c. 217, § 10, eff. Sept. 1, 1990 and by Laws 1990, c. 225, § 11, eff. Sept. 1, 1990.

§63-2263. Repealed by Laws 1990, c. 225, § 12, eff. Sept. 1, 1990.

§63-2264. Repealed by Laws 1990, c. 225, § 12, eff. Sept. 1, 1990.

§63-2351. Definitions.

As used in this act:

1. "Safety glazing material" means any glazing material, such as tempered glass, laminated glass, wire glass or rigid plastic, which meets the test requirements of ANSI Standard Z-97.1-1966 and such further requirements as may be adopted by the State Health Department after notice and hearing as required by the Administrative Procedures Act, and which are so constructed, treated or combined with other materials as to minimize the likelihood of cutting and piercing injuries resulting from human contact with the glazing material.

2. "Hazardous locations" means those installations, glazed or to be glazed in commercial and public buildings, known as framed or unframed glass extrance doors; and those installations, glazed or to be glazed in residential buildings and other structures used as dwellings, commercial buildings, and public buildings, known as sliding glass doors, storm doors, shower doors, bathtub enclosures, and fixed glazed panels adjacent to entrance and exit doors which because of their location present a barrier in the normal path traveled by persons going into or out of these buildings, and because of their size and design may be mistaken as means of ingress or egress; and any other installation, glazed or to be glazed, wherein the use of other than safety glazing materials would constitute an unreasonable hazard as the State Department of Health may determine after notice and hearings as required by the Administrative Procedures Act; whether or not the glazing in such doors, panels, enclosures and other installations is transparent. Added by Laws 1971, c. 217, § 1, eff. Jan. 1, 1972.

§63-2352. Labeling.

Each light of safety glazing material manufactured, distributed, imported or sold for use in hazardous locations or installed in such

a location within the State of Oklahoma shall be permanently labeled by such means as etching, sandblasting or firing ceramic material on the safety glazing material. The label shall identify the labeler, whether manufacturer, fabricator or installer, and the nominal thickness and the type of safety glazing material and the fact that said material meets the test requirements of ANSI Standard Z-97.1-1966 and such other further requirements as may be adopted by the State Health Department. The label must be legible and visible after installation. Such safety glazing labeling shall not be used on other than safety glazing materials.
Added by Laws 1971, c. 217, § 2, eff. Jan. 1, 1972.

§63-2353. Safety glazing materials required in hazardous locations.
It shall be unlawful within the State of Oklahoma to knowingly sell, fabricate, assemble, glaze, install, consent or cause to be installed glazing material other than safety glazing materials in, or for use in, any hazardous location as defined in Section 1, paragraph 2.
Added by Laws 1971, c. 217, § 3, eff. Jan. 1, 1972.

§63-2354. Employees - Nonliability.
No liability under this act shall be created as to workmen who are employees of a contractor, subcontractor or other employer responsible for compliance with this act.
Added by Laws 1971, c. 217, § 4, eff. Jan. 1, 1972.

§63-2355. Law governing.
Local ordinances that substantially comply to this act shall take precedence over this act.
Added by Laws 1971, c. 217, § 5, eff. Jan. 1, 1972.

§63-2356. Penalties.
Whoever violates the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof, shall be sentenced to pay a fine of not less than Five Hundred Dollars ($500.00) or imprisonment of not more than one (1) year, or both.
Added by Laws 1971, c. 217, § 6, eff. Jan. 1, 1972.

§63-2407. Short title.
Sections 2407 through 2415 of this title shall be known and may be cited as the "Oklahoma Legal Interpreter for the Deaf and Hard-of-Hearing Act".
Added by Laws 1982, c. 290, § 1. Amended by Laws 2005, c. 395, § 1, eff. Nov. 1, 2005.

§63-2408. Definitions.

As used in the Oklahoma Legal Interpreter for the Deaf and Hard-of-Hearing Act:

1. "Deaf person" or “hard-of-hearing person” means an individual whose sense of hearing is nonfunctional for the ordinary purposes of life, and also may include a person who is deaf-blind, meaning a deaf or hard-of-hearing person whose vision is also nonfunctional for the ordinary purposes of life;

2. "Qualified legal interpreter" means:

a. an individual certified by the State Board of Examiners of Certified Courtroom Interpreters, or

b. (1) an individual who possesses the knowledge and skills necessary to accurately and impartially interpret spoken English into the equivalent visual languages and modes, and currently certified by the National Registry of Interpreters for the Deaf as one of the following:

(a) Specialist Certificate: Legal (SC:L). In the event none are available, then

(b) Certificate of Interpretation and Certificate of Transliteration (CI & CT), Comprehensive Skills Certificate (CSC), or National Association of the Deaf Certificate Level 5 (NAD5),

(2) an individual who possesses the knowledge and skills necessary to accurately and impartially transliterate for a person who is oral or nonsigning using the equivalent oral or captioned mode, and is currently certified by the National Registry of Interpreters for the Deaf as one of the following:

(a) Specialist Certificate: Oral Transliteration Certificate (OTC). In the event none are available, then

(b) Specialist Certificate: Legal (SC:L). In the event none are available, then

(c) Certificate of Interpretation and Certificate of Transliteration (CI & CT), Comprehensive Skills Certificate (CSC), or National Association of the Deaf Certificate Level 5 (NAD5). In the event none are available, then a recognized national or state certifying body of captionists, or

(3) an individual who:

(a) is deaf or hard-of-hearing who possesses the knowledge, skills, specialized training and experience to enhance communication with

persons who are deaf or hard-of-hearing and whose communication modes are so unique that they cannot be adequately assessed by interpreters who are hearing, and

(b) holds the following qualifications as a deaf interpreter: National Registry of Interpreters for the Deaf, Certified Deaf Interpreter (CDI); in the event none are available, then an Oklahoma QAST Deaf Evaluator may be utilized; and

3. "Appointing authority" means any court, department, board, commission, agency, licensing authority, political subdivision or municipality of the state.

Added by Laws 1982, c. 290, § 2. Amended by Laws 2005, c. 395, § 2, eff. Nov. 1, 2005.

§63-2409. Appointment of interpreter in court action or grand jury proceeding.

A. In any case before any state or local court or grand jury, wherein a person who is deaf or hard-of-hearing is a litigant, defendant, spectator as required by subtitle A of Title II of the Americans with Disabilities Act, Pub. L. 101-336, witness, party, prospective juror, or juror, the court shall, upon request, appoint a qualified legal interpreter to interpret the proceedings to the deaf or hard-of-hearing person and interpret testimony or statements and to assist in preparation with counsel. The court shall also appoint a qualified legal interpreter, upon request, for any party proceeding in forma pauperis in an action before the court. The individual who is deaf or hard-of-hearing shall determine which type of qualified legal interpreter best fits the needs of the individual.

B. Efforts to obtain the services of a qualified legal interpreter with the highest available level of certification, skill and specialized training in the area of legal interpretation for the deaf or hard-of-hearing will be made prior to accepting services of an interpreter with lesser certification and skill. Once a qualified legal interpreter is appointed, the interpreter shall be afforded the time necessary to make a language assessment in order to ensure effective communication, and to assess whether a deaf interpreter may also be necessary. Based on the language assessment, the interpreter will make recommendations to the court.

C. The provisions of this section shall be construed in conjunction with Sections 1 through 10 of Senate Bill No. 779 of the 1st Session of the 50th Oklahoma Legislature, if that bill is enacted.

Added by Laws 1982, c. 290, § 3. Amended by Laws 1989, c. 194, § 1, eff. Nov. 1, 1989; Laws 1995, c. 73, § 2, emerg. eff. April 12, 1995; Laws 2005, c. 395, § 3, eff. Nov. 1, 2005.

§63-2410. Arrests - Appointment of interpreter.

A. In the event a person who is deaf or hard-of-hearing is arrested and taken into custody for any alleged violation of a criminal law of this state or for civil contempt, a qualified legal interpreter shall be obtained through any interpreter service agency providing qualified legal interpreting services for the deaf and hard-of-hearing or with individuals who meet the qualifications for a qualified legal interpreter in order to communicate to the person that person's legal rights and to interview and interrogate properly. No statement taken from such deaf or hard-of-hearing person before a qualified legal interpreter is present shall be admissible in court. The individual who is deaf or hard-of-hearing shall determine which type of qualified legal interpreter best fits the needs of the individual.

B. The provisions of this section shall be construed in conjunction with Sections 1 through 10 of Senate Bill No. 779 of the 1st Session of the 50th Oklahoma Legislature, if that bill is enacted.

Added by Laws 1982, c. 290, § 4. Amended by Laws 2005, c. 395, § 4, eff. Nov. 1, 2005.

§63-2411. Administrative proceedings - Appointment of interpreter.

In any proceeding before any department, board, commission, agency or licensing authority of the state, in any political subdivision or municipality, wherein any deaf or hard-of-hearing person is a defendant, applicant, spectator as required by subtitle A of Title II of the Americans with Disabilities Act, Pub. L. 101-336, complainant, principal witness or party, such department, board, commission, agency, licensing authority, political subdivision or municipality shall appoint a qualified legal interpreter upon request of the deaf or hard-of-hearing individual. The individual who is deaf or hard-of-hearing shall determine which type of qualified legal interpreter best fits the needs of the individual. It shall be the duty of the appointing authority to inform the deaf or hard-of-hearing person of the rights of that person to the services of an interpreter.

Added by Laws 1982, c. 290, § 5. Amended by Laws 1989, c. 194, § 2, eff. Nov. 1, 1989; Laws 2005, c. 395, § 5, eff. Nov. 1, 2005.

§63-2412. Notice of necessity of interpreter - Proof of hearing loss.

Every deaf or hard-of-hearing person whose appearance in any proceeding entitles that person to a qualified legal interpreter

shall make a good faith effort to notify the appointing authority of the desire of the person for an interpreter. An appointing authority may require a person requesting the appointment of an interpreter to furnish reasonable proof of hearing loss when the appointing authority has reason to believe that the person does not have a hearing loss.
Added by Laws 1982, c. 290, § 6. Amended by Laws 2005, c. 395, § 6, eff. Nov. 1, 2005.

§63-2413. Request for interpreter.
It shall be the responsibility of the appointing authority to request interpreter services through any interpreter service agency providing qualified legal interpreting services for the deaf and hard-of-hearing or with individuals who meet the qualifications for a qualified legal interpreter.
Added by Laws 1982, c. 290, § 7. Amended by Laws 1986, c. 7, § 3, eff. July 1, 1986; Laws 1995, c. 73, § 3, emerg. eff. April 12, 1995; Laws 2005, c. 395, § 7, eff. Nov. 1, 2005.

§63-2413.1. Contracts with employees of other state agencies for interpreter services.
Any agency of this state that requires the services of a qualified interpreter for a deaf person is authorized to enter into contracts with employees of other state agencies if the work hours of employment would not be contemporaneous except as otherwise authorized by the agency who is the employer of such interpreter.
Added by Laws 1988, c. 69, § 1, emerg. eff. March 25, 1988.

§63-2414. Oath or affirmation of true interpretation.
Before a qualified legal interpreter may participate in any proceedings under the provisions of the Oklahoma Legal Interpreter for the Deaf and Hard-of-Hearing Act, such interpreter shall make an oath or affirmation that the interpreter will make a true interpretation in the manner most readily understood by the person who is deaf or hard-of-hearing.
Added by Laws 1982, c. 290, § 8. Amended by Laws 2005, c. 395, § 8, eff. Nov. 1, 2005.

§63-2415. Interpreter’s fees – Recess periods.
A. A qualified legal interpreter appointed under the provisions of the Oklahoma Legal Interpreter for the Deaf and Hard-of-Hearing Act shall be entitled to the prevailing rate for qualified legal interpreters in this state; provided, any interpreter who is appointed pursuant to Section 2409 or 2410 of this title shall be paid in accordance with the fee schedule established pursuant to Section 7 of Senate Bill No. 779 of the 1st Session of the 50th Oklahoma Legislature, if that bill is enacted. Prior to the

establishment of a fee schedule or if Senate Bill No. 779 of the 1st Session of the 50th Oklahoma Legislature is not enacted, payment shall be the prevailing rate for qualified legal interpreters in this state. When the interpreter is appointed by a court, the fee shall be paid out of the local court fund as provided for in Section 1304 of Title 20 of the Oklahoma Statutes and when the interpreter is otherwise appointed, the fee shall be paid by the appointing authority. The person for whom the interpreter is appointed shall not be assessed a reimbursement fee.

B. The appointing authority shall provide recess periods as necessary for the qualified legal interpreter as determined by the interpreter.

Added by Laws 1982, c. 290, § 9. Amended by Laws 1989, c. 194, § 3, eff. Nov. 1, 1989; Laws 1995, c. 73, § 4, emerg. eff. April 12, 1995; Laws 1999, c. 11, § 1, emerg. eff. April 5, 1999; Laws 2005, c. 395, § 9, eff. Nov. 1, 2005.

§63-2416. Short title.

This act shall be known and may be cited as the "Telecommunications for the Deaf and Hard-of-Hearing Act".

Added by Laws 1986, c. 183, § 1, eff. July 1, 1986. Amended by Laws 1998, c. 246, § 24, eff. Nov. 1, 1998.

§63-2417. Duties and responsibilities of State Department of Rehabilitation Services.

The State Department of Rehabilitation Services is hereby directed to:

1. Provide for the availability, distribution and maintenance, at no cost to qualified individuals with hearing or speech disabilities, or both, telecommunication devices and ring-signaling devices compatible with the telecommunications relay services for deaf or hard-of-hearing and speech-impaired individuals requirements of the Americans with Disabilities Act of 1990 and regulations promulgated thereunder; and

2. Design and implement a needs assessment test so that individuals with hearing or speech disabilities, or both, are benefited by this program. Provided, however, that no equipment and maintenance shall be provided without charge for those individuals meeting more than two hundred percent (200%) of the income guidelines for food stamps. The State Department of Rehabilitation Services shall develop a sliding scale to provide equipment and maintenance to individuals exceeding the needs test specified by this paragraph.

Added by Laws 1986, c. 183, § 2, eff. July 1, 1986. Amended by Laws 1993, c. 364, § 19, emerg. eff. June 11, 1993; Laws 1994, c. 315, § 13, eff. July 1, 1994; Laws 1998, c. 246, § 25, eff. Nov. 1, 1998.

§63-2418. Telephone access line surcharge - Telecommunications for the Hearing Impaired Revolving Fund.

A. There is hereby imposed a surcharge of five cents ($0.05) per local exchange telephone access line per month to pay for the equipment and maintenance program provided for in Section 2417 of this title and to provide for other needed services for the deaf, severely hard-of-hearing, severely speech-impaired and deaf-blind programs administered through the State Department of Rehabilitation Services, such surcharge to be paid by each local exchange subscriber to local telephone service in this state, unless such subscriber is otherwise exempt from taxation.

B. The surcharge shall be collected on the regular monthly bill by each local exchange telephone company operating in this state and shall be remitted quarterly to the Oklahoma Tax Commission no later than twenty (20) days following the end of each quarter.

C. There is hereby created in the State Treasury the Telecommunications for the Deaf and Hard-of-Hearing Revolving Fund. The fund shall consist of monies imposed in subsection A of this section. All monies accruing to the fund are hereby appropriated and may be budgeted and expended by the State Department of Rehabilitation Services. The fund shall be a continuing fund not subject to fiscal year limitations and expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims submitted to the Director of the Office of Management and Enterprise Services for the purpose of implementation of this act.

Added by Laws 1986, c. 183, § 3, eff. July 1, 1986. Amended by Laws 1987, c. 5, § 140, operative March 31, 1987; Laws 1987, c. 196, § 17, operative July 1, 1987; Laws 1994, c. 315, § 14, eff. July 1, 1994; Laws 1998, c. 246, § 26, eff. Nov. 1, 1998; Laws 2012, c. 357, § 3, eff. July 1, 2012; Laws 2013, c. 15, § 78, emerg. eff. April 8, 2013.

NOTE: Laws 2012, c. 304, § 512 repealed by Laws 2013, c. 15, § 79, emerg. eff. April 8, 2013.

§63-2418.1. Certified local exchange telephone companies - Compliance with federal legislation - Assessment of surcharge.

Each certified local exchange telephone company shall comply with the provisions of the Americans with Disabilities Act of 1990 and regulations promulgated thereunder relating to telecommunications relay services for deaf and hard-of-hearing and speech-impaired individuals and shall assess a surcharge to each customer on a per line per month basis to recover the costs associated with such compliance and advise the Commission of any changes.

Added by Laws 1994, c. 315, § 15, eff. July 1, 1994. Amended by Laws 1998, c. 246, § 27, eff. Nov. 1, 1998.

§63-2419. Collection of revenues to cease under certain conditions.

If the revenues collected under this act exceed the costs of operating the program provided for in this act, and if such excess at any time equals the three-year average of expenditures under this act then such collections shall cease until one half of such surplus has been exhausted.

Added by Laws 1986, c. 183, § 4, eff. July 1, 1986.

§63-2451. Renumbered as § 1-2517 of this title by Laws 1999, c. 156, § 5, eff. Nov. 1, 1999.

§63-2452. Renumbered as § 1-2518 of this title by Laws 1999, c. 156, § 5, eff. Nov. 1, 1999.

§63-2453. Renumbered as § 1-2519 of this title by Laws 1999, c. 156, § 5, eff. Nov. 1, 1999.

§63-2454. Renumbered as § 1-2520 of this title by Laws 1999, c. 156, § 5, eff. Nov. 1, 1999.

§63-2455. Renumbered as § 1-2521 of this title by Laws 1999, c. 156, § 5, eff. Nov. 1, 1999.

§63-2501. Repealed by Laws 2003, c. 197, § 58, eff. Nov. 1, 2003.

§63-2502. Repealed by Laws 2003, c. 197, § 58, eff. Nov. 1, 2003.

§63-2503. Repealed by Laws 2003, c. 197, § 58, eff. Nov. 1, 2003.

§63-2504. Repealed by Laws 2003, c. 197, § 58, eff. Nov. 1, 2003.

§63-2505. Repealed by Laws 2003, c. 197, § 58, eff. Nov. 1, 2003.

§63-2506. Repealed by Laws 2003, c. 197, § 58, eff. Nov. 1, 2003.

§63-2507. Repealed by Laws 2003, c. 197, § 58, eff. Nov. 1, 2003.

§63-2508. Repealed by Laws 2003, c. 197, § 58, eff. Nov. 1, 2003.

§63-2508.1. Repealed by Laws 2003, c. 197, § 58, eff. Nov. 1, 2003.

§63-2509. Repealed by Laws 2003, c. 197, § 58, eff. Nov. 1, 2003.

§63-2510. Repealed by Laws 2003, c. 197, § 58, eff. Nov. 1, 2003.

§63-2511. Repealed by Laws 2003, c. 197, § 58, eff. Nov. 1, 2003.

§63-2512. Repealed by Laws 2003, c. 197, § 58, eff. Nov. 1, 2003.

§63-2513. Repealed by Laws 2003, c. 197, § 58, eff. Nov. 1, 2003.

§63-2514. Repealed by Laws 2003, c. 197, § 58, eff. Nov. 1, 2003.

§63-2521. Repealed by Laws 1994, c. 100, § 3, eff. Sept. 1, 1994.

§63-2522. Repealed by Laws 1994, c. 100, § 3, eff. Sept. 1, 1994.

§63-2523. Repealed by Laws 1994, c. 100, § 3, eff. Sept. 1, 1994.

§63-2524. Repealed by Laws 1994, c. 100, § 3, eff. Sept. 1, 1994.

§63-2525. Repealed by Laws 1994, c. 100, § 3, eff. Sept. 1, 1994.

§63-2525.1. Renumbered as § 2508.1 of this title by Laws 1995, c. 204, § 9, eff. July 1, 1995.

§63-2525.2. Repealed by Laws 2003, c. 197, § 58, eff. Nov. 1, 2003.

§63-2525.3. Repealed by Laws 2003, c. 197, § 58, eff. Nov. 1, 2003.

§63-2525.4. Repealed by Laws 2003, c. 197, § 58, eff. Nov. 1, 2003.

§63-2525.5. Repealed by Laws 2003, c. 197, § 58, eff. Nov. 1, 2003.

§63-2525.6. Repealed by Laws 2003, c. 197, § 58, eff. Nov. 1, 2003.

§63-2525.7. Repealed by Laws 2003, c. 197, § 58, eff. Nov. 1, 2003.

§63-2526. Repealed by Laws 1994, c. 100, § 3, eff. Sept. 1, 1994.

§63-2527. Repealed by Laws 1994, c. 100, § 3, eff. Sept. 1, 1994.

§63-2528.1. Repealed by Laws 2011, c. 278, § 54 and Laws 2011, c. 360, § 43.

§63-2528.2. Repealed by Laws 2011, c. 278, § 54 and Laws 2011, c. 360, § 43.

§63-2528.3. Repealed by Laws 2011, c. 278, § 54 and Laws 2011, c. 360, § 43.

§63-2528.4. Repealed by Laws 2011, c. 278, § 54 and Laws 2011, c. 360, § 43.

§63-2528.5. Repealed by Laws 2011, c. 278, § 54 and Laws 2011, c. 360, § 43.

§63-2528.6. Repealed by Laws 2011, c. 278, § 54 and Laws 2011, c. 360, § 43.

§63-2528.7. Repealed by Laws 2011, c. 278, § 54 and Laws 2011, c. 360, § 43.

§63-2528.8. Repealed by Laws 2011, c. 278, § 54 and Laws 2011, c. 360, § 43.

§63-2528.9. Repealed by Laws 2011, c. 278, § 54 and Laws 2011, c. 360, § 43.

§63-2528.10. Repealed by Laws 2011, c. 278, § 54 and Laws 2011, c. 360, § 43.

§63-1-2550. Repealed by Laws 1999, c. 93, § 10, eff. Nov. 1, 1999.

§63-2550.1. Definitions.

As used in Sections 2550.1 through 2550.4 of this title:

1. "Covered person" means an individual who receives medical care and treatment through a managed care plan. In the case of a minor child, the term includes the parent or legal guardian of the child and, in the case of an incapacitated or partially incapacitated person, the legal guardian of that person;

2. "Degenerative and disabling condition or disease" means a condition or disease caused by a congenital or acquired injury or illness that requires a specialized rehabilitation program or a high level of care, service, resources or continued coordination of care in the community;

3. "Designee of the covered person" means an individual designated by the covered person to represent the interests of the covered person, including the covered person's provider;

4. "Managed care plan" means a plan operated by a managed care entity, including the Oklahoma State and Education Employees Group Insurance Board, that provides for the financing and delivery of health care services to persons enrolled in such plan through:

a. arrangements with selected providers to furnish health care services,

b. standards for the selection of participating providers,

c. organizational arrangements for ongoing quality assurance, utilization review programs, and dispute resolution, and

d. financial incentives for persons enrolled in the managed care plan to use the participating providers and procedures provided for by the managed care plan;

provided, however, the term "managed care plan" shall not include a preferred provider organization (PPO) as defined in Section 6054 of Title 36 of the Oklahoma Statutes, or a certified workplace medical plan as defined in Section 14.2 of Title 85 of the Oklahoma Statutes;

5. "Provider" shall have the same meaning as such term is defined by a health maintenance organization, an indemnity plan or a preferred provider organization; and

6. "Treatment plan" means a proposal developed for a covered person that is specifically tailored to the individual's treatment needs for a specific illness or condition, and that includes, but is not limited to:

a. a statement of treatment goals or objectives, based upon and related to a medical evaluation,

b. treatment methods and procedures to be used to obtain these goals, and

c. identification of the types of professional personnel who will carry out the treatment procedures.

Added by Laws 1999, c. 361, § 1, eff. Nov. 1, 1999. Amended by Laws 2000, c. 292, § 4, eff. Nov. 1, 2000.

§63-2550.2. Referral to and treatment by specialist.

A. A managed care plan that has no participating provider for a covered benefit requiring a specialist shall arrange for a referral to a specialist with expertise in treating the covered benefit. The specialist shall agree to abide by the terms of the plan's provider contract if the terms are commensurate with the terms of contracts for similar specialists.

B. 1. A managed care plan shall include procedures by which a covered person in a managed care plan, upon diagnosis by a primary care provider of a condition that without specialized treatment would result in deleterious outcomes that would threaten life or limb or a degenerative and disabling condition or disease, either of which requires specialized medical care over a prolonged period of time, may be referred to a specialist with expertise in treating such condition or disease.

2. The specialist may be responsible for and may provide and coordinate the covered person's primary and specialty care only if the specialist is willing to abide by the terms of the plan's contract and capable of providing such care.

3. If the managed care plan, or the primary care provider in consultation with the managed care plan and the specialist, if any, determines that the most appropriate coordinator of the covered person's care is a specialist, the managed care plan shall authorize

a referral of the covered person to the specialist. In no event shall a managed care plan be required to permit a covered person to elect treatment by a nonparticipating specialist, except pursuant to the provisions of subsection A of this section.

C. 1. A referral pursuant to this section shall be pursuant to a treatment plan agreed to by the managed care plan, the specialist and the primary care provider which complies with the covered benefits of the health plan and which is developed in consultation with the primary care provider, if appropriate, the specialist, and the covered person or the designee of the covered person.

2. Subject to the terms of the treatment plan agreed to by the managed care plan, the specialist and the primary care provider and subject to the terms of the plan's contract, a specialist shall be permitted to treat the covered person without a referral from the covered person's primary care provider and may authorize referrals, procedures, tests and other medical services as the covered person's primary care provider would otherwise be permitted to provide or authorize.

3. If a managed care plan refers a covered person to a nonparticipating specialist, services provided pursuant to the treatment plan shall be provided pursuant to the provisions of subsection A of this section at no additional cost to the covered person beyond what the covered person would otherwise pay for services received within the network of the managed care plan.

D. A managed care plan shall implement procedures for a standing referral to a specialist if the primary care provider determines in consultation with the specialist and the managed care plan that a covered person needs continuing care from a specialist. The referral shall be made pursuant to a treatment plan that complies with covered benefits of the managed care plan.
Added by Laws 1999, c. 361, § 2, eff. Nov. 1, 1999.

§63-2550.3. Termination of participating providers – Procedures and conditions.

A. Every managed care plan shall establish procedures governing termination of a participating provider who is terminated for reasons other than cause. The procedures shall include assurance of continued coverage of services, at the contract terms and price by a terminated provider for up to ninety (90) calendar days from the date of notice to the covered person, for a covered person who:

1. Has a degenerative and disabling condition or disease;

2. Has entered the third trimester of pregnancy. Additional coverage of services by the terminated provider shall continue through at least six (6) weeks of postpartum evaluation; or

3. Is terminally ill.

B. 1. If a participating provider voluntarily chooses to discontinue participation as a network provider in a managed care plan, the managed care plan shall permit a covered person to continue an ongoing course of treatment with the disaffiliated provider during a transitional period:

a. of up to ninety (90) days from the date of notice to the managed care plan of the provider's disaffiliation from the managed care plan's network, or

b. that includes delivery and postpartum care if the covered person has entered the third trimester of pregnancy at the time of the provider's disaffiliation.

2. If a provider voluntarily chooses to discontinue participation as a network provider participating in a managed care plan, such provider shall give at least a ninety-day notice of the disaffiliation to the managed care plan. The managed care plan shall immediately notify the disaffiliated provider's patients of that fact.

3. Notwithstanding the provisions of paragraph 1 of this subsection, continuing care shall be authorized by the managed care plan during the transitional period only if the disaffiliated provider agrees to:

a. continue to accept reimbursement from the managed care plan at the rates applicable prior to the start of the transitional period as payment in full,

b. adhere to the managed care plan's quality assurance requirements and to provide to the managed care plan necessary medical information related to such care, and

c. otherwise adhere to the managed care plan's policies and procedures, including, but not limited to, policies and procedures regarding referrals, and obtaining preauthorization and treatment plan approval from the managed care plan.

Added by Laws 1999, c. 361, § 3, eff. Nov. 1, 1999.

§63-2550.4. Nonformulary or prior-authorized drugs - Approval.

A. A managed care plan that has a closed formulary or that requires prior authorization to obtain certain drugs shall approve or disapprove a provider's or a covered person's request for a nonformulary drug or a drug that requires prior authorization within twenty-four (24) hours of receipt of such request.

B. If the managed care plan does not render a decision within twenty-four (24) hours, the provider or covered person shall be entitled to a seventy-two-hour supply of the drug. The managed care plan shall then approve or disapprove the request for a nonformulary

drug or prior authorized drug within the additional seventy-two-hour period.

C. Failure of the managed care plan to respond within the subsequently allowed seventy-two-hour period shall be deemed as approval of the request for the nonformulary drug or prior authorized drug; provided, however, the approval shall be subject to the terms of the managed care plan's drug formulary; provided further, the purchase of the approved drug shall be at no additional cost to the covered person beyond what the covered person would otherwise pay for a prescription pursuant to the managed care plan.

D. All providers and covered persons in a managed care plan shall be provided with a copy of the plan's drug prior authorization process upon initial contracting or enrollment and at the time of enactment of any subsequent changes to the process.

Added by Laws 1999, c. 361, § 4, eff. Nov. 1, 1999.

§63-2551. Short title.

This act shall be known and may be cited as "The Uniform Duties to Disabled Persons Act."

Added by Laws 1975, c. 212, § 1, emerg. eff. May 27, 1975.

§63-2552. Definitions.

In the Uniform Duties to Disabled Persons Act:

1. "Disabled condition" means the condition of being unconscious, semiconscious, incoherent or otherwise incapacitated to communicate;

2. "Disabled person" means a person in a disabled condition;

3. "The emergency symbol" means the caduceus inscribed within a six-barred cross used by the American Medical Association to denote emergency information;

4. "Identifying device" means an identifying bracelet, necklace, metal tag or similar device bearing the emergency symbol and the information needed in an emergency; and

5. "Medical practitioner" means a person who is a member of the class of persons authorized to use the term "physician" pursuant to Section 725.2 of Title 59 of the Oklahoma Statutes.

Added by Laws 1975, c. 212, § 2, emerg. eff. May 27, 1975. Amended by Laws 2000, c. 52, § 7, emerg. eff. April 14, 2000.

§63-2553. Identifying devices and identification cards.

A. A person who suffers from epilepsy, diabetes, a cardiac condition or any other type of illness that causes temporary blackouts, semiconscious periods or complete unconsciousness, or who suffers from a condition requiring specific medication or medical treatment, is allergic to certain medications or items used in medical treatment, wears contact lenses, has religious objections to certain forms of medication or medical treatment, or is unable to

communicate coherently or effectively in the English language, is authorized and encouraged to wear an identifying device.

B. Any person may carry an identification card bearing his name, type of medical condition, physician's name and other medical information.

C. By wearing an identifying device a person gives his consent for any who finds him in a disabled condition to make a reasonable search if warranted of his clothing or other effects for an identification card of the type described in subsection B.

Added by Laws 1975, c. 212, § 3, emerg. eff. May 27, 1975.

§63-2554. Duties of law enforcement officers.

A. A law enforcement officer shall make a diligent effort to determine whether any disabled person he finds is an epileptic or a diabetic or suffers from some other type of illness that would cause the condition. Whenever feasible, this effort shall be made before the person is charged with a crime or taken to a place of detention.

B. In seeking to determine whether a disabled person suffers from an illness, a law enforcement officer shall make a reasonable search for an identifying device and an identification card of the type described in subsection B, Section 3 of this act, and examine them for emergency information. The law enforcement officer may not search for an identifying device or an identification card in a manner or to an extent that would appear to a reasonable person in the circumstances to cause an unreasonable risk of worsening the disabled person's condition.

C. A law enforcement officer who finds a disabled person without an identifying device or identification card is not relieved of his duty to that person to make a diligent effort to ascertain the existence of any illness causing the disabled condition.

D. A cause of action against a law enforcement officer does not arise from his making a reasonable search of the disabled person to locate an identifying device or identification card, even though the person is not wearing an identifying device or carrying an identification card.

E. A law enforcement officer who determines or has reason to believe that a disabled person is suffering from an illness causing his condition shall promptly notify the person's physician, if practicable. If the officer is unable to ascertain the physician's identity or to communicate with him, the officer shall make a reasonable effort to cause the disabled person to be transported immediately to a medical practitioner or to a facility where medical treatment is available. If the officer believes it unduly dangerous to move the disabled person, he shall make a reasonable effort to obtain the assistance of a medical practitioner.

Added by Laws 1975, c. 212, § 4, emerg. eff. May 27, 1975.

§63-2555. Medical practitioners - Duties - Liability.

A. A medical practitioner, in discharging his duty to a disabled person whom he has undertaken to examine or treat, shall make a reasonable search for an identifying device or identification card of the type described in subsection B, Section 3 of this act, and examine them for emergency information.

B. A cause of action against a medical practitioner does not arise from his making a reasonable search of a disabled person to locate an identifying device or identification card, even though the person is not wearing an identifying device or carrying an identification card.

Added by Laws 1975, c. 212, § 5, emerg. eff. May 27, 1975.

§63-2556. Persons other than law enforcement officers or medical practitioners.

A. A person, other than a law enforcement officer or medical practitioner, who finds and undertakes to help a disabled person may:

1. Make a reasonable search for an identifying device; and

2. If the identifying device is found may make a reasonable search for an identification card of the type described in subsection B, Section 3 of this act.

B. A cause of action does not arise from a reasonable search to locate an identifying device or identification card as authorized by subsection A of this section.

Added by Laws 1975, c. 212, § 6, emerg. eff. May 27, 1975.

§63-2557. Penalties.

A person who with intent to deceive provides, wears, uses or possesses a false identifying device or identification card of the type described in subsection B, Section 3 of this act, is guilty of a misdemeanor and upon conviction may be fined not more than Three Hundred Dollars ($300.00) or imprisoned for not more than ninety (90) days, or both.

Added by Laws 1975, c. 212, § 7, emerg. eff. May 27, 1975.

§63-2558. Duties as additional.

The duties imposed by this act are in addition to, and not in limitation of, other duties existing under the law of this state.

Added by Laws 1975, c. 212, § 8, emerg. eff. May 27, 1975.

§63-2601. Definitions.

For the purposes of this act, the following words and phrases mean:

(a) "Minor" means any person under the age of eighteen (18) years of age, except such person who is on active duty with or has

served in any branch of the Armed Services of the United States shall be considered an adult.

(b) "Health professional" means for the purposes of this act any licensed physician, psychologist, dentist, osteopathic physician, podiatrist, chiropractor, registered or licensed practical nurse or physician's assistant.

(c) "Health services" means services delivered by any health professional including examination, preventive and curative treatment, surgical, hospitalization, and psychological services, except abortion or sterilization. Should the health services include counseling concerning abortion, all alternatives will be fully presented to the minor. Services in this act shall not include research or experimentation with minors except where used in an attempt to preserve the life of that minor, or research as approved by an appropriate review board involved in the management of reportable diseases.

Amended by Laws 1985, c. 299, § 8, eff. Nov. 1, 1985.

§63-2602. Right of self-consent under certain conditions - Doctor patient privileges

A. Notwithstanding any other provision of law, the following minors may consent to have services provided by health professionals in the following cases:

1. Any minor who is married, has a dependent child or is emancipated;

2. Any minor who is separated from his parents or legal guardian for whatever reason and is not supported by his parents or guardian;

3. Any minor who is or has been pregnant, afflicted with any reportable communicable disease, drug and substance abuse or abusive use of alcohol; provided, however, that such self-consent only applies to the prevention, diagnosis and treatment of those conditions specified in this section. Any health professional who accepts the responsibility of providing such health services also assumes the obligation to provide counseling for the minor by a health professional. If the minor is found not to be pregnant nor suffering from a communicable disease nor drug or substance abuse nor abusive use of alcohol, the health professional shall not reveal any information whatsoever to the spouse, parent or legal guardian, without the consent of the minor;

4. Any minor parent as to his child;

5. Any spouse of a minor when the minor is unable to give consent by reason of physical or mental incapacity;

6. Any minor who by reason of physical or mental capacity cannot give consent and has no known relatives or legal guardian, if two physicians agree on the health service to be given;

7. Any minor in need of emergency services for conditions which will endanger his health or life if delay would result by obtaining consent from his spouse, parent or legal guardian; provided, however, that the prescribing of any medicine or device for the prevention of pregnancy shall not be considered such an emergency service; or

8. Any minor who is the victim of sexual assault; provided, however, that such self-consent only applies to a forensic medical examination by a qualified licensed health care professional.

If any minor falsely represents that he may give consent and a health professional provides health services in good faith based upon that misrepresentation, the minor shall receive full services without the consent of the minor's parent or legal guardian and the health professional shall incur no liability except for negligence or intentional harm. Consent of the minor shall not be subject to later disaffirmance or revocation because of his minority.

B. The health professional shall be required to make a reasonable attempt to inform the spouse, parent or legal guardian of the minor of any treatment needed or provided under paragraph 7 of subsection A of this section. In all other instances the health professional may, but shall not be required to inform the spouse, parent or legal guardian of the minor of any treatment needed or provided. The judgment of the health professional as to notification shall be final, and his disclosure shall not constitute libel, slander, the breach of the right of privacy, the breach of the rule of privileged communication or result in any other breach that would incur liability.

Information about the minor obtained through care by a health professional under the provisions of this act shall not be disseminated to any health professional, school, law enforcement agency or official, court authority, government agency or official employer, without the consent of the minor, except through specific legal requirements or if the giving of the information is necessary to the health of the minor and public. Statistical reporting may be done when the minor's identity is kept confidential.

The health professional shall not incur criminal liability for action under the provisions of this act except for negligence or intentional harm.

Added by Laws 1975, c. 225, § 2, emerg. eff. May 29, 1975. Amended by Laws 1976, c. 161, § 2; Laws 2016, c. 305, § 1, emerg. eff. May 16, 2016.

§63-2603. Payment for services.

The spouse, parents or legal guardian of the minor shall not be liable for payment for any health services provided under the authority of this act, unless they shall have expressly agreed to pay for such care. Minors consenting to health services shall

thereby assume financial responsibility for the cost of said services except those who are proven unable to pay and who receive the services in public institutions.
Added by Laws 1975, c. 225, § 3, emerg. eff. May 29, 1975.

§63-2604. Safeguards to protect minor.

If major surgery, general anesthesia; or a life-threatening procedure has to be undertaken on a minor, it shall be necessary for the physician to obtain concurrence from another physician except in an emergency in a community where no other surgeon can be contacted within a reasonable time.

In cases where emergency care is needed and the minor is unable to give self-consent; a parent, spouse or legal guardian may authorize consent.
Added by Laws 1975, c. 225, § 4, emerg. eff. May 29, 1975.

§63-2605. Providing of health care not mandatory.

Nothing in this act shall require any health professional to provide health care nor shall any health professional be liable for refusal to give health care.
Added by Laws 1975, c. 225, § 5, emerg. eff. May 29, 1975.

§63-2621. Short title.

Sections 1 through 3 of this act shall be known and may be cited as the "Medical Savings Account Act".
Added by Laws 1995, c. 249, § 1, eff. Nov. 1, 1995.

§63-2622. Definitions.

As used in the Medical Savings Account Act:

1. "Account holder" means the individual including but not limited to an employee of an employer or dependents of the individual on whose behalf the medical savings account is established;

2. "Dependent child" means any person under the age of twenty-one (21) years or any person who is legally entitled or subject to a court order for the provision of proper and necessary subsistence, education, medical care, or any other care necessary for the health, or well-being of such person, and who is not otherwise emancipated, married or a member of the Armed Forces of the United States, or who is mentally or physically incapacitated and cannot provide for themselves;

3. "Eligible medical expenses" means an expense paid by the taxpayer for medical care described in Section 213(d) of the Internal Revenue Code;

4. "Medical savings account" or "account" means an account established in this state pursuant to a medical savings account

program to pay the eligible medical expenses of an account holder and the dependents of the account holder;

5. "Medical savings account program" or "program" means a program that includes all of the following:

a. the purchase by an individual or employer of a qualified higher deductible health benefit plan which is approved by the State Department of Health and offered by an entity regulated by the State Department of Health or is approved by the Insurance Commissioner and offered by an entity regulated by the Insurance Commissioner or is offered by the State and Education Employees Group Insurance Board for the benefit of the individual or an employee of the employer and the dependents of that individual or the employee,

b. the deposit by an individual into a medical savings account or the contribution on behalf of an employee into a medical care account by an employer of all or part of the premium differential realized by the employer based on the purchase of a qualified higher deductible health plan for the benefit of the employee. An employer that did not previously provide a health plan or provide a health coverage policy, certificate, or contract for employees may contribute all or part of the deductible of a qualified higher deductible health benefit plan; and

6. "Trustee" means a chartered state bank, savings and loan association, licensed securities dealer or trust company authorized to act as a fiduciary; a national banking association or savings and loan association authorized to act as a fiduciary; or an insurance company.

Added by Laws 1995, c. 249, § 2, eff. Nov. 1, 1995. Amended by Laws 1996, c. 183, § 1, eff. July 1, 1996.

§63-2623. Medical savings account - Contributions and withdrawals.

A. For taxable years beginning after December 31, 1995, an individual who is a resident of this state or an employer shall be allowed to deposit contributions to a medical savings account. The amount of deposit for the first taxable year subsequent to the effective date of this act shall not exceed:

1. Two Thousand Dollars ($2,000.00) for the account holder;

2. Two Thousand Dollars ($2,000.00) for the spouse of the account holder; and

3. One Thousand Dollars ($1,000.00) for each dependent child of the account holder.

B. The maximum allowable amount of deposit for subsequent years shall be increased annually by a percentage equal to the previous year's increase in the national Consumer Price Index (CPI).

C. Contributions made to and interest earned on a medical savings account shall be exempt from taxation as adjusted gross income in this state as provided for in Section 2358 of Title 68 of the Oklahoma Statutes.

D. Upon agreement between an employer and employee, an employee may either have the employer contribute to the employee's medical savings account under a medical savings account program or continue to make contributions under the employee's existing health insurance policy or program, subject to the restrictions in paragraph 1 of subsection E of this section. For purposes of the Medical Savings Account Act, an employer shall include a participating employer as defined in the Oklahoma State Employees Benefits Act.

E. The medical savings account shall be established as a trust under the laws of this state and placed with a trustee.

1. The trustee shall utilize the funds held in a medical savings account solely for the purpose of paying the eligible medical expenses of the account holder or the dependents of the account holder or to purchase a health benefit plan, certification, or contract if the account holder does not otherwise have health insurance coverage. Funds held in a medical savings account shall not be used to cover medical expenses of the account holder or dependents of the account holder that are otherwise covered by other means, including but not limited to medical expenses covered pursuant to an automobile insurance policy, a workers' compensation insurance policy or self-insured plan, or another health coverage policy, certificate, or contract.

2. The account holder may submit prior to the end of the tax year documentation of medical expenses paid by the account holder during that tax year to the trustee and the trustee shall reimburse the account holder for eligible medical expenses from the medical savings account.

3. Any funds remaining in a medical savings account at the end of the tax year after all medical expenses have been paid unless withdrawn as provided for in this section shall remain in the account and may be used by the account holder for payment of future medical expenses.

F. An account holder may withdraw money from the medical savings account of the account holder for any purpose other than a purpose listed in paragraph 1 of subsection E of this section, only on the last business day of the trustee's business year. If money is withdrawn on that date, pursuant to this subsection, it shall be considered income for income tax purposes and shall not be eligible for the exemption provided in Section 2358 of Title 68 of the Oklahoma Statutes.

G. If the account holder withdraws money for any purpose, other than a purpose described in paragraph 1 of subsection E of this

section, at any time other than on the last business day of the trustee's business year, all of the following shall apply:

1. The amount of the withdrawal shall be considered income for income tax purposes and shall not be eligible for the tax exemption provided in Section 2358 of Title 68 of the Oklahoma Statutes;

2. The trustee shall withhold and shall pay on behalf of the account holder a penalty to the Oklahoma Tax Commission equal to ten percent (10%) of the amount of the withdrawal; and

3. All interest earned on the account during the tax year in which a withdrawal occurs shall be considered income for income tax purposes.

H. Upon the death of the account holder, the account principal, as well as any interest accumulated thereon, shall be distributed to the estate of the account holder and shall be taxed as part of the estate.

I. If an employee is no longer employed by an employer that participates in a medical savings account program and the employee, not more than sixty (60) days after the final day of employment, transfers the account to a new trustee or requests in writing to the trustee of the former employer that the account remain with that trustee and that trustee agrees to retain the account, the money in the medical savings account may be utilized for the benefit of the account holder or the dependents of the account holder subject to this act, and the money shall remain exempt from taxation pursuant to Section 2358 of Title 68 of the Oklahoma Statutes. Not more than thirty (30) days after the expiration of the sixty-day transfer period, if the account holder has not transferred the account or the trustee has not accepted the account of the former employee, the employer shall mail a check to the last-known address of the former employee in an amount equal to the amount in the account on the date the check is mailed. The amount shall be taxed and subject to penalty as provided for in subsection G of this section. If an employee becomes employed with a different employer that participates in a medical savings account program before the expiration of the sixty-day transfer period, the employee may transfer the medical savings account to the trustee of the new employer without penalty.

Added by Laws 1995, c. 249, § 3, eff. Nov. 1, 1995. Amended by Laws 1996, c. 183, § 2, eff. July 1, 1996.

§63-2654.1. Short title - Definitions.

A. This act shall be known and may be cited as the "Oklahoma Poison Control Act".

B. As used in the Oklahoma Poison Control Act:

1. "Center" means the Oklahoma Poison Control Center; and

2. "Director" means the dean of the College of Pharmacy at the Oklahoma Health Sciences Center.

Added by Laws 1994, c. 364, § 1, emerg. eff. June 10, 1994.

§63-2654.2. Oklahoma Poison Control Center.

There is hereby created the Oklahoma Poison Control Center within Children's Hospital of Oklahoma. The University Hospitals Authority shall contract with the University of Oklahoma Health Sciences Center College of Pharmacy for the implementation of this act. The purpose of the center is to implement a statewide emergency poison and drug information program designed and structured to deliver reliable, accurate, qualified professional judgments and responses to requests for emergency poison and drug information data.

Added by Laws 1994, c. 364, § 2, emerg. eff. June 10, 1994.

§63-2654.3. Authority of Director.

The Director may:

1. Employ any and all coordination measures necessary to effectuate the purposes of the Oklahoma Poison Control Act;

2. Engage in any educational program or effort if, in the judgment of the Director, such activity would effectuate the purposes of the Oklahoma Poison Control Act;

3. Employ experts and consultants and compensate those individuals at rates determined by the Director;

4. Engage in programs of experimental or demonstrational research;

5. Appoint an advisory committee to assist in the development and review of rules promulgated under the authority of the Oklahoma Poison Control Act and reimburse the members for their expenses;

6. Accept and administer loans, grants, or other funds and gifts, conditional or otherwise, from the federal government and any and all other public or private sources;

7. Formulate, promulgate, adopt, amend, and enforce rules and regulatory standards necessary to effectuate the Oklahoma Poison Control Act; and

8. Establish and charge fees for the provision of nonemergency informational and educational services as well as contract therefor.

Added by Laws 1994, c. 364, § 3, emerg. eff. June 10, 1994.

§63-2654.4. Certification as regional poison control center.

The program of the center shall be structured and designed, to the extent resources permit, to meet the criteria for certification as a regional poison control center by the American Association of Poison Control Centers.

Added by Laws 1994, c. 364, § 4, emerg. eff. June 10, 1994.

§63-2656.1. Administration of oaths - Federal grant or contract funds.

The Commission may administer oaths at any hearing or investigation conducted pursuant to this act, and may receive federal grant or contract funds by complying with the requirements therefor.
Laws 1980, c. 297, § 13, emerg. eff. June 13, 1980.

§63-2656.2. Annual report - Distribution.
The Oklahoma Health Planning Commission shall prepare and distribute an annual report to the Oklahoma Legislature, to any health systems agency as established by federal law, and to any other person who requests the report, which shall include the status of each review currently being conducted, the reviews completed since the last report and a general statement of the findings and decisions made in the course of such reviews.
Laws 1980, c. 297, § 14, emerg. eff. June 13, 1980.

§63-2657. Definitions.
As used in this act, unless the context clearly indicates otherwise:

1. "Ambulatory surgical center" means:
   a. an establishment with an organized medical staff of physicians, with permanent facilities that are equipped and operated primarily for the purpose of performing surgical procedures, with continuous physician services available on call, and registered professional nursing services available on site, whenever a patient is in the facility, which provides services or other accommodations for patients to recover for a period not to exceed twenty-three (23) hours after surgery, or
   b. an establishment with an organized medical staff of dentists, with permanent facilities that are equipped and operated primarily for the purpose of performing dental surgical procedures, with continuous dental services available on call, and registered professional nursing services available on site, whenever a patient is in the facility, which provides services or other accommodations for patients to recover for a period not to exceed twenty-three (23) hours after surgery;
2. "Commissioner" means the Commissioner of Health;
3. "Governmental unit" means any city, county or other political subdivision of this state, or any department, division, board or other agency of any political subdivision of this state; and

4. "Person" means any individual, firm, partnership, corporation, company or association and the legal successors thereof.
Added by Laws 1976, c. 293, § 1, emerg. eff. June 15, 1976. Amended by Laws 1992, c. 356, § 2, eff. Sept. 1, 1992; Laws 2008, c. 390, § 1, eff. Nov. 1, 2008.

§63-2658. License policy
No person or governmental unit acting severally or jointly with any other person or governmental unit shall establish, conduct or maintain an ambulatory surgical center in this state without a license under this act issued by the Commissioner.
Added by Laws 1976, c. 293, § 2, emerg. eff. June 15, 1976.

§63-2659. Application
A. Application for a license shall be made to the Commissioner upon forms provided by the Commissioner and shall contain such information as the Commissioner may require. The Commissioner shall require affirmative evidence of ability to comply with such reasonable standards, rules and regulations as are lawfully prescribed under the provisions of this act.
B. Each application for a license, except applications from governmental units, shall be accompanied by an annual license fee of One Hundred Dollars ($100.00). All license fees shall be deposited in the State Treasury to the credit of the General Fund of the Department of Health.
Added by Laws 1976, c. 293, § 3, emerg. eff. June 15, 1976.

§63-2660. Issuance of a license
A. Upon receipt of an application for a license, the Commissioner shall issue a license if the applicant and ambulatory surgical center facilities meet the requirements established under this act. A license, unless sooner suspended or revoked, shall be renewable annually upon receipt of an application for a license and the license fee from the licensee and approval by the Commissioner.
B. Each license shall be issued only for the premises, persons or governmental units named in the application and shall not be transferable or assignable except with the written consent of the Commissioner. Licenses shall be posted in a conspicuous place on the licensed premises.
Added by Laws 1976, c. 293, § 4, emerg. eff. June 15, 1976.

§63-2661. Hearing - Notice
A. The Commissioner, after notice and opportunity for a hearing to the applicant or licensee, may deny, suspend or revoke a license in any case in which the Commissioner finds that there has been a substantial failure to comply with the requirements of this act.

B. Notice shall be given by registered mail or by personal service and shall set forth the particular reasons for the action proposed by the Commissioner. The notice shall fix a date not less than thirty (30) days from the date of the mailing or service, at which time the licensee or applicant shall be given an opportunity for a prompt and fair hearing.

C. At the hearing the licensee or applicant may present evidence, examine witnesses and be represented by counsel of his choice. On the basis of the hearing, or upon default of the licensee or applicant, the Commissioner shall make a determination specifying his findings of fact and conclusions of law. A copy of such determination shall be sent by registered mail or served personally upon the licensee or applicant.

D. The decision revoking, suspending or denying the license or application shall become final thirty (30) days after it is so mailed or served unless the applicant or licensee within that period appeals the decision.

E. Any person or governmental unit aggrieved by a decision of the Commissioner may appeal to the district court.

Added by Laws 1976, c. 293, § 5, emerg. eff. June 15, 1976.

§63-2662. Rules and regulations

The State Board of Health shall adopt such reasonable rules, regulations and standards as are necessary to insure that the quality of medical care in ambulatory surgical centers is the same as that required in hospitals licensed in the State of Oklahoma.

Added by Laws 1976, c. 293, § 6, emerg. eff. June 15, 1976.

§63-2663. Inspections and investigations

The Commissioner shall make, or cause to be made, such inspections and investigations as he deems necessary.

Added by Laws 1976, c. 293, § 7, emerg. eff. June 15, 1976.

§63-2663A. Consultant pharmacists – Required visits to ambulatory surgical center.

A consultant pharmacist shall be required to visit an ambulatory surgical center no more than one time per month.

Added by Laws 2011, c. 88, § 1, emerg. eff. April 20, 2011.

§63-2664. Penalty

A. Any person operating, conducting, managing or establishing an ambulatory surgical center without a license required by this act is guilty of a misdemeanor and, upon conviction, shall be punished as provided by law. Each day of continuing violation shall constitute a separate offense.

B. The Attorney General shall represent the Commissioner and shall institute an action in the name of the state for injunctive or

other relief against any person or governmental unit to restrain or prevent the establishment, conduct, management or operation of an ambulatory surgical center without a license issued pursuant to the provisions of this act.
Added by Laws 1976, c. 293, § 8, emerg. eff. June 15, 1976.

§63-2665. Discriminatory practices
No entity, governmental, public or private, providing individual or group health insurance or reimbursing for health care shall discriminate in its payment or reimbursement procedures against ambulatory surgical centers. Provided, however, that this section shall not require the same dollar amount of benefits be paid on account of inpatient hospital treatment.
Added by Laws 1976, c. 293, § 9, emerg. eff. June 15, 1976.

§63-2666. Formal transfer agreement.
An ambulatory surgical center shall have a formal transfer agreement with a general hospital, as defined in Section 1-701 of Title 63 of the Oklahoma Statutes, located not more than a twenty-minute travel distance from the center, or all physicians performing surgery in the ambulatory surgical center shall have admitting privileges at a general hospital, located not more than a twenty-minute travel distance from the center.
Added by Laws 2007, c. 168, § 1, eff. Nov. 1, 2007.

§63-2701. Public policy.
It is declared to be the public policy of this state, in order to safeguard the public health, safety and welfare, to encourage certain knowledgeable persons to make written report to the Division of Visual Services of the Department of Rehabilitation Services as to individuals suffering from blindness or serious visual impairment so that said Division of Visual Services may inform them as to rehabilitative education and training programs of the state.
Added by Laws 1976, c. 50, § 1, emerg. eff. April 12, 1976. Amended by Laws 1998, c. 107, § 4, eff. July 1, 1998.

§63-2702. Medical report - Immunity.
Any licensed surgeon, medical doctor, osteopathic physician, optometrist, dentist, intern or registered nurse who, from attending or examining an individual, concludes that such individual is blind or visually impaired to a material and uncorrected extent, and in good faith participates in the making of written report of said conclusion to the Division of Visual Services, Department of Rehabilitation Services, shall have immunity from liability, civil and criminal, for so reporting.
Added by Laws 1976, c. 50, § 2, emerg. eff. April 12, 1976. Amended by Laws 1998, c. 107, § 5, eff. July 1, 1998.

§63-2801. Short title.

This act shall be known as the Oklahoma Emergency Telephone Act.
Laws 1979, c. 176, § 1, emerg. eff. May 16, 1979.

§63-2802. Definitions.

As used in this act:

1. "Basic system" means a telephone service which automatically connects a person dialing the primary emergency telephone number to an established public safety answering point through normal telephone service facilities;

2. "Department" means the Department of Public Safety;

3. "Direct dispatch method" means a method whereby a call over a basic or sophisticated system is connected to a centralized dispatch center providing for the dispatching of an appropriate emergency service unit upon receipt of a telephone request for such services and a decision as to the proper action to be taken;

4. "Methods", as used in paragraphs 3, 8, 9 and 11 of this section, means the procedures to be followed by the public agency or public safety agency affected by such paragraphs;

5. "Primary emergency telephone number" means the digits nine-one-one (911);

6. "Public agency" means any agency or political subdivision of the state which provides or has authority to provide fire fighting, police, ambulance, medical or other emergency services;

7. "Public safety agency" means a functional division of a public agency which provides fire fighting, police, medical or other emergency services;

8. "Referral method" means a method whereby a call over a basic or sophisticated system results in providing the requesting party with the telephone number of the appropriate public safety agency or other provider of emergency services;

9. "Relay method" means a method whereby a call over a basic or sophisticated system results in pertinent information being noted by the recipient of a telephone request for emergency services and is relayed to appropriate public safety agencies or other providers of emergency services for dispatch of an emergency service unit;

10. "Sophisticated system" means a basic system with the additional capability of automatic identification of the caller's number, holding the incoming call, reconnection on the same telephone line, clearing a telephone line or automatic call routing or combinations of such capabilities; and

11. "Transfer method" means a method whereby a call over a basic or sophisticated system is received and directly transferred to an appropriate public safety agency or other provider of emergency services.

Laws 1979, c. 176, § 2, emerg. eff. May 16, 1979.

§63-2803. Establishment of basic or sophisticated system.

Every public agency or public safety agency within its respective jurisdiction may establish a basic or sophisticated system, if technologically compatible with the existing local telephone network. The establishment of such systems shall be centralized where feasible. Any system established pursuant to this act may include a segment of the territory of a public agency. All systems shall be designed to meet the requirements of each community and public agency served by the system. Every system, whether basic or sophisticated, may be designed to have the capability of utilizing at least three of the four methods specified in paragraphs 3, 8, 9 and 11 of Section 2 of this act, in response to emergency calls. In addition to the number "911", a public agency or public safety agency may maintain a separate secondary backup number, and shall maintain a separate number for nonemergency telephone calls.
Laws 1979, c. 176, § 3, emerg. eff. May 16, 1979.

§63-2804. Services included in system.

Every system may include police, fire fighting and emergency medical and ambulance services, and may include other emergency services, in the discretion of the affected public agency, such as poison control services, suicide prevention services and emergency management services. The system may incorporate a private ambulance service. In those areas in which a public safety agency of the state provides such emergency services, the system may include such public safety agencies.
Added by Laws 1979, c. 176, § 4, emerg. eff. May 16, 1979. Amended by Laws 2003, c. 329, § 53, emerg. eff. May 29, 2003.

§63-2805. Preparation and implementation of system.

In order to insure that proper preparation and implementation of such systems can be accomplished as provided in Section 2803 of this title, the Department of Public Safety may develop an overall plan prior to development of any system and shall coordinate the implementation of systems to be established pursuant to the provisions of Section 2803 of this title. Any such plan shall contain an estimate of the costs of installing alternate 911 systems and an estimate of the first year's additional operating expenses, if any. The Department may formulate a plan by which it and the public agencies and public safety agencies involved may share proportionately the costs of any system and method from their current funds. The Department may aid such agencies in the formulation of concepts, methods and procedures which will improve the operation of systems and which will increase cooperation between public safety agencies. The Department may consult at regular intervals with the State Fire Marshal, the Oklahoma State Bureau of

Investigation, the State Department of Health, the Department of Emergency Management and the public utilities in this state providing telephone service.
Added by Laws 1979, c. 176, § 5, emerg. eff. May 16, 1979. Amended by Laws 2003, c. 329, § 54, emerg. eff. May 29, 2003; Laws 2008, c. 302, § 9, emerg. eff. June 2, 2008.

§63-2806. Technical and operational standards for basic or sophisticated system.

The Department of Public Safety may establish technical and operational standards for the development of basic and sophisticated systems. Such standards shall be forwarded to the Corporation Commission for consideration of any tariff limitations and conditions which may need revision to accommodate such standards; and the Corporation Commission may issue such revisions after whatever hearings or procedures it deems appropriate.
Laws 1979, c. 176, § 6, emerg. eff. May 16, 1979.

§63-2807. Submission of final plan to public telephone utilities - Alternative reports.

A. All public agencies shall submit final plans for the establishment of any system to the public telephone utilities and may make arrangement with such utilities for the implementation of the planned emergency telephone system. A copy of the plan required by this subsection shall be filed with the Department of Public Safety.

B. If any public agency has implemented or is a part of a system which would be authorized by this act on the effective date of this act such public agency may submit in lieu of the tentative or final plan a report describing the system and stating its operational date.

C. Plans filed pursuant to subsection A of this section shall conform to minimum standards established pursuant to Section 6 of this act.
Laws 1979, c. 176, § 7, emerg. eff. May 16, 1979.

§63-2808. Joint power or written cooperative agreements for implementation of plan - Powers of public safety agency employees - Immunity.

In implementing systems pursuant to this act, all public agencies in a single system may annually enter into a joint powers agreement or any other form of written cooperative agreement which is applicable when need arises on a day-to-day basis. Every employee of every public safety agency which is a participant in a system may respond and take any action to any call whether within or without the authorized territorial jurisdiction of the public safety agency. In response to emergency calls, employees of public safety

agencies shall have the same immunity for any acts performed in the line of duty outside their authorized jurisdiction as they enjoy within it. No cause of action shall be created by any incorrect dispatch or response by any system or any public safety agency.
Laws 1979, c. 176, § 8, emerg. eff. May 16, 1979.

§63-2809. Repealed by Laws 1998, c. 364, § 38, emerg. eff. June 8, 1998.

§63-2810. Duties or liabilities of public telephone utility not affected.

Nothing contained in this act shall be deemed to establish or impose upon any public telephone utility providing services needed to implement the provisions hereof any duties or liabilities beyond those specified in applicable tariffs filed with the Oklahoma Corporation Commission.
Laws 1979, c. 176, § 10, emerg. eff. May 16, 1979.

§63-2811. Short title.

This act shall be known and may be cited as the "Nine-One-One Emergency Number Act".
Added by Laws 1986, c. 230, § 1, emerg. eff. June 10, 1986.

§63-2812. Purpose.

It is the purpose of the Nine-One-One Emergency Number Act, Section 2811 et seq. of this title, to establish the telephone number nine-one-one (911) as the primary emergency telephone number for use in this state and to encourage units of local governments and combinations of such units to develop and improve emergency communication procedures and facilities in order to expedite the response of law enforcement, fire, medical, rescue, and other emergency services to any person requiring such assistance. The Legislature finds and declares that:

1. It is in the public interest to shorten the time required for a citizen to request and receive emergency aid;

2. Thousands of different emergency telephone numbers exist throughout the state, and telephone exchange boundaries and central office service areas do not necessarily correspond to political boundaries;

3. Provision of a single, primary three-digit emergency number through which emergency services can be quickly and efficiently obtained would provide a significant contribution to law enforcement and other public safety efforts by making it less difficult to quickly notify public safety personnel.
Added by Laws 1986, c. 230, § 2, emerg. eff. June 10, 1986. Amended by Laws 1988, c. 130, § 1, emerg. eff. April 13, 1988.

§63-2813. Definitions.

As used in the Nine-One-One Emergency Number Act, Section 2811 et seq. of this title, unless the context otherwise requires:

1. "Area served" means the geographic area which shall be served by the emergency telephone service provided by the governing body of a county, municipality, part of a county or combination of such governing bodies;

2. "Emergency telephone service" means any telephone system utilizing a three-digit number, nine-one-one (911), for reporting an emergency to the appropriate public agency providing law enforcement, fire, medical or other emergency services, including ancillary communications systems and personnel necessary to pass the reported emergency to the appropriate emergency service and personnel;

3. "Emergency telephone fee" means a fee to finance the operation of emergency telephone service;

4. "Governing body" means the board of county commissioners of a county, the city council or other governing body of a municipality, or a combination of such boards, councils or other municipal governing bodies, which shall have an administering board as provided in subsection G of Section 2815 of this title. Any such combined administering board shall be formed and shall enter into an agreement between the governing body of each entity in accordance with the Interlocal Cooperation Act. The agreement shall be filed with the office of the county clerk and in the offices of each governmental entity involved;

5. "Local exchange telephone company" means any company providing exchange telephone services to any service user in this state, and shall include any competitive local exchange carrier as defined in Section 139.102 of Title 17 of the Oklahoma Statutes;

6. "Person" means any service user, including but not limited to, any individual, firm, partnership, copartnership, joint venture, association, cooperative organization, private corporation, whether organized for profit or not, fraternal organization, nonprofit organization, estate, trust, business or common law trust, receiver, assignee for the benefit of creditors, trustee or trustee in bankruptcy, the United States of America, the state, any political subdivision of the state, or any federal or state agency, department, commission, board or bureau;

7. "Public agency" means any city, town, county, municipal corporation, public district, public trust or public authority located within this state which provides or has authority to provide fire fighting, law enforcement, ambulance, emergency medical or other emergency services;

8. "Service user" means any person who is provided exchange telephone service in this state; and

9. "Tariff rate" means the rate or rates billed by a local exchange telephone company stated in tariffs applicable for such company, as approved by the Oklahoma Corporation Commission, which represent the recurring charges of such local exchange telephone company for exchange telephone service or its equivalent, exclusive of all taxes, fees, licenses or similar charges whatsoever.
Added by Laws 1986, c. 230, § 3, emerg. eff. June 10, 1986. Amended by Laws 1988, c. 130, § 2, emerg. eff. April 13, 1988; Laws 1995, c. 350, § 1, eff. July 1, 1995; Laws 2001, c. 30, § 2, eff. July 1, 2001.

§63-2814. Political subdivisions authorized to operate emergency telephone service - Service fee - Election.

A. In addition to other powers for the protection of the public health, a governing body may provide for the operation of an emergency telephone service and may impose an emergency telephone fee, as provided in this section, for emergency telephone service in areas, subject to the jurisdiction of the governing body. The governing body may do such other acts as are necessary for the protection and preservation of the public health if necessary for the operation of the emergency telephone system.

B. The governing body is hereby authorized, by ordinance in the case of municipalities and by resolution in the case of counties or a combined governing body, to provide for the operation of emergency telephone service and to impose an emergency telephone fee in the area to be served by the system. The ordinance or resolution shall submit to the voters in the area to be served the question of the imposition of emergency telephone service and the amount of the emergency telephone fee. The ordinance or resolution shall propose the amount of the emergency telephone fee to begin the second year and for each year thereafter, in an amount not greater than fifteen percent (15%) of the tariff rate, and shall call for an election to be held within one (1) year from the date the ordinance or resolution is adopted.

The ordinance or resolution shall also provide for the collection of an amount not to exceed five percent (5%) of the tariff rate in areas subject to the jurisdiction of the governing body for a period of no longer than one (1) year. The one (1) year, five percent (5%) fee shall be a part of, not an addition to, the fee set by the voters. The collection of the five percent (5%) fee may begin, prior to the election, within thirty (30) days after the resolution or ordinance becomes effective. The one (1) year, five percent (5%) fee shall be used to provide for the cost of conducting the election to set the emergency telephone fee and any initial or start-up cost necessary to implement the emergency telephone service. If the fee is not approved by the electors, any remaining money collected during the first year shall be distributed to the

local exchange telephone company and then shall be refunded to each service user charged on a pro rata basis.

C. Within sixty (60) days of the publication of the resolution adopted pursuant to subsection B of this section, there may be filed with the county election board of the affected county or counties a petition signed by not less than three percent (3%) of the total number of votes cast in the next preceding general election of the county or affected area.

Within sixty (60) days of publication of an ordinance adopted by a municipality pursuant to subsection B of this section, there may be filed with the county election board of the county in which the municipality is located a petition signed by not less than three percent (3%) of the total number of votes cast in the next preceding election of the city.

The petitions may request that the question of the installation and operation of emergency telephone service and imposition of the one (1) year, five percent (5%) emergency telephone fee as called for in the resolution or ordinance be disapproved.

Upon determination of the sufficiency of the petition and certification by the county election board or boards, the proposition shall be submitted to the qualified voters of the county, municipality or area to be served not less than sixty (60) days following the certification of the petition.

If a majority of the votes cast in an election held pursuant to subsection B of this section disapprove the operation of emergency telephone service and imposition of an emergency telephone fee or a majority of the votes cast disapprove the one (1) year, five percent (5%) emergency telephone fee, upon certification of the election results by the county election board or boards, the resolution or ordinance shall not take effect and the emergency telephone service and the emergency telephone fee called for in the resolution or ordinance shall not be imposed. If the resolution or ordinance is disapproved by the electors, any remaining money collected during the first year shall be distributed to the local exchange telephone company and then shall be refunded to each service user charged on a pro rata basis.

D. If the governing board does not take action to provide for the operation of emergency telephone service and to impose an emergency telephone fee as provided in subsection B of this section, there may be filed with the county election board or boards of the affected area a petition signed by not less than three percent (3%) of the total numbers of votes cast in the next preceding election of the affected area.

The petition shall request that the question of the installation and operation of emergency telephone service and imposition of a fee in an amount not greater than fifteen percent (15%) of the tariff rate be submitted to the qualified voters of the county,

municipality or area to be served. Upon determination of the sufficiency of the petition and certification by the county election board or boards, the proposition shall be submitted to the qualified voters of the county, municipality or area to be served not less than sixty (60) days following the certification of the petition.

If a majority of the votes cast at an election held pursuant to this subsection approve the installation and operation of emergency telephone service and imposition of an emergency telephone fee the governing body shall provide for the installation and operation of the service, impose the approved fee and provide for the governance of the system. If the affected area is governed by two or more governmental entities the governing bodies of each shall enter into an agreement in accordance with the Interlocal Cooperative Act to provide for the governance of the system.

E. Any fee imposed by a county or combined governing body shall not apply to any portion of the county located within the boundaries of a municipality or other governmental entity also imposing an emergency telephone fee pursuant to the provisions of the Nine-One-One Emergency Number Act. The approved emergency telephone fee shall be effective upon certification of the election results by the county election board or boards. Except as provided for in subsections G and I of this section, an emergency telephone fee imposed prior to the effective date of this act shall continue at the established amount until an election to change the fee is called as provided for in this section.

F. If a majority of the votes cast at an election held pursuant to subsection B of this section approve the installation and operation of emergency telephone service and imposition of an emergency telephone fee, the governing body shall provide for the installation and operation of the service and impose the approved fee. The initial five percent (5%) fee, established by resolution or an ordinance, as provided pursuant to the provisions of subsection B of this section shall remain in effect for the remainder of the first year.

G. The emergency telephone fee approved pursuant to the provisions of this section shall be reviewed at least once each calendar year by the governing body which shall, in accordance with subsection D of Section 2815 of this title, establish the amount of the fee for the next calendar year, not to exceed the amount set by the electors. The governing body shall have the power and authority to reduce the emergency telephone fee being paid by the service users of the emergency telephone system to the estimated amount needed for the annual operation and maintenance of the system. If the governing body makes a reduction and in a subsequent year determines it is necessary to increase the fee to operate and maintain the system, the governing body may raise the fee up to an amount not to exceed the amount previously set by the electors. Any

fee imposed by the electors of a county, municipality or area served shall remain at the amount approved by the electors until a new vote of the electors is conducted in the manner for which an election may be conducted to impose a fee as provided for in this section. The proceeds of the fee shall be utilized to pay for the operation of emergency telephone service as specified in this section. Collection of the fee may begin at any time if an existing service is already operative or at any time subsequent to execution of a contract with the provider of the emergency telephone service at the discretion of the governing body.

H. If the fee approved by the voters is less than fifteen percent (15%) and the governing body determines there exists a need for ancillary communications systems necessary to communicate the reported emergency to the appropriate emergency service and personnel and the governing body also determines that the fee set by the electors is not sufficient to fund the ancillary communications systems, the governing body may by resolution or ordinance call an election to submit the question of raising the voter-approved fee in a sufficient amount, not to exceed fifteen percent (15%), for such additional time as determined by the governing body it is necessary to purchase the ancillary communications equipment. The vote shall be conducted in the manner provided for in subsection B of this section.

I. A governing body with an existing emergency telephone service system in operation prior to the effective date of this act may by ordinance or resolution restore the emergency telephone fee set at three percent (3%) to an amount not to exceed five percent (5%) of the tariff rate for such additional time as is necessary to fund ancillary communications equipment necessary to communicate the reported emergency to the appropriate emergency service and personnel.

Within sixty (60) days of the publication of the resolution adopted pursuant to this subsection, there may be filed with the county election board of the affected county or counties a petition signed by not less than three percent (3%) of the total number of votes cast in the next preceding general election of the county or affected area.

Within sixty (60) days of publication of an ordinance adopted by a municipality pursuant to this subsection, there may be filed with the county election board of the county in which the municipality is located a petition signed by not less than three percent (3%) of the total number of votes cast in the next preceding election of the city.

The petitions may request that the question of restoring the emergency telephone fee to an amount not to exceed five percent (5%) of the tariff rate to fund ancillary communications equipment be

submitted to the qualified voters of the county, municipality or area to be served.

Upon determination of the sufficiency of the petition and certification by the county election board or boards, the proposition shall be submitted to the qualified voters of the county, municipality or area to be served not less than sixty (60) days following the certification of the petition. If a majority of the votes cast at the election are for restoring the emergency telephone fee to an amount not to exceed five percent (5%) of the tariff rate to fund ancillary communications equipment, the resolution or ordinance restoring the fee shall become effective. The increase of the fee may be implemented within thirty (30) days after the resolution or ordinance becomes effective.

J. The tariff rate used for initial calculation of the emergency telephone service fee shall remain static for the purpose of calculating future fees for emergency telephone service. Therefore, future rate changes for emergency telephone service shall be stated as a percentage of the initial tariff rate.

K. The emergency telephone fee shall be imposed only upon the amount received from the tariff for exchange telephone service or its equivalent. No fee shall be imposed upon more than one hundred exchange access lines or their equivalent per person per location.

L. Every billed service user shall be liable for any fee imposed pursuant to this section until it has been paid to the local exchange telephone company.

M. The duty to collect any fee imposed pursuant to the authority of the Nine-One-One Emergency Number Act from a service user shall commence at a time specified by the governing body. Fees imposed pursuant to this section that are required to be collected by the local exchange telephone company shall be added to and shall be stated separately in the billings to the service user.

N. The local exchange telephone company shall have no obligation to take any legal action to enforce the collection of any fee imposed pursuant to authority of this section, however, should any service user tender a payment insufficient to satisfy all charges, tariffs, fees and taxes for exchange telephone service, the amount tendered shall be credited to the emergency telephone fee in the same manner as other taxes and fees. The local exchange telephone company shall annually provide the governing body with a list of amounts uncollected along with the names and addresses of those service users which carry a balance that can be determined by the local exchange telephone company to be nonpayment of any fee imposed pursuant to the authority of this section.

O. Any fee imposed pursuant to the authority provided by this section shall be collected insofar as practicable at the same time as, and along with, the charges for exchange telephone service in accordance with the regular billing practice of the local exchange

telephone service. The tariff rates determined by or stated in the billing of the local exchange telephone company shall be presumed to be correct if such charges were made in accordance with the business practices of the local exchange telephone company. The presumption may be rebutted by evidence which establishes that an incorrect tariff rate was charged.
Added by Laws 1986, c. 230, § 4, emerg. eff. June 10, 1986. Amended by Laws 1988, c. 130, § 3, emerg. eff. April 13, 1988; Laws 1990, c. 125, § 1, emerg. eff. April 24, 1990; Laws 1993, c. 67, § 1; Laws 1995, c. 350, § 2, eff. July 1, 1995.

§63-2815. Due date of fee - Penalty for late payment - Filing of return - Determination of fee - Audit - Governing bodies, boards.

A. Any fee imposed pursuant to Section 2814 of this title and the amounts required to be collected are due monthly. The amount of fee collected in one (1) month by the local exchange telephone company shall be remitted to the governing body no later than thirty (30) days after the close of the month in which such fees were collected. In the event the fee collected is not remitted by the local exchange telephone company or by a competitive local exchange company, as both are defined in Section 139.102 of Title 17 of the Oklahoma Statutes, to the governing body within thirty (30) days after the close of the month in which such fees were collected, then the local exchange telephone company shall remit a penalty to the governing body. The penalty shall be equal to ten percent (10%) of the original unremitted fee, payable on the first day of each month the fee remains delinquent. All fees collected by the local exchange telephone company and remitted to the governing body and any other money collected to fund the emergency telephone system shall be deposited in a special nine-one-one account established by the governing body, and shall be used only to fund the expenditures authorized by the Nine-One-One Emergency Number Act. The governing body shall account for all disbursements from the account and shall not allow the funds to be transferred to another account not specifically established for the operation of the emergency telephone system.

B. On or before the last day of each month, a return for the preceding month shall be filed with the governing body in a form the governing body and the local exchange telephone company agree to. The local exchange telephone company required to file the return shall deliver the return together with a remittance of the amount of the fee payable to the treasurer or other person responsible to the governing body for receipt of payments from the fee. The local exchange telephone company shall maintain records of the amount of any fee collected in accordance with the provisions of the Nine-One-One Emergency Number Act. The records shall be maintained for a period of one (1) year from the time the fee is collected.

C. From every remittance of the collected fee to the governing body made on or before the date when the same becomes due, the local exchange telephone company required to remit the fee shall be entitled to deduct and retain for administrative costs, an amount not to exceed three percent (3%) of the first five percent (5%) of the emergency telephone fee.

D. At least once each calendar year, the governing body shall establish the fee for the subsequent year in an amount not to exceed the amount approved by the voters as provided by the provisions of Section 2814 of this title that, together with any surplus revenues, will produce sufficient revenues to fund the expenditures authorized by the Nine-One-One Emergency Number Act. Amounts collected in excess of that necessary within a given year shall be carried forward to subsequent years. The governing body shall make the determination of the fee amount no later than September 1 of each year and shall fix the new fee to take effect commencing with the first billing period of each service user on or following the next January 1. Immediately upon making its determination and fixing the fee, the governing body shall publish in its minutes the new fee, and it shall, at least ninety (90) days before the new fee shall become effective, notify by certified mail every local exchange telephone company providing emergency telephone service to areas within the jurisdiction of the governing body. The governing body may at its own expense require an annual audit of the books and records of the local exchange telephone company concerning the collection and remittance of the fee authorized by the Nine-One-One Emergency Number Act.

E. The governing body shall be required to have conducted separately or as a part of the annual audit required by law of the municipality or county an annual audit of any accounts established or used by the governing body for the operation of an emergency telephone system. The audit may be conducted by the State Auditor and Inspector at the discretion of the governing body. All audits shall be conducted in accordance with generally accepted auditing standards and Government Auditing Standards issued by the Comptroller General of the United States. A copy of the audit shall be filed with the State Auditor and Inspector and action taken in accordance with Section 212A of Title 74 of the Oklahoma Statutes. The audit of the emergency telephone system accounts may be paid for and be considered a part of the operating expenses of the emergency telephone system.

F. The governing body shall meet at least quarterly to oversee the operations of the emergency telephone system, review expenditures, set and approve an operating budget and take such other action as necessary for the operation and management of the system. The records and meetings of the governing body shall be

subject to the Oklahoma Open Meeting Act and the Oklahoma Open Records Act.

G. A governing body made up of two or more governmental entities shall have a board consisting of not less than three members; provided, the board shall consist of at least one member representing each governmental entity, appointed by the governing body of each participating governmental entities, as set forth in the agreement forming the board. The members shall serve for terms of not more than three (3) years as set forth in the agreement. Members may be appointed to serve more than one term. The names of the members of the governing body board and the appointing authority of each member shall be maintained in the office of the county clerk in the county or counties in which the system operates, along with copies of the agreement forming the board and any amendments to that agreement.

Added by Laws 1986, c. 230, § 5, emerg. eff. June 10, 1986. Amended by Laws 1988, c. 130, § 4, emerg. eff. April 13, 1988; Laws 1995, c. 350, § 3, eff. July 1, 1995; Laws 2002, c. 192, § 1, eff. Nov. 1, 2002.

§63-2815.1. Outgoing calls - Confidentiality - Liability.

A. Nine-one-one emergency telephone service information may be used by a public law enforcement or public health agency for the purpose of placing outgoing emergency calls that notify the public of an emergency or provide to the public information relative to an emergency.

B. Nine-one-one emergency telephone service information shall be confidential. Any public law enforcement or public health agency that uses nine-one-one emergency telephone service information for the purposes set forth in subsection A of this section shall establish methods and procedures that ensure the confidentiality of the information.

C. For purposes of this section "nine-one-one emergency telephone service information" shall mean the name, address and telephone number of a service user of a local exchange telephone company.

D. No person providing service pursuant to this section shall be liable for using nine-one-one emergency telephone service information, or providing such information to any public law enforcement or public health agency, in accordance with subsection B of this section.

Added by Laws 2003, c. 309, § 1, eff. Jan. 1, 2004. Amended by Laws 2008, c. 138, § 1, emerg. eff. May 9, 2008.

§63-2816. Bonds.

The governing body may issue and sell bonds to finance:

1. The acquisition by any method of facilities, equipment or supplies necessary to begin providing nine-one-one emergency telephone service or nine-one-one wireless emergency telephone service or any component or system associated therewith; or

2. Any payment necessary for the governing body to associate with an existing nine-one-one emergency telephone service system or nine-one-one wireless emergency telephone service system.

Added by Laws 1986, c. 230, § 6, emerg. eff. June 10, 1986. Amended by Laws 2000, c. 115, § 5, eff. Nov. 1, 2000.

§63-2817. Liability.

A. No public agency or employee of a public agency shall be liable for the method of providing or failure to provide nine-one-one emergency telephone or communication service or nine-one-one wireless emergency telephone service or for the method of providing or failure to provide emergency response service.

B. No public agency or employee of a public agency shall have any special duty to any service user or other user of the nine-one-one emergency telephone system or nine-one-one wireless emergency telephone system or any other telecommunication or communication system supplying or obligated to supply nine-one-one service.

C. A service provider of telecommunications or other communication services involved in providing nine-one-one emergency telephone service or nine-one-one wireless emergency telephone service shall not be liable for any claim, damage, or loss arising from the provision of nine-one-one emergency telephone service or nine-one-one wireless emergency telephone service unless the act or omission proximately causing the claim, damage, or loss constitutes gross negligence, recklessness, or intentional misconduct.

D. As used in this section:

1. "Employee" shall have the same meaning as defined in Section 152 of Title 51 of the Oklahoma Statutes; and

2. "Communication" means the transmission, conveyance, or routing of real-time, two-way voice communications to a point or between or among points by or through any electronic, radio, satellite, cable, optical, microwave, wireline, wireless, or other medium or method, regardless of the protocol used.

Added by Laws 1986, c. 230, § 7, emerg. eff. June 10, 1986. Amended by Laws 2000, c. 115, § 6, eff. Nov. 1, 2000; Laws 2008, c. 138, § 2, emerg. eff. May 9, 2008.

§63-2818. Contract for administration of emergency telephone service.

For the administration of nine-one-one emergency telephone service or nine-one-one wireless emergency telephone service, any governing body may contract directly with the provider of the nine-

one-one emergency telephone service or nine-one-one wireless emergency telephone service, or may contract and cooperate with:

1. Any public agency;
2. Other states or their political subdivisions;
3. Any association or corporation for their political subdivisions; or
4. Any association or corporation.

Added by Laws 1986, c. 230, § 8, emerg. eff. June 10, 1986. Amended by Laws 1988, c. 130, § 5, emerg. eff. April 13, 1988; Laws 2000, c. 115, § 7, eff. Nov. 1, 2000.

§63-2818.2. Repealed by Laws 1997, c. 46, § 14, emerg. eff. April 7, 1997.

§63-2818.3. Repealed by Laws 1997, c. 46, § 14, emerg. eff. April 7, 1997.

§63-2818.4. Presumption to be considered by committee in developing recommendations.

The Statewide Emergency 911 Advisory Committee shall, in developing its recommendations pursuant to Section 2818.3 of Title 63 of the Oklahoma Statutes, consider the presumption that all providers of dial tone are obligated to participate in the provision of 911 service and its funding.

Added by Laws 1996, c. 198, § 1, emerg. eff. May 20, 1996.

§63-2819. Renumbered as § 2870 of this title by Laws 2016, c. 324, § 13, eff. Nov. 1, 2016.

§63-2820. Use of nine-one-one number for nonemergency purposes.

Any person who owns a telephone or who is charged line or rent charges from the telephone utility, who uses the nine-one-one number for nonemergency calls or who allows minor children to use the nine-one-one number for nonemergency purposes shall be notified by certified mail, restricted delivery, after the third such infraction.

Added by Laws 1988, c. 130, § 7, emerg. eff. April 13, 1988. Amended by Laws 1990, c. 92, § 2, eff. Sept. 1, 1990.

§63-2821. Repealed by Laws 2016, c. 324, § 14, eff. Jan. 1, 2017.

§63-2841. Repealed by Laws 2016, c. 324, § 14, eff. Jan. 1, 2017.

§63-2842. Repealed by Laws 2016, c. 324, § 14, eff. Jan. 1, 2017.

§63-2843. Repealed by Laws 2016, c. 324, § 14, eff. Jan. 1, 2017.

§63-2843.1. Repealed by Laws 2016, c. 324, § 14, eff. Jan. 1, 2017.

§63-2843.2. Repealed by Laws 2016, c. 324, § 14, eff. Jan. 1, 2017.

§63-2844. Repealed by Laws 2016, c. 324, § 14, eff. Jan. 1, 2017.

§63-2846. Mandatory provision of emergency telephone service - Confidentiality - Liability.

A. All local exchange companies, and wireless and other telephone service companies providing service to users in an area in which nine-one-one emergency telephone service is currently operating shall also provide emergency telephone service to all subscribing service users in that area. Wireless and other telephone service companies shall provide information necessary for automatic number identification, automatic location identification and selective routing of nine-one-one emergency wireless calls to cities and counties answering emergency telephone calls for maintenance of existing nine-one-one databases. The governing body may reasonably require sufficient information to ensure compliance with this section and to provide data for audit and budgetary calculation purposes.

B. Information that a wireless service provider is required to furnish in providing nine-one-one service is confidential and exempt from disclosure. The wireless service provider is not liable to any person who uses a nine-one-one service created under this act for the release of information furnished by the wireless service provider in providing nine-one-one service. Information that is confidential under this section may be released only for budgetary calculation purposes and only in aggregate form so that no provider-specific information may be extrapolated.

Added by Laws 2000, c. 115, § 9, eff. Nov. 1, 2000.

§63-2847. Repealed by Laws 2016, c. 324, § 14, eff. Jan. 1, 2017.

§63-2849. Renumbered as § 2871 of this title by Laws 2016, c. 324, § 13, eff. Nov. 1, 2016.

§63-2851. Repealed by Laws 2016, c. 324, § 14, eff. Jan. 1, 2017.

§63-2852. Repealed by Laws 2016, c. 324, § 14, eff. Jan. 1, 2017.

§63-2853. Repealed by Laws 2016, c. 324, § 14, eff. Jan. 1, 2017.

§63-2855.1. Direct access to 9-1-1 service required

DIRECT ACCESS TO 9-1-1 SERVICE REQUIRED

A. A business owner or operator that owns or controls a telephone system or equivalent system which utilizes Voice over

Internet Protocol (VoIP) enabled service and provides outbound dialing capacity or access shall be required to configure the telephone or equivalent system to allow a person initiating a 9-1-1 call on the system to directly access 9-1-1 without an additional code, digit, prefix, postfix, or trunk-access code.

B. A business owner or operator that provides residential or business facilities utilizing a telephone system or equivalent system as described in subsection A, shall configure the telephone or equivalent system to provide a notification to a central location on the site of the residential or business facility when a person within the residential or business facility dials 9-1-1, provided the business owner or operator's system is able to be configured to provide such notification without an improvement to the system's hardware. The requirement of this subsection does not require a business owner or operator to have a person available at the central location to receive such notification.

C. Telephone service providers and Interconnected VoIP Service providers shall, within sixty (60) days following the enactment of this act, and at least once annually thereafter, provide written notification detailing the provisions of this act to any current commercial customers operating in this state who may be affected by this act. Such providers shall inform any new commercial customers of the requirements of this act at the time service is initiated.

D. The provisions of this act shall apply to the extent such provisions are not inconsistent with or preempted by federal law.
Added by Laws 2016, c. 146, § 2, eff. Jan. 1, 2017.

§63-2861. Short title - Oklahoma 9-1-1 Management Authority Act.

This act shall be known and may be cited as the "Oklahoma 9-1-1 Management Authority Act".
Added by Laws 2016, c. 324, § 1, eff. Nov. 1, 2016.

§63-2862. Definitions.

As used in the Oklahoma 9-1-1 Management Authority Act:

1. "Authority" means the Oklahoma 9-1-1 Management Authority created in Section 3 of this act;

2. "Governing body" means the board of county commissioners of a county, the city council, tribal authority or other governing body of a municipality, or a combination of such boards, councils or other municipal governing bodies including county or municipal beneficiary public trusts, or other public trusts which shall have an administering board. A governing body made up of two or more governmental entities shall have a board consisting of not less than three members and shall consist of at least one member representing each governmental entity, appointed by the governing body of each participating governmental entity, as set forth in the agreement forming the board. The members of the board shall serve for terms

of not more than three (3) years as set forth in the agreement. Members may be appointed to serve more than one term. The names of the members of the governing body board and the appointing authority of each member shall be maintained in the office of the county clerk in the county or counties in which the system operates, along with copies of the agreement forming the board and any amendments to that agreement;

3. "Next-generation 9-1-1" or "NG9-1-1" means an:

a. IP-based system comprised of hardware, software, data, and operational policies and procedures that:

(1) provides standardized interfaces from emergency call and message services to support emergency communications,

(2) processes all types of emergency calls, including voice, text, data and multimedia information,

(3) acquires and integrates additional emergency call data useful to call routing and handling,

(4) delivers the emergency calls, messages and data to the appropriate public safety answering point and other appropriate emergency entities,

(5) supports data or video communications needs for coordinated incident response and management, and

(6) provides broadband service to public safety answering points or other first responder entities, or

b. IP-based system comprised of hardware, software, data and operational policies and procedures that conforms with subsequent amendments made to the definition of Next Generation 9-1-1 services in Public Law 112-96;

4. "9-1-1 emergency telephone service" means any telephone system whereby telephone subscribers may utilize a three-digit number (9-1-1) for reporting an emergency to the appropriate public agency providing law enforcement, fire, medical or other emergency services, including ancillary communications systems and personnel necessary to pass the reported emergency to the appropriate emergency service and which the wireless service provider is required to provide pursuant to the Federal Communications Commission Order 94-102 (961 Federal Register 40348);

5. "9-1-1 wireless telephone fee" means the fee imposed in Section 5 of this act to finance the installation and operation of emergency 9-1-1 services and any necessary equipment;

6. "Place of primary use" means the street address representative of where the use of the mobile telecommunications service of the customer primarily occurs, which shall be the residential street address or the primary business street address of the customer and shall be within the licensed service area of the home service provider in accordance with Section 55001 of Title 68

of the Oklahoma Statutes and the federal Mobile Telecommunications Sourcing Act, P.L. No. 106-252, codified at 4 U.S.C. 116-126;

7. "Prepaid wireless telecommunications service" means a telecommunications wireless service that provides the right to utilize mobile wireless service as well as other telecommunications services including the download of digital products delivered electronically, content and ancillary services, which are paid for in advance and sold in predetermined units or dollars of which the number declines with use in a known amount;

8. "Proprietary information" means wireless service provider or VoIP service provider, subscriber, market share, cost and review information;

9. "Public agency" means any city, town, county, municipal corporation, public district, public trust, substate planning district, public authority or tribal authority located within this state which provides or has authority to provide firefighting, law enforcement, ambulance, emergency medical or other emergency services;

10. "Public safety answering point" or "PSAP" means an entity responsible for receiving 9-1-1 calls and processing those calls according to specific operational policy;

11. "Wireless service provider" means a provider of commercial mobile service under Section 332(d) of the Telecommunications Act of 1996, 47 U.S.C., Section 151 et seq., Federal Communications Commission rules, and the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, and includes a provider of wireless two-way communication service, radio-telephone communications related to cellular telephone service, network radio access lines or the equivalent, and personal communication service. The term does not include a provider of:

a. a service whose users do not have access to 9-1-1 service,

b. a communication channel used only for data transmission, or

c. a wireless roaming service or other nonlocal radio access line service;

12. "Wireless telecommunications connection" means the ten-digit access number assigned to a customer regardless of whether more than one such number is aggregated for the purpose of billing a service user; and

13. "Voice over Internet Protocol (VoIP) provider" means a provider of interconnected Voice over Internet Protocol service to end users in the state, including resellers.

Added by Laws 2016, c. 324, § 2, eff. Nov. 1, 2016.

§63-2863. Oklahoma 9-1-1 Management Authority – Creation - Members.

A. There is hereby created the Oklahoma 9-1-1 Management Authority which shall be the governing board overseeing the development and regulation of 9-1-1 emergency systems in this state and managing the distribution of all 9-1-1 telephone fees collected pursuant to the provisions of Section 5 of this act.

B. The Authority shall be composed of the following members:

1. One member representing a tribal authority that operates a 9-1-1 system to be appointed by the President Pro Tempore of the Senate;

2. One member representing a statewide organization dedicated to public safety to be appointed by the President Pro Tempore of the Senate;

3. One member representing a statewide organization dedicated to career development for emergency number professionals to be appointed by the Governor;

4. One member representing a statewide organization dedicated to representing Oklahoma municipalities to be appointed by the Speaker of the House of Representatives;

5. One member representing a statewide organization representing Oklahoma county commissioners to be appointed by the Governor;

6. One member representing a statewide association of regional councils of government to be appointed by the President Pro Tempore of the Senate;

7. The Chief Information Officer for the state, or designee;

8. One member representing a substate planning district to be appointed by the Governor;

9. Two members each representing a municipal government operating a 9-1-1 system and having a population of less than one hundred thousand (100,000), one to be appointed by the Speaker of the House of Representatives, and one to be appointed by the Governor;

10. One member representing a municipal government operating a 9-1-1 system and having a population of more than one hundred thousand (100,000) but less than four hundred fifty thousand (450,000) to be appointed by the Governor;

11. One member representing a municipal government operating a 9-1-1 system and having a population of more than four hundred fifty thousand (450,000) to be appointed by the Speaker of the House of Representatives;

12. One member representing an organization created by an interlocal agreement for the purpose of sharing public safety answering point duties and whose members are municipal governments with a population of less than four hundred fifty thousand (450,000) to be appointed by the Governor;

13. One member representing an organization created by an interlocal agreement for the purpose of sharing public safety

answering point duties and whose members are municipal governments with a population of more than four hundred fifty thousand (450,000) to be appointed by the President Pro Tempore of the Senate;

14. One member who is a 9-1-1 Coordinator for a county with a population of less than twenty thousand (20,000) to be appointed by the Speaker of the House of Representatives;

15. One member who is a 9-1-1 Coordinator for a county with a population of more than twenty thousand (20,000) to be appointed by the President Pro Tempore of the Senate;

16. One member who is a 9-1-1 Coordinator for a county to be appointed by the Governor;

17. One member representing a local exchange telecommunications service provider which serves less than fifty thousand (50,000) access lines in the state or a telephone cooperative to be appointed by the President Pro Tempore of the Senate;

18. One member representing a local exchange telecommunications service provider which serves more than fifty thousand (50,000) access lines in the state to be appointed by the Speaker of the House of Representatives;

19. One member representing a Tier I wireless carrier, as defined by the Federal Communications Commission, to be appointed by the Speaker of the House of Representatives;

20. One member representing a Tier II wireless carrier, as defined by the Federal Communications Commission, to be appointed by the Speaker of the House of Representatives;

21. One member representing a Tier III wireless carrier, as defined by the Federal Communications Commission, to be appointed by the President Pro Tempore of the Senate;

22. One member representing the telephone industry to be appointed by the President Pro Tempore of the Senate; and

23. The Oklahoma Secretary of Safety and Security or designee.

C. Members shall serve at the pleasure of their appointing authority and vacancies shall be filled by the original appointing authority.

D. Members shall receive no compensation for serving on the Authority.

E. At its first meeting annually the Authority shall designate a chair from its members. Meetings shall be held at the call of the chair.

F. The Authority shall be subject to the Oklahoma Open Records Act and the Oklahoma Open Meeting Act.

G. The Oklahoma Department of Emergency Management shall provide legal, administrative, fiscal and staff support for the Authority. Expenses related to the provision of such services may be paid from funds available in the Oklahoma 9-1-1 Management Authority Revolving Fund created in Section 9 of this act, upon approval by a majority of the members of the Authority.

H. Members serving on the Statewide Nine-One-One Advisory Board appointed pursuant to Section 2847 of Title 63 of the Oklahoma Statutes on the effective date of this act shall continue serving as members of the Oklahoma 9-1-1 Management Authority unless replaced by their appointing authority.
Added by Laws 2016, c. 324, § 3, eff. Nov. 1, 2016.

§63-2864. Powers and duties.

The powers and duties of the Oklahoma 9-1-1 Management Authority created in Section 3 of this act shall be to:

1. Approve or disapprove the selection of the Oklahoma 9-1-1 Coordinator by majority vote of the members. The Authority shall direct the Oklahoma 9-1-1 Coordinator to administer grants approved by the Authority pursuant to this section and perform other duties as it deems necessary to accomplish the requirements of the Oklahoma 9-1-1 Management Authority Act;

2. Prepare grant solicitations for funding for the purposes of assisting public agencies with funding for consolidation of facilities or services, deployment of Phase II technology or successor technology, development of next-generation 9-1-1 regional emergency service networks, and for other purposes it deems appropriate and necessary;

3. Work in conjunction with the Oklahoma Department of Emergency Management to create an annual budget for the Authority, which shall be approved by majority vote of the members;

4. Direct the Oklahoma Tax Commission to escrow all or any portion of funds collected pursuant to the Oklahoma 9-1-1 Management Authority Act attributable to a public agency, if the public agency fails to:

a. submit or comply with master plans to deliver Phase II 9-1-1 wireless locating services as required by this act and approved by the Authority,

b. meet standards of the National Emergency Number Association (NENA) limited to call-taking and caller-location technology or comply with an improvement plan to meet such standards as directed by the Authority,

c. submit annual reports or audits as required by this act, or

d. comply with the requirements of this act or procedures established by the Authority;

5. Establish and submit to the Tax Commission a list of eligible governing bodies entitled to receive 9-1-1 telephone fees and establish annual population figures for the purpose of distributing fees collected pursuant to Section 5 of this act, to be derived by dividing the population of each public agency's response area by the total population of the state using data from the latest

available Federal Decennial Census estimates as of July 1 of each year;

6. Assist any public agency the Authority determines is performing below standards of the NENA, as limited by paragraph 4 of this section, according to the improvement plan required by the Oklahoma 9-1-1 Management Authority Act. The Authority shall establish a time period for the public agency to come into compliance after which the Authority shall escrow funds as authorized in this section. Improvement plans may include consideration and recommendations for consolidation with other public agencies, and sharing equipment and technology with other jurisdictions;

7. Require an annual report from public agencies regarding operations and financing of the public safety answering point (PSAP) and approve, modify or reject such reports;

8. Conduct and review audits and financial records of the wireless service providers and review public agencies' audits and financial records regarding the collection, remittance and expenditures of 9-1-1 wireless telephone fees as required by the Oklahoma 9-1-1 Management Authority Act;

9. Develop a plan to deploy next-generation 9-1-1 services statewide. The Authority may fund feasibility and implementation studies it deems necessary to create the plan;

10. Facilitate information-sharing among public agencies;

11. Create and maintain best practices databases for PSAP operations;

12. Encourage equipment- and technology-sharing among all jurisdictions;

13. Develop training program standards for 9-1-1 call takers;

14. Mediate disputes between public agencies and other entities involved in providing 9-1-1 emergency telephone services;

15. Provide a clearinghouse of contact information for communications service companies and PSAPs operating in this state;

16. Make recommendations for consolidation upon the request of public agencies; and

17. Take any steps necessary to carry out the duties required by the Oklahoma 9-1-1 Management Authority Act.

Added by Laws 2016, c. 324, § 4, eff. Nov. 1, 2016.

§63-2865. Fees - Transactions.

A. Beginning January 1, 2017, there shall be imposed a 9-1-1 telephone fee as follows:

1. Seventy-five cents ($0.75) monthly on each wireless telephone connection and other communication device or service connection with the ability to dial 9-1-1 for emergency calls;

2. Seventy-five cents ($0.75) monthly on each service that is enabled by Voice over Internet Protocol (VoIP) or Internet Protocol (IP) with the ability to dial 9-1-1 for emergency calls; and

3. Seventy-five cents ($0.75) on each prepaid wireless retail transaction occurring in this state.

B. 1. For purposes of paragraph 3 of subsection A of this section, a retail transaction that is effected in person by a consumer at a business location of the seller shall be treated as occurring in this state if that business location is in this state. Any other retail transaction shall be sourced as provided in paragraphs 2 through 5 of this subsection as applicable.

2. When the retail transaction does not occur at a business location of the seller, the retail transaction shall be sourced to the location where receipt by the consumer, or the consumer's donee, designated as such by the consumer, occurs, including the location indicated by instructions for delivery to the consumer or donee, known to the seller.

3. When the provisions of paragraph 2 of this subsection do not apply, the sale shall be sourced to the location indicated by an address for the consumer that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith.

4. When the provisions of paragraphs 2 and 3 of this subsection do not apply, the sale shall be sourced to the location indicated by an address for the consumer obtained during the consummation of the sale, including the address of a consumer's payment instrument, if no other address is available, when use of this address does not constitute bad faith.

5. When none of the previous rules of paragraphs 1, 2, 3 and 4 of this subsection apply, including the circumstance in which the seller is without sufficient information to apply the previous rules, then the location shall be determined by the address from which the service was provided, disregarding for these purposes any location that merely provided the digital transfer of the product sold. If the seller knows the mobile telephone number, the location will be that which is associated with the mobile telephone number.

C. The fees authorized by subsection A of this section shall not be assessed on landline phone customers.

D. The fees imposed in subsection A of this section shall replace any 9-1-1 wireless telephone fees previously adopted by any county pursuant to Section 2843.1 of Title 63 of the Oklahoma Statutes, or 9-1-1 VoIP emergency service fees adopted by a governing body pursuant to Section 2853 of Title 63 of the Oklahoma Statutes, or fees on prepaid wireless retail transactions pursuant to Section 2843.2 of Title 63 of the Oklahoma Statutes. Fees

collected and transferred pursuant to those sections shall remain in effect through December 31, 2016.

E. From each seventy-five-cent fee assessed and collected pursuant to subsection A of this section, five cents ($0.05) shall be deposited into the Oklahoma 9-1-1 Management Authority Revolving Fund created pursuant to Section 9 of this act. Funds accumulating in this revolving fund shall be used to fund the salary of the Oklahoma 9-1-1 Coordinator and any administrative staff, operations of the Authority and any costs associated with the administration of the Oklahoma 9-1-1 Management Authority Act within the Oklahoma Department of Emergency Management, and for grants approved by the Authority for purposes as authorized in this act.

Added by Laws 2016, c. 324, § 5, eff. Nov. 1, 2016.

§63-2866. Collection, payment and distribution of fees – Wireless and VoIP providers.

A. 9-1-1 telephone fees authorized and collected by wireless service providers and Voice over Internet Protocol (VoIP) providers, pursuant to paragraphs 1 and 2 of subsection A of Section 5 of this act, from each of their end users residing in this state shall be paid to the Oklahoma Tax Commission no later than the twentieth day of the month succeeding the month of collection.

B. From the total fees collected pursuant to paragraphs 1 and 2 of subsection A of Section 5 of this act, one percent (1%) shall be retained by the wireless service provider or VoIP provider, and one percent (1%) shall be retained by the Tax Commission as reimbursement for the direct cost of administering the collection and remittance of the fees.

C. Every billed service subscriber shall be liable for any 9-1-1 wireless telephone fee imposed pursuant to the Oklahoma 9-1-1 Management Authority Act until the fee has been paid to the wireless service provider.

D. Fees imposed pursuant to the Oklahoma 9-1-1 Management Authority Act which are required to be collected by the wireless service provider or VoIP provider may be added to and shall be stated separately in any billings to the service subscriber.

E. The wireless service provider or VoIP provider shall have no obligation to take any legal action to enforce the collection of any 9-1-1 wireless telephone fee imposed pursuant to the provisions of the Oklahoma 9-1-1 Management Authority Act. Should any service subscriber tender a payment insufficient to satisfy all charges, tariffs, fees and taxes for wireless telephone or VoIP service, the amount tendered shall be credited to the 9-1-1 wireless telephone fee in the same manner as other taxes and fees.

F. Any 9-1-1 fee imposed pursuant to the provisions of the Oklahoma 9-1-1 Management Authority Act shall be collected insofar as practicable at the same time as, and along with, the charges for

wireless telephone or VoIP service in accordance with the regular billing practice of the provider.

G. Nothing in the Oklahoma 9-1-1 Management Authority Act shall be construed to limit the ability of a wireless service provider or VoIP provider from recovering its costs associated with designing, developing, deploying and maintaining enhanced 9-1-1 service directly from the service subscribers of the provider, whether the costs are itemized on the bill of the service subscriber as a surcharge or by any other lawful means.

H. The wireless service provider or VoIP provider shall maintain records of the amount of 9-1-1 telephone fees collected in accordance with the provisions of the Oklahoma 9-1-1 Management Authority Act for a period of three (3) years from the time the fee is collected. The State Auditor and Inspector, the Oklahoma 9-1-1 Management Authority or any affected public agency may require an annual audit of the books and records of the wireless service provider or VoIP provider concerning the collection and remittance of fees authorized by this act. Auditors shall have access to all information used by the wireless service provider or VoIP provider to calculate and remit the 9-1-1 telephone fee. Audit expenses shall be reimbursable pursuant to procedures established by the Oklahoma 9-1-1 Management Authority if the audit is approved by the Authority.

I. The wireless service provider or VoIP provider shall provide to the Oklahoma 9-1-1 Management Authority an annual census showing the primary place of use of its subscribers located by county and either a municipality or unincorporated area. The census shall contain all subscribers as of December 31 of each year, and shall be provided to the Authority no later than February 1 of each year.

J. All proprietary information provided by a wireless service provider or VoIP provider to the Authority shall not be subject to disclosure to the public or any other party.

K. Within thirty (30) days of receipt, the Oklahoma Tax Commission shall pay available fees remitted pursuant to Section 5 of this act to the governing bodies that the Oklahoma 9-1-1 Management Authority has certified in accordance with Section 4 of this act as eligible to receive funds. The share to be paid to or escrowed for each governing body shall be determined by dividing the population of the governing body by the total population of the state using the latest Federal Decennial Census estimates.
Added by Laws 2016, c. 324, § 6, eff. Nov. 1, 2016.

§63-2867. Collection, payment and distribution of fees – Prepaid wireless providers.

A. Prepaid 9-1-1 wireless transaction fees authorized and collected pursuant to paragraph 3 of subsection A of Section 5 of this act from retailers shall be paid to the Oklahoma Tax Commission

under procedures established by the Tax Commission that substantially coincide with the registration and payment procedures that apply under the Oklahoma Sales Tax Code and as directed by the Oklahoma 9-1-1 Management Authority. The audit and appeal procedures, including limitations period, applicable to the Oklahoma Sales Tax Code shall apply to prepaid 9-1-1 wireless telephone fees.

B. From the total fees collected pursuant to paragraph 3 of subsection A of Section 5 of this act, three percent (3%) shall be retained by the seller and one percent (1%) shall be retained by the Tax Commission as reimbursement for the direct cost of administering the collection and remittance of such fees.

C. The prepaid 9-1-1 wireless transaction fee shall be collected by the retailer from the consumer for each retail transaction occurring in this state. The amount of the prepaid 9-1-1 wireless fee shall either be separately stated on the invoice, receipt or similar document that is provided to the consumer by the seller, or otherwise disclosed to the consumer.

D. The prepaid 9-1-1 wireless telephone fee is the liability of the consumer and not of the seller or of any provider, except that the seller shall be liable to remit all prepaid 9-1-1 wireless telephone fees that the seller collects as provided in this section, including all charges that the seller is deemed to collect where the amount of the fee has not been separately stated on an invoice, receipt or other similar document.

E. If the amount of the prepaid 9-1-1 wireless telephone fee is separately stated on the invoice, receipt or similar document, the prepaid 9-1-1 wireless telephone fee shall not be included in the base for measuring any tax, fee, surcharge or other charge that is imposed by the state, any political subdivision of this state or any intergovernmental agency.

Added by Laws 2016, c. 324, § 7, eff. Nov. 1, 2016.

§63-2868. Use of funds – Annual audit – Annual report.

A. Public agencies recognized by the Oklahoma 9-1-1 Management Authority and authorized to receive funds collected pursuant to the provisions of this act shall use the funds only for services, equipment and operations related to 9-1-1 emergency telephone systems.

B. Money remitted to public agencies pursuant to the Oklahoma 9-1-1 Management Authority Act and any money otherwise collected by any lawful means for purposes of providing 9-1-1 emergency telephone services shall be deposited in a separate 9-1-1 emergency telephone service account established by a public agency or its governing body to carry out the requirements of this act. Monies remaining in such accounts at the end of a fiscal year shall carry over to subsequent years. The monies deposited in the Oklahoma 9-1-1 Management Authority Revolving Fund shall at no time be monies of the state and

shall not become part of the general budget of the Office of Emergency Management or any other state agency. Except as otherwise authorized by this act, no monies from the Oklahoma 9-1-1 Management Authority Revolving Fund shall be transferred for any purpose to any other state agency or any account of the Office of Emergency Management or be used for the purpose of contracting with any other state agency or reimbursing any other state agency for any expense. Payments from the Oklahoma 9-1-1 Management Authority Revolving Fund shall not become or be construed to be any obligation of the state. No claims for reimbursement from the Oklahoma 9-1-1 Management Authority Revolving Fund shall be paid with state monies.

C. If the Oklahoma 9-1-1 Management Authority determines that the public agency has failed to deploy Phase II service or has failed to deliver service consistent with National Emergency Number Association (NENA) standards, the public agency shall submit an improvement plan within the time prescribed by the Authority. The Authority may order the Oklahoma Tax Commission to escrow fees attributable to public agencies which have not submitted plans or complied with improvement plans.

D. A public agency shall be required to have conducted separately or as a part of the annual audit required by law of the municipality or county an annual audit of any accounts established or used for the operation of a 9-1-1 emergency telephone system. The audit may be conducted by the State Auditor and Inspector at the discretion of the public agency. The cost of the audit of the 9-1-1 emergency telephone system may be paid from and be considered a part of the operating expenses of the 9-1-1 emergency telephone system. Proprietary information of the wireless service providers shall be confidential. Audit information pertaining to revenue collected or disbursed may be released only in aggregate form so that no provider-specific information may be extrapolated.

E. Public agencies shall be required to annually submit to the Authority:

1. A report, on a form to be prescribed by the Authority, covering the operation and financing of the public safety answering point which shall include all sources of funding available to the public agency for the 9-1-1 emergency telephone system; and

2. A copy of the most recent annual audit showing all expenses of the public agency relating to the 9-1-1 emergency telephone system.

F. The Authority shall have the power to review, approve, submit for further information or deny approval of the annual report of each public agency required pursuant to subsection E of this section. Failure by a public agency to submit the report annually or denial of a report may cause the Authority to order the Tax Commission to escrow the 9-1-1 emergency telephone fees due to the public agency until the public agency complies with the requirements

of the Oklahoma 9-1-1 Management Authority Act and the procedures established by the Authority.

G. The governing body of the public agency shall meet at least quarterly to oversee the operations of the 9-1-1 emergency telephone system, review expenditures and annually set and approve an operating budget, and take any other action as necessary for the operation and management of the system.

H. Records and meetings of the public agency shall be subject to the Oklahoma Open Records Act and the Oklahoma Open Meeting Act.
Added by Laws 2016, c. 324, § 8, eff. Nov. 1, 2016.

§63-2869. Oklahoma 9-1-1 Management Authority Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma Department of Emergency Management to be designated the "Oklahoma 9-1-1 Management Authority Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Oklahoma Tax Commission from fees designated for support of 9-1-1 emergency services. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma Department of Emergency Management upon approval by the Oklahoma 9-1-1 Management Authority for the purpose of supporting the administration of the Authority and providing grants to public agencies providing 9-1-1 services. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.
Added by Laws 2016, c. 324, § 9, eff. Nov. 1, 2016.

§63-2870. False alarm, complaint or information - Penalty.

No person shall call the number 9-1-1 for the purpose of making a knowingly false alarm or complaint or reporting knowingly false information which could result in the dispatch of emergency services from any public agency as defined in Section 2 of this act. Nor shall any person call 9-1-1 for nonemergency or personal use. Any person violating the provisions of this section, upon conviction, shall be guilty of a misdemeanor punishable by a fine of not to exceed Five Hundred Dollars ($500.00) and by an assessment for the resulting costs of any dispatching of emergency personnel and equipment for each such offense.
Added by Laws 1986, c. 230, § 9, emerg. eff. June 10, 1986. Amended by Laws 1988, c. 130, § 6, emerg. eff. April 13, 1988; Laws 1990, c. 92, § 1, eff. Sept. 1, 1990; Laws 2000, c. 115, § 8, eff. Nov. 1, 2000; Laws 2016, c. 324, § 10, eff. Nov. 1, 2016. Renumbered from § 2819 of this title by Laws 2016, c. 324, § 13, eff. Nov. 1, 2016.

§63-2871. Regional Emergency Nine-One-One Services Act.

A. This act shall be known and may be cited as the "Regional Emergency 9-1-1 Services Act".

B. It is the purpose of the Regional Emergency 9-1-1 Services Act to encourage formation of emergency communication districts in order to provide efficient delivery of emergency 9-1-1 service throughout the state.

C. This act shall not apply to any 9-1-1 system or public agency participating in a 9-1-1 system that was established prior to January 1, 2017, and that had adopted Phase II 9-1-1 service by that date.

D. For the purposes of this section:

1. "District" means an emergency communication district;

2. "Emergency communication district" means a district formed pursuant to this act to deliver emergency 9-1-1 services on a regional basis;

3. "9-1-1 system" means an entity that processes emergency 9-1-1 calls through a public safety answering point;

4. "Participating public agency" means a public agency that is included in a district;

5. "Principal municipality" means the municipality with the largest population in a district; and

6. "Public agency" means any city, town, county, municipal corporation, public district, public trust, substate planning district, public authority or tribal authority located within this state which provides or has authority to provide firefighting, law enforcement, ambulance, emergency medical or other emergency services.

E. On or before December 31, 2017, all public agencies in this state shall form regional emergency communication districts for the purpose of creating an area-wide emergency 9-1-1 system for their respective jurisdictions. The territory of the district shall be coextensive with the territory of the regional substate planning district unless a different territory is approved by the Oklahoma 9-1-1 Management Authority. If a public agency is situated in more than one such territory, it shall become part of the district in which it is principally located. If, due to the effect of subsection C of this section, the majority of the participating public agencies located in the territory of a proposed district determine that it would be in the best interests of their citizens, they may request inclusion in an adjacent district.

F. The public agencies to be included in each district may form the district by entering into local cooperative agreements which shall establish a governance structure and provide for the joint implementation, funding, operation, and management of the district.

G. If the public agencies in a region are unable to develop a local cooperative agreement by December 31, 2017, they shall be included in an emergency communication district that is governed by

a board of directors consisting of an appointee by each public agency that was authorized by its voters to fund a 9-1-1 system prior to the formation of the district, one appointee elected by a majority of the remaining public agencies in the district, and an additional appointee by the principal municipality in the district who shall serve as chair of the board.

H. Unless otherwise provided by agreement, any participating public agency that had been authorized by its voters to fund a 9-1-1 system prior to the formation of the district shall retain control of the property, operation, and funding of its system; provided, however, the district may contract with such participating public agency to include the agency's system in the district's master implementation plan. To the extent practicable, the district shall not duplicate the equipment or answering point services already provided by a participating public agency. A user of one or more communication services subject to the payment of fees or taxes for an emergency 9-1-1 system shall not be charged for more than one such fee or tax for each service.

I. An emergency communication district shall have power to make all contracts to carry out the purposes of the Regional Emergency 9-1-1 Services Act, purchase and convey real property, impose service fees authorized for public agencies for the provision of 9-1-1 service, appoint a manager of the district, and adopt rules and policies for the operation of the district.

J. Within one (1) year after the effective date of the formation of the district, the board of directors shall submit its master plan to deliver Phase II emergency 9-1-1 service throughout its territory to the Oklahoma 9-1-1 Management Authority for approval. The Authority shall have the power to prescribe the terms of the plan and to approve or disapprove the master plan. Additionally, the Authority shall have the power to request the Tax Commission to escrow the wireless fees attributable to the public agencies which have not submitted a master plan or which have not complied with the terms of the master plan.

K. An emergency communication district shall operate on a fiscal year beginning July 1. It shall adopt an annual budget and cause to be prepared an independent financial audit annually. As soon as practicable after the end of the fiscal year, the district shall deliver to each participating public agency an annual report showing in detail the operations of the district.

Added by Laws 2009, c. 291, § 1, eff. July 1, 2009. Amended by Laws 2016, c. 324, § 11, eff. Nov. 1, 2016. Renumbered from § 2849 of this title by Laws 2016, c. 324, § 13, eff. Nov. 1, 2016.

§63-2901. Energy Conservation Assistance Fund.

A. There is hereby created in the State Treasury a special fund, which shall be designated the "Energy Conservation Assistance

Fund". Said fund shall, on and after July 1, 1982, consist of funds contributed to it.

B. The purpose of said fund shall be to provide energy conservation grants to qualifying low-income homeowners for insulation, weatherization and other methods of improving the energy efficiency of their principal residence for the purpose of reducing energy waste, improving the state's housing stock and stimulating the construction industry.

Added by Laws 1982, c. 324, § 1. Amended by Laws 1989, c. 112, § 1, operative July 1, 1989.

§63-2902. Disbursement and implementation of Fund - Publicizing program - Eligibility standards - Priority of applications - Issuance of grants - Form of applications - Contractors; eligibility, payments, monitoring and audit of financial and operating records.

A. The Oklahoma Department of Commerce shall be responsible for the disbursement and implementation of the Energy Conservation Assistance Fund.

B. The Department shall involve senior citizen groups, social service agencies and other civic groups in publicizing such program.

C. The Department of Human Services, in cooperation with the Oklahoma Department of Commerce, shall determine eligibility requirements necessary to qualify a homeowner to obtain such grants. Upon meeting any such eligibility standards, the Department of Human Services shall certify to the Oklahoma Department of Commerce that such homeowner is qualified to receive such grant upon notification of such certification. The Oklahoma Department of Commerce shall distribute the grant funds. Priorities shall be established for applications according to those indicating the greatest need. Low-income elderly and handicapped applicants shall be given first priority.

D. In order to qualify for grant assistance, the property shall meet all of the following requirements:

1. The property shall be the homestead of the applicant; and

2. The property for which the grant is issued shall not be income-producing or used in any method other than as the principal residence of the applicant.

E. Grants may be issued to finance the following types of weatherization:

1. Structural repairs necessary to improve efficient heating and cooling of the residence;

2. Insulation for attics, walls and water heaters;

3. Replacement of broken glass, inefficient doors and door thresholds;

4. Storm windows;

5. Caulking and weather stripping; and

6. Other appropriate energy conservation measures as determined by the Oklahoma Department of Commerce.

No grants shall be made through this program unless an energy audit has been performed on the applicant's principal residence.

No grant shall exceed Three Thousand Dollars ($3,000.00). No grant shall be awarded to any applicant with an annual income in excess of the amount specified in this subsection.

Income eligibility shall be determined based on one hundred twenty-five percent (125%) of the poverty guidelines issued by the United States Office of Management and Budget.

F. The application for the grant shall be in such form as determined by the Oklahoma Department of Commerce. No grant shall be issued to any person until such person has been certified as eligible by the Department of Human Services. The applicant shall be provided with copies of all documents related to the issuance of the grant. The applicant shall provide documents, as required, concerning the status of property and household income.

G. 1. The Oklahoma Department of Commerce contractors shall be nonprofit community action agencies or other nonprofit entities experienced with weatherization programs. The Oklahoma Department of Commerce shall monitor contractors for compliance with all Department policies, guidelines and regulations.

2. Contractors shall be responsible for completion and inspection of all work undertaken. No payment shall be made to any contractor until after the required documentation is submitted and approved by the Oklahoma Department of Commerce. Payments to contractors shall be made for services rendered and shall be based on the costs previously agreed to in writing.

H. The Oklahoma Department of Commerce shall actively monitor and audit the financial and operating records of the contractors involved with the Energy Conservation Assistance Fund to assure appropriate compliance with established regulations, guidelines and standards. The Oklahoma Department of Commerce shall also monitor contractors to ensure use of proper materials and workmanship. Added by Laws 1982, c. 324, § 2. Amended by Laws 1986, c. 207, § 60, operative July 1, 1986; Laws 1989, c. 112, § 2, operative July 1, 1989.

§63-2903. Lien against property - Foreclosure - Repayment of loan.

A. The State of Oklahoma through the Department shall have a lien against the property on which the work is being performed for the amount of the loan plus interest thereon. The Department shall record a notice of lien with the county clerk where the property is located. A delinquent installment of the loan may be foreclosed by the Department and the property concerned shall be sold in the manner provided for foreclosures of mortgages on land. Any real estate sold under any order, judgment or decree of court to satisfy

the lien may be redeemed by the owner or his assignee at any time within one (1) year of the date of the sale by paying to the purchaser thereof or his assignee the amount paid with interest from the date of purchase at the rate of twelve percent (12%) per year.

B. Repayment of each loan shall be determined according to a repayment schedule determined by the Department.

C. Repayment of the loan may be deferred until that time when the loan recipient sells the property or ownership is transferred. In such cases where a loan has not been repaid after ten (10) years, another ten-year extension shall be granted if the loan recipient or the surviving spouse is still the owner-occupier of the residence. Such extensions shall be granted until such time when the property is transferred from the loan recipient or the surviving spouse to another party.

D. Loan repayments shall be made to the Oklahoma Department of Commerce and shall be deposited in the Energy Conservation Loan Fund.

Added by Laws 1982, c. 324, § 3. Amended by Laws 1986, c. 207, § 61, operative July 1, 1986.

§63-2904. Consumer education programs.

Contractors shall provide consumer education programs to further maximize energy cost savings. Homeowners shall be encouraged to actively participate in consumer education programs to minimize energy-related expenses. Homeowners shall be responsible for proper upkeep and maintenance of the weatherization work completed on their homes.

Added by Laws 1989, c. 112, § 3, operative July 1, 1989.

§63-3001. Sale of pull-top or flip-top can prohibited - Definitions.

A. No person shall sell or offer for sale in this state any pull-top or flip-top container.

B. For purposes of this section:

1. "Pull-top" or "flip-top container" means a beverage container so designed and constructed that a part of the container is detachable in opening the container. The term pull-top or flip-top container shall not mean a container on which the only detachable part of which is a pressure-sensitive tape;

2. "Beverage container" means the individual, separate, sealed metal can containing a beverage; and

3. "Beverage" means beer or other malt beverages, mineral waters, fruit juices, ades and similar noncarbonated drinks, soda water and similarly flavored carbonated soft drinks in liquid form and intended for human consumption.

Added by Laws 1981, c. 144, § 1, eff. Jan. 1, 1983. Amended by Laws 1993, c. 145, § 348, eff. July 1, 1993.

§63-3001.1. Renumbered as § 2-11-502 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-3001.2. Renumbered as § 2-11-503 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§63-3080.1. Short title.

Sections 1 through 5 of this act shall be known and may be cited as the "Hydration and Nutrition for Incompetent Patients Act".
Added by Laws 1987, c. 40, § 1, eff. Nov. 1, 1987.

§63-3080.2. Definitions.

As used in the Hydration and Nutrition for Incompetent Patients Act:

1. "Attending physician" means the physician who has primary responsibility for the overall medical treatment and care of a patient;

2. "Final stage" means the last stage of a terminal illness or injury in which, even with the use of medical treatment, the person with the terminal illness or injury is in the dying process and will die within a reasonably short period of time;

3. "Health care provider" means a person who is licensed, certified, or otherwise authorized by the law of this state to administer health care in the ordinary course of business or practice of a profession;

4. "Incompetent patient" means any person who:

a. is a minor, or

b. has been declared legally incompetent to make decisions affecting medical treatment or care, or

c. in the reasonable judgment of the attending physician, is unable to make decisions affecting medical treatment or other health care services;

5. "Nutrition" means sustenance administered by way of the gastrointestinal tract;

6. "Physician" means a physician or surgeon licensed by the State Board of Medical Examiners or State Board of Osteopathy; and

7. "Terminal illness or injury" means an incurable and irreversible medical condition that, even with the use of medical treatment, will result in the death of a person from that condition or a complication arising from that condition.
Added by Laws 1987, c. 40, § 2, eff. Nov. 1, 1987.

§63-3080.3. Presumption of hydration and nutrition sufficient to sustain life.

It shall be presumed that every incompetent patient has directed his health care providers to provide him with hydration and nutrition to a degree that is sufficient to sustain life.
Added by Laws 1987, c. 40, § 3, eff. Nov. 1, 1987.

§63-3080.4. Presumption of nutrition and hydration, when inapplicable.

A. The presumption pursuant to Section 3080.3 of this title shall not apply if:

1. The attending physician of the incompetent patient knows that the patient, when competent, decided on the basis of information sufficient to constitute informed consent that artificially administered hydration or artificially administered nutrition should be withheld or withdrawn from him;

2. A court finds by clear and convincing evidence that the patient, when competent, decided on the basis of information sufficient to constitute informed consent that artificially administered hydration or artificially administered nutrition should be withheld or withdrawn from him;

3. An advance directive has been executed pursuant to the Oklahoma Natural Death Act specifically authorizing the withholding or withdrawal of nutrition and/or hydration;

4. An advance directive has been executed pursuant to the Oklahoma Rights of the Terminally Ill or Persistently Unconscious Act specifically authorizing the withholding or withdrawal of nutrition and/or hydration;

5. An advance directive for health care has been executed pursuant to the Oklahoma Advance Directive Act specifically authorizing the withholding or withdrawal of nutrition and/or hydration;

6. In the reasonable medical judgment of the incompetent patient's attending physician and a second consulting physician, artificially administered hydration or artificially administered nutrition will itself cause severe, intractable, and long-lasting pain to the incompetent patient or such nutrition or hydration is not medically possible; or

7. In the reasonable medical judgment of the incompetent patient's attending physician and a second consulting physician:

a. the incompetent patient is chronically and irreversibly incompetent,

b. the incompetent patient is in the final stage of a terminal illness or injury, and

c. the death of the incompetent patient is imminent.

B. No advance directive shall be deemed to satisfy the provisions of subsection A of this section unless the advance directive complies with the requirements of Section 3101.4 or Section 3101.14 of this title.

C. Hydration or nutrition may not be withheld or withdrawn pursuant to paragraph 7 of subsection A of this section if this would result in death from dehydration or starvation rather than from the underlying terminal illness or injury.
Added by Laws 1987, c. 40, § 4, eff. Nov. 1, 1987. Amended by Laws 1990, c. 268, § 9, eff. July 1, 1990; Laws 1992, c. 114, § 17, eff. Sept. 1, 1992; Laws 2006, c. 171, § 2, emerg. eff. May 17, 2006.

§63-3080.5. Withdrawing treatment or care.

A. Notwithstanding any other provision of law, no person and no health care facility shall be required to participate in or provide facilities for medical treatment or care of an incompetent patient who is to die as the result of dehydration or starvation.

B. The law of this state shall not be construed to permit withdrawal or withholding of medical treatment, care, nutrition or hydration from an incompetent patient because of the mental disability or mental status of that patient.

C. No guardian, public or private agency, court, or any other person shall have the authority to make a decision on behalf of an incompetent patient to withhold or withdraw hydration or nutrition from said patient except in the circumstances and under the conditions specifically provided for in Section 3080.4 of this title.
Added by Laws 1987, c. 40, § 5, eff. Nov. 1, 1987. Amended by Laws 1992, c. 114, § 18, eff. Sept. 1, 1992.

§63-3090.1. Short title - Nondiscrimination in Treatment Act.

This act shall be known and may be cited as the "Nondiscrimination in Treatment Act".
Added by Laws 2013, c. 160, § 1, eff. Nov. 1, 2013.

§63-3090.2. Definitions.

As used in the Nondiscrimination in Treatment Act:

1. "Health care provider" means a person who is licensed, certified, or otherwise authorized by the laws of this state to practice a health care or healing arts profession or who administers health care in the ordinary course of business;

2. "Health care service" means any phase of patient medical care, treatment or procedure, including, but not limited to, therapy, testing, diagnosis or prognosis, prescribing, dispensing or administering any device, drug or medication, surgery or any other care or treatment rendered by health care providers;

3. "Life-preserving health care service" means a health care service, the denial of which, in reasonable medical judgment, will result in or hasten the death of the patient; and

4. "Person legally authorized to make health care decisions" means, in the case of an adult patient, or of a minor patient who

may consent to have services provided by health professionals under Section 2602 of this title, the person or persons designated to make health care decisions for the patient pursuant to Section 2 of this act, and in the case of any other minor, it means the minor's custodial parent or guardian.
Added by Laws 2013, c. 160, § 2, eff. Nov. 1, 2013. Amended by Laws 2017, c. 144, § 1, eff. Nov. 1, 2017.

§63-3090.3. Nondiscrimination in treatment.

A. A health care provider shall not deny to a patient a life-preserving health care service the provider provides to other patients, and the provision of which is directed by the patient or a person legally authorized to make health care decisions for the patient:

1. On the basis of a view that treats extending the life of an elderly, disabled, or terminally ill individual as of lower value than extending the life of an individual who is younger, nondisabled, or not terminally ill; or

2. On the basis of disagreement with how the patient or person legally authorized to make health care decisions for the patient values the trade-off between extending the length of the patient's life and the risk of disability.

B. In an action pursuant to this act, if the plaintiff pleads a prima facie case, the health care provider may defend his or her or its actions by pleading a legitimate, nondiscriminatory reason or reasons that provided a basis for the denial of treatment, subject to an opportunity for the plaintiff to plead that the reason or reasons for the denial of treatment are discriminatory in their application.
Added by Laws 2013, c. 160, § 3, eff. Nov. 1, 2013.

§63-3090.4. Injunctive relief.

A cause of action for injunctive relief may be maintained against any health care provider who is reasonably believed to be about to violate, who is in the course of violating, or who has violated the Nondiscrimination in Treatment Act by an affected patient or a person legally authorized to make health care decisions for the patient. However, a violation of the act does not constitute negligence per se for purposes of a civil action for damages.
Added by Laws 2013, c. 160, § 4, eff. Nov. 1, 2013.

§63-3091.1. Short title - Right to Try Act.

This act shall be known and may be cited as the "Right to Try Act".
Added by Laws 2015, c. 112, § 1, eff. Nov. 1, 2015.

§63-3091.2. Definitions.

For purposes of the Right to Try Act:

1. "Eligible patient" means a person who has:
    a. a terminal illness, attested to by the patient's treating physician,
    b. considered all other treatment options currently approved by the United States Food and Drug Administration,
    c. been unable to participate in a clinical trial for the terminal illness within one hundred (100) miles of the patient's home address, or not been accepted to the clinical trial within one (1) week of completion of the clinical trial application process,
    d. received a recommendation from his or her physician for the use of an investigational drug, biological product or device,
    e. given written, informed consent for the use of the investigational drug, biological product or device or, if the patient is a minor or lacks the mental capacity to provide informed consent, a parent or legal guardian has given written, informed consent on the patient's behalf, and
    f. documentation from his or her physician that he or she meets the requirements of this paragraph.

"Eligible patient" does not include a person being treated as an inpatient in a hospital licensed pursuant to the provisions of Section 1-701 et seq. of Title 63 of the Oklahoma Statutes;

2. "Investigational drug, biological product or device" means a drug, biological product or device that has successfully completed phase one of a clinical trial but has not yet been approved for general use by the United States Food and Drug Administration and remains under investigation in a clinical trial approved by the United States Food and Drug Administration;

3. "Terminal illness" means a disease that, without life-sustaining procedures, will soon result in death or a state of permanent unconsciousness from which recovery is unlikely; and

4. "Written, informed consent" means a written document signed by the patient and attested to by the patient's physician and a witness that, at a minimum:
    a. explains the currently approved products and treatments for the disease or condition from which the patient suffers,
    b. attests to the fact that the patient concurs with his or her physician in believing that all currently approved and conventionally recognized treatments are unlikely to prolong the patient's life,

c. clearly identifies the specific proposed investigational drug, biological product or device that the patient is seeking to use,
d. describes the best and worst potential outcomes of using the investigational drug, biological product or device with a realistic description of the most likely outcome, including the possibility that new, unanticipated, different or worse symptoms might result, and that death could be hastened by the proposed treatment, based on the physician's knowledge of the proposed treatment in conjunction with an awareness of the patient's condition,
e. makes clear that the patient's health insurer and provider are not obligated to pay for any care or treatments consequent to the use of the investigational drug, biological product or device,
f. makes clear that the patient's eligibility for hospice care may be withdrawn if the patient begins curative treatment and care may be reinstated if the curative treatment ends and the patient meets hospice eligibility requirements,
g. makes clear that in-home health care may be denied if treatment begins, and
h. states that the patient understands that he or she is liable for all expenses consequent to the use of the investigational drug, biological product or device, and that this liability extends to the patient's estate unless a contract between the patient and the manufacturer of the drug, biological product or device states otherwise.

Added by Laws 2015, c. 112, § 2, eff. Nov. 1, 2015.

§63-3091.3. Manufacturers' rights – Insurance coverage – Liability of patients' heirs.

A. A manufacturer of an investigational drug, biological product or device may make available the manufacturer's investigational drug, biological product or device to eligible patients pursuant to the Right to Try Act. An investigational drug, biological product or device may be made available through a pharmacy. This act does not require that a manufacturer make available an investigational drug, biological product or device to an eligible patient.

B. A manufacturer may:

1. Provide an investigational drug, biological product or device to an eligible patient without receiving compensation; or

2. Require an eligible patient to pay the costs of, or the costs associated with, the manufacture of the investigational drug, biological product or device.

C. A health insurance carrier may, but is not required to, provide coverage for the cost of an investigational drug, biological product or device.

D. An insurer may deny coverage to an eligible patient from the time the eligible patient begins use of the investigational drug, biological product or device through a period not to exceed six (6) months from the time the investigational drug, biological product or device is no longer used by the eligible patient; provided, that coverage may not be denied for a preexisting condition and for coverage for benefits which commenced prior to the time the eligible patient begins use of such drug, biological product or device.

E. If a patient dies while being treated by an investigational drug, biological product or device, the patient's heirs are not liable for any outstanding debt related to the treatment or lack of insurance due to the treatment.

Added by Laws 2015, c. 112, § 3, eff. Nov. 1, 2015.

§63-3091.4. Actions against health care provider's license or Medicare certification prohibited.

Notwithstanding any other law, a licensing board may not revoke, fail to renew, suspend or take any action against a health care provider's license, based solely on the health care provider's recommendations to an eligible patient regarding access to or treatment with an investigational drug, biological product or device, as long as the recommendations are consistent with medical standards of care. Action against a health care provider's Medicare certification based solely on the health care provider's recommendation that a patient have access to an investigational drug, biological product or device is prohibited.

Added by Laws 2015, c. 112, § 4, eff. Nov. 1, 2015.

§63-3091.5. Patient access - Counseling, advice or recommendations.

An official, employee or agent of this state shall not block or attempt to block an eligible patient's access to an investigational drug, biological product or device. Counseling, advice or a recommendation consistent with medical standards of care from a licensed health care provider is not a violation of this section.

Added by Laws 2015, c. 112, § 5, eff. Nov. 1, 2015.

§63-3091.6. Immunity against private causes of action.

The Right to Try Act does not create a private cause of action against a manufacturer of an investigational drug, biological product or device or against another person or entity involved in the care of an eligible patient using the investigational drug,

biological product or device, for any harm done to the eligible patient resulting from the investigational drug, biological product or device, so long as the manufacturer or other person or entity is complying in good faith with the terms of the Right to Try Act, unless there was a failure to exercise reasonable care.
Added by Laws 2015, c. 112, § 6, eff. Nov. 1, 2015.

§63-3091.7. Clinical trials.
Nothing in the Right to Try Act affects the mandatory health care coverage for participation in clinical trials.
Added by Laws 2015, c. 112, § 7, eff. Nov. 1, 2015.

§63-3101. Repealed by Laws 1992, c. 114, § 20, eff. Sept. 1, 1992.

§63-3101.1. Short title.
Sections 3101.1 through 3101.16 of this title shall be known and may be cited as the "Oklahoma Advance Directive Act".
Added by Laws 1992, c. 114, § 1, eff. Sept. 1, 1992. Amended by Laws 2006, c. 171, § 3, emerg. eff. May 17, 2006.

§63-3101.2. Purpose - Protection for proxies and health care providers - Certain acts not condoned, authorized or approved.
A. The purpose of the Oklahoma Advance Directive Act is to:
1. Recognize the right of individuals to control some aspects of their own medical care and treatment, including but not limited to the right to decline medical treatment or to direct that it be withdrawn, even if death ensues;
2. Recognize that the right of individuals to control some aspects of their own medical treatment is protected by the Constitution of the United States and overrides any obligation the physician and other health care providers may have to render care or to preserve life and health;
3. Recognize that decisions concerning one's medical treatment involve highly sensitive, personal issues that do not belong in court, even if the individual is incapacitated, so long as a proxy decision-maker can make the necessary decisions based on the known intentions, personal views, or best interests of the individual. If evidence of the individual's wishes is sufficient, those wishes should control; if there is not sufficient evidence of the individual's wishes, the proxy's decisions should be based on the proxy's reasonable judgment about the individual's values and what the individual's wishes would be based upon those values. The proper role of the court is to settle disputes and to act as the proxy decision-maker of last resort when no other proxy is authorized by the individual or is otherwise authorized by law;

4. Restate and clarify the law to ensure that the individual's advance directive for health care will continue to be honored during incapacity without court involvement; and

5. Encourage and support health care instructions by the individual in advance of incapacity and the delegation of decision-making powers to a health care proxy.

B. To be sure that the individual's health care instructions and proxy decision-making will be effective, the Oklahoma Advance Directive Act also includes necessary and appropriate protection for proxies and health care providers who rely in good faith on the instructions of the individual and the decisions of an authorized proxy.

C. The Oklahoma Advance Directive Act does not condone, authorize, or approve mercy killing, assisted suicide, or euthanasia.

Added by Laws 1992, c. 114, § 2, eff. Sept. 1, 1992. Amended by Laws 2006, c. 171, § 4, emerg. eff. May 17, 2006.

§63-3101.3. Definitions.

As used in the Oklahoma Advance Directive Act:

1. "Advance directive for health care" means any writing executed in accordance with the requirements of Section 3101.4 of this title and may include a living will, the appointment of a health care proxy, or both such living will and appointment of a proxy;

2. "Attending physician" means the physician who has primary responsibility for the treatment and care of the patient;

3. "Declarant" means any individual who has issued an advance directive according to the procedure provided for in Section 3101.4 of this title;

4. “End-stage condition” means a condition caused by injury, disease, or illness, which results in severe and permanent deterioration indicated by incompetency and complete physical dependency for which, to a reasonable degree of medical certainty, treatment of the irreversible condition would be medically ineffective;

5. "Health care provider" means a person who is licensed, certified, or otherwise authorized by the law of this state to administer health care in the ordinary course of business or practice of a profession;

6. "Health care proxy" is an individual eighteen (18) years old or older appointed by the declarant as attorney-in-fact to make health care decisions including, but not limited to, the provision, withholding, or withdrawal of life-sustaining treatment if a qualified patient, in the opinion of the attending physician and another physician, is persistently unconscious, incompetent, or otherwise mentally or physically incapable of communication;

7. "Persistently unconscious" means an irreversible condition, as determined by the attending physician and another physician, in which thought and awareness of self and environment are absent;

8. "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity;

9. "Physician" means an individual licensed to practice medicine in this state;

10. "Qualified patient" means a patient eighteen (18) years of age or older who has executed an advance directive and who has been determined to be incapable of making an informed decision regarding health care, including the provision, withholding, or withdrawal of life-sustaining treatment, by the attending physician and another physician who have examined the patient;

11. "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico; and

12. "Terminal condition" means an incurable and irreversible condition that, even with the administration of life-sustaining treatment, will, in the opinion of the attending physician and another physician, result in death within six (6) months.

Added by Laws 1992, c. 114, § 3, eff. Sept. 1, 1992. Amended by Laws 2006, c. 171, § 5, emerg. eff. May 17, 2006.

§63-3101.4. Advance directive - Execution - Specific nutrition/hydration provision - Form - Inclusion in declarant's medical records - Authority of proxy - Designation based on religious beliefs or tenets.

A. An individual of sound mind and eighteen (18) years of age or older may execute at any time an advance directive for health care governing the provision, withholding, or withdrawal of life-sustaining treatment. The advance directive shall be signed by the declarant and witnessed by two individuals who are eighteen (18) years of age or older who are not legatees, devisees, or heirs at law.

B. An advance directive that is not in the form set forth in subsection C of this section and that is executed in Oklahoma shall not be deemed to authorize the withholding or withdrawal of artificially administered nutrition and/or hydration unless it specifically authorizes the withholding or withdrawal of artificially administered nutrition and/or hydration in the declarant’s own words or by a separate section, separate paragraph, or other separate subdivision that deals only with nutrition and/or hydration and which section, paragraph, or other subdivision is separately initialed, separately signed, or otherwise separately marked by the declarant.

C. An advance directive may be in substantially the following form:

Advance Directive for Health Care

If I am incapable of making an informed decision regarding my health care, I direct my health care providers to follow my instructions below.

I. Living Will

If my attending physician and another physician determine that I am no longer able to make decisions regarding my medical treatment, I direct my attending physician and other health care providers, pursuant to the Oklahoma Advance Directive Act, to follow my instructions as set forth below:

(1) If I have a terminal condition, that is, an incurable and irreversible condition that even with the administration of life-sustaining treatment will, in the opinion of the attending physician and another physician, result in death within six (6) months:

____ I direct that my life not be extended by life-sustaining treatment, except that if I am unable to take food and water by mouth, I wish to receive artificially administered nutrition and hydration.

Initial only one option ____ I direct that my life not be extended by life-sustaining treatment, including artificially administered nutrition and hydration.

____ I direct that I be given life-sustaining treatment and, if I am unable to take food and water by mouth, I wish to receive artificially administered nutrition and hydration.

_____ See my more specific instructions in paragraph (4) below. (Initial if applicable)

(2) If I am persistently unconscious, that is, I have an irreversible condition, as determined by the attending physician and another physician, in which thought and awareness of self and environment are absent:

_____ I direct that my life not be extended by life-sustaining treatment, except that if I am unable to take food and water by mouth, I

wish to receive artificially administered nutrition and hydration.

Initial only one option _____ I direct that my life not be extended by life-sustaining treatment, including artificially administered nutrition and hydration.

_____ I direct that I be given life-sustaining treatment and, if I am unable to take food and water by mouth, I wish to receive artificially administered nutrition and hydration.

_____ See my more specific instructions in paragraph (4) below. (Initial if applicable)

(3) If I have an end-stage condition, that is, a condition caused by injury, disease, or illness, which results in severe and permanent deterioration indicated by incompetency and complete physical dependency for which treatment of the irreversible condition would be medically ineffective:

_____ I direct that my life not be extended by life-sustaining treatment, except that if I am unable to take food and water by mouth, I wish to receive artificially administered nutrition and hydration.

Initial only one option _____ I direct that my life not be extended by life-sustaining treatment, including artificially administered nutrition and hydration.

_____ I direct that I be given life-sustaining treatment and, if I am unable to take food and water by mouth, I wish to receive artificially administered nutrition and hydration.

_____ See my more specific instructions in paragraph (4) below. (Initial if applicable)

(4) OTHER. Here you may:

(a) describe other conditions in which you would want life-sustaining treatment or artificially administered nutrition and hydration provided, withheld, or withdrawn,

(b) give more specific instructions about your wishes concerning life-sustaining treatment or artificially administered nutrition and hydration if you have a terminal condition, are persistently unconscious, or have an end-stage condition, or

(c) do both of these:

_____
_____
_____
_____
_____
_____

_____
Initial

II. My Appointment of My Health Care Proxy

If my attending physician and another physician determine that I am no longer able to make decisions regarding my medical treatment, I direct my attending physician and other health care providers pursuant to the Oklahoma Advance Directive Act to follow the instructions of _____, whom I appoint as my health care proxy. If my health care proxy is unable or unwilling to serve, I appoint _____ as my alternate health care proxy with the same authority. My health care proxy is authorized to make whatever medical treatment decisions I could make if I were able, except that decisions regarding life-sustaining treatment and artificially administered nutrition and hydration can be made by my health care proxy or alternate health care proxy only as I have indicated in the foregoing sections.

If I fail to designate a health care proxy in this section, I am deliberately declining to designate a health care proxy.

III. Anatomical Gifts

Pursuant to the provisions of the Uniform Anatomical Gift Act, I direct that at the time of my death my entire body or designated body organs or body parts be donated for purposes of:

(Initial all that apply)

_____ transplantation

_____ therapy

_____ advancement of medical science, research, or education

_____ advancement of dental science, research, or education

Death means either irreversible cessation of circulatory and respiratory functions or irreversible cessation of all functions of

the entire brain, including the brain stem. If I initial the "yes" line below, I specifically donate:

_____ My entire body

or

_____ The following body organs or parts:

_____ lungs _____ liver

_____ pancreas _____ heart

_____ kidneys _____ brain

_____ skin _____ bones/marrow

_____ blood/fluids _____ tissue

_____ arteries _____ eyes/cornea/lens

IV. General Provisions

a. I understand that I must be eighteen (18) years of age or older to execute this form.

b. I understand that my witnesses must be eighteen (18) years of age or older and shall not be related to me and shall not inherit from me.

c. I understand that if I have been diagnosed as pregnant and that diagnosis is known to my attending physician, I will be provided with life-sustaining treatment and artificially administered hydration and nutrition unless I have, in my own words, specifically authorized that during a course of pregnancy, life-sustaining treatment and/or artificially administered hydration and/or nutrition shall be withheld or withdrawn.

d. In the absence of my ability to give directions regarding the use of life-sustaining procedures, it is my intention that this advance directive shall be honored by my family and physicians as the final expression of my legal right to choose or refuse medical or surgical treatment including, but not limited to, the administration of life-sustaining procedures, and I accept the consequences of such choice or refusal.

e. This advance directive shall be in effect until it is revoked.

f. I understand that I may revoke this advance directive at any time.

g. I understand and agree that if I have any prior directives, and if I sign this advance directive, my prior directives are revoked.

h. I understand the full importance of this advance directive and I am emotionally and mentally competent to make this advance directive.

i. I understand that my physician(s) shall make all decisions based upon his or her best judgment applying

with ordinary care and diligence the knowledge and skill that is possessed and used by members of the physician's profession in good standing engaged in the same field of practice at that time, measured by national standards.

Signed this _____ day of _____, 20 __.

_____
(Signature)

_____
City of

_____
County, Oklahoma

_____
Date of birth

_____
(Optional for identification purposes)

This advance directive was signed in my presence.

_____
Witness

_____, Oklahoma
Residence

_____
Witness

_____, Oklahoma
Residence

D. A physician or other health care provider who is furnished the original or a photocopy of the advance directive shall make it a part of the declarant's medical record and, if unwilling to comply with the advance directive, promptly so advise the declarant.

E. In the case of a qualified patient, the patient's health care proxy, in consultation with the attending physician, shall have the authority to make treatment decisions for the patient including the provision, withholding, or withdrawal of life-sustaining procedures if so indicated in the patient's advance directive.

F. A person executing an advance directive appointing a health care proxy who may not have an attending physician for reasons based on established religious beliefs or tenets may designate an individual other than the designated health care proxy, in lieu of an attending physician and other physician, to determine the lack of decisional capacity of the person. Such designation shall be specified and included as part of the advance directive executed pursuant to the provisions of this section.

Added by Laws 1992, c. 114, § 4, eff. Sept. 1, 1992. Amended by Laws 1995, c. 99, § 1, eff. Nov. 1, 1995; Laws 2003, c. 270, § 1, eff. Nov. 1, 2003; Laws 2004, c. 166, § 1, eff. Nov. 1, 2004; Laws 2006, c. 171, § 6, emerg. eff. May 17, 2006.

§63-3101.5. Advance directive - When and which become operative.

A. An advance directive becomes operative when:

1. It is communicated to the attending physician; and

2. The declarant is no longer able to make decisions regarding administration of life-sustaining treatment. When the advance directive becomes operative, the attending physician and other health care providers shall act in accordance with its provisions or comply with the provisions of Section 9 of this act.

B. In the event more than one valid advance directive has been executed and not revoked, the last advance directive so executed shall be construed to be the last wishes of the declarant and shall become operative pursuant to subsection A of this section.

Added by Laws 1992, c. 114, § 5, eff. Sept. 1, 1992.

§63-3101.6. Advance directive - Revocation.

A. An advance directive may be revoked in whole or in part at any time and in any manner by the declarant, without regard to the declarant's mental or physical condition. A revocation is effective upon communication to the attending physician or other health care provider by the declarant or a witness to the revocation.

B. The attending physician or other health care provider shall make the revocation a part of the declarant's medical record.

Added by Laws 1992, c. 114, § 6, eff. Sept. 1, 1992.

§63-3101.7. Qualified patient - Determination - Record.

The determination of the attending physician and another physician that the patient is a qualified patient shall become a part of the patient's medical record.

Added by Laws 1992, c. 114, § 7, eff. Sept. 1, 1992.

§63-3101.8. Patient's right to make decisions regarding life-sustaining treatment - Patient's comfort and alleviation of pain - Pregnant patient.

A. A patient may make decisions regarding life-sustaining treatment as long as the patient is able to do so.

B. Even if life-sustaining treatment or artificial administration of nutrition and hydration are withheld or withdrawn, the patient shall be provided with medication or other medical treatment to alleviate pain and will be provided with oral consumption of food and water.

C. If a qualified patient has been diagnosed as pregnant and that diagnosis is known to the attending physician, the pregnant patient shall be provided with life-sustaining treatment and artificially administered hydration and nutrition, unless the patient has specifically authorized, in her own words, that during a course of pregnancy, life-sustaining treatment and/or artificially administered hydration and/or nutrition shall be withheld or

withdrawn. If it is not known if the patient is pregnant, the said physician shall, where appropriate considering age and other relevant factors, determine whether or not the patient is pregnant. Added by Laws 1992, c. 114, § 8, eff. Sept. 1, 1992. Amended by Laws 2006, c. 171, § 7, emerg. eff. May 17, 2006.

§63-3101.9. Physician or health care provider unwilling to comply with act.

An attending physician or other health care provider who is unwilling to comply with the Oklahoma Advance Directive Act shall as promptly as practicable take all reasonable steps to arrange care of the declarant by another physician or health care provider when the declarant becomes a qualified patient. Once a patient has established a physician-patient relationship with a physician or a provider-patient relationship with another health care provider, if the physician or other health care provider refuses to comply with a medical treatment decision made by or on behalf of the patient pursuant to the Oklahoma Advance Directive Act, or with a medical treatment decision made by such a patient who has decision-making capacity, and if the refusal would in reasonable medical judgment be likely to result in the death of the patient, then the physician or other health care provider must comply with the medical treatment decision pending the completion of the transfer of the patient to a physician or health care provider willing to comply with the decision. Nothing in this section shall require the provision of treatment if the physician or other health care provider is physically or legally unable to provide or is physically or legally unable to provide without thereby denying the same treatment to another patient. Nothing in this section may be construed to alter any legal obligation or lack of legal obligation of a physician or other health care provider to provide medical treatment, nutrition, or hydration to a patient who refuses or is unable to pay for them. Added by Laws 1992, c. 114, § 9, eff. Sept. 1, 1992. Amended by Laws 1995, c. 99, § 2, eff. Nov. 1, 1995; Laws 1998, c. 164, § 1, emerg. eff. April 28, 1998; Laws 2006, c. 171, § 8, emerg. eff. May 17, 2006.

§63-3101.10. Civil and criminal liability and disciplinary actions.

A. In the absence of knowledge of the revocation of an advance directive, a person is not subject to civil or criminal liability or discipline for unprofessional conduct for carrying out the advance directive pursuant to the requirements of the Oklahoma Advance Directive Act.

B. A physician or other health care provider, whose actions under the Oklahoma Advance Directive Act are in accord with reasonable medical standards, is not subject to criminal or civil liability or discipline for unprofessional conduct with respect to

those actions; provided, that this subsection may not be construed to authorize a violation of Section 3101.9 of this title. In making decisions and determinations pursuant to the Oklahoma Advance Directive Act the physician shall use his or her best judgment applying with ordinary care and diligence the knowledge and skill that is possessed and used by members of the physician's profession in good standing engaged in the same field of practice at that time, measured by national standards.

C. An individual designated as a health care proxy, pursuant to Section 3101.4 of this title, to make health care decisions for a declarant and whose decisions regarding the declarant are made in good faith pursuant to the Oklahoma Advance Directive Act, is not subject to criminal or civil liability, or discipline for unprofessional conduct with respect to those decisions.

Added by Laws 1992, c. 114, § 10, eff. Sept. 1, 1992. Amended by Laws 1995, c. 99, § 3, eff. Nov. 1, 1995; Laws 2006, c. 171, § 9, emerg. eff. May 17, 2006.

§63-3101.11. Acts constituting unprofessional conduct - Acts constituting felonies - Sanctions.

A. A physician or other health care provider who willfully fails to arrange the care of a patient in accordance with Section 3101.9 of this title shall be guilty of unprofessional conduct.

B. A physician who willfully fails to record the determination of the patient's condition in accordance with Section 3101.7 of this title shall be guilty of unprofessional conduct.

C. Any person who willfully conceals, cancels, defaces, alters, or obliterates the advance directive of another without the declarant's consent, or who falsifies or forges a revocation of the advance directive of another shall be, upon conviction, guilty of a felony.

D. A person who in any way falsifies or forges the advance directive of another, or who willfully conceals or withholds personal knowledge of a revocation as provided in Section 3101.6 of this title shall be, upon conviction, guilty of a felony.

E. A person who requires or prohibits the execution of an advance directive as a condition for being insured for, or receiving, health care services shall be, upon conviction, guilty of a felony.

F. A person who coerces or fraudulently induces another to execute an advance directive or revocation shall be, upon conviction, guilty of a felony.

G. The sanctions provided in this section do not displace any sanction applicable under other law.

Added by Laws 1992, c. 114, § 11, eff. Sept. 1, 1992. Amended by Laws 2006, c. 171, § 10, emerg. eff. May 17, 2006.

§63-3101.12. Interpretation, construction and application of act.

A. Death resulting from the withholding or withdrawal of life-sustaining treatment in accordance with the Oklahoma Advance Directive Act shall not constitute, for any purpose, a suicide or homicide.

B. The making of an advance directive pursuant to Section 3101.4 of this title shall not affect in any manner the sale, procurement, or issuance of any policy of life insurance or annuity, nor shall it affect, impair, or modify the terms of an existing policy of life insurance or annuity. A policy of life insurance or annuity shall not be legally impaired or invalidated in any manner by the withholding or withdrawal of life-sustaining treatment from an insured qualified patient, regardless of any term of the policy or annuity to the contrary.

C. A person shall not prohibit or require the execution of an advance directive as a condition for being insured for, or receiving, health care services.

D. The Oklahoma Advance Directive Act creates no presumption concerning the intention of an individual who has revoked or has not executed an advance directive with respect to the use, withholding, or withdrawal of life-sustaining treatment.

E. The Oklahoma Advance Directive Act shall not affect the right of a patient to make decisions regarding use of life-sustaining treatment, so long as the patient is able to do so, or impair or supersede any right or responsibility that a person has to effect the withholding or withdrawal of medical care; provided, that this subsection may not be construed to authorize a violation of Section 3101.9 of this title.

F. The Oklahoma Advance Directive Act shall not be construed to condone, authorize, or approve mercy killing, assisted suicide, or euthanasia.

G. Failure to designate a health care proxy in accordance with Section 3101.4 of this title shall not be interpreted to invalidate the authority of a health care proxy to make life-sustaining treatment decisions if otherwise authorized by law.

Added by Laws 1992, c. 114, § 12, eff. Sept. 1, 1992. Amended by Laws 1995, c. 99, § 4, eff. Nov. 1, 1995; Laws 2006, c. 171, § 11, emerg. eff. May 17, 2006.

§63-3101.13. Presumption of validity of advance directive.

In the absence of knowledge to the contrary, a physician or other health care provider may presume that an advance directive complies with the Oklahoma Advance Directive Act and is valid.

Added by Laws 1992, c. 114, § 13, eff. Sept. 1, 1992. Amended by Laws 2006, c. 171, § 12, emerg. eff. May 17, 2006.

§63-3101.14. Directives executed out-of-state.

Execution of an advance directive by an individual, which provides for the provision, withholding, or withdrawal of life-sustaining treatment for that individual or for the appointment of another to give directions to provide, withhold, or withdraw life-sustaining treatment, executed in another state in compliance with the law of that state or of this state is valid for purposes of the Oklahoma Advance Directive Act to the extent the advance directive does not exceed authorizations allowed under the laws of this state; provided, that no such advance directive shall be deemed to authorize the withholding or withdrawal of artificially administered nutrition and/or hydration unless it specifically authorizes such withholding or withdrawal of artificially administered nutrition and/or hydration, and either the advance directive:

1. Was executed by a person who was not a resident of Oklahoma at the time of execution; or

2. Specifically authorizes the withholding or withdrawal of artificially administered nutrition and/or hydration in the declarant's own words or by a separate section, separate paragraph, or other separate subdivision that deals only with nutrition and/or hydration and which section, paragraph, or other subdivision is separately initialed, separately signed, or otherwise separately marked by the person executing the advance directive.

Added by Laws 1992, c. 114, § 14, eff. Sept. 1, 1992. Amended by Laws 2006, c. 171, § 13, emerg. eff. May 17, 2006.

§63-3101.15. Directives executed prior to change in law.

A. Any directive to a physician executed pursuant to the former Oklahoma Natural Death Act, 63 O.S. 1991, Section 3101 et seq., which was executed prior to September 1, 1992, shall be enforceable according to its terms until revoked and shall have the same force and effect as if made pursuant to this act. Such directive shall be binding on the attending physician whether or not the person who executed the directive was in a terminal condition at the time of execution unless there is evidence that the person executing the directive intended that it should be binding only if executed or re-executed after the person became afflicted with a terminal condition as defined by the former Oklahoma Natural Death Act.

B. Any advance directive executed prior to the enactment of any amendment to the Oklahoma Advance Directive Act which substantially complied with the law in effect at the time of the execution of the directive shall be enforceable according to its terms until revoked and shall have the same force and effect as if made pursuant to this act, as amended.

Added by Laws 1992, c. 114, § 15, eff. Sept. 1, 1992. Amended by Laws 1995, c. 99, § 5, eff. Nov. 1, 1995; Laws 2006, c. 171, § 14, emerg. eff. May 17, 2006.

§63-3101.16. Treatment decisions to be based on known intentions, personal views and best interests of declarant.

An individual making life-sustaining treatment decisions pursuant to the provisions of the Oklahoma Advance Directive Act for a declarant shall make such decisions based on the known intentions, personal views and best interests of the declarant. If evidence of the declarant's wishes is sufficient, those wishes shall control. If there is not sufficient evidence of the wishes of the declarant, the decisions shall be based on the reasonable judgment of the individual so deciding about the values of the declarant and what the wishes of the declarant would be based upon those values.
Added by Laws 1992, c. 114, § 16, eff. Sept. 1, 1992. Amended by Laws 2006, c. 171, § 15, emerg. eff. May 17, 2006.

§63-3102. Repealed by Laws 1992, c. 114, § 20, eff. Sept. 1, 1992.

§63-3102.1. Advance directives registry database.

A. The State Department of Health shall establish and maintain an advance directives registry which shall be accessible through a website maintained by the Department. The registry shall be used to store advance directives pursuant to the Oklahoma Advance Directive Act that are filed with the registry by or with the authorization of those executing the advance directives.

B. The registry shall be maintained in a secure database that is designed to provide access to each advance directive filed in the database by the person who executed the advance directive, those named as agents in the advance directive, any person related within the fourth degree of consanguinity or affinity to the person who executed the advance directive, or a health care provider caring for the person who executed the advance directive.

C. The State Department of Health may enter into contracts with private vendors to obtain the services necessary to meet the requirements of the Oklahoma Advance Directive Act. Any costs to the public to access the registry shall be negotiated in the contracts provided for in this paragraph.
Added by Laws 2009, c. 236, § 1, eff. Nov. 1, 2009. Amended by Laws 2015, c. 43, § 1, eff. Nov. 1, 2015.

§63-3102.2. Advance directive forms database.

A. The State Department of Health shall maintain a website of advance directive forms that may be downloaded for printing and into word processing programs.

B. Under the heading "Statutory Advance Directive Form", the website shall include the forms specified in subsection C of Section 3101.4 of this title.

C. Under the heading "Alternative Advance Directive Forms", the website shall include other advance directive forms submitted to the

Department by individuals and groups in an electronic format the Department shall specify; provided, that before being posted on the website, any such form shall be reviewed to ensure that the form complies with the requirements of Section 3101.4 of this title and other provisions of state law.

D. In the section titled "Alternative Advance Directive Forms", the website shall prominently post the following disclaimer:

"This website includes for your consideration alternative advance directive forms submitted by individuals or groups reflecting different perspectives on advance health care decisions which you may wish to review before completing your own advance directive. Although they have been reviewed to ensure that they do not violate Oklahoma law, neither the State Department of Health nor the State of Oklahoma endorses or assumes any responsibility for any of these forms."

E. The State Department of Health shall promulgate rules necessary to implement the provisions of this act.

Added by Laws 2009, c. 236, § 2, eff. Nov. 1, 2009. Amended by Laws 2015, c. 43, § 2, eff. Nov. 1, 2015.

§63-3102.3. Patient disclosure relating to advanced directives forms and registry.

A. The State Department of Health shall prepare, and from time to time amend, a disclosure statement designed to inform patients of the availability of the advance directive forms on the Department's website and of the option of filing executed advance directives with the Department's advance directives registry. The Department shall make the current disclosure statement available on the Department's website and shall inform the entities specified in subsection B of this section of the availability of the disclosure statement and how to obtain the disclosure statement.

B. Any entity to which the requirements of 42 U.S.C., Section 1395cc(f) or of 42 U.S.C., Section 1396a(w) apply shall, at the time of providing the written information required by 42 U.S.C., Section 1395cc(f)(1)(A)(i) or 42 U.S.C., Section 1396a(w)(1)(A)(i), include a copy of the disclosure statement described in subsection A of this section.

Added by Laws 2009, c. 236, § 3, eff. Nov. 1, 2009.

§63-3102.4. Classes and priorities for persons authorized to make health care decisions for those incapable of communicating.

When an adult patient or a person under eighteen (18) years of age who may consent to have services provided by health professionals under Section 2602 of Title 63 of the Oklahoma Statutes is persistently unconscious, incompetent or otherwise mentally or physically incapable of communicating, those reasonably available and willing in the following classes, in the order of

priority below, are authorized to make health care decisions for the patient under the same standard as that applicable to making life-sustaining treatment decisions under Section 3101.16 of Title 63 of the Oklahoma Statutes, excluding any person who is disqualified from exercising such authority by Section 3 of this act. If those within a class disagree, a majority within the class may make a health care decision for the patient. However, a provider of health care to the patient or any member or members of any of the following classes may petition a court that would have jurisdiction over a guardianship proceeding concerning the patient under Section 1-115 of Title 30 of the Oklahoma Statutes to seek an order directing a different health care decision on the ground that the health care decision or decisions made violate the standard required by this section, granting another member or other members from among the following classes (notwithstanding the statutory order of priority) supervening authority to make health care decisions for the patient on the ground that clear and convincing evidence demonstrates they are more likely to adhere to that standard, or both. Upon motion by any party, the court shall issue an order requiring that pending its decision on the merits and the resolution of any appeal the patient be provided with health care of which denial, in reasonable medical judgment, would be likely to result in or hasten the death of the patient, unless its provision would require denial of the same health care to another patient. The classes are as follows:

1. A general guardian of the person appointed pursuant to subsection A of Section 3-112 of Title 30 of the Oklahoma Statutes or a limited guardian of the person appointed pursuant to subsection B of Section 3-112 of Title 30 of the Oklahoma Statutes with authority to make personal medical decisions as determined under paragraph 5 of subsection B of Section 3-113 of Title 30 of the Oklahoma Statutes;

2. A health care proxy, or alternate health care proxy, designated by the patient, as defined in paragraph 6 of Section 3101.3 of Title 63 of the Oklahoma Statutes;

3. An attorney-in-fact authorized to act pursuant to the Uniform Durable Power of Attorney Act, Sections 1071 through 1077 of Title 58 of the Oklahoma Statutes, with authority to act regarding the patient's health and medical care decisions, subject to the limitations under paragraph 1 of subsection B of Section 1072.1 of Title 58 of the Oklahoma Statutes;

4. The patient's spouse;

5. Adult children of the patient;

6. Parents of the patient;

7. Adult siblings;

8. Other adult relatives of the patient in order of kinship; or

9. Close friends of the patient who have maintained regular contact with the patient sufficient to be familiar with the

patient's personal values. Execution of an affidavit stating specific facts and circumstances documenting such contact constitutes prima facie evidence of close friendship.
Added by Laws 2017, c. 144, § 2, eff. Nov. 1, 2017.

§63-3102.5. Persons not authorized to make health care decisions.

No person shall be authorized under Section 2 of this act to make health care decisions for a patient if that person:

1. Has been convicted of, pled guilty to, or pled no contest to any violation of Section 843.1, 843.2, 843.4 or 843.5 of Title 21 of the Oklahoma Statutes;

2. Has been found to have committed abuse, verbal abuse or exploitation, as these terms are defined in Section 10-103 of Title 43A of the Oklahoma Statutes, by a final State Department of Health investigative finding or by an administrative law judge finding, unless that finding has been overturned through judicial review; or

3. Has been criminally charged as described in subsection B of Section 10-110.1 of Title 43A of the Oklahoma Statutes, unless the person has been acquitted or those charges have been finally dismissed.

Added by Laws 2017, c. 144, § 3, eff. Nov. 1, 2017.

§63-3102A. Experimental treatments, tests or drugs - Persons eligible to give consent.

A. When an adult person, because of a medical condition, is treated by a licensed medical doctor or doctor of osteopathy holding a faculty appointment at a medical school accredited by the Liaison Committee on Medical Education or American Osteopathic Association, or holding clinical privileges at a healthcare institution that conducts human subject research approved by local institutional review board, and such person is incapable of giving informed consent for a local-institutional-review-board-approved experimental treatment, test or drug, then such treatment, test or drug may proceed upon obtaining informed consent of a legal guardian, attorney-in-fact with health care decision authority, or a family member in the following order of priority:

1. The spouse, unless the patient has no spouse, or is separated, or the spouse is physically or mentally incapable of giving consent, or the spouse's location is unknown or the spouse is overseas, or the spouse is otherwise not available;

2. An adult son or daughter;

3. Either parent;

4. An adult brother or sister; or

5. A relative by blood or marriage.

B. Nothing in this section shall authorize such legal guardian, attorney-in-fact or family member to consent to treatment in

contravention to such incapacitated person's expressed permission or prohibition regarding such treatment.
Added by Laws 1997, c. 122, § 1, eff. Nov. 1, 1997. Amended by Laws 2005, c. 211, § 4, eff. Nov. 1, 2005.

§63-3103. Repealed by Laws 1992, c. 114, § 20, eff. Sept. 1, 1992.

§63-3103.1. Repealed by Laws 1992, c. 114, § 20, eff. Sept. 1, 1992.

§63-3104. Repealed by Laws 1992, c. 114, § 20, eff. Sept. 1, 1992.

§63-3105. Repealed by Laws 1992, c. 114, § 20, eff. Sept. 1, 1992.

§63-3105.1. Short title - Physician Orders for Life-Sustaining Treatment Act.

This act shall be known and may be cited as the "Physician Orders for Life-Sustaining Treatment Act".
Added by Laws 2016, c. 355, § 1.

§63-3105.2. Definitions.

As used in the Physician Orders for Life-Sustaining Treatment Act:

1. "Attorney-in-fact" means an attorney-in-fact authorized to act pursuant to the Uniform Durable Power of Attorney Act, Sections 1071 through 1077 of Title 58 of the Oklahoma Statutes, with authority to act regarding the patient's health and medical care decisions, subject to the limitations under paragraph 1 of subsection B of Section 1072.1 of Title 58 of the Oklahoma Statutes;

2. "Guardian" means a general guardian of the person appointed pursuant to subsection A of Section 3-112 of Title 30 of the Oklahoma Statutes or a limited guardian of the person appointed pursuant to subsection B of Section 3-112 of Title 30 of the Oklahoma Statutes with the authority to make personal medical decisions as determined under paragraph 5 of subsection B of Section 3-113 of Title 30 of the Oklahoma Statutes;

3. "Health care provider" means a person who is licensed, certified or otherwise authorized by the laws of this state to administer health care in the ordinary course of business or practice of a profession;

4. "Health care proxy" means a health care proxy (or alternate health care proxy) authorized to act pursuant to the Oklahoma Advance Directive Act, Sections 3101.1 through 3101.16 of Title 63 of the Oklahoma Statutes, as defined in paragraph 6 of Section 3101.3 of Title 63 of the Oklahoma Statutes; and

5. "Other legally authorized person" means a person, other than a minor's custodial parent or guardian, the patient or the patient's

attorney-in-fact, guardian or health care proxy, who has authority to make health care decisions for the patient under common law. Added by Laws 2016, c. 355, § 2.

§63-3105.3. Orders for life-sustaining treatment – Standardized form – Noncompliant forms.

A. The Office of the Attorney General shall establish the standardized format for a form in accordance with the provisions of Section 4 of this act, adhering to the directions, sequence and wording in those provisions.

B. An Oklahoma physician orders for life-sustaining treatment shall be executed, implemented, reviewed and revoked in accordance with the instructions on the form required by this section. At the beginning of renewing and preparing it in consultation with the patient or the patient's legally authorized representative, the attending physician or the health care professional preparing the form or an agent of either shall give that person a copy of the disclosure statement described in Section 3163 of Title 63 of the Oklahoma Statutes. When a patient with a valid POLST experiences a change in medical condition that creates a situation in which, in reasonable medical judgment, withholding specific health care rejected by the POLST will cause or hasten the patient's death, if the patient is then capable of making decisions affecting health care the attending physician shall discuss the situation and treatment with the patient and determine whether, on the basis of information sufficient for informed consent, the patient still wishes the direction in the POLST to control or instead wishes to receive the treatment.

C. A physician orders for life-sustaining treatment (POLST), physician orders for scope of treatment (POST), medical orders for life-sustaining treatment (MOLST), medical orders for scope of treatment (MOST), transportable physician orders for patient preferences (TPOPP) or similar document that does not comply with the standardized format for an Oklahoma physician orders for life-sustaining treatment established by regulations promulgated in accordance with this section:

a. that was executed in this state prior to the effective date of the standardized format established in accordance with this section shall have no validity after forty-five (45) days following that effective date or after ten (10) days following the admission of the patient to an Oklahoma medical care facility, whichever is later; provided, that a standardized format Oklahoma physician orders for life-sustaining treatment executed subsequent to such document's execution shall immediately supersede it, or

b. that was executed outside this state in compliance with the laws of the jurisdiction of execution shall have no validity after ten (10) days following the admission of the patient to an Oklahoma medical care facility; provided, that a standardized format Oklahoma physician orders for life-sustaining treatment executed subsequent to such document's execution shall immediately supersede it.

Added by Laws 2016, c. 355, § 3.

§63-3105.4. Format and content of form.

1. At the top of the first page of the standardized format Oklahoma physician orders for life-sustaining treatment form the following wording in all capitals shall appear against a contrasting color background: "FORM SHALL ACCOMPANY PERSON WHEN TRANSFERRED OR DISCHARGED"; at the bottom of the first page the following wording in all capitals shall appear against a contrasting color background: "HIPAA PERMITS DISCLOSURE TO HEALTH CARE PROFESSIONALS AND PROXY DECISION MAKERS AS NECESSARY FOR TREATMENT".

2. There shall be an introductory section, the left block of which shall contain the name "Oklahoma Physician Orders for Life-Sustaining Treatment (POLST)" followed by the words, "This Physician Order set is based on the patient's current medical condition and wishes and is to be reviewed for potential replacement in the case of a substantial change in either, as well as in other cases listed under F. Any section not completed indicates full treatment for that section. Photocopy or fax copy of this form is legal and valid." and the right block of which shall contain lines for the patient's name, the patient's date of birth and the effective date of the form followed by the statement, "Form must be reviewed at least annually."

3. In Section A of the form, the left block shall contain, in bold font, "A. Check One", and the right block shall be headed, in bold font, "Cardiopulmonary Resuscitation (CPR): Person has no pulse and is not breathing." below which there shall be a checkbox followed by "Attempt Resuscitation (CPR)", then a checkbox followed by "Do Not Attempt Resuscitation (DNR/ no CPR)", and below which shall be the words, "When not in cardiopulmonary arrest, follow orders in B, C and D below."

4. In Section B of the form, the left block shall contain, in bold, "B. Check One", and the right block shall be headed, in bold, "Medical Interventions: Person has pulse and/or is breathing." Below this there shall be a checkbox followed by, in bold, "Full Treatment" followed by, "Includes the use of intubation, advanced airway interventions, mechanical ventilation, defibrillation or cardio version as indicated, medical treatment, intravenous fluids, and cardiac monitor as indicated. Transfer to hospital if

indicated. Include intensive care. Includes treatment listed under "Limited Interventions" and "Comfort Measures", followed by, in bold, "Treatment Goal: Attempt to preserve life by all medically effective means."

Below this there shall be a checkbox followed by, in bold, "Limited Interventions" followed by, "Includes the use of medical treatment, oral and intravenous medications, intravenous fluids, cardiac monitoring as indicated, noninvasive bi-level positive airway pressure, a bag valve mask or other advanced airway interventions. Includes treatment listed under "Comfort Measures", followed by, "Do not use intubation or mechanical ventilation. Transfer to hospital if indicated. Avoid intensive care." followed by, in bold, "Treatment Goal: Attempt to preserve life by basic medical treatments."

Below this there shall be a checkbox followed by, in bold, "Comfort Measures only" followed by, "Includes keeping the patient clean, warm and dry; use of medication by any route; positioning, wound care and other measures to relieve pain and suffering. Use oxygen, suction and manual treatment of airway obstruction as needed for comfort. Transfer from current location to intermediate facility only if needed and adequate to meet comfort needs and to hospital only if comfort needs cannot otherwise be met in the patient's current location (e.g., hip fracture; if intravenous route of comfort measures is required)."

Below this there shall be, in italics, "Additional Orders:" followed by an underlined space for other instructions.

5. In Section C of the form, the left block shall contain, in bold, "C. Check One" and the right block shall be headed, in bold, "Antibiotics".

Below this there shall be a checkbox followed by, in bold, "Use antibiotics to preserve life."

Below this there shall be a checkbox followed by, in bold, "Trial period of antibiotics if and when infection occurs." After this there shall be, in italics, "*Include goals below in E."

Below this there shall be a checkbox followed by, in bold, "Initially, use antibiotics only to relieve pain and discomfort." After this there shall be, in italics, "+Contact patient or patient's representative for further direction."

Below this there shall be, in italics, "Additional Orders:" followed by an underlined space for other instructions.

6. In Section D of the form, the left block shall contain, in bold, "D. Check One in Each Column", and the right block shall be headed in bold, "Assisted Nutrition and Hydration", below which shall be "Administer oral fluids and nutrition, if necessary by spoon feeding, if physically possible." Below these the right block shall be divided into three columns.

The leftmost column shall be headed, "TPN (Total Parenteral Nutrition-provision of nutrition into blood vessels)." Below this there shall be a checkbox followed by, in bold, "TPN long-term" followed by "if needed". Below this there shall be a checkbox followed by, in bold, "TPN for a trial period*". Below this there shall be a checkbox followed by, in bold, "Initially, no TPN+".

The middle column shall be headed "Tube Feeding". Below this there shall be a checkbox followed by, in bold, "Long-term feeding tube" followed by "if needed". Below this there shall be a checkbox followed by, in bold, "Feeding tube for a trial period*". Below this there shall be a checkbox followed by, in bold, "Initially, no feeding tube".

The rightmost column shall be headed, "Intravenous (IV) Fluids for Hydration". Below this there shall be a checkbox followed by, in bold, "Long-term IV fluids" followed by "if needed". Below this there shall be a checkbox followed by, in bold, "IV fluids for a trial period*". Below this there shall be a checkbox followed by, in bold, "Initially, no IV fluids+".

Running below all the columns there shall be, in italics, "Additional Orders:" followed by an underlined space for other instructions, followed by, in italics, "*Include goals below in E. +Contact patient or patient's representative for further direction."

7. In Section E of the form, the left block shall contain, in bold, "E. Check all that apply" and the right block shall be headed, in bold, "Patient Preferences as a Basis for this POLST Form" shall include the following:

a. below the heading there shall be a box including the words, in bold, "Patient Goals/Medical Condition:" followed by an adequate space for such information,

b. below this there shall be a checkbox followed by, "The patient has an advance directive for health care in accordance with Sections 3101.4 or 3101.14 of Title 63 of the Oklahoma Statutes." Below that there shall be a checkbox followed by, "The patient has a durable power of attorney for health care decisions in accordance with paragraph 1 of subsection B of Section 1072.1 of Title 58 of the Oklahoma Statutes." Below that shall be the indented words, "Date of execution" followed by an underlined space. Below that shall be the words, "If POLST not being executed by patient: We certify that this POLST is in accordance with the patient's advance directive." Below this there shall be an underlined space underneath which shall be positioned the words, "Name and Position (print) Signature" and "Signature of Physician",

c. below these shall be the words, "Directions given by:" and below that a checkbox followed by "Patient", a

checkbox followed by "Minor's custodial parent or guardian", a checkbox followed by "Attorney-in-fact", a checkbox followed by "Health care proxy", and a checkbox followed by "Other legally authorized person:" followed by an underlined space. Beneath or beside the checkbox and "Other legally authorized person:" and the underlined space shall be the words "Basis of Authority:" followed by an underlined space, and

d. below these shall be a four-column table with four rows. In the top row the first column shall be blank; the second column shall have the words, "Printed Name"; the third column shall have the word, "Signature", and the fourth column shall have the word, "Date". In the remaining rows the second through fourth columns shall be blank. In the first column of these rows, in the second row shall be the words, "Attending physician"; in the third row shall be the words, "Patient or other individual checked above (patient's representative)"; and in the fourth row shall be the words, "Health care professional preparing form (besides doctor)."

8. Section F of the form, which shall have the heading, in bold, "Information for Patient or Representative of Patient Named on this Form", shall include the following language, appearing in bold on the form:

"The POLST form is always voluntary and is usually for persons with advanced illness. Before providing information for or signing it, carefully read "Information for Patients and Their Families - Your Medical Treatment Rights Under Oklahoma Law", which the health care provider must give you. It is especially important to read the sections on CPR and food and fluids, which have summaries of Oklahoma laws that may control the directions you may give. POLST records your wishes for medical treatment in your current state of health. Once initial medical treatment is begun and the risks and benefits of further therapy are clear, your treatment wishes may change. Your medical care and this form can be changed to reflect your new wishes at any time. However, no form can address all the medical treatment decisions that may need to be made. An advance health care directive is recommended, regardless of your health status. An advance directive allows you to document in detail your future health care instructions and/or name a health care agent to speak for you if you are unable to speak for yourself.

The State of Oklahoma affirms that the lives of all are of equal dignity regardless of age or disability and emphasizes that no one should ever feel pressured to agree to forego life-preserving

medical treatment because of age, disability or fear of being regarded as a burden.

If this form is for a minor for whom you are authorized to make health care decisions, you may not direct denial of medical treatment in a manner that would violate the child abuse and neglect laws of Oklahoma. In particular, you may not direct the withholding of medically indicated treatment from a disabled infant with life-threatening conditions, as those terms are defined in 42 U.S.C., Section 5106g or regulations implementing it and 42 U.S.C., Section 5106a."

9. Section G of the form, which shall have the heading, in bold, "Directions for Completing and Implementing Form", shall include the following three subdivisions:

a. the first subdivision, entitled "COMPLETING POLST", shall have the following language with the words, "The signature of the patient or the patient's representative is required" appearing in bold on the form:

"POLST must be reviewed and prepared in consultation with the patient or the patient's representative after that person has been given a copy of "Information for Patients and Their Families - Your Medical Treatment Rights Under Oklahoma Law". POLST must be reviewed and signed by a physician to be valid. Be sure to document the basis for concluding the patient had or lacked capacity at the time of execution of the form in the patient's medical record. If the patient lacks capacity, any current advance directive form must be reviewed and the patient's representative and physician must both certify that POLST complies with it. The signature of the patient or the patient's representative is required; however, if the patient's representative is not reasonably available to sign the original form, a copy of the completed form with the signature of the patient's representative must be placed in the medical record as soon as practicable and "on file" must be written on the appropriate signature line on this form.",

b. the second subdivision, entitled "IMPLEMENTING POLST", shall have the following language:

"If a minor protests a directive to deny the minor life-preserving medical treatment, the denial of treatment may not be implemented pending issuance of a judicial order resolving the conflict. A health care provider unwilling to comply with POLST must comply with the transfer and treatment pending transfer requirements of Section 3101.9 of Title 63 of the

Oklahoma Statutes as well as those of the Nondiscrimination in Treatment Act, Sections 3090.2 and 3090.3 of Title 63 of the Oklahoma Statutes", and

c. the third subdivision, entitled "REVIEWING POLST", shall have the following language:
"This POLST must be reviewed at least annually or earlier if:
The patient is admitted to or discharged from a medical care facility; there is substantial change in the patient's health status; or the treatment preferences of the patient or patient's representative change."

The same requirements for participation of the patient or patient's representative, and signature by both a physician and the patient or the patient's representative, that are described under "COMPLETING POLST" shall also apply when POLST is reviewed, and must be documented in Section I.

10. Section H of the form, which shall have the heading, in bold, "REVOCATION OF POLST", shall have the following language, with the words specified below appearing in bold on the form:

"If POLST is revised or becomes invalid, write in bold the word "VOID" in large letters on the front of the form. After voiding the form a new form may be completed. A patient with capacity or the individual or individuals authorized to sign on behalf of the patient in Section E of this form may void this form. If no new form is completed, full treatment and resuscitation is to be provided, except as otherwise authorized by Oklahoma law."

11. Section I of the form, which shall have the heading, in bold, "REVIEW SECTION", followed by: "Periodic review confirms current form or may require completion of new form," shall include the following columns and a number of rows determined by the Office of the Attorney General:

a. Date of Review,
b. Location of Review,
c. Patient or Representative Signature,
d. Physician Signature, and
e. Outcome of Review.

Each row in column (5) shall include a checkbox followed by, "FORM CONFIRMED - No Change", below which there shall be a checkbox followed by, "FORM VOIDED, see updated form.", below which there shall be a checkbox followed by, "FORM VOIDED, no new form."

A final section of the form, which shall have the heading, in bold, "Contact Information:", shall include two rows of four columns. In the first column, the first row shall include "Patient/Representative" followed by an adequate space for such information, and the second column shall include "Health Care Professional Preparing Form" followed by an adequate space for such

information. In the second column both rows shall include "Relationship" followed by an adequate space for such information; in the third column both rows shall include "Phone Number" followed by an adequate space for such information; and in the fourth column both rows shall include "Email Address" followed by an adequate space for such information.
Added by Laws 2016, c. 355, § 4.

§63-3105.5. Physician not subject to liability or discipline - Liability for falsification of form - Temporary court orders.

A. A physician or other health care provider acting in good faith and in accordance with reasonable medical standards applicable to the physician or other health care provider is not subject to civil or criminal liability or to discipline for unprofessional conduct for:

1. Executing an Oklahoma standardized format physician orders for life-sustaining treatment form in compliance with a health care decision of a person apparently having authority to make a health care decision for a patient, including a decision to provide, withhold or withdraw health care;

2. Declining to execute an Oklahoma standardized format physician orders for life-sustaining treatment form in compliance with a health care decision of a person based on a reasonable belief that the person then lacked authority; or

3. Complying with an apparently valid Oklahoma standardized format physician orders for life-sustaining treatment form on the assumption that the order was valid when made and has not been revoked or terminated.

B. A person who intentionally falsifies, forges, conceals, defaces or obliterates an individual's physician orders for life-sustaining treatment form without the individual's consent, or who coerces or fraudulently induces an individual to give, revoke or not to give a physician orders for life-sustaining treatment form, is subject to liability to that individual for damages of Two Hundred Thousand Dollars ($200,000.00) or actual damages resulting from the action, whichever is greater, plus reasonable attorney fees.

C. On petition of a health care provider or facility involved with the patient's care, the patient or the patient's custodial parent or guardian, attorney-in-fact, guardian or health care proxy, or other person who has authority to make health care decisions for the patient under common law, any court of competent jurisdiction may enjoin or direct a health care decision related to a physician orders for life-sustaining treatment form or order other appropriate equitable relief. The court shall issue such temporary orders as necessary to preserve the life of the patient pending a final judgment in such litigation, including any appeals.
Added by Laws 2016, c. 355, § 5.

§63-3106. Repealed by Laws 1992, c. 114, § 20, eff. Sept. 1, 1992.

§63-3107. Repealed by Laws 1992, c. 114, § 20, eff. Sept. 1, 1992.

§63-3108. Repealed by Laws 1992, c. 114, § 20, eff. Sept. 1, 1992.

§63-3109. Repealed by Laws 1992, c. 114, § 20, eff. Sept. 1, 1992.

§63-3110. Repealed by Laws 1992, c. 114, § 20, eff. Sept. 1, 1992.

§63-3111. Repealed by Laws 1992, c. 114, § 20, eff. Sept. 1, 1992.

§63-3112. Definitions.

For the purposes of Sections 2 through 6 of this act:

1. "Aftercare" means any assistance provided by a designated lay caregiver to an individual under this act after the patient's discharge from a hospital. Such assistance may include tasks that are limited to the patient's condition at the time of discharge that do not require a licensed professional;

2. "Discharge" means a patient's exit or release from a hospital to the patient's residence following any inpatient stay;

3. "Hospital" means a facility licensed pursuant to the provisions of Section 1-701 et seq. of Title 63 of the Oklahoma Statutes;

4. "Lay caregiver" means any individual eighteen (18) years of age or older, including next of kin, duly designated as a lay caregiver pursuant to the provisions of this act who provides aftercare assistance to a patient in the patient's residence; and

5. "Residence" means a dwelling considered by a patient to be his or her home, not including any hospital as defined by Section 1-701 et seq. of Title 63 of the Oklahoma Statutes, nursing home or group home as defined by the Long-Term Care Reform and Accountability Act of 2001, or assisted living facility as defined by the Continuum of Care and Assisted Living Act.

Added by Laws 2014, c. 253, § 1, eff. Nov. 1, 2014.

§63-3113. Designation of lay caregivers by hospital patients.

A. Hospitals shall provide each patient or the patient's legal guardian with an opportunity to designate one lay caregiver following the patient's admission into a hospital and prior to the patient's discharge to the patient's residence:

1. In the event the patient is unconscious or otherwise incapacitated upon admission to the hospital, the hospital shall provide the patient's legal guardian with an opportunity to designate a lay caregiver following the patient's recovery of consciousness or capacity, so long as the designation or lack of a

designation does not interfere with, delay or otherwise affect the medical care provided to the patient.

2. In the event the patient or the patient's legal guardian declines to designate a lay caregiver under this act, the hospital shall promptly document such in the patient's medical record, and the hospital shall be deemed to comply with the provisions of this act.

3. In the event that the patient or the patient's legal guardian designates an individual as a lay caregiver under this act, the hospital shall promptly request the written consent of the patient or the patient's legal guardian to release medical information to the patient's designated lay caregiver pursuant to the hospital's established procedures for releasing personal health information and in compliance with applicable state and federal law.

4. If the patient or the patient's legal guardian declines to consent to the release of medical information to the patient's designated lay caregiver, the hospital is not required to provide notice to the lay caregiver pursuant to the provisions of Section 3 of this act.

5. The hospital shall record the patient's designation of a lay caregiver, the relationship of the lay caregiver to the patient, and the name, telephone number, and physical address of the patient's designated lay caregiver in the patient's medical record.

B. A patient may elect to change his or her designated lay caregiver in the event that the lay caregiver becomes incapacitated.

C. Designation of a lay caregiver by a patient or a patient's legal guardian pursuant to the provisions of this act does not obligate any individual to perform any aftercare tasks for the patient.

D. This section shall not be construed so as to require a patient or a patient's legal guardian to designate any individual as a lay caregiver as defined by this act.

Added by Laws 2014, c. 253, § 2, eff. Nov. 1, 2014.

§63-3114. Notification by hospital to lay caregiver.

If a patient has designated a lay caregiver, a hospital shall notify the patient's designated lay caregiver of the patient's discharge to the patient's residence or transfer to another licensed facility as soon as practicable. In the event the hospital is unable to contact the designated lay caregiver, the lack of contact shall not interfere with, delay or otherwise affect the medical care provided to the patient, or an appropriate discharge of the patient.

Added by Laws 2014, c. 253, § 3, eff. Nov. 1, 2014.

§63-3115. Consultation with lay caregiver by hospital - Discharge plan.

As soon as practicable, the hospital shall attempt to consult with the designated lay caregiver to prepare him or her for aftercare and issue a discharge plan describing a patient's aftercare needs. In the event the hospital is unable to contact the designated lay caregiver, the lack of contact shall not interfere with, delay or otherwise affect an appropriate discharge of the patient.
Added by Laws 2014, c. 253, § 4, eff. Nov. 1, 2014.

§63-3116. Construction of act.

A. Nothing in this act shall be construed to interfere with the rights of a person legally authorized to make health care decisions as defined in paragraph 4 of Section 3090.2 of Title 63 of the Oklahoma Statutes.

B. Nothing in this act shall be construed to create a private right of action against a hospital, hospital employee, a duly authorized agent of the hospital, or otherwise supersede or replace existing rights or remedies under any other general or special law.
Added by Laws 2014, c. 253, § 5, eff. Nov. 1, 2014.

§63-3117. Impact on state or federal program funding.

No state or federal dollars shall be used for payment to any lay caregiver as defined in this act after discharge from a hospital. No state or federal program funding shall be impacted by this act.
Added by Laws 2014, c. 253, § 6, eff. Nov. 1, 2014.

§63-3118. Verification of compliance.

The State Board of Health shall request, in hospital license and renewal applications submitted pursuant to Sections 1-703 and 1-704 of Title 63 of the Oklahoma Statutes, verification of compliance with the provisions of Sections 3112 through 3117 of Title 63 of the Oklahoma Statutes.
Added by Laws 2018, c. 176, § 1, eff. Nov. 1, 2018.

§63-3121. Short title.

Sections 1 through 3 of this act shall be known and may be cited as the "Uniform Determination of Death Act".
Added by Laws 1986, c. 262, § 1.

§63-3122. Declaration of death.

An individual who has sustained either:

1. irreversible cessation of circulatory and respiratory functions, or

2. irreversible cessation of all functions of the entire brain, including the brain stem,

is dead. A determination of death must be made in accordance with accepted medical standards; provided however all reasonable attempts

to restore spontaneous circulatory or respiratory functions shall first be made, prior to such declaration.
Added by Laws 1986, c. 262, § 2.

§63-3123. Application and construction.

The Uniform Determination of Death Act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting it.

This act does not concern itself with living wills, death with dignity, euthanasia, rules on death certificates, maintaining life support beyond brain death in cases of pregnant women or of organ donors, and protection for the dead body.
Added by Laws 1986, c. 262, § 3.

§63-3131.1. Short title.

This act shall be known and may be cited as the "Oklahoma Do-Not-Resuscitate Act".
Added by Laws 1997, c. 327, § 1, eff. Nov. 1, 1997.

§63-3131.2. Legislative intent.

It is the intention of the Legislature to recognize that the existence of do-not-resuscitate identification or consent correctly expresses the will of any person who bears it and that foreign courts recognize this expression and give full faith and credit to do-not-resuscitate identification or consent.
Added by Laws 1997, c. 327, § 2, eff. Nov. 1, 1997.

§63-3131.3. Definitions.

As used in the Oklahoma Do-Not-Resuscitate Act:

1. "Attending physician" means a licensed physician who has primary responsibility for treatment or care of the person. If more than one physician shares that responsibility, any of those physicians may act as the attending physician under the provisions of the Oklahoma Do-Not-Resuscitate Act;

2. "Cardiopulmonary resuscitation" means those measures used to restore or support cardiac or respiratory function in the event of a cardiac or respiratory arrest;

3. "Do-not-resuscitate identification" means a standardized identification necklace, bracelet, or card as set forth in the Oklahoma Do-Not-Resuscitate Act that signifies that a do-not-resuscitate consent or order has been executed for the possessor;

4. "Do-not-resuscitate order" means an order issued by a licensed physician that cardiopulmonary resuscitation should not be administered to a particular person;

5. "Emergency medical services personnel" means firefighters, law enforcement officers, emergency medical technicians, paramedics,

or other emergency services personnel, providers, or entities, acting within the usual course of their professions;

6. "Health care decision" means a decision to give, withhold, or withdraw informed consent to any type of health care including, but not limited to, medical and surgical treatments including life-prolonging interventions, nursing care, hospitalization, treatment in a nursing home or other extended care facility, home health care, and the gift or donation of a body organ or tissue;

7. "Health care agency" means an agency established to administer or provide health care services and which is commonly known by a wide variety of titles including, but not limited to, hospitals, medical centers, ambulatory health care facilities, physicians' offices and clinics, extended care facilities operated in connection with hospitals, nursing homes, extended care facilities operated in connection with rehabilitation centers, home care agencies and hospices;

8. "Health care provider" means any physician, dentist, nurse, paramedic, psychologist, or other person providing medical, dental, nursing, psychological, hospice, or other health care services of any kind;

9. "Incapacity" means the inability, because of physical or mental impairment, to appreciate the nature and implications of a health care decision, to make an informed choice regarding the alternatives presented, and to communicate that choice in an unambiguous manner; and

10. "Representative" means an attorney-in-fact for health care decisions acting pursuant to the Uniform Durable Power of Attorney Act, a health care proxy acting pursuant to the Oklahoma Rights of the Terminally Ill or Persistently Unconscious Act, or a guardian of the person appointed under the Oklahoma Guardianship and Conservatorship Act.

Added by Laws 1997, c. 327, § 3, eff. Nov. 1, 1997.

§63-3131.4. Health care presumption and exceptions - Health care agencies not required to provide certain treatment, facilities or services.

A. Every person shall be presumed to consent to the administration of cardiopulmonary resuscitation in the event of cardiac or respiratory arrest, unless one or more of the following conditions, of which the health care provider has actual knowledge, apply:

1. The person has notified such person's attending physician that the person does not consent to the administration of cardiopulmonary resuscitation in the event of cardiac or respiratory arrest and that notification has been entered in the patient's medical records;

2. The parent or guardian of a minor child, after consultation with the minor child's attending physician, has notified the minor child's attending physician that the parent or guardian does not consent to the administration of cardiopulmonary resuscitation in the event of the minor child's cardiac or respiratory arrest, and that the minor child, if capable of doing so and possessing sufficient understanding and appreciation of the nature and consequences of the treatment decision despite the minor child's chronological age, has not objected to this decision of the parent or guardian, and such notification has been entered in the minor child's medical records; provided, medically indicated treatment may not be withheld from a disabled infant with life-threatening conditions to the extent that such medically indicated treatment is required by federal law or regulations as a condition for the receipt of federally funded grants to this state for child abuse and neglect prevention and treatment programs;

3. An incapacitated person's representative has notified the incapacitated person's attending physician that the representative, based on the known wishes of the incapacitated person, does not consent to the administration of cardiopulmonary resuscitation in the event of the incapacitated person's cardiac or respiratory arrest and that notification has been entered in the patient's medical records;

4. An attending physician of an incapacitated person without a representative knows by clear and convincing evidence that the incapacitated person, when competent, decided on the basis of information sufficient to constitute informed consent that the person would not have consented to the administration of cardiopulmonary resuscitation in the event of cardiac or respiratory arrest. Clear and convincing evidence for this purpose shall include oral, written, or other acts of communication between the patient, when competent, and family members, health care providers, or others close to the patient with knowledge of the patient's personal desires;

5. A do-not-resuscitate consent form in accordance with the provisions of the Oklahoma Do-Not-Resuscitate Act has been executed for that person; or

6. An executed advance directive for health care, or other document recognized by the Oklahoma Rights of the Terminally Ill or Persistently Unconscious Act, directing that life-sustaining treatment not be performed in the event of cardiac or respiratory arrest, is in effect for that person, pursuant to the provisions of paragraph 1 of Section 3101.3 or Section 3101.14 of this title.

B. Health care agencies shall maintain written policies and procedures with respect to do-not-resuscitate orders, do-not-resuscitate consent forms, and certifications of physician. Such

written policies and procedures shall ensure the following rights to all persons under the care of health care agencies:

1. All decisions with respect to the administration of cardiopulmonary resuscitation shall be made by the patient unless it is appropriate under this section for the patient's representative, as defined by Section 3131.3 of this title, to do so. The reason the representative, rather than the patient, has made a decision shall be documented in the patient's medical record.

2. a. No decision by the patient's representative shall be made until the representative has been instructed in writing by the patient's attending physician that such representative is deciding what the incapacitated person would have wanted if the incapacitated person could speak for himself or herself. In addition, the attending physician shall encourage consultation among all reasonably available representatives, family members, and persons close to the incapacitated person to the extent feasible in the circumstances of the case.

   b. Whenever possible, the attending physician shall explain to the representative and family members the nature and consequences of the decision to be made. Evidence that this explanation was provided shall be documented in the medical records of the incapacitated person.

3. Health care agencies shall provide ongoing education to patients, health care providers, and the community on issues concerning use of the do-not-resuscitate consent form.

C. Nothing in the Oklahoma Do-Not-Resuscitate Act shall require:

1. A health care agency to institute or maintain the ability to provide cardiopulmonary resuscitation or to expand its existing equipment, facilities, or personnel to provide cardiopulmonary resuscitation; provided, if such health care agency does not provide cardiopulmonary resuscitation, this policy shall be communicated in writing to the person or representative prior to the person coming under the care of the health care agency; and

2. A physician, health care provider, or health care agency to begin or continue the administration of cardiopulmonary resuscitation when, in reasonable medical judgment, it would not prevent the imminent death of the patient.

Added by Laws 1997, c. 327, § 4, eff. Nov. 1, 1997. Amended by Laws 1998, c. 164, § 2, emerg. eff. April 28, 1998; Laws 1999, c. 335, § 1, eff. Nov. 1, 1999.

§63-3131.5. Consent form.

A. For persons under the care of a health care agency, a do-not-resuscitate order shall, if issued, be in accordance with the policies and procedures of the health care agency as long as not in conflict with the provisions of the Oklahoma Do-Not-Resuscitate Act.

B. The do-not-resuscitate consent form shall be in substantially the following form:

FRONT PAGE

OKLAHOMA DO-NOT-RESUSCITATE (DNR) CONSENT FORM

I, _____, request limited health care as described in this document. If my heart stops beating or if I stop breathing, no medical procedure to restore breathing or heart function will be instituted by any health care provider including, but not limited to, emergency medical services (EMS) personnel.

I understand that this decision will not prevent me from receiving other health care such as the Heimlich maneuver or oxygen and other comfort care measures.

I understand that I may revoke this consent at any time in one of the following ways:

1. If I am under the care of a health care agency, by making an oral, written, or other act of communication to a physician or other health care provider of a health care agency;

2. If I am not under the care of a health care agency, by destroying my do-not-resuscitate form, removing all do-not-resuscitate identification from my person, and notifying my attending physician of the revocation;

3. If I am incapacitated and under the care of a health care agency, my representative may revoke the do-not-resuscitate consent by written notification to a physician or other health care provider of the health care agency or by oral notification to my attending physician; or

4. If I am incapacitated and not under the care of a health care agency, my representative may revoke the do-not-resuscitate consent by destroying the do-not-resuscitate form, removing all do-not-resuscitate identification from my person, and notifying my attending physician of the revocation.

I give permission for this information to be given to EMS personnel, doctors, nurses, and other health care providers. I hereby state that I am making an informed decision and agree to a do-not-resuscitate order.

_____ OR _____

Signature of Person

Signature of Representative (Limited to an attorney-in-fact for health care decisions acting under the Durable Power of Attorney Act, a health care proxy acting under the Oklahoma Advance Directive Act or a guardian of

the person appointed under the Oklahoma Guardianship and Conservatorship Act.) This DNR consent form was signed in my presence.

_____	_____	_____
Date	Signature of Witness	Address
	_____	_____
	Signature of Witness	Address

BACK OF PAGE

CERTIFICATION OF PHYSICIAN

(This form is to be used by an attending physician only to certify that an incapacitated person without a representative would not have consented to the administration of cardiopulmonary resuscitation in the event of cardiac or respiratory arrest. An attending physician of an incapacitated person without a representative must know by clear and convincing evidence that the incapacitated person, when competent, decided on the basis of information sufficient to constitute informed consent that such person would not have consented to the administration of cardiopulmonary resuscitation in the event of cardiac or respiratory arrest. Clear and convincing evidence for this purpose shall include oral, written, or other acts of communication between the patient, when competent, and family members, health care providers, or others close to the patient with knowledge of the patient's desires.)

I hereby certify, based on clear and convincing evidence presented to me, that I believe that _____
Name of Incapacitated Person
would not have consented to the administration of cardiopulmonary resuscitation in the event of cardiac or respiratory arrest. Therefore, in the event of cardiac or respiratory arrest, no chest compressions, artificial ventilation, intubations, defibrillation, or emergency cardiac medications are to be initiated.

_____	_____
Physician's Signature/Date	Physician's Name (PRINT)

_____
Physician's Address/Phone

C. Witnesses must be individuals who are eighteen (18) years of age or older who are not legatees, devisees or heirs at law.

D. It is the intention of the Legislature that the preferred, but not required, do-not-resuscitate form in Oklahoma shall be the form set out in subsection B of this section.

Added by Laws 1997, c. 327, § 5, eff. Nov. 1, 1997. Amended by Laws 2010, c. 139, § 1, eff. Nov. 1, 2010.

§63-3131.6. Compliance required.

Health care providers shall, when presented with the original or copy of any do-not-resuscitate consent form created as provided under Section 5 of this act, take appropriate actions to comply with the do-not-resuscitate request.
Added by Laws 1997, c. 327, § 6, eff. Nov. 1, 1997.

§63-3131.7. Revocation of consent.

A. At any time, a person under the care of a health care agency may revoke such person's do-not-resuscitate consent by making an oral, written, or other act of communication to a physician or other health care provider of a health care agency.

B. At any time, a person not under the care of a health care agency may revoke such person's do-not-resuscitate consent by destroying the form and removing all do-not-resuscitate identification from the person. The person is responsible for notifying such person's attending physician of the revocation.

C. At any time, the parent or guardian of a minor child, or the minor child, if capable of doing so and possessing sufficient understanding and appreciation of the nature and consequences of the treatment decision despite the minor child's chronological age, may revoke the do-not-resuscitate consent for the minor child by making an oral, written, or other act of communication to a physician or other health care provider. The parent or guardian of the minor child is responsible for notifying the minor child's attending physician of the revocation.

D. At any time, a representative may revoke the do-not-resuscitate consent for an incapacitated person under the care of a health care agency by notifying a physician or other health care provider of the health care agency of the revocation of consent in writing or by orally notifying the attending physician.

E. At any time, a representative may revoke the do-not-resuscitate consent for an incapacitated person not under the care of a health care agency by destroying the form and removing all do-not-resuscitate identification from the person. The representative is responsible for notifying the person's attending physician of the revocation.

F. The attending physician who is informed of or provided with a revocation of consent to a do-not-resuscitate order pursuant to this section shall immediately cancel the order if the person is under the care of a health care agency and shall notify the health care providers of the health care agency responsible for the person's care of the revocation and cancellation. Any professional staff of the health care agency who is informed of or provided with a revocation of consent for a do-not-resuscitate order pursuant to this section shall immediately notify the attending physician of the revocation.

Added by Laws 1997, c. 327, § 7, eff. Nov. 1, 1997. Amended by Laws 1998, c. 164, § 3, emerg. eff. April 28, 1998.

§63-3131.8. Protection from criminal prosecution, civil liability and professional discipline.

A. No health care provider, health care agency, or individual employed by, acting as the agent of, or under contract with any such health care provider, health care agency, or individual shall be subject to criminal prosecution, civil liability, or discipline for unprofessional conduct for carrying out in good faith a do-not-resuscitate consent or order authorized by the Oklahoma Do-Not-Resuscitate Act on behalf of a person as instructed by the person or representative or for those actions taken in compliance with the standards and procedures set forth in the Oklahoma Do-Not-Resuscitate Act.

B. No health care provider, health care agency, individual employed by, acting as agent of, or under contract with any such health care provider, health care agency or individual or other individual who witnesses a cardiac or respiratory arrest shall be subject to criminal prosecution, civil liability or discipline for unprofessional conduct for providing cardiopulmonary resuscitation to a person for whom a do-not-resuscitate consent or order has been issued; provided, that such individual:

1. Reasonably and in good faith was unaware of the issuance of a do-not-resuscitate consent or order; or

2. Reasonably and in good faith believed that consent to a do-not-resuscitate order had been revoked or canceled.

C. Any physician who refuses to issue a do-not-resuscitate order at a person's request or any health care provider or health care agency who refuses to comply with a do-not-resuscitate consent or order entered pursuant to the Oklahoma Do-Not-Resuscitate Act shall take reasonable steps to advise the person or representative of the person promptly that the physician is unwilling to effectuate the consent or order and shall as promptly as practicable take all reasonable steps to arrange care of the person by another physician or health care provider.

Added by Laws 1997, c. 327, § 8, eff. Nov. 1, 1997.

§63-3131.9. Certain conditions for insurance prohibited.

A. No policy of life insurance shall be impaired, modified, or invalidated in any manner by the issuance of a do-not-resuscitate consent or order, notwithstanding any term of the policy to the contrary.

B. A person may not prohibit or require the issuance of a do-not-resuscitate consent or order for an individual as a condition of insurance or for receiving health care services.

Added by Laws 1997, c. 327, § 9, eff. Nov. 1, 1997.

§63-3131.10. Consent or order to accompany person.

If a person with a do-not-resuscitate consent or order is transferred from such person's home to the care of a health care agency or from the care of one health care agency to another health care agency, the existence of a do-not-resuscitate consent or order shall be communicated to the receiving health care agency prior to the transfer, and a copy of the written do-not-resuscitate consent or order shall accompany the person to the health care agency receiving the person and shall remain effective unless revoked as provided in Section 7 of this act.

Added by Laws 1997, c. 327, § 10, eff. Nov. 1, 1997.

§63-3131.11. Effect of act.

A. Except as otherwise provided in the Oklahoma Do-Not-Resuscitate Act, a person's right to receive and a health care provider's responsibility to administer cardiopulmonary resuscitation shall not be impaired. Nothing in the Oklahoma Do-Not-Resuscitate Act shall impair or supersede a person's right to choose to have cardiopulmonary resuscitation withheld or provided or a health care provider's responsibility to withhold or provide cardiopulmonary resuscitation as provided by law. In this respect, the provisions of the Oklahoma Do-Not-Resuscitate Act are cumulative.

B. In the event of cardiac or respiratory arrest, a patient's attending physician or other health care provider must comply with such patient's request for cardiopulmonary resuscitation whether requested by such patient or such patient's representative, or required by such patient's advance directive.

C. Nothing in the Oklahoma Do-Not-Resuscitate Act shall be construed to preclude a court of competent jurisdiction from approving the issuance of a do-not-resuscitate order under circumstances other than those under which such an order may be issued pursuant to the provisions of the Oklahoma Do-Not-Resuscitate Act.

D. The provisions of the Oklahoma Do-Not-Resuscitate Act shall not affect the validity of do-not-resuscitate consents or orders that were executed prior to November 1, 1997.

Added by Laws 1997, c. 327, § 11, eff. Nov. 1, 1997. Amended by Laws 1998, c. 164, § 4, emerg. eff. April 28, 1998.

§63-3131.12. Duties of the Department of Human Services.

A. The Director of the Department of Human Services, no later than one (1) year after the effective date of this act, shall implement the statewide distribution of do-not-resuscitate forms which comply with Section 5 of this act.

B. Do-not-resuscitate identification as set forth in the Oklahoma Do-Not-Resuscitate Act shall consist of either a medical condition bracelet, necklace, or card with the inscription of the patient's name, date of birth in numerical form, and "Oklahoma do-not-resuscitate" on it. No other identification or wording shall be deemed to comply with the provisions of the Oklahoma Do-Not-Resuscitate Act. This identification shall be issued only upon presentation of a properly executed do-not-resuscitate consent form as set forth in Section 5 of this act.

C. The Director of the Department of Human Services, no later than one (1) year after the effective date of this act, shall be responsible for establishing a system for distribution of the do-not-resuscitate forms and identification bracelets, necklaces, or cards.

D. The legal services developer from the Aging Services Division of the Department of Human Services, no later than one (1) year after the effective date of this act, shall develop and implement a statewide educational effort to inform the public of their right to accept or refuse cardiopulmonary resuscitation and to request their physician to write a do-not-resuscitate order for them, and to urge health care agencies within this state to utilize a do-not-resuscitate form which complies with Section 5 of this act.
Added by Laws 1997, c. 327, § 12, eff. Nov. 1, 1997.

§63-3131.13. Construction of act.

The withholding of cardiopulmonary resuscitation from a person in accordance with the provisions of the Oklahoma Do-Not-Resuscitate Act shall not, for any purpose, constitute suicide or homicide. The withholding of cardiopulmonary resuscitation from a person in accordance with the provisions of the Oklahoma Do-Not-Resuscitate Act, however, shall not relieve any individual of responsibility for any civil or criminal acts that may have caused the person's condition. Nothing in the Oklahoma Do-Not-Resuscitate Act shall be construed to legalize, condone, authorize, or approve mercy killing or assisted suicide.
Added by Laws 1997, c. 327, § 13, eff. Nov. 1, 1997.

§63-3131.14. Application of act.

The provisions of the Oklahoma Do-Not-Resuscitate Act apply to all persons regardless of whether or not they have completed an advance directive for health care, provided that the provisions of the Oklahoma Do-Not-Resuscitate Act may not be construed to authorize issuance of a do-not-resuscitate order in violation of a currently valid advance directive for health care.
Added by Laws 1997, c. 327, § 14, eff. Nov. 1, 1997.

§63-3141.1. Short title - Legislative intent.

A. Sections 1 through 8 of this act shall be known and may be cited as the "Assisted Suicide Prevention Act".

B. It is the intent of the Oklahoma Legislature to protect vulnerable persons from suicide, to reduce the cost to taxpayers of enforcing the assisted-suicide laws by promoting civil enforcement and providing for reimbursement of attorney fees by those found to be violating the law.

Added by Laws 1998, c. 194, § 1, eff. Nov. 1, 1998.

§63-3141.2. Definitions.

As used in the Assisted Suicide Prevention Act:

1. "Licensed health care professional" means a physician and surgeon, podiatrist, osteopath, osteopathic physician and surgeon, physician assistant, nurse, dentist, or pharmacist; and

2. "Suicide" means the act or instance of intentionally taking one's own life.

Added by Laws 1998, c. 194, § 2, eff. Nov. 1, 1998.

§63-3141.3. Violations.

A person violates the Assisted Suicide Prevention Act when the person, with the purpose of assisting another person to commit or to attempt to commit suicide, knowingly either:

1. Provides the physical means by which another person commits or attempts to commit suicide; or

2. Participates in a physical act by which another person commits or attempts to commit suicide.

Added by Laws 1998, c. 194, § 3, eff. Nov. 1, 1998.

§63-3141.4. Acts not constituting violations.

A. A licensed health care professional who administers, prescribes, or dispenses medications or procedures for the purpose of alleviating pain or discomfort, even if their use may increase the risk of death, shall not be deemed to have violated Section 3 of this act or Section 813 or 814 of Title 21 of the Oklahoma Statutes so long as such medications or procedures are not also furnished for the purpose of causing, or the purpose of assisting in causing, death for any reason.

B. A licensed health care professional who withholds or withdraws a medically administered, life-sustaining procedure does not violate Section 3 of this act or Sections 813 or 814 of Title 21 of the Oklahoma Statutes.

C. This section shall not be construed to affect the duty of care or the legal requirements concerning acts or omissions under subsections A or B of this section.

Added by Laws 1998, c. 194, § 4, eff. Nov. 1, 1998.

§63-3141.5. Injunctions - Persons who may bring.

A cause of action for injunctive relief may be maintained against any person who is reasonably believed to be about to violate, who is in the course of violating, or who has violated Section 3 of this act by any person who is:

1. The spouse, parent, child, or sibling of the person who would commit suicide;

2. Entitled to inherit from the person who would commit suicide;

3. A current or former health care provider of the person who would commit suicide;

4. A public official with appropriate jurisdiction to prosecute or enforce the laws of this state;

5. A guardian of the person who would commit suicide;

6. The Department of Human Services; or

7. An attorney-in-fact of the person who would commit suicide.

Such an injunction shall legally prevent the person from assisting any suicide in this state regardless of who is being assisted.
Added by Laws 1998, c. 194, § 5, eff. Nov. 1, 1998.

§63-3141.6. Actions for damages - Persons who may bring.

Any person given standing by paragraph 1 or 2 of Section 5 of this act, or the person who would have committed suicide, in the case of an attempt, may maintain a cause of action against any person who violates or attempts to violate Section 3 of this act for compensatory damages and punitive damages. Any person given standing by paragraphs 3 through 7 of Section 5 of this act may maintain a cause of action against any person who violates or attempts to violate Section 3 of this act for punitive damages. An action under this section may be brought whether or not the plaintiff had prior knowledge of the violation or attempt.
Added by Laws 1998, c. 194, § 6, eff. Nov. 1, 1998.

§63-3141.7. Attorney fees.

In any action or proceeding brought pursuant to Section 5 or 6 of this act, the court shall allow the prevailing plaintiff a reasonable attorney fee as part of its costs. If the court determines that the action or proceeding was brought frivolously or in bad faith, the court shall allow a prevailing defendant a reasonable attorney fee as part of its costs.
Added by Laws 1998, c. 194, § 7, eff. Nov. 1, 1998.

§63-3141.8. Revocation or suspension of license or certificate.

The licensing agency which issued a license or certification to a licensed health care professional who assists in a suicide in violation of Section 3 of this act shall revoke or suspend the license or certificate of that person upon receipt of:

1. A copy of the record of criminal conviction or plea of guilty for a felony in violation of Section 813, 814 or 815 of Title 21 of the Oklahoma Statutes;

2. A copy of the record of a judgment of contempt of court for violating an injunction issued under Section 5 of this act; or

3. A copy of the record of a judgment assessing damages under Section 6 of this act.

Added by Laws 1998, c. 194, § 8, eff. Nov. 1, 1998.

§63-3151. Suicide data collection system – Confidentiality of data - Penalties.

A. The Legislature hereby directs the State Department of Health to develop a state suicide data collection system to provide reliable data about attempted suicides in this state. In developing the system the Department shall:

1. Include information on the incidence of suicide attempts;

2. Include demographic information on persons who attempt suicide; and

3. Explore prevention strategies for reducing the number of attempted suicides and suicides.

B. As used in this section:

1. "Attempted suicide" means a voluntary and intentional injury to one's own body with the goal of ending one's own life;

2. "E-codes" are external cause of injury codes contained in the International Classification of Diseases – 9th Revision; and

3. "Suicide" means a voluntary and intentional taking of one's own life;

C. The State Board of Health shall, if funds are available, establish a system for collecting information concerning attempted suicides among persons who were hospitalized or who were treated and released. In establishing the system, the Board may require hospitals, and other related institutions, as defined in Section 1-701 of Title 63 of the Oklahoma Statutes, to include E-codes on all patient discharge data or, if necessary, to complete and submit a Report of Suicide Attempt form to be made available by the State Department of Health.

D. The system shall be implemented statewide.

E. Individual forms, computer tapes or other forms of data collected pursuant to this section shall be confidential and shall not be public records as defined in the Oklahoma Open Records Act.

F. The confidentiality of identifying information is to be protected, and the pertinent statutes and rules of the State of Oklahoma and the regulations of the federal government relative to confidentiality shall apply.

G. Identifying information shall not be disclosed and shall not be used for any purpose except statistical reporting and data analysis.

H. Nothing in this section shall prohibit the publishing of statistical compilations relating to suicide attempts which do not in any way identify individual cases or individual sources of information.

I. 1. A violation of the provisions of this section by an employee of the Department shall be grounds for termination of employment.

2. Any person who violates the provisions of this section shall also be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of One Thousand Dollars ($1,000.00) or imprisonment in the county jail for up to one (1) year, or by both such fine and imprisonment.

J. The State Board of Health is authorized to promulgate rules to carry out the provisions of this section.

Added by Laws 2001, c. 168, § 6, emerg. eff. May 2, 2001.

§63-3160. Short title - Medical Treatment Laws Information Act.

This act shall be known and may be cited as the "Medical Treatment Laws Information Act".

Added by Laws 2014, c. 82, § 1, eff. Nov. 1, 2014.

§63-3161. Definitions.

As used in the Medical Treatment Laws Information Act:

1. "Associated with the inpatient health care services entity" means, with regard to a particular inpatient health care services entity, that the health care provider is an employee or agent of the entity, that the health care provider has privileges to provide health care services to patients in the entity, or that the health care provider in fact provides health care services to patients in the entity. For purposes of this definition, provision of health care services to patients in the entity shall be deemed to include provision of health care services to patients in an emergency room operated by the entity, regardless of whether those patients are admitted as inpatients;

2. "Health care provider" means a person who is licensed, certified, or otherwise authorized by the laws of this state as a physician, physician assistant, certified nurse practitioner, advanced practice registered nurse (including one with a certified specialty), registered nurse, or licensed practical nurse, but does not include a nurse midwife;

3. "Health care services" means any services provided by a health care provider, or by an individual working for or under the supervision of a health care provider, that relate to the diagnosis, assessment, prevention, treatment or care of any human illness, disease, injury or condition;

4. "Inpatient health care services entities" means those hospitals defined in paragraphs 2, 3 and 5 of Section 1-701 of Title

63 of the Oklahoma Statutes, a nursing facility as defined in paragraph 10 of Section 1-1902 of Title 63 of the Oklahoma Statutes, a specialized facility as defined in paragraph 11 of Section 1-1902 of Title 63 of the Oklahoma Statutes, and those long-term care facilities described in subparagraphs e and f of paragraph 1 of Section 1-1945 of Title 63 of the Oklahoma Statutes; and

5. "Other defined officials" means, with regard to a particular health care services entity, to the extent such officials exist, the members of the board of directors, the administrator or chief executive officer, and the general counsel, by whatever titles those serving these functions may be called.

Added by Laws 2014, c. 82, § 2, eff. Nov. 1, 2014.

§63-3162. Brochure and online presentation of rights and responsibilities for health care providers - Certification requirements.

A. The State Board of Medical Licensure and Supervision shall prepare, and from time to time amend, a brochure to inform health care providers of their responsibilities and rights under the specified sections of the Hydration and Nutrition for Incompetent Patients Act (Sections 3080.2 through 3080.5 of this title), the Nondiscrimination in Treatment Act (Sections 3090.2 and 3090.3 of this title), the Oklahoma Advance Directive Act (Section 3101.9 of this title), the Oklahoma Do-Not-Resuscitate Act (Section 3131.4 of this title) and the Assisted Suicide Prevention Act (Sections 3141.3 and 3141.4 of this title). The brochure shall include contact information for officials to whom alleged violations of those provisions may be reported. The Board shall prepare, from time to time revise, and make available on the Board's website an online presentation, which shall be a minimum of one (1) hour in length, consisting of training on the responsibilities and rights of health care providers covered by the current brochure. The Board shall provide for means to verify that a viewer indeed observed the full online presentation, such as a quiz on its content to be answered at the end of the presentation or other methods commonly employed in association with continuing medical education. The Board shall provide to each viewer who complies with such verification a dated certification that the viewer completed the online training. The Board shall make the current brochure and online presentation available on the Board's website and shall inform all Oklahoma inpatient health care services entities of their availability and how to access them online on the Board's website.

B. Inpatient health care services entities shall ensure that all health care providers and other defined officials associated with the inpatient health care services entity are provided with a copy of the current brochure and sign a certification that they have

read the brochure and are familiar with their responsibilities and rights as set forth therein:

1. Within fourteen (14) days of beginning employment with, of beginning service on the board of directors of, or of beginning to provide services to patients at the entity; and

2. At least once during each calendar year.

C. At least once during each consecutive two-calendar-year period all health care providers and the administrator or chief executive officer, by whatever title the person serving that function may be called, associated with an inpatient health care services entity shall observe the online presentation described in subsection A of this section. The time required for observation of this presentation shall count as part of, rather than being in addition to, continuing education otherwise required for licensed health care providers. Inpatient health care services entities shall ensure that all health care providers and other defined officials associated with the inpatient health care services entity provide the entity with a copy of each dated certification by the Board verifying that the provider or official observed the online presentation described in subsection A of this section in compliance with this requirement, and shall maintain such copies on file for a minimum of four (4) calendar years following the calendar year to which they apply. The files of such copies shall be subject to inspection under subsection B of Section 1-705, and Sections 1-829 and 1-1911 of this title.

D. The provisions of subsection B of this section shall be effective at the beginning of the second calendar month after the month in which the State Board of Medical Licensure and Supervision publishes the initial brochure required by this section on its website. The provisions of subsection C of this section shall be effective beginning with calendar year 2015.

E. The provisions of subsections B and C of this section shall apply to licensees of the State Board of Osteopathic Examiners and such licensees shall receive appropriate continuing education credits.

Added by Laws 2014, c. 82, § 3, eff. Nov. 1, 2014. Amended by Laws 2016, c. 111, § 1, emerg. eff. April 20, 2016.

§63-3163. Disclosure statement for patients and patients' families.

A. The State Board of Medical Licensure and Supervision shall prepare, and from time to time amend, a disclosure statement designed to inform patients and patients' families of their rights under the specified sections of the Hydration and Nutrition for Incompetent Patients Act (Sections 3080.2 through 3080.5 of Title 63 of the Oklahoma Statutes), the Nondiscrimination in Treatment Act (Sections 3090.2 and 3090.3 of Title 63 of the Oklahoma Statutes), the Oklahoma Advance Directive Act (Section 3101.9 of Title 63 of

the Oklahoma Statutes) and the Oklahoma Do-Not-Resuscitate Act (Section 3131.4 of Title 63 of the Oklahoma Statutes). The disclosure statement shall include contact information for officials to whom alleged violations of those provisions may be reported. The State Department of Health shall make the current disclosure statement available on the Department's website and shall inform the entities specified in subsection B of this section of the availability of the disclosure statement and how to obtain the disclosure statement.

B. Any entity to which the requirements of the federal Patient Self-Determination Act under 42 U.S.C., Section 1395cc(f) or 42 U.S.C., Section 1396a(w) apply shall, at the time of providing the written information required by 42 U.S.C., Section 1395cc(f)(1)(A)(i) or 42 U.S.C., Section 1396a(w)(1)(A)(i), include a copy of the disclosure statement described in subsection A of this section.

C. The provisions of subsection B of this section shall be effective thirty (30) days after the date on which the State Department of Health publishes the initial disclosure statement required by this section.

Added by Laws 2014, c. 82, § 4, eff. Nov. 1, 2014.

§63-3201. Short title.

This act shall be known and may be cited as the "University Hospitals Authority Act".

Added by Laws 1993, c. 330, § 1, eff. July 1, 1993.

§63-3202. Definitions.

As used in the University Hospitals Authority Act:

1. "University Hospitals" include the Oklahoma Memorial Hospital, which shall be renamed University Hospital; the Children's Hospital of Oklahoma; the Child Study Center; and the O'Donoghue Rehabilitation Institute;

2. "Authority" means the University Hospitals Authority;

3. "Department" means the Department of Human Services; and

4. "Commission" means the Commission for Human Services or the Oklahoma Public Welfare Commission.

Added by Laws 1993, c. 330, § 2, emerg. eff. June 8, 1993.

§63-3203. Purposes - Legislative findings - Continued subsidized indigent health care - Powers of Board of Regents of University of Oklahoma.

A. The purposes of the University Hospitals Authority Act are to provide for an effective and efficient administration, to ensure a dependable source of funding, and to effectuate the mission and purposes of the University Hospitals Authority. The mission and purposes of the University Hospitals are to serve as general

hospitals, to serve as teaching and training facilities for students enrolled at the University of Oklahoma, to serve as a site for conducting medical and biomedical research by faculty members of the University of Oklahoma Health Sciences Center and to provide care for the medically indigent. The University Hospitals shall maintain a close affiliation with the University of Oklahoma Health Sciences Center and shall coordinate their operations and activities in a cooperative manner. In addition, the University Hospitals Authority shall provide indigent and nonindigent patient care, as more fully described herein.

B. The Legislature finds that the needs of the citizens of this state and the needs of the University of Oklahoma Health Sciences Center will be best served if the University Hospitals are operated by a separate Authority charged with the mission of operating or leasing the operations of the teaching hospitals for the benefit of the colleges of the University of Oklahoma Health Sciences Center and providing care for the medically indigent.

C. The University Hospitals Authority, by receiving the assets and operating obligations, shall ensure that the costs of delivering medically indigent care continue to be subsidized in excess of the state reimbursement for the medically indigent, consistent with the teaching hospitals' past policy and performance and that of the University of Oklahoma Health Sciences Center. The Authority shall make or cause to be made every reasonable effort to continue the hospitals' historic commitment to the provision of uncompensated care and that the allocation and investment of resources shall be made with a view to maximizing the hospitals' long-term ability to provide uncompensated care, except as may be modified by changes in federal or state law. The University Hospitals Authority shall ensure that indigent care provided by the Oklahoma Medical Center during a fiscal year shall be equal to or exceed one hundred twenty percent (120%) of the annual appropriation to the University Hospitals Authority for indigent care. The level of indigent care provided shall be based on Medicare costs as determined by the most recent report filed by any operating entity of the University Hospitals with the federal Health Care Finance Administration.

D. As used in this section, "indigent care" means charity care, Medicaid contractual allowances, all debt arising from accounts for which there is no third-party coverage including services provided to the Department of Corrections and Department of Mental Health and Substance Abuse Services as otherwise required by law. For purposes of this subsection, third-party coverage shall not include Medicaid coverage.

E. The Board of Regents of the University of Oklahoma shall retain full power to govern the personnel, curriculum and facilities of the University of Oklahoma.

Added by Laws 1993, c. 330, § 3, emerg. eff. June 8, 1993. Amended by Laws 1995, c. 263, § 1; Laws 1997, c. 174, § 1, emerg. eff. May 8, 1997; Laws 2000, 1st Ex.Sess., c. 8, § 11, eff. July 1, 2000; Laws 2002, c. 384, § 3, emerg. eff. June 4, 2002.

§63-3204. University Hospitals - Transfer of jurisdiction, supervision, management and control.

A. Until July 1, 1993, the University Hospitals shall be under the jurisdiction, supervision, management and control of the Department of Human Services and the Commission for Human Services.

B. Effective July 1, 1993, the University Hospitals are hereby transferred from the Department of Human Services and the Commission for Human Services to the University Hospitals Authority.

C. The transfer shall include:

1. All powers, duties, responsibilities, properties, assets, fund balances, encumbrances, obligations, records, personnel and liabilities, including, but not limited to, liability for all University Hospital employees' sick leave, annual leave, holidays, unemployment benefits and workers' compensation benefits accruing to employees prior to July 1, 1993, which are attributable to the University Hospitals; provided, however, that any claims arising under the Governmental Tort Claims Act and filed prior to July 1, 1993, and from any other actions filed prior to July 1, 1993, shall remain the responsibility of the Department of Human Services and the Commission for Human Services. All claims arising prior to July 1, 1993 and for which no action has been filed shall be paid by the Risk Management Program;

2. The attorney employed by the Department of Human Services who provides legal representation for the University Hospitals Authority facilities. The Authority shall make such attorney available, at the request of the Department, for purposes of resolving and terminating any claims arising from alleged medical malpractice and other actions filed prior to July 1, 1993. The Authority and the Department of Human Services shall enter into an interagency agreement for the purpose of assisting the Department in resolving claims and other actions;

3. Children's Hospital of Oklahoma and all buildings and appurtenances located on land which is described as follows: Blocks B, 3, 4, 12 and 13, and the North 30 feet of Block 14; and Lots 6 through 15, Block 21, CULBERTSON HEIGHTS ADDITION less and except the West 7 feet of Lot 5 and all of Lots 6 through 19, and the East 5 feet of Lot 20 and the North 59.5 feet of Lots 21 through 26, and the North 59.5 feet of the West 49.5 feet of Lot 27, all in Block 13, CULBERTSON HEIGHTS ADDITION to the City of Oklahoma City, Oklahoma, and also less and except the West 106 feet of the vacated Northeast 12th Street abutting said Block 13; and a part of Block 20, CULBERTSON HEIGHTS ADDITION and a part of the alleys adjacent

thereto, and a part of the SW 1/4, Section 26, T12N, R3W, I.M., and a part of the SE 1/4, Sec. 27, T12N, R3W, I.M., Oklahoma County, Oklahoma, and a part of vacated Kelley Avenue adjacent thereto, more particularly described as follows: Commencing at the NE corner of Block 20, CULBERTSON HEIGHTS ADDITION, Oklahoma City, Oklahoma, thence S. 0 degrees 03' 34" E. and along the East line of said Block 20 and along the West Right-of-Way line of Stonewall Avenue a distance of 10 ft. to the point or place of beginning; thence continuing S. 0 degrees 03' 34" E. and along the East line of said Block 20 and along the West Right-of-Way line of Stonewall Avenue a distance of 341.27 ft., thence N. 89 degrees 54' 35" W. a distance of 520.10 ft., thence N. 0 degrees 11' 08" E. a distance of 18.0 ft.; thence N. 89 degrees 48' 52" W. a distance of 12.0 ft.; thence N. 0 degrees 11' 08" E. a distance of 6 ft.; thence N. 89 degrees 48' 52" W. a distance of 21.5 ft., thence N. 0 degrees 11' 08" E. a distance of 22.5 ft., thence N. 89 degrees 48' 52" W. a distance of 286.5 ft., thence N. 89 degrees 48' 52" W. a distance of 27.00 feet; thence N. 0 degrees 12' 03" E. a distance of 72.50 feet; thence N. 89 degrees 48' 51" W. a distance of 25.65 feet; thence N. 23 degrees 29' 12" W. a distance of 250.50 feet to a point on the South Right-of-Way line of N.E. 13th Street; thence S. 89 degrees 48' 51" E. and along the South Right-of-Way line of N.E. 13th Street a distance of 649.76 feet; to a point in the East line of said SE 1/4 of Section 27, T12N, R3W, thence S. 0 degrees 06' 23" W. along the East line of said Section 27, a distance of 10.0 ft., thence N. 89 degrees 33' 42" E. and parallel to and 10 ft., South of the North line of said Block 20 of said CULBERTSON HEIGHTS ADDITION a distance of 342.10 ft. to the point or place of beginning; and

4. a. Oklahoma Memorial Hospital and all buildings and appurtenances located on land which is described as follows: A part of the South Half of the Southeast Quarter of Section 27, T12N, R3W of the Indian Meridian AND a part of the North Half of the Northeast Quarter of Section 34, T12N, R3W, of the Indian Meridian, all in Oklahoma County, Oklahoma, more particularly described as follows: Beginning at the Southwest corner of Block 13, HOWE'S CAPITOL ADDITION; thence N. 0 degrees 10' 36" E. along the East line of Phillips Avenue a distance of 674.64 feet to a point on the South line of Northeast 13th Street; thence S. 89 degrees 48' 51" E. along the South line of said Northeast 13th Street a distance of 620.30 feet; thence S. 23 degrees 29' 12" E. a distance of 250.50 feet; thence S. 89 degrees 48' 51" E. a distance of 25.65 feet; thence S. 0 degrees 12' 03" W. a distance of 72.50 feet; thence S. 89 degrees 48' 51" E. a distance of 27.00 feet; thence S. 00 degrees 12' 03"

W. a distance of 443.57 feet; thence S. 89 degrees 43' 03" E. a distance of 32.95 feet; thence S. 00 degrees 14' 28" W. along the East line of a retaining wall a distance of 733.66 feet to a point on the South line of Block 1 of OAK PARK ADDITION; thence S. 89 degrees 52' 55" W. along the South line of Blocks 1 and 7 of OAK PARK ADDITION a distance of 810.11 feet to the Southwest corner of said Block 7; thence N. 00 degrees 10' 36" E. along the West line of said Block 7, OAK PARK ADDITION a distance of 213.87 feet; thence N. 89 degrees 49' 24" W. a distance of 3.40 feet; thence N. 00 degrees 10' 36" E. along the West line of Block 24, HOWE'S CAPITOL ADDITION a distance of 190.00 feet; thence S. 89 degrees 49' 24" E. a distance of 8.10 feet; thence N. 00 degrees 10' 36" E. along the West line of Block 18, HOWE'S CAPITOL ADDITION a distance of 405.00 feet to the Point of Beginning and containing 1,146,572 Square Feet or 26.32 Acres more or less;

b. That portion of the property described in subparagraph a known as the Research Building shall be transferred to the Authority, but shall be leased to the University of Oklahoma for a term of not less than forty (40) years from the date thereof; and

c. All of Blocks 1 and 2 of Culbertson Heights Addition, and all of Block 3 and Lots 3 through 20 and the North 50 feet of Lots 21 through 38 of Block 12, Oak Park Addition to the City of Oklahoma City, Oklahoma, including the encompassed and abutting portions of the vacated Northeast 11th Street, Park Place and Northeast 10th Street, and the abutting portion of Everest Avenue and the alley way in Block 12 of the said Oak Park Addition.

D. Properties to be retained by the Department of Human Services include:

1. The Service Center Building and land located on: The South 100 feet of Block 12 and all of Block 17, Oak Park Addition to the City of Oklahoma City, Oklahoma, including the encompassed or abutting portions of vacated Everest Avenue and Northeast 9th Street. (219,300 sq. ft., 5.03 acres); and

2. The Management Information Division Building and land located on: The West 7 feet of Lot 5 and all of Lots 6 through 19, and the East 5 feet of Lot 20 and the North 59.5 feet of Lots 21 through 26, and the North 59.5 feet of the West 49.5 feet of Lot 27, all in Block 13, Culbertson Heights Addition to the City of Oklahoma City, Oklahoma, and also including the West 106 feet of the vacated

Northeast 12th Street abutting said Block 13. (82,199 sq. ft., 1.89 acres).

E. Appropriate conveyances shall be executed to effectuate the transfers specified by subsections B, C and D of this section.
Added by Laws 1993, c. 330, § 4, emerg. eff. June 8, 1993.

§63-3205. University Hospitals - Certificate of Need - Operation and licensing - Service and receiving payments - Teaching and training.

A. The transfer of the University Hospitals from the Commission for Human Services and the Department of Human Services shall not require a Certificate of Need pursuant to the provisions of Sections 2651 through 2656.2 of Title 63 of the Oklahoma Statutes; provided, however, that any expansion or change to the University Hospitals requiring a Certificate of Need after such transfer shall be subject to the provisions of Sections 2651 through 2656.2 of Title 63 of the Oklahoma Statutes.

B. 1. University Hospitals shall be operated as general hospitals and shall be licensed by the State Commissioner of Health, and shall, as far as possible, meet the standards, requirements and essentials of the Joint Commission on Accreditation of Health Care Organizations, the American Medical Association's Council on Medical Education, the American Specialty Boards and the Association of American Medical Colleges.

2. The University Hospitals may provide services and receive payments therefor under Titles XVIII and XIX of the federal Social Security Act, and may participate in other federal medical programs.

3. University Hospitals shall be available as teaching and training hospitals for the colleges of the University of Oklahoma Health Sciences Center, for the College of Medicine of the University of Oklahoma, for other health and educational facilities and shall provide indigent patient care.
Added by Laws 1993, c. 330, § 5, eff. July 1, 1993.

§63-3206. Children's Hospital - General hospital and service institution for certain persons.

Children's Hospital of Oklahoma shall serve as a general hospital and service institution for persons under twenty-one (21) years of age and shall have the authority to extend transplant services to persons twenty-one (21) years or older.
Added by Laws 1993, c. 330, § 6, eff. July 1, 1993.

§63-3207. University Hospitals Authority - Creation - Powers and authority - Status - Membership - Terms of office - Qualifications - Removal of member - Vacancies - Compensation and expenses - Quorum - Other laws.

A. There is hereby created the University Hospitals Authority, an agency of the State of Oklahoma, a body corporate and politic, with powers of government and with the authority to exercise the rights, privileges and functions as specified in the University Hospitals Authority Act. The University Hospitals Authority is an agency of the State of Oklahoma covered by the Governmental Tort Claims Act.

B. The Authority shall consist of six (6) members as follows:

1. One member shall be appointed by the Governor, with the advice and consent of the Senate;

2. One member shall be appointed by the President Pro Tempore of the Senate;

3. One member shall be appointed by the Speaker of the House of Representatives;

4. One member shall be the Director for Human Services or the director of the successor organization responsible for Medicaid, or his or her designee;

5. One member shall be the Provost of the University of Oklahoma Health Sciences Center; and

6. The Chief Executive Officer of the University Hospitals Authority who shall be an ex officio, nonvoting member.

C. All members shall be appointed by June 1, 1993. Of the members of the Authority initially appointed, the member appointed by the President Pro Tempore of the Senate shall serve a term of one (1) year; the member appointed by the Speaker of the House of Representatives shall serve a term of two (2) years; and the member appointed by the Governor shall serve a term of three (3) years. Successors shall be appointed for terms of three (3) years.

D. Each member of the Authority, prior to appointment, shall be a resident of the state and a qualified elector.

E. Members shall be removable only for cause by the appointing authority. Any vacancy occurring on the Authority shall be filled by the original appointing authority.

F. The members of the Authority shall serve without compensation but may be reimbursed for all actual and necessary travel expenses incurred in performance of their duties in accordance with the provisions of the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

G. All members of the Authority and administrative personnel of the Authority shall be subject to the provisions of the Oklahoma Ethics Commission Act, Section 4200 et seq. of Title 74 of the Oklahoma Statutes.

H. A quorum of the Authority shall be three (3) voting members. Members shall elect a chair and vice chair for the Authority from among its members. The chair must be an appointed member of the Authority.

I. The Authority shall be subject to the Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes, and the Open Records Act, Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes, except as otherwise provided by this act. Any information submitted to or compiled by the Authority except for budgetary information related to appropriations or the appropriations process with respect to the marketing plans, financial statements, trade secrets, research concepts, methods or products, or any other proprietary information of the Authority, persons, firms, associations, partnerships, agencies, corporations, institutions of higher education, nonprofit research institutions or other entities shall be confidential, except to the extent that the person or entity which provided such information or which is the subject of such information consents to disclosure. Executive sessions may be held to discuss such materials if deemed necessary by the Authority. Added by Laws 1993, c. 330, § 7, emerg. eff. June 8, 1993. Amended by Laws 1994, c. 283, § 5, eff. Sept. 1, 1994; Laws 1997, c. 174, § 2, emerg. eff. May 8, 1997.

§63-3208. University Hospitals Authority - Powers and duties.

A. On and after June 1, 1993, and until July 1, 1993, in order to effectuate the transfer of the University Hospitals from the Commission for Human Services and the Department of Human Services to the University Hospitals Authority, the Authority shall have the powers and duties to:

1. Adopt bylaws and promulgate rules for the regulation of its affairs and the conduct of its business;

2. Adopt an official seal;

3. Maintain an office at the University Hospitals;

4. Make and enter into all contracts necessary or incidental to the performance of its duties and the execution of its powers pursuant to the University Hospitals Authority Act;

5. Appoint such officers, agents and employees, including but not limited to attorneys, as it deems necessary to implement the provisions of this subsection to prescribe their duties and to fix their compensation; and

6. Establish petty cash funds and provide for appropriate accounting procedures and controls.

B. On and after July 1, 1993, the Authority shall have the power and duty to:

1. Adopt bylaws and promulgate rules for the regulation of its affairs and the conduct of its business;

2. Adopt an official seal;

3. Maintain an office at the University Hospitals;

4. Sue and be sued, subject to the provisions of The Governmental Tort Claims Act;

5. Establish rates of payment for hospital and clinical services, which shall provide for exceptions and adjustments in cases where the recipients of services are unable to pay and for whom no third party source of payment is available, and to establish different rates of payment for indigent and nonindigent care;

6. Enter into cooperative agreements with the Board of Regents of the University of Oklahoma for educational programs, professional staffing, research and other medical activities;

7. Make and enter into all contracts necessary or incidental to the performance of its duties and the execution of its powers pursuant to the University Hospitals Authority Act;

8. Purchase or lease equipment, furniture, materials and supplies, and incur such other expenses as may be necessary to maintain and operate the hospitals or clinics, or to discharge its duties and responsibilities or to make any of its powers effective;

9. Acquire by purchase, lease, gift, or by any other manner, and to maintain, use and operate or to contract for the maintenance, use and operation of or lease of any and all property of any kind, real, personal, or mixed or any interest therein unless otherwise provided by the University Hospitals Authority Act;

10. Appoint such officers, agents and employees, including but not limited to attorneys, as it deems necessary to operate and maintain the University Hospitals and to prescribe their duties and to fix their compensation. The Authority shall employ and fix the duties and compensation of an administrator of the hospitals.

11. Accept grants from the United States of America, or from any corporation or agency created or designed by the United States of America, and, in connection with any such grant, to enter into such agreements as the United States of America or such corporation or agency may require;

12. Make and issue bonds and to pledge revenues of the Authority subject to the Oklahoma Bond Oversight and Reform Act. Nothing in the University Hospitals Authority Act shall authorize the issuance of any bonds of the Authority payable other than from revenues of the University Hospitals. Funds appropriated to the University Hospitals shall not be used for issuance of bonds. Authority revenue bonds issued under the provisions of this act shall not at any time be deemed to constitute a debt of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any political subdivision, but such bonds shall be payable solely from the funds herein provided. Such revenue bonds shall contain on the face thereof a statement to the effect that neither the state nor the Authority shall be obligated to pay the same or the interest thereon except from the revenues of the project or projects for which they are issued and that neither the faith and credit nor the taxing power of the state or any political subdivision thereof is pledged, or may hereafter be

pledged, to the payment of the principal of or the interest on such bonds. The maximum amount of outstanding bonds at any time shall not exceed Fifty Million Dollars ($50,000,000.00) unless a greater amount is expressly approved by the Legislature by a concurrent resolution adopted prior to commencing any action in anticipation of issuance of revenue bonds of the University Hospitals Authority for the greater amount;

13. Provide for complete financial audits on all accounts of the University Hospitals Authority and to authorize periodic audits by an independent external auditing agency. Such audits to be performed annually in a format approved by the State Auditor and Inspector and all such audits shall be submitted to the State Auditor and Inspector for review. Such audits shall be made in accordance with generally accepted auditing standards and government auditing standards. Financial statements shall be prepared in accordance with generally accepted accounting principals. In addition to said audits, the State Auditor and Inspector, whenever he deems it appropriate, and at least once each five (5) years, or upon receipt of a request to do so from the Governor, the Attorney General, the President Pro Tempore of the Senate, the Speaker of the House of Representatives or the Authority shall conduct a special audit of the Authority and the University Hospitals;

14. Engage in long-term planning for the operation and management of the University Hospitals;

15. Establish petty cash funds and provide for appropriate accounting procedures and controls;

16. Contract with national manufacturers and distributors of drugs and medical supplies when appropriate to carry out the purposes of this act;

17. Do all other things necessary and proper to implement the provisions of the University Hospitals Authority Act;

18. Waive, by such means as the Authority deems appropriate, the exemption from federal income taxation of interest on the Authority's bonds provided by the Internal Revenue Code of 1986, as amended, or any other federal statute providing a similar exemption; and

19. Arrange for guaranties or insurance of its bonds by the federal government or by any private insurer, and to pay any premiums therefor.

C. The University Hospitals Authority and the University Hospitals shall be subject to the Oklahoma State Finance Act, Section 34 et seq. of Title 62 of the Oklahoma Statutes.

D. The Authority shall prepare monthly a "budget vs. actual" report which shows by budget activity the monthly and year-to-date revenues and expenditures compared to budgeted revenues and expenditures. Such report shall be submitted to the Office of

Management and Enterprise Services and to the Directors of the House of Representatives Fiscal Division and the Senate Fiscal Division.

E. The Authority shall be subject to the professional risk management program provided for in Section 85.58A of Title 74 of the Oklahoma Statutes.

F. The Department of Human Services Institutional Maintenance and Construction Unit and the Architecture and Engineering Planning Unit should be given first priority to be vendor for the University Hospitals Authority for construction and remodeling projects which fall within their scope of services. The Authority may enter into contracts for construction and remodeling projects with another contractor only after compliance with all other applicable statutes and after making a specific finding that another contractor is more competitive.

G. The Authority shall continue to provide space, utilities and janitorial services to the Department of Human Services Institutional Maintenance and Construction Architecture and Engineering Planning Unit.

Added by Laws 1993, c. 330, § 8, emerg. eff. June 8, 1993. Amended by Laws 2012, c. 304, § 513.

§63-3209. Determination of criteria and standards for medicaid recipients and indigents - Medicaid eligibility office staff.

The Department of Human Services or the successor agency responsible for Medicaid shall continue to determine eligibility criteria and standards for Medicaid recipients and indigents and continue to staff a Medicaid eligibility office at the University Hospitals.

Added by Laws 1993, c. 330, § 9, eff. July 1, 1993.

§63-3210. University Hospitals - Authority - Agreements and undertakings.

A. Effective July 1, 1993, the University Hospitals, subject to the direction of the University Hospitals Authority, shall have the authority to:

1. Enter into agreements and cooperative ventures with other health care providers to share services or to provide a benefit to the hospitals;

2. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers pursuant to the University Hospitals Authority Act;

3. Join or sponsor membership in organizations or associations intended to benefit the hospitals;

4. Have members of its governing body or its officers or administrators serve without pay as directors or officers of any organization, association or cooperative ventures authorized pursuant to the University Hospitals Authority Act; and

5. Offer, directly or indirectly, products and services of the hospitals, any cooperative venture or organization to the general public.

B. All agreements and obligations undertaken, as permitted under this section, by the University Hospitals Authority shall be for a public purpose. In addition to any other limitations, conditions or restrictions provided by law, the following conditions shall apply to contractual agreements entered into pursuant to this section:

1. Private and public funds shall be accounted for separately; and

2. The state does not assume any liability for private entities.

Added by Laws 1993, c. 330, § 10, emerg. eff. June 8, 1993.

§63-3211. Employees of University Hospitals - Systems, classes and procedures.

A. Employees of the University Hospitals who are in the classified service of the State Merit System of Personnel Administration on June 30, 1993, shall be transferred to the University Hospitals Authority without change or loss of pay, seniority, rights, privileges or benefits.

B. Employees of the University Hospitals who are in the unclassified service of the State Merit System of Personnel Administration on June 30, 1993, shall be transferred to the Authority without change or loss of pay, seniority, rights, privileges or benefits.

C. By January 1, 1995, all employees of the Authority shall be required to elect whether to remain in their present classification pursuant to the Oklahoma Personnel Act or transfer to the University Hospitals Authority Model Personnel System established pursuant to subsection E of this section. Any employee who elected not to transfer to the University Hospitals Authority Model Personnel System pursuant to this subsection may elect to transfer to the personnel system at any time as prescribed by the Authority.

D. All new employees hired by the University Hospitals or the Authority and all positions vacated by classified employees of the University Hospitals and/or the Authority after June 30, 1993, shall be in the personnel system established pursuant to subsection E of this section.

E. Except as otherwise provided in Section 3213.2 of this title, the Authority shall develop, maintain or revise unclassified personnel systems, classes or procedures which are necessary for accommodating or responding to its human resource needs. Such authority includes recruitment, position classifications, qualifications, selection criteria, search and selection procedures, use of consultants, salaries, benefits, retirement plans, leave

benefits and personnel administration. Such systems, classes or procedures shall require consultation with the Director of the Office of Management and Enterprise Services.

F. Employees of the University Hospitals Authority who are members of the University Hospitals Authority Model Personnel System who become subject to the classified or unclassified service of state government shall be eligible to transfer any unused leave balances. Unused paid-time-off leave shall be converted to annual leave. Unused extended illness leave shall be converted to sick leave. Such transfer of leave shall be subject to accumulation limits pursuant to Section 840-2.20 of Title 74 of the Oklahoma Statutes.

Added by Laws 1993, c. 330, § 11, eff. July 1, 1993. Amended by Laws 1994, c. 283, § 9, eff. Sept. 1, 1994; Laws 1995, c. 263, § 2; Laws 1996, c. 321, § 3, emerg. eff. June 12, 1996; Laws 2012, c. 304, § 514.

§63-3212. University Hospitals Authority Personnel Task Force.

A. There is hereby created the University Hospitals Authority Personnel Task Force. The Task Force shall consist of the following members:

1. The Director of Personnel for the University Hospitals who shall serve as chair;

2. The Affirmative Action Officer for the University Hospitals;

3. The Director of the Office of Management and Enterprise Services or a designee;

4. Two employees of the University Hospitals appointed by the Chief Executive Officer of the University Hospitals, one who shall be a health care professional and one who shall not be a health care professional; and

5. The Executive Director of the Oklahoma Public Employees Association or a designee.

B. The Task Force shall annually select a vice-chair from its membership.

C. The Task Force shall annually give advice and make recommendations to the Authority regarding all aspects of personnel matters including, but not limited to:

1. Development of clear mission and goal statements;

2. Involvement of managers and employees in the identification of ways to improve organizational effectiveness;

3. Participation of employees in the development of personnel policies and procedures;

4. Assessment of agency effectiveness and progress toward goals with emphasis on productivity, quality of services, innovation and economical use of resources;

5. Affirmative action programs to ensure workforce diversity and equal employment opportunity;

6. Creation, modification, and elimination of positions;

7. Employee disciplinary procedures with emphasis on timely resolution of personnel disputes at the lowest possible level; and

8. Management and employee development programs.

D. The Authority may delegate additional responsibilities to the Task Force.

E. The Task Force shall assist the Authority in the preparation and implementation of an annual human resource management plan and evaluation report which shall be submitted to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate by November 1 of each year.

Added by Laws 1993, c. 330, § 12, eff. July 1, 1993. Amended by Laws 2012, c. 304, § 515.

§63-3213. Employees of University Hospitals Authority - Retirement systems.

All employees of the University Hospitals Authority shall be members of the Oklahoma Public Employees Retirement System or the Teachers' Retirement System of Oklahoma as appropriate.

Added by Laws 1993, c. 330, § 13, eff. July 1, 1993.

§63-3213.1. Repealed by Laws 1997, c. 287, § 19, eff. July 1, 1997.

§63-3213.2. Lease with University Hospitals Trust - Personnel and staffing.

A. If the University Hospitals Authority enters into a lease for the University Hospital and Children's Hospital of Oklahoma with the University Hospitals Trust as authorized in Section 3226 of Title 63 of the Oklahoma Statutes and the Authority enters into an agreement or contract with another entity for the purpose of performing services previously provided by the Authority which results in a reduction in the number of employees of the Authority, the following shall occur:

1. The Authority shall be subject to the Merit System of Personnel Administration. All positions and personnel of the University Hospitals Authority shall be placed in the classified service of the Merit System of Personnel Administration pursuant to Section 840-4.2 of Title 74 of the Oklahoma Statutes, except for the chief administrative officer, a deputy or principal assistant, and an executive secretary; and

2. The Authority shall develop and implement a staffing component, which may include contracts for professional services, to ensure that the terms of any lease or other agreements between the University Hospitals Trust and other entities are fulfilled, particularly in regard to the missions of the Authority. The Authority staff shall provide any staff assistance required by the

University Hospitals Trust authorized by Section 3224 of Title 63 of the Oklahoma Statutes.

B. Upon termination of a lease with the University Hospitals Trust and the resumption of the operation of the University Hospital or the Children's Hospital of Oklahoma by the University Hospitals Authority, the Authority, at its discretion, may elect to resume the University Hospitals Authority Model Personnel System as provided for in Section 3211 of Title 63 of the Oklahoma Statutes.

Added by Laws 1996, c. 321, § 4, emerg. eff. June 12, 1996.

§63-3214. Investments of funds - University Hospitals Authority Agency Special Account - Blanket bond coverage.

A. The funds deposited in the Agency Special Account as created in subsection B of this section shall be invested by the State Treasurer in the manner provided for by law. The return on such investments shall be credited to the accounts of the Authority.

B. There is hereby created in the State Treasury an Official Depository Account for the University Hospitals Authority, to be designated the University Hospitals Authority Agency Special Account. The Official Depository Account shall consist of an agency clearing account and an agency special account. All revenues, except federal entitlements and state appropriations, generated by the University Hospitals Authority shall be deposited in these accounts.

C. The Authority shall be subject to blanket bond coverage as provided in Sections 85.26 through 85.31 of Title 74 of the Oklahoma Statutes, provided the Authority shall be authorized to purchase increased amounts of fidelity bond coverage for those employees deemed necessary by the Authority. When the amount listed in Section 85.29 of Title 74 of the Oklahoma Statutes is deemed inadequate, the cost of increased coverage shall be borne by the Authority.

Added by Laws 1993, c. 330, § 14, eff. July 1, 1993.

§63-3215. Issuance of bonds - Resolution - Amount - Principal and interest - Credit enhancement - Form - Execution - Denominations - Place of payment - Signatures - Qualities and incidences - Manner of sale - Fees and expenses - Interim receipts or temporary bonds - Replacement bonds - Consent of issue - Refunding bonds.

A. Subject to the provisions of paragraph 12 of subsection B of Section 8 of this act, the University Hospitals Authority may provide by resolution, from time to time, for the issuance of revenue bonds for its lawful purposes, in such amount or amounts as are necessary, incidental or convenient to the exercise of powers, rights, privileges and functions conferred upon it by the University Hospitals Authority Act or other law. The principal of and interest on any indebtedness shall be payable solely from the revenues of the

Authority and such other funds as may be provided by law for such payment. The Authority may provide for credit enhancement as additional security or liquidity for its bonds and enter into such agreements as may be necessary or appropriate to provide for the repayment of any funds advanced by the provider of any such credit enhancement including the payment of any fees and expenses incurred in connection therewith. The bonds of each issue shall bear interest at fixed or variable rates and shall bear an average interest rate not to exceed eleven percent (11%) per annum, shall mature at such time or times not exceeding thirty (30) years from their date or dates of issue, as may be determined by the Authority, and may be made redeemable before maturity at the option of the Authority, at such time or times and at such price or prices and pursuant to such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form of the bonds and the manner of execution thereof, and shall fix the denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank and trust company within or without this state. If any officer whose signature or facsimile of whose signature appears on any bonds shall cease to be said officer before the delivery of the bonds, the signature or the facsimile shall nevertheless be valid and sufficient for all purposes, the same as if the person had remained in office until such delivery. All bonds issued pursuant to the provisions of the University Hospitals Authority Act shall have all the qualities and incidences of negotiable instruments subject to the laws of this state. The Authority may sell the bonds in such amounts and in such manner, either at public or private sale, and for such price, as it may determine to be in the best interests of the state. If the bonds are not sold by competitive bid, the sale must be approved by the State Bond Advisor.

B. All fees and expenses of bond sales must be approved by the State Bond Advisor and the Bond Oversight Commission. Prior to the preparation of definitive bonds, the Authority, subject to like restrictions, may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds which have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which have become mutilated or which have been destroyed or lost. Except as otherwise provided by Section 19 of this act, bonds may be issued pursuant to the provisions of the University Hospitals Authority Act without obtaining the consent of any department, division, commission, board, bureau, or agency of this state, and without any other proceedings or the occurrence of any other conditions or things than those proceedings, conditions, or things that are specifically required by the University Hospitals Authority.

C. The Authority may, by resolution, provide for the issuance of refunding bonds then outstanding, including the payment of any redemption premium, any interest accrued to the date of redemption of such bonds, and for incurring additional indebtedness for its lawful purposes. The issuance of such bonds shall be governed by the provisions of the University Hospitals Authority Act.
Added by Laws 1993, c. 330, § 15, eff. July 1, 1993.

§63-3216. Issuance of bonds - Approval of Attorney General.

Before any bond shall be issued and delivered by the University Hospitals Authority, a certified copy of the proceedings for the issuance thereof, together with any other information which the Attorney General of the State of Oklahoma may require as the Bond Commissioner of the State of Oklahoma, shall be submitted to the Attorney General. If the Attorney General shall find that such bonds have been issued in accordance with law, he shall approve such bonds and execute a certificate to that effect. The Attorney General shall file such certificates in the office of the State Auditor and Inspector, and the certificates shall be recorded in a record kept for that purpose. All bonds approved by the Attorney General, and issued in accordance with the approved proceedings, shall be valid and binding obligations of the Authority and shall be incontestable for any course from and after the date of such approval.
Added by Laws 1993, c. 330, § 16, eff. July 1, 1993.

§63-3217. Issuance of bonds - Approval of Supreme Court.

The University Hospitals Authority or the University Hospitals Trust may file an application with the Supreme Court of the State of Oklahoma for approval of any bonds to be issued under the provisions of the University Hospitals Authority Act, and exclusive original jurisdiction is hereby conferred upon the Supreme Court to hear and determine such application. The Supreme Court shall give such applications precedence over the other business of the Court and consider and determine the validity of the bonds and consider the application and any protest which may be filed thereto. Notice of the hearing on each application shall be given by notice published in a newspaper of general circulation in this state that on a day named the Authority or the Trust will ask the Court to hear the application and approve the bonds. Such notice shall inform all interested parties that they may file a protest against the issuance of the bonds, may be present at the hearing, and may contest the legality thereof. Such notice shall be published one time, not less than ten (10) days prior to the date named for the hearing and the hearing may be adjourned from time to time in the discretion of the Court. If the Court is satisfied that the bonds have been properly authorized in accordance with the University Hospitals Authority

Act, and that when issued such bonds will constitute valid obligations in accordance with their terms, the Court shall render its written opinion approving the bonds and shall fix the time within which the petition for rehearing may be filed. The decision of the Court shall be a judicial determination of the validity of the bonds, shall be conclusive as to the Authority or the Trust, its officers and agents, and thereafter the bonds so approved and the revenues pledged to their payment shall be incontestable in any court in the State of Oklahoma.
Added by Laws 1993, c. 330, § 17, eff. July 1, 1993. Amended by Laws 1997, c. 174, § 3, emerg. eff. May 8, 1997.

§63-3218. Bonds not to be debt of state or political subdivision - Statement on bonds - Tax exemption.

Revenue bonds of the University Hospitals Authority issued pursuant to the provisions of the University Hospitals Authority shall not constitute a debt of the state or of any political subdivision thereof, or a pledge of the full faith and credit of the state, or of any political subdivision thereof, but such bonds shall be payable solely from the funds provided therefor. The forms of the bonds so issued shall contain on the face thereof a statement to the effect that neither the state nor the Authority shall be obligated to pay the same or the interest thereon except from the revenues of the Authority pledged to the payment of such bonds and that neither the faith and credit nor the taxing power of the state or any political subdivision thereof is pledged, or may hereafter be pledged, to the payment of the principal of or interest on such bonds. The bonds so issued shall be exempt from taxation by the State of Oklahoma and any political subdivision thereof, including the income therefrom, and any gain from the sale thereof.
Added by laws 1993, c. 330, § 18, eff. July 1, 1993.

§63-3219. Investment in bonds issued pursuant to this act - Use as collateral security.

Bonds issued pursuant to provisions of the University Hospitals Authority Act are hereby made securities in which all public officers and public boards, agencies and instrumentalities of the state and its political subdivisions, all banks, trust companies, trust and loan associations, investment companies, and others carrying on a banking business, and all insurance companies and insurance associations, and others carrying on an insurance business, may legally and properly invest. Such bonds are also approved as collateral security for the deposit of any public funds and for the investment of trust funds.
Added by Laws 1993, c. 330, § 19, eff. July 1, 1993.

§63-3220. University Hospitals Authority - Annual report to Governor and Legislature.

The University Hospitals Authority shall submit an annual report to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives. Such report shall be submitted in accordance with the requirements for financial statement audits in Section 212A of Title 74 of the Oklahoma Statutes, and shall include an account of the operations and actions of the Authority and an accounting of all revenue received and disbursed by the Authority for the previous fiscal year. The report shall include an accounting of expenses related to each of the following:

1. Education and training of students of the University of Oklahoma, resident physicians and others;

2. Care and treatment of indigents for whom the Authority receives any form of state or federal reimbursement; and

3. Research.

Added by Laws 1993, c. 330, § 20, eff. July 1, 1993. Amended by Laws 1996, c. 290, § 10, eff. July 1, 1996.

§63-3221. University Hospitals Authority Disbursing Fund.

A. There is hereby created in the State Treasury a revolving fund for the University Hospitals Authority, to be designated the "University Hospitals Authority Disbursing Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of appropriated revenues and federal entitlements. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the University Hospitals Authority.

B. Following the execution of a lease of real properties under the jurisdiction of the University Hospitals Authority to the University Hospitals Trust pursuant to Section 3226 of this title, monies from the fund may be expended by the Authority for the fiscal year ending June 30, 1998, for the operations of the Authority after the execution of the lease to the University Hospitals Trust for payment of any costs to the Authority associated with the transfer of operations of facilities under the jurisdiction of the Authority, and legal obligations of the Authority. After July 1, 1998, the operation of the Authority may be funded from the interest earned by the fund.

C. After July 1, 2010, the principal and interest earned on the fund may be expended by the Authority for the operation of the Authority and for the completion of the mission of the Authority.

D. It is the intent of the Legislature to restore the fund to the June 30, 2010, balance in the event that the state resumes operations of any of the facilities operated by the Authority prior to a lease being executed.

Added by Laws 1993, c. 330, § 21, eff. July 1, 1993. Amended by Laws 1996, c. 326, § 5, eff. July 1, 1996; Laws 1997, c. 287, § 16, eff. July 1, 1997; Laws 2010, c. 446, § 2.

§63-3221.1. University Hospitals Marketing Revolving Fund.

A. There is hereby created in the State Treasury a revolving fund for the University Hospitals, to be designated the "University Hospitals Marketing Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the University Hospitals pursuant to the provisions of this section. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the University Hospitals for the purpose of marketing research and planning, public education, special events customary to the health care industry, advertising and promotion of special and general services provided or sponsored by the University Hospitals and such other purposes specifically authorized by the Legislature. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

B. An amount equal to one-tenth of one percent (1/10 of 1%) of the total annual operating budget of the University Hospitals and such other funds as may be specifically designated for deposit to the fund shall be deposited in the University Hospitals Marketing Revolving Fund.

Added by Laws 1988, c. 266, § 23, operative July 1, 1988. Amended by Laws 1994, c. 283, § 3, eff. Sept. 1, 1994. Renumbered from § 412.1 of Title 56 by Laws 1994, c. 283, § 21, eff. Sept. 1, 1994. Amended by Laws 2010, c. 413, § 24, eff. July 1, 2010; Laws 2012, c. 304, § 516.

§63-3222. Traffic and parking regulations on University Hospitals Authority property - Violations - Campus police officers and guards - Cooperative agreements.

A. The University Hospitals Authority may regulate traffic and the parking of vehicles on property used by or for the University Hospitals Authority. Such regulations shall be in writing, and copies thereof, including amendments thereto, shall be filed in the office of the Secretary of State, and in the office of the city clerk of the City of Oklahoma City. The municipal court of the City of Oklahoma City shall have jurisdiction to hear and determine prosecutions for violations of such regulations, which may be prosecuted and shall be punishable as violations of ordinances of the City of Oklahoma City. The Authority may cause to be removed, and may enter into contracts for such purpose, any vehicle parked in violation of such regulations.

B. The Authority may appoint campus police officers and guards for buildings and grounds of the University Hospitals Authority in the same manner and with the same powers as campus police appointed by governing boards of state institutions for higher education under the provisions of Section 360.15 et seq. of Title 74 of the Oklahoma Statutes, and who may prevent or stop improper conduct and trespass in and upon such buildings and grounds, and make arrests and prosecute any and all persons arrested for such improper conduct and trespassing. Employees of the Authority serving as police officers shall be certified as provided for in Section 3311 of Title 70 of the Oklahoma Statutes.

C. The Authority and the City of Oklahoma City may enter into a cooperative agreement to effectuate the provisions of this section.

Added by Laws 1974, c. 4, § 1, emerg. eff. March 14, 1974. Amended by Laws 1988, c. 326, § 25, emerg. eff. July 13, 1988; Laws 1993, c. 330, § 25, eff. July 1, 1993. Renumbered from § 344 of Title 56 by Laws 1993, c. 330, § 31, eff. July 1, 1993. Amended by Laws 1994, c. 283, § 2, eff. Sept. 1, 1994.

§63-3223. Resident physicians of College of Medicine of University of Oklahoma - Payroll placement, insurance, status and termination.

The University Hospitals Authority is authorized to place resident physicians of the College of Medicine of the University of Oklahoma on the University Hospitals Authority payroll, and is further authorized to acquire through the Purchasing Division of the Office of Management and Enterprise Services health, life, and dental insurance for such residents. Such residents shall not be considered employees of the Authority and shall not be eligible to participate in the Oklahoma Public Employees Retirement System. This section shall not preclude the right of the University Hospitals Authority to terminate, for cause, the practicing privileges of any resident physician within the University Hospitals Authority.

Added by Laws 1985, c. 181, § 182, operative July 1, 1985. Amended by Laws 1988, c. 326, § 30, emerg. eff. July 13, 1988; Laws 1993, c. 330, § 26, eff. July 1, 1993. Renumbered from § 521 of Title 56 by Laws 1993, c. 330, § 31, eff. July 1, 1993. Amended by Laws 2012, c. 304, § 517.

§63-3224. University Hospitals Trust

A. The State of Oklahoma expressly approves the creation of a public trust to be denominated the "University Hospitals Trust", of which the State of Oklahoma shall be the beneficiary, provided such approval shall be contingent upon the following conditions being satisfied:

1. Finalizing of the Declaration of Trust;

2. Adoption of the Declaration of Trust by an official action of the trustees of the Trust;

3. Submission of the Trust for acceptance of the beneficial interest and approval as required by Section 177 of Title 60 of the Oklahoma Statutes; and

4. The approved Declaration of Trust shall:

a. clearly state that the principal purpose of the University Hospitals Trust is to effectuate the purposes of the University Hospitals Authority as established in the University Hospitals Authority Act,

b. except as otherwise provided by law, provide that the fee simple title to real property held by the University Hospitals Authority shall not be transferred, conveyed, or assigned to the University Hospitals Trust without the express consent of the Legislature as the governing entity of the beneficiary pursuant to Section 176 of Title 60 of the Oklahoma Statutes,

c. provide that any indebtedness incurred by the University Hospitals Trust or the trustees of the Trust shall not be secured with or create a lien upon real property to which title is held by the University Hospitals Authority and shall not involve the bonding capacity of the University Hospitals Authority,

d. provide that the trust estate of the University Hospitals Trust shall not include fee simple title to real property owned by the University Hospitals Authority,

e. clearly state that the creation of the University Hospitals Trust shall not in any way reduce, limit or interfere with the power granted to the University Hospitals Authority in the University Hospitals Authority Act,

f. provide that any lease or contractual agreement involving use of the real property to which title is held by the University Hospitals Authority and any improvements thereto shall contain a provision and covenants requiring the proper maintenance and upkeep of the real property and improvements,

g. provide that the trustees of the University Hospitals Trust shall be the acting members of the University Hospitals Authority as provided in the University Hospitals Authority Act, and

h. provide that the trustees of the University Hospitals Trust shall have the duty to submit an annual report to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of

Representatives. The report shall be submitted by January 1 of each year and shall include an account of all operations, actions of the Trust, account of all revenue received and disbursed by the Trust for the previous fiscal year. The report shall also provide a complete accounting of how the Trust meets its primary function of effectuating the purposes of the University Hospitals Authority, as established in the University Hospitals Authority Act.

B. The University Hospitals Trust shall require any agreements which it enters into with any entity pursuant to Section 3226 of this title for the operations of facilities leased by the University Hospitals Authority to the Trust to include, but not be limited to:

1. The inclusion of four of the five members of the Trust as four of the five members representing the State of Oklahoma as state appointees to the governing committee created pursuant to a proposed agreement;

2. Binding arbitration shall not be involved in such agreements for resolving issues under consideration by the governing committee; and

3. Major decisions shall be resolved by the governing committee, and approval of any major decision by the governing committee must include the approval of a majority of the state appointees and the approval of a majority of the members of the private entity appointees to the governing committee. Major decisions shall include:

a. approval of the annual operating and capital budgets,

b. sale or disposition of assets that individually have a fair market value over Two Hundred Fifty Thousand Dollars ($250,000.00),

c. the termination or transfer or material addition or material diminution of medical services at the Oklahoma Medical Center related to and part of a teaching program of the University of Oklahoma Health Sciences Center, and

d. other major decisions as may be agreed upon by the Trust and the private entity.

C. To the extent it is determined by legislative enactment that the Trust has expended funds in contravention of its mission as set forth in this section, the Trust shall remit, upon thirty (30) days' written notice from the University Hospitals Authority, such sum or sums to the University Hospitals Authority.

D. In the event the Trust enters into a joint venture or acquires an interest in a not-for-profit entity to effectuate the administration of the mission of the Trust, that entity shall not be subject to the Oklahoma Open Meeting Act and the Oklahoma Open Records Act. Any information submitted to or compiled by the Trust

with respect to marketing plans, financial statements, trade secrets, research concepts, methods or products or any other proprietary information submitted to or compiled by the Trust, persons, firms, associations, partnerships, agencies, corporations, institutions of higher education, nonprofit research institutions or other entities shall be confidential, except to the extent that the person or entity which provided such information or which is the subject of such information consents to disclosure. Executive sessions may be held to discuss such materials if deemed necessary by the Trust. The provisions of this subsection shall not apply to budgetary information related to appropriations or the appropriations process.

Added by Laws 1995, c. 263, § 3. Amended by Laws 1996, c. 326, § 6, eff. July 1, 1996; Laws 1997, c. 2, § 15, emerg. eff. Feb. 26, 1997; Laws 1997, c. 174, § 4, emerg. eff. May 8, 1997; Laws 2007, c. 93, § 2, eff. Nov. 1, 2007; Laws 2016, c. 387, § 1, emerg. eff. June 6, 2016.

NOTE: Laws 1996, c. 321, § 5 repealed by Laws 1997, c. 2, § 26, emerg. eff. Feb. 26, 1997.

§63-3225. Submission of certain contractual agreements to Contingency Review Board - Declaratory judgment of Supreme Court of Oklahoma.

A. Contingent upon the creation of the University Hospitals Trust as provided in Section 3224 of this title, the Trust, prior to acceptance, shall submit to the Contingency Review Board for review the proposed agreement regarding the lease and operations of the University Hospitals to any entity authorized to transact business in the state and an independent statement as to the fairness of said proposed agreement for the State of Oklahoma. The Contingency Review Board shall upon receipt of the proposed agreement meet within fifteen (15) business days to review the proposed agreement; and unless the Contingency Review Board disapproves the proposed agreement, the proposed agreement may be executed, but no lease of the University Hospitals shall become effective until after Supreme Court approval pursuant to subsection B of this section.

B. 1. If a proposed agreement is not disapproved by the Contingency Review Board pursuant to subsection A of this section, the University Hospitals Authority and University Hospitals Trust, within thirty (30) calendar days after the time for Contingency Review Board action has expired, may file a petition with the Supreme Court of Oklahoma for a declaratory judgment determining the validity of the proposed agreement. The review of the Court shall be based upon the exercise of any of the powers, rights, privileges, and functions conferred upon the Authority or the University Hospitals Trust, as applicable, under the University Hospitals Authority Act and Oklahoma laws. Exclusive original jurisdiction is

conferred upon the Supreme Court to hear and determine such petitions. The Supreme Court shall give such petitions precedence over other business of the Court except habeas corpus proceedings.

2. Notice of the hearing of such a petition shall be given by a notice published in a newspaper of general circulation in this state that on a day specified the Supreme Court will hear the petition to approve the proposed agreement and enter a declaratory judgment. The notice shall be published one time not less than ten (10) days prior to the date specified for the hearing. The notice shall inform property owners, taxpayers, citizens, and all persons having or claiming any right, title, or interest in the proposed agreement or properties or funds to be affected by the implementation of the proposed agreement, or affected in any way thereby, that they may file protests against the approval of the proposed agreement, and be present at the hearing to contest the legality of the proposed agreement. The hearing may be adjourned from time to time at the discretion of the Court.

3. If the Court is satisfied that the proposed agreement is in accordance with the University Hospitals Authority Act and Oklahoma laws, the Court shall enter a declaratory judgment approving and declaring the proposed agreement to be valid and conclusive as to the Authority, the Trust, and all other parties to the proposed agreement; and, upon petition of the Authority, shall issue an order permanently enjoining all persons described in the notice required by this subsection from thereafter instituting any action or proceeding contesting the validity of the proposed agreement. A declaratory judgment rendered pursuant to this subsection shall have the force and effect of a final judgment or decree and shall be incontestable in any court in this state.

4. As used in the University Hospitals Authority Act, "proposed agreement" means one or more contracts regarding the lease and operations of the University Hospitals and all other agreements contemplated by or referred to in the contract regarding such lease and operations.

Added by Laws 1995, c. 263, § 4. Amended by Laws 1996, c. 321, § 6, emerg. eff. June 12, 1996; Laws 1997, c. 174, § 5, emerg. eff. May 8, 1997.

§63-3226. Leases from University Hospitals Authority to University Hospitals Trust.

A. Contingent upon the creation of the University Hospitals Trust as provided in Section 3224 of this title, the University Hospitals Authority is hereby authorized to lease, for a term of not more than fifty (50) years, renewable at the option of the Authority, all real property known as the University Hospitals and any other sites under the control of the Authority to the University

Hospitals Trust. Any lease agreement made pursuant to this section shall be contingent upon:

1. Prior review by the Attorney General of any contractual agreement between the University Hospitals Trust and any entity authorized to transact business in the State of Oklahoma regarding the lease and operations of the University Hospitals. The Attorney General shall disapprove the agreement if it is determined that provisions of the agreement are not consistent with state law; and

2. The execution of an operating and lease agreement between the University Hospitals Trust and any entity authorized to transact business in the State of Oklahoma.

B. Concurrent with the execution of a lease of real property from the University Hospitals Authority to the University Hospitals Trust as provided in subsection A of this section, the Authority is authorized to transfer title to and possession of all tangible and intangible personal property under its control to the Trust. In any contractual agreement regarding the lease and operations of the University Hospitals between the University Hospitals Trust and any entity authorized to transact business in the State of Oklahoma, the Trust is authorized to sell or otherwise convey to such entity all tangible and intangible personal property the Trust may receive from the University Hospitals Authority. Any contract or other agreement which purports to exercise the powers authorized by this subsection is subject to review by the Contingency Review Board, as specified in Section 3225 of this title.

C. If a contracting entity fails to take possession of the leased premises or abandons or surrenders possession of the leased premises, other than to a state agency, at any time during the term of the lease between the University Hospitals Trust and the contracting entity, the interest in the real property leased to the University Hospitals Trust by the University Hospitals Authority shall revert to and be the sole and exclusive property of the University Hospitals Authority.

D. Contingent upon the execution of an agreement between the University Hospitals Trust and any entity authorized to transact business in the State of Oklahoma, as specified in subsection A of this section, the University Hospitals Authority is authorized to enter into an agreement for such entity to provide indigent care services and perform other related duties imposed upon the University Hospitals Authority by law. Such an agreement between the University Hospitals Authority and such entity is exempt from the requirements of the Oklahoma Central Purchasing Act and any rules adopted by the University Hospitals Authority pursuant to the Administrative Procedures Act.

Added by Laws 1995, c. 263, § 5. Amended by Laws 1996, c. 321, § 7, emerg. eff. June 12, 1996; Laws 2000, 1st Ex.Sess., c. 8, § 12, eff. July 1, 2000.

§63-3227. University Hospitals Trust Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the University Hospitals Trust to be designated the "University Hospitals Trust Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of appropriated revenues. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the University Hospitals Trust.

Added by Laws 1996, c. 264, § 38, eff. Sept. 1, 1996.

§63-3227.1. Monies transferred from Authority to Trust - Repayment.

Any monies transferred by the Director of the Office of Management and Enterprise Services pursuant to Section 18, Chapter 287, O.S.L. 1997, from the University Hospitals Authority to the University Hospitals Trust Revolving Fund created by Section 3227 of this title shall be repaid by the Trust to the University Hospitals Authority Disbursing Fund created by Section 3221 of this title on or before December 31, 2002.

Added by Laws 1996, c. 326, § 7, eff. July 1, 1996. Amended by Laws 1997, c. 287, § 17, eff. July 1, 1997; Laws 2012, c. 304, § 518.

§63-3228. Telemedicine pilot program.

The Oklahoma Legislature, recognizing the advancement of technology in medicine and its benefits, hereby authorizes the implementation of a telemedicine pilot program for inmates from correctional institutions. The purpose of the pilot program shall be to provide verifiable data on how telemedicine can improve medical services for correctional inmate patients and at a lower cost than the present system of medical care for inmate patients. The pilot program shall be developed by the University Hospitals Trust and the Department of Corrections, working in conjunction with the University Hospital, the University of Oklahoma Health Sciences Center and Griffin Memorial Hospital. The pilot program shall be implemented through an agreement between the University Hospitals Trust and the Department of Corrections and other participating entities. At a minimum, the pilot program shall involve telemedicine connections between two Department of Corrections institutions, the University Hospital, and Griffin Memorial Hospital.

Added by Laws 1998, c. 389, § 12, eff. July 1, 1998.

§63-3240.1. Short title.

This act shall be known and may be cited as the “Community Hospitals Authority Act”.

Added by Laws 2002, c. 374, § 3, eff. July 1, 2002.

§63-3240.2. Definitions.

As used in the Community Hospitals Authority Act:

1. "Authority" means the Community Hospitals Authority;

2. "Health care system" means a system providing inpatient and outpatient services that is not limited to a specific facility or modality of care;

3. "Medically indigent" means a person requiring medically necessary hospital or other health care services for the person or the dependents of the person, who has insufficient or no public or private third-party coverage and whose personal resources are insufficient to provide for needed medical care; and

4. "Participating health care system" means a health care system that has within it a major community hospital that expends at least Five Million Dollars ($5,000,000.00) annually providing care for medically indigent persons from a multicounty service area and that is located in a municipality having a population of three hundred seventy-five thousand (375,000) or more which does not have a health care system statutorily charged with indigent care and medical teaching or training responsibilities on the effective date of the Community Hospitals Authority Act.

Added by Laws 2002, c. 374, § 4, eff. July 1, 2002. Amended by Laws 2003, c. 412, § 1, eff. Nov. 1, 2003.

§63-3240.3. Community Hospitals Authority - Purpose, establishment and duties - Indigent care services - Appropriation - Reimbursement.

A. The Oklahoma Legislature finds that care of medically indigent persons and the needs of the Oklahoma State University Center for Health Sciences and the University of Oklahoma College of Medicine (Tulsa) will be enhanced through the establishment of the Community Hospitals Authority. The purpose of the Community Hospitals Authority is to provide maximum utilization and efficient administration in order to deliver health care services to medically indigent persons and to promote the teaching and training of physicians.

B. The Community Hospitals Authority shall:

1. Support the missions of the Oklahoma State University Center for Health Sciences and the University of Oklahoma College of Medicine (Tulsa) with regard to:

a. teaching and training for medical students,

b. conducting medical and biomedical research, and

c. medical care for indigent and nonindigent populations;

2. Act as a vehicle for securing funding that is in addition to existing state Medicaid Program appropriated funding for education and indigent care and graduate medical education; provided, however, under no circumstance shall funds secured pursuant to this provision be used to supplant such existing state Medicaid Program appropriated funding; and

3. Coordinate the delivery and efficiency of medical service across Northeast Oklahoma including, but not limited to, all counties located totally or partly in the Tulsa Metropolitan Area.

C. The Authority may contract for indigent care services with participating health care systems.

D. In the event the Legislature enacts a statewide program to reimburse hospitals for the cost, or a portion thereof, of providing indigent health care, the Legislature shall ensure that such reimbursement shall be made to all hospitals providing indigent care within the state.

Added by Laws 2002, c. 374, § 5, eff. July 1, 2002. Amended by Laws 2003, c. 412, § 2, eff. Nov. 1, 2003; Laws 2005, c. 410, § 2, eff. July 1, 2005.

§63-3240.4. Licensure of hospitals – Services and payment – Teaching and training hospitals.

Hospitals within the participating health care systems:

1. Shall be licensed by the State Commissioner of Health and shall meet the standards, requirements and essentials of the Joint Commission of Accreditation of Health Care Organizations and the American Osteopathic Association. Provided, the State Commissioner of Health may waive any such standards, requirements and essentials as the Commissioner deems necessary;

2. May provide services and receive payments therefor under Title XVIII and XIX of the federal Social Security Act, and may participate in other federal medical programs;

3. Shall be available as teaching and training hospitals for Oklahoma State University College of Osteopathic Medicine and the University of Oklahoma College of Medicine (Tulsa), and other health and educational facilities, and shall provide indigent patient care consistent with their past policies and performance; and

4. Shall not be covered by The Governmental Tort Claims Act, and their employees, agents, independent contractors and employees of independent contractors shall not be covered by The Governmental Tort Claims Act.

Added by Laws 2002, c. 374, § 6, eff. July 1, 2002.

§63-3240.5. Composition of agency – Terms – Reimbursement - Quorum.

A. There is hereby created the Community Hospitals Authority, an agency of the State of Oklahoma, a body corporate and politic, with powers of government and with the authority to exercise the rights, privileges and functions as specified in the Community Hospitals Authority Act.

B. The Authority shall be composed as follows:

1. The presidents of Oklahoma State University and the University of Oklahoma or their designees;

2. One member appointed by the Governor who shall be a citizen and resident of a metropolitan area meeting the criteria provided in paragraph 4 of Section 3240.2 of this title who has no direct affiliation with a participating health care system or a university listed in paragraph 1 of this subsection;

3. One member appointed by the Speaker of the House of Representatives;

4. One member appointed by the President Pro Tempore of the State Senate;

5. The Director of the Oklahoma Health Care Authority; and

6. One representative from each of the three participating health care systems, as defined in Section 3240.2 of this title, who shall each serve terms of three (3) years and may be reappointed;

7. One representative from the Oklahoma Department of Commerce designated as the Community Action Agency for the largest county in terms of population included within the geographic boundaries of the Community Hospitals Authority;

8. One representative from the chamber of commerce, or any other organization of business entities, from the largest metropolitan area in terms of population included within the geographic boundaries of the Community Hospitals Authority;

9. One representative appointed by the existing members of the Authority from a city-county health department; and

10. One representative appointed by the existing members of the Authority from a charitable or philanthropic foundation with assets in excess of Five Hundred Million Dollars ($500,000,000.00) that has demonstrated a commitment to supporting the missions of the Community Hospitals Authority.

C. The members appointed by the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the State Senate shall serve terms of three (3) years and may be reappointed. Successors shall be appointed for terms of three (3) years.

D. Each member of the Authority, prior to appointment, shall be a resident of the state and a registered voter.

E. The members of the Authority shall serve without compensation but may be reimbursed for all actual and necessary travel expenses incurred in the performance of their duties in accordance with the provisions of the State Travel Reimbursement Act.

F. A quorum of the Authority shall be a majority of the voting members. The members of the Authority shall annually elect a chair from among its membership.

Added by Laws 2002, c. 374, § 7, eff. July 1, 2002. Amended by Laws 2003, c. 412, § 3, eff. Nov. 1, 2003; Laws 2006, c. 315, § 14, emerg. eff. June 9, 2006.

§63-3240.6. Powers and duties.

A. The Community Hospitals Authority shall have the power and duty to:

1. Adopt bylaws and promulgate rules for the regulation of its affairs and the conduct of its business;

2. Adopt an official seal;

3. Maintain an office in one of the participating hospitals for the Community Hospitals Authority at no cost to the Authority;

4. Sue and be sued;

5. Make and enter into all contracts necessary or incidental to the performance of its duties and the execution of its powers pursuant to the Community Hospitals Authority Act;

6. Purchase or lease equipment, furniture, materials and supplies, and incur such other expenses as may be necessary to discharge its duties and responsibilities or to make any of its powers effective;

7. Accept any and all grants from persons and from the United States of America, or from any corporation or agency created or designed by the United States of America, and, in connection with any such grant, to enter into such agreements as the United States of America or such corporation or agency may require;

8. Accept grants and gifts from private individuals and organizations;

9. Provide for complete financial audits on all accounts of the Community Hospitals Authority and to authorize periodic audits by an independent external auditing agency. Such audits shall be performed annually in a format approved by the State Auditor and Inspector, and all such audits shall be submitted to the State Auditor and Inspector for review. Such audits shall be made in accordance with generally accepted auditing standards and government auditing standards. Financial statements shall be prepared in accordance with generally accepted accounting principles. In addition to the audits, the State Auditor and Inspector, whenever the State Auditor deems it appropriate, and at least once each five (5) years, or upon receipt of a request to do so from the Governor, the Attorney General, the President Pro Tempore of the Senate, the Speaker of the House of Representatives or the Authority shall conduct a special audit of the Authority;

10. Engage in long-term planning for the operation and management of the Community Hospitals Authority;

11. Establish petty cash funds and provide for appropriate accounting procedures and controls; and

12. Do all other things necessary and proper to implement the provisions of the Community Hospitals Authority Act.

B. The Community Hospitals Authority shall be subject to the Oklahoma Budget Law of 1947.

C. The Authority shall prepare monthly a "budget vs. actual" report which shows by budget activity the monthly and year-to-date

revenues and expenditures compared to budgeted revenues and expenditures. Such report shall be submitted to the Office of Management and Enterprise Services and to the directors of the Fiscal Divisions of the State Senate and the Oklahoma House of Representatives.

D. The Authority shall be subject to the professional risk management program provided for in Section 85.58A of Title 74 of the Oklahoma Statutes.

E. The Authority shall be and is prohibited from issuing bonds or other evidences of indebtedness.

F. The Authority shall be and is prohibited from acquiring any real property.

Added by Laws 2002, c. 374, § 8, eff. July 1, 2002. Amended by Laws 2003, c. 412, § 4, eff. Nov. 1, 2003; Laws 2012, c. 304, § 519.

§63-3240.7. Annual report.

The Community Hospitals Authority shall submit an annual report to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives. Such report shall be submitted in accordance with the requirements for financial statement audits in Section 212A of Title 74 of the Oklahoma Statutes, and shall include an account of the operations and actions of the Authority and an accounting of all revenue received and disbursed by the Authority for the previous fiscal year. The report shall include an accounting of expenses related to the care and treatment of indigent persons for whom the Authority receives any form of state or federal reimbursement.

Added by Laws 2002, c. 374, § 9, eff. July 1, 2002.

§63-3240.8. Community Hospitals Authority Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Community Hospitals Authority to be designated the "Community Hospitals Authority Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of monies available to the Authority. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Community Hospitals Authority as authorized by law. The Authority shall ensure that all monies deposited into the fund are matched with federal dollars whenever possible.

Added by Laws 2002, c. 374, § 10, eff. July 1, 2002.

§63-3241.1. Supplemental Hospital Offset Payment Program Act.

This act shall be known and may be cited as the "Supplemental Hospital Offset Payment Program Act".

Added by Laws 2011, c. 228, § 1.

§63-3241.2. Definitions.

As used in the Supplemental Hospital Offset Payment Program Act:

1. "Authority" means the Oklahoma Health Care Authority;

2. "Base year" means a hospital's fiscal year as reported in the Medicare Cost Report or as determined by the Authority if the hospital's data is not included in the Medicare Cost Report. The base year data will be used in all assessment calculations;

3. "Net hospital patient revenue" means the gross hospital revenue as reported on Worksheet G-2 (Columns 1 and 2, Lines "Total inpatient routine care services", "Ancillary services", and "Outpatient services") of the Medicare Cost Report, multiplied by the hospital's ratio of total net to gross revenue, as reported on Worksheet G-3 (Column 1, Line "Net patient revenues") and Worksheet G-2 (Part I, Column 3, Line "Total patient revenues");

4. "Hospital" means an institution licensed by the State Department of Health as a hospital pursuant to Section 1-701 of this title maintained primarily for the diagnosis, treatment, or care of patients;

5. "Hospital Advisory Committee" means the Committee established for the purposes of advising the Oklahoma Health Care Authority and recommending provisions within and approval of any state plan amendment or waiver affecting hospital reimbursement made necessary or advisable by the Supplemental Hospital Offset Payment Program Act. In order to expedite the submission of the state plan amendment required by Section 3241.6 of this title, the Committee shall initially be appointed by the Executive Director of the Authority from recommendations submitted by a statewide association representing rural and urban hospitals. The permanent Committee shall be appointed no later than thirty (30) days after November 1, 2011, and shall be composed of five (5) members to serve until December 31, 2020, from lists of names submitted by a statewide association representing rural and urban hospitals, as follows:

a. one member, appointed by the Governor, who shall serve as chairman, and

b. two members appointed each by the President Pro Tempore of the Oklahoma State Senate and the Speaker of the Oklahoma House of Representatives.

Membership shall be extended until December 31, 2020, for those members who are serving as of December 31, 2016;

6. "Medicaid" means the medical assistance program established in Title XIX of the federal Social Security Act and administered in this state by the Oklahoma Health Care Authority;

7. "Medicare Cost Report" means the Hospital Cost Report, Form CMS-2552-96 or subsequent versions;

8. "Upper payment limit" means the maximum ceiling imposed by 42 C.F.R., Sections 447.272 and 447.321 on hospital Medicaid

reimbursement for inpatient and outpatient services, other than to hospitals owned or operated by state government; and

9. "Upper payment limit gap" means the difference between the upper payment limit and Medicaid payments not financed using hospital assessments made to all hospitals other than hospitals owned or operated by state government.

Added by Laws 2011, c. 228, § 2. Amended by Laws 2013, c. 132, § 1, eff. Nov. 1, 2013; Laws 2016, c. 345, § 1, eff. Nov. 1, 2016.

§63-3241.3. Hospital assessment - Exceptions - Fees - Promulgation of rules.

A. For the purpose of assuring access to quality care for Oklahoma Medicaid consumers, the Oklahoma Health Care Authority, after considering input and recommendations from the Hospital Advisory Committee, shall assess hospitals licensed in Oklahoma, unless exempt under subsection B of this section, a supplemental hospital offset payment program fee.

B. The following hospitals shall be exempt from the supplemental hospital offset payment program fee:

1. A hospital that is owned or operated by the state or a state agency, the federal government, a federally recognized Indian tribe, or the Indian Health Service;

2. A hospital that provides more than fifty percent (50%) of its inpatient days under a contract with a state agency other than the Authority;

3. A hospital for which the majority of its inpatient days are for any one of the following services, as determined by the Authority using the Inpatient Discharge Data File published by the Oklahoma State Department of Health, or in the case of a hospital not included in the Inpatient Discharge Data File, using substantially equivalent data provided by the hospital:

a. treatment of a neurological injury,

b. treatment of cancer,

c. treatment of cardiovascular disease,

d. obstetrical or childbirth services,

e. surgical care, except that this exemption shall not apply to any hospital located in a city of less than five hundred thousand (500,000) population and for which the majority of inpatient days are for back, neck, or spine surgery;

4. A hospital that is certified by the federal Centers for Medicaid and Medicare Services as a long-term acute care hospital or as a children's hospital; and

5. A hospital that is certified by the federal Centers for Medicaid and Medicare Services as a critical access hospital.

C. The supplemental hospital offset payment program fee shall be an assessment imposed on each hospital, except those exempted

under subsection B of this section, for each calendar year in an amount calculated as a percentage of each hospital's net patient revenue.

1. The assessment rate shall be determined annually based upon the percentage of net hospital patient revenue needed to generate an amount up to the sum of:

a. the nonfederal portion of the upper payment limit gap, plus

b. the annual fee to be paid to the Authority under subparagraph c of paragraph 1 of subsection G of Section 3241.4 of this title, plus

c. the amount to be transferred by the Authority to the Medical Payments Cash Management Improvement Act Programs Disbursing Fund under subsection C of Section 3241.4 of this title.

2. The assessment rate until December 31, 2012, shall be fixed at two and one-half percent (2.5%). At no time in subsequent years shall the assessment rate exceed four percent (4%).

3. Net hospital patient revenue shall be determined using the data from each hospital's Medicare Cost Report contained in the Centers for Medicare and Medicaid Services' Healthcare Cost Report Information System file.

a. Through 2013, the base year for assessment shall be the hospital's fiscal year that ended in 2009, as contained in the Healthcare Cost Report Information System file dated December 31, 2010.

b. For years after 2013, the base year for assessment shall be determined by rules established by the Authority.

4. If a hospital's applicable Medicare Cost Report is not contained in the Centers for Medicare and Medicaid Services' Healthcare Cost Report Information System file, the hospital shall submit a copy of the hospital's applicable Medicare Cost Report to the Authority in order to allow the Authority to determine the hospital's net hospital patient revenue for the base year.

5. If a hospital commenced operations after the due date for a Medicare Cost Report, the hospital shall submit its initial Medicare Cost Report to the Authority in order to allow the Authority to determine the hospital's net patient revenue for the base year.

6. Partial year reports may be prorated for an annual basis.

7. In the event that a hospital does not file a uniform cost report under 42 U.S.C., Section 1396a(a)(40), the Authority shall establish a uniform cost report for such facility subject to the Supplemental Hospital Offset Payment Program provided for in this section.

8. The Authority shall review what hospitals are included in the Supplemental Hospital Offset Payment Program provided for in

this subsection and what hospitals are exempted from the Supplemental Hospital Offset Payment Program pursuant to subsection B of this section. Such review shall occur at a fixed period of time. This review and decision shall occur within twenty (20) days of the time of federal approval and annually thereafter in November of each year.

9. The Authority shall review and determine the amount of the annual assessment. Such review and determination shall occur within the twenty (20) days of federal approval and annually thereafter in November of each year.

D. A hospital may not charge any patient for any portion of the supplemental hospital offset payment program fee.

E. Closure, merger and new hospitals.

1. If a hospital ceases to operate as a hospital or for any reason ceases to be subject to the fee imposed under the Supplemental Hospital Offset Payment Program Act, the assessment for the year in which the cessation occurs shall be adjusted by multiplying the annual assessment by a fraction, the numerator of which is the number of days in the year during which the hospital is subject to the assessment and the denominator of which is 365. Immediately upon ceasing to operate as a hospital, or otherwise ceasing to be subject to the supplemental hospital offset payment program fee, the hospital shall pay the assessment for the year as so adjusted, to the extent not previously paid.

2. In the case of a hospital that did not operate as a hospital throughout the base year, its assessment and any potential receipt of a hospital access payment will commence in accordance with rules for implementation and enforcement promulgated by the Authority, after consideration of the input and recommendations of the Hospital Advisory Committee.

F. 1. In the event that federal financial participation pursuant to Title XIX of the Social Security Act is not available to the Oklahoma Medicaid program for purposes of matching expenditures from the Supplemental Hospital Offset Payment Program Fund at the approved federal medical assistance percentage for the applicable year, the supplemental hospital offset payment program fee shall be null and void as of the date of the nonavailability of such federal funding through and during any period of nonavailability.

2. In the event of an invalidation of the Supplemental Hospital Offset Payment Program Act by any court of last resort, the supplemental hospital offset payment program fee shall be null and void as of the effective date of that invalidation.

3. In the event that the supplemental hospital offset payment program fee is determined to be null and void for any of the reasons enumerated in this subsection, any supplemental hospital offset payment program fee assessed and collected for any period after such

invalidation shall be returned in full within twenty (20) days by the Authority to the hospital from which it was collected.

G. The Authority, after considering the input and recommendations of the Hospital Advisory Committee, shall promulgate rules for the implementation and enforcement of the supplemental hospital offset payment program fee. Unless otherwise provided, the rules adopted under this subsection shall not grant any exceptions to or exemptions from the hospital assessment imposed under this section.

H. The Authority shall provide for administrative penalties in the event a hospital fails to:

1. Submit the supplemental hospital offset payment program fee;
2. Submit the fee in a timely manner;
3. Submit reports as required by this section; or
4. Submit reports timely.

I. The supplemental hospital offset payment program fee shall terminate effective December 31, 2020.

J. The Authority shall have the power to promulgate emergency rules to enact the provisions of this act.

Added by Laws 2011, c. 228, § 3. Amended by Laws 2013, c. 132, § 2, eff. Nov. 1, 2013; Laws 2016, c. 345, § 2, eff. Nov. 1, 2016.

§63-3241.4. Supplemental Hospital Offset Payment Program Fund.

A. There is hereby created in the State Treasury a revolving fund to be designated the "Supplemental Hospital Offset Payment Program Fund".

B. The fund shall be a continuing fund, not subject to fiscal year limitations, be interest bearing and consisting of:

1. All monies received by the Oklahoma Health Care Authority from hospitals pursuant to the Supplemental Hospital Offset Payment Program Act and otherwise specified or authorized by law;
2. Any interest or penalties levied and collected in conjunction with the administration of this section; and
3. All interest attributable to investment of money in the fund.

C. Notwithstanding any other provisions of law, the Oklahoma Health Care Authority is authorized to transfer Seven Million Five Hundred Thousand Dollars ($7,500,000.00) each fiscal quarter from the Supplemental Hospital Offset Payment Program Fund to the Authority's Medical Payments Cash Management Improvement Act Programs Disbursing Fund.

D. Notice of Assessment.

1. The Authority shall send a notice of assessment to each hospital informing the hospital of the assessment rate, the hospital's net patient revenue calculation, and the assessment amount owed by the hospital for the applicable year.

2. Annual notices of assessment shall be sent at least thirty (30) days before the due date for the first quarterly assessment payment of each year.

3. The first notice of assessment shall be sent within forty-five (45) days after receipt by the Authority of notification from the Centers for Medicare and Medicaid Services that the assessments and payments required under the Supplemental Hospital Offset Payment Program Act and, if necessary, the waiver granted under 42 C.F.R., Section 433.68 have been approved.

4. The hospital shall have thirty (30) days from the date of its receipt of a notice of assessment to review and verify the assessment rate, the hospital's net patient revenue calculation, and the assessment amount.

5. A hospital subject to an assessment under the Supplemental Hospital Offset Payment Program Act that has not been previously licensed as a hospital in Oklahoma and that commences hospital operations during a year shall pay the required assessment computed under subsection E of Section 3241.3 of this title and shall be eligible for hospital access payments under subsection E of this section on the date specified in rules promulgated by the Authority after consideration of input and recommendations of the Hospital Advisory Committee.

E. Quarterly Notice and Collection.

1. The annual assessment imposed under subsection A of Section 3241.3 of this title shall be due and payable on a quarterly basis. However, the first installment payment of an assessment imposed by the Supplemental Hospital Offset Payment Program Act shall not be due and payable until:

a. the Authority issues written notice stating that the assessment and payment methodologies required under the Supplemental Hospital Offset Payment Program Act have been approved by the Centers for Medicare and Medicaid Services and the waiver under 42 C.F.R., Section 433.68, if necessary, has been granted by the Centers for Medicare and Medicaid Services,

b. the thirty-day verification period required by paragraph 4 of subsection D of this section has expired, and

c. the Authority issues a notice giving a due date for the first payment.

2. After the initial installment of an annual assessment has been paid under this section, each subsequent quarterly installment payment shall be due and payable by the fifteenth day of the first month of the applicable quarter.

3. If a hospital fails to timely pay the full amount of a quarterly assessment, the Authority shall add to the assessment:

a. a penalty assessment equal to five percent (5%) of the quarterly amount not paid on or before the due date, and

b. on the last day of each quarter after the due date until the assessed amount and the penalty imposed under subparagraph a of this paragraph are paid in full, an additional five-percent penalty assessment on any unpaid quarterly and unpaid penalty assessment amounts.

4. The quarterly assessment including applicable penalties and interest must be paid regardless of any appeals action requested by the facility. If a provider fails to pay the Authority the assessment within the time frames noted on the invoice to the provider, the assessment, applicable penalty, and interest will be deducted from the facility's payment. Any change in payment amount resulting from an appeals decision will be adjusted in future payments.

F. Medicaid Hospital Access Payments.

1. To preserve the quality and improve access to hospital services for hospital inpatient and outpatient services rendered on or after the effective date of this act, the Authority shall make hospital access payments as set forth in this section.

2. The Authority shall pay all quarterly hospital access payments within ten (10) calendar days of the due date for quarterly assessment payments established in subsection E of this section.

3. The Authority shall calculate the hospital access payment amount up to but not to exceed the upper payment limit gap for inpatient and outpatient services.

4. All hospitals shall be eligible for inpatient and outpatient hospital access payments each year as set forth in this subsection except hospitals described in paragraph 1, 2, 3 or 4 of subsection B of Section 3241.3 of this title.

5. A portion of the hospital access payment amount, not to exceed the upper payment limit gap for inpatient services, shall be designated as the inpatient hospital access payment pool.

a. In addition to any other funds paid to hospitals for inpatient hospital services to Medicaid patients, each eligible hospital shall receive inpatient hospital access payments each year equal to the hospital's pro rata share of the inpatient hospital access payment pool based upon the hospital's Medicaid payments for inpatient services divided by the total Medicaid payments for inpatient services of all eligible.

b. Inpatient hospital access payments shall be made on a quarterly basis.

6. A portion of the hospital access payment amount, not to exceed the upper payment limit gap for outpatient services, shall be designated as the outpatient hospital access payment pool.

a. In addition to any other funds paid to hospitals for outpatient hospital services to Medicaid patients, each eligible hospital shall receive outpatient hospital access payments each year equal to the hospital's pro rata share of the outpatient hospital access payment pool based upon the hospital's Medicaid payments for outpatient services divided by the total Medicaid payments for outpatient services of all eligible.

b. Outpatient hospital access payments shall be made on a quarterly basis.

7. A portion of the inpatient hospital access payment pool and of the outpatient hospital access payment pool shall be designated as the critical access hospital payment pool.

a. In addition to any other funds paid to critical access hospitals for inpatient and outpatient hospital services to Medicaid patients, each critical access hospital shall receive hospital access payments equal to the amount by which the payment for these services was less than one hundred one percent (101%) of the hospital's cost of providing these services, as determined using the Medicare Cost Report.

b. The Authority shall calculate hospital access payments for critical access hospitals and deduct these payments from the inpatient hospital access payment pool and the outpatient hospital access payment pool before allocating the remaining balance in each pool as provided in subparagraph a of paragraph 5 and subparagraph a of paragraph 6 of this subsection.

c. Critical access hospital payments shall be made on a quarterly basis.

8. A hospital access payment shall not be used to offset any other payment by Medicaid for hospital inpatient or outpatient services to Medicaid beneficiaries, including without limitation any fee-for-service, per diem, private hospital inpatient adjustment, or cost-settlement payment.

9. If the Centers for Medicare and Medicaid Services finds that the Authority has made payments to hospitals that exceed the upper payment limits determined in accordance with 42 C.F.R. 447.272 and 42 C.F.R. 447.321, hospitals shall refund to the Authority a share of the recouped federal funds that is proportionate to the hospitals' positive contribution to the upper payment limit.

G. All monies accruing to the credit of the Supplemental Hospital Offset Payment Program Fund are hereby appropriated and

shall be budgeted and expended by the Authority after consideration of the input and recommendation of the Hospital Advisory Committee.

1. Monies in the Supplemental Hospital Offset Payment Program Fund shall be used only for:

a. transfers to the Medical Payments Cash Management Improvement Act Programs Disbursing Fund (Fund 340) for the state share of supplemental payments for Medicaid and SCHIP inpatient and outpatient services to hospitals that participate in the assessment,

b. transfers to the Medical Payments Cash Management Improvement Act Programs Disbursing Fund (Fund 340) for the state share of supplemental payments for Critical Access Hospitals,

c. transfers to the Administrative Revolving Fund (Fund 200) for the state share of payment of administrative expenses incurred by the Authority or its agents and employees in performing the activities authorized by the Supplemental Hospital Offset Payment Program Act but not more than Two Hundred Thousand Dollars ($200,000.00) each year,

d. transfers to the Medical Payments Cash Management Improvement Act Programs Disbursing Fund (Fund 340) in an amount not to exceed Seven Million Five Hundred Thousand Dollars ($7,500,000.00) each fiscal quarter, and

e. the reimbursement of monies collected by the Authority from hospitals through error or mistake in performing the activities authorized under the Supplemental Hospital Offset Payment Program Act.

2. The Authority shall pay from the Supplemental Hospital Offset Payment Program Fund quarterly installment payments to hospitals of amounts available for supplemental inpatient and outpatient payments, and supplemental payments for Critical Access Hospitals.

3. Except for the transfers described in subsection C of this section, monies in the Supplemental Hospital Offset Payment Program Fund shall not be used to replace other general revenues appropriated and funded by the Legislature or other revenues used to support Medicaid.

4. The Supplemental Hospital Offset Payment Program Fund and the program specified in the Supplemental Hospital Offset Payment Program Act are exempt from budgetary reductions or eliminations caused by the lack of general revenue funds or other funds designated for or appropriated to the Authority.

5. No hospital shall be guaranteed, expressly or otherwise, that any additional costs reimbursed to the facility will equal or

exceed the amount of the supplemental hospital offset payment program fee paid by the hospital.

H. After considering input and recommendations from the Hospital Advisory Committee, the Authority shall promulgate regulations that:

1. Allow for an appeal of the annual assessment of the Supplemental Hospital Offset Payment Program payable under this act; and

2. Allow for an appeal of an assessment of any fees or penalties determined.

Added by Laws 2011, c. 228, § 4. Amended by Laws 2013, c. 132, § 3, eff. Nov. 1, 2013; Laws 2016, c. 345, § 3, eff. Nov. 1, 2016.

§63-3241.5. Supplemental hospital offset payment program.

A. The supplemental hospital offset payment program fee is to supplement, not supplant, appropriations to support hospital reimbursement. If Medicaid payment rates to providers are adjusted, hospital rates shall not be adjusted less favorably than the average percentage-rate reduction or increase applicable to the majority of other provider groups.

B. Notwithstanding any other provision of the Supplemental Hospital Offset Payment Program Act, if, after receipt of authorization to receive federal matching funds for monies generated by the Supplemental Hospital Offset Payment Program Act, the authorization is withdrawn or changed so that federal matching funds are no longer available, the Oklahoma Health Care Authority shall cease collecting the provider fee and shall repay to the hospitals any money received by the Supplemental Hospital Offset Payment Program Fund that is not subject to federal matching funds.

Added by Laws 2011, c. 228, § 5.

§63-3241.6. Implementation of Supplemental Hospital Offset Payment Program Act.

A. The Oklahoma Health Care Authority shall submit to the Hospital Advisory Committee a proposed state plan amendment to implement the requirements of the Supplemental Hospital Offset Payment Program Act, including the payment of hospital access payments under Section 4 of this act no later than forty-five (45) days after the effective date of this act, and shall submit the state plan amendment to the Centers for Medicare and Medicaid Services after consideration of the input and recommendations of the Hospital Advisory Committee.

B. If the state plan amendment is not approved by the Centers for Medicare and Medicaid Services, the Authority shall:

1. Not implement the assessment imposed under the Supplemental Hospital Offset Payment Program Act; and

2. Return any fees to hospitals that paid the fees if any such fees have been collected.
Added by Laws 2011, c. 228, § 6.

§63-3242. Supplemental Medicaid reimbursement for ground emergency transportation.

A. An eligible provider, as described in subsection B of this section, in addition to the rate of payment that the provider would otherwise receive for Medicaid ground emergency medical transportation services, shall receive supplemental Medicaid reimbursement to the extent provided by law.

B. A provider shall be eligible for supplemental reimbursement only if the provider meets the following conditions during the state fiscal year:

1. Provides ground emergency medical transportation services to Medicaid beneficiaries;

2. Is a provider that is enrolled as a Medicaid provider for the period being claimed; and

3. Is owned or operated by the state, a political subdivision or local government, that employs or contracts with persons who are licensed to provide emergency medical services in the State of Oklahoma, and includes private entities to the extent permissible under federal law.

C. An eligible provider's supplemental reimbursement pursuant to this section shall be calculated and paid as follows:

1. The supplemental reimbursement to an eligible provider, as described in subsection B of this section, shall be equal to the amount of federal financial participation received because of the claims submitted pursuant to paragraph 3 of subsection F of this section;

2. In no instance shall the amount certified pursuant to paragraph 1 of subsection E of this section, when combined with the amount received from all other sources of reimbursement from the Medicaid program, exceed one hundred percent (100%) of actual costs, as determined pursuant to the Medicaid state plan, for ground emergency medical transportation services; and

3. The supplemental Medicaid reimbursement provided by this section shall be distributed exclusively to eligible providers under a payment methodology based on ground emergency medical transportation services provided to Medicaid beneficiaries by eligible providers on a per-transport basis or other federally permissible basis. The Oklahoma Health Care Authority shall obtain approval from the Centers for Medicare and Medicaid Services for the payment methodology to be utilized, and shall not make any payment pursuant to this section prior to obtaining that approval.

D. 1. It is the Legislature's intent in enacting this section to provide the supplemental reimbursement described in this section

without any expenditure from the state General Revenue Fund. An eligible provider, as a condition of receiving supplemental reimbursement pursuant to this section, shall enter into, and maintain, an agreement with the Authority for the purposes of implementing this section and reimbursing the state for the costs of administering this section.

2. The nonfederal share of the supplemental reimbursement submitted to the federal Centers for Medicare and Medicaid Services for purposes of claiming federal financial participation shall be paid only with funds from the governmental entities described in paragraph 3 of subsection B of this section and certified to the state as provided in subsection E of this section.

E. Participation in the reimbursement program provided by this section by an eligible provider as set forth in subsection B of this section is voluntary. If an applicable governmental entity elects to seek supplemental reimbursement pursuant to this section on behalf of an eligible provider, the governmental entity shall do the following:

1. Certify, in conformity with the requirements of 42 C.F.R. § 433.51, that the claimed expenditures for the ground emergency medical transportation services are eligible for federal financial participation;

2. Provide evidence supporting the certification as specified by the Oklahoma Health Care Authority;

3. Submit data as specified by the Authority to determine the appropriate amounts to claim as expenditures qualifying for federal financial participation; and

4. Keep, maintain, and have readily retrievable any records specified by the Authority to fully disclose reimbursement amounts to which the eligible provider is entitled, and any other records required by the Centers for Medicare and Medicaid Services.

F. 1. The Authority shall promptly seek any necessary federal approvals for the implementation of this section. The Authority may limit the program to those costs that are allowable expenditures under Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. If federal approval is not obtained for implementation of this section, this section shall not be implemented.

2. The Authority shall submit claims for federal financial participation for the expenditures for the services delineated in subsection E of this section that are allowable expenditures under federal law.

3. The Authority shall submit any necessary materials to the federal government to provide assurances that claims for federal financial participation will include only those expenditures that are allowable under federal law.

Added by Laws 2018, c. 269, § 1, eff. Nov. 1, 2018.

§63-3250.1. Short title.

This act shall be known and may be cited as the "Oklahoma Community Hospitals Public Trust Authorities Act".

Added by Laws 2003, c. 432, § 1, emerg. eff. June 7, 2003.

§63-3250.2. Definitions.

As used in the Oklahoma Community Hospitals Public Trust Authorities Act:

1. "Community hospital public trust authority" or "public trust" means a community hospital public trust authority establishing a hospital district pursuant to the provisions of the Oklahoma Community Hospitals Public Trust Authorities Act;

2. "Hospital" means a hospital as such term is defined by Section 1-701 of Title 63 of the Oklahoma Statutes and facilities within the definition of Section 2657 of Title 63 of the Oklahoma Statutes;

3. "Hospital district" means a designated geographical area established by a community hospital public trust authority; and

4. "Medically indigent person" means a person requiring medically necessary hospital or other health care services for the person or the dependents of the person, who has insufficient or no public or private third-party coverage, and whose personal resources are insufficient to provide for hospital or other health care services.

Added by Laws 2003, c. 432, § 2, emerg. eff. June 7, 2003.

§63-3250.3. Purpose – Creation of public trust – Instrument – Condition precedent – Filing - Amendment.

A. 1. The Oklahoma Legislature finds that the delivery of health care services to the public including medically indigent persons will be enhanced through the establishment of community hospital public trust authorities and the creation of hospital districts pursuant to the Oklahoma Community Hospitals Public Trust Authorities Act.

2. The purpose of the Oklahoma Community Hospitals Public Trust Authorities Act is to provide maximum utilization and efficient administration in delivering health care services by hospital districts to the public including medically indigent persons, and to provide for supplemental Medicaid programs.

B. 1. A hospital or two or more hospitals located within a county or adjacent counties or located within a county or adjacent counties and a municipality may jointly create a public trust for the purposes of:

a. establishing a hospital district,

b. accessing and providing funding for coordination of the delivery of health care to the public including

but not limited to programs that contribute to serving the medically indigent,

c. improving access to health care by the public,

d. coordinating the development of new health services in the hospital district,

e. considering various alternatives for integrating the services of the health care delivery system in the hospital district, and

f. providing for and supplementing Medicaid programs.

2. A hospital participating in the creation of a public trust must:

a. expend at least Fifty Thousand Dollars ($50,000.00) annually providing care for medically indigent persons, and

b. have a system of inpatient and/or outpatient health care, trauma care, or emergency care services that is not limited to a specific modality of health care.

3. The boundaries of a community hospital public trust authority should be coextensive with the boundaries of a county or a group of member counties.

4. The county or counties or the county or counties and municipality in which a hospital district is established must approve and shall be the beneficiary of the public trust pursuant to the provisions of Sections 176 and 177 of Title 60 of the Oklahoma Statutes.

C. The instrument creating the public trust shall provide at a minimum:

1. The reasons for organizing and constituting a hospital district, including a statement that the community hospital public trust authority will comply with all applicable provisions of Sections 176 through 180.3 of Title 60 of the Oklahoma Statutes and the Oklahoma Community Hospitals Public Trust Authorities Act;

2. A statement that the public trust shall be separate and independent from the affairs of the beneficiary in all matters or activities authorized by the written instrument creating the public trust;

3. The names and corporate headquarters of each hospital located in the proposed hospital district;

4. The general patient loads of each hospital within the proposed hospital district and the anticipated number of medically indigent persons for whom medical services will be provided;

5. A concise description of the geographic boundaries to be embraced within the proposed hospital district;

6. A statement that the proposed hospital district is embracing only those lands within the proposed boundaries specified by paragraph 5 of this subsection which can reasonably and economically be served in the foreseeable future;

7. Assurance that all hospitals located within the hospital district which meet the eligibility criteria can participate in the public trust;

8. For the appointment, succession, powers, duties, terms and manner of removal of trustees;

9. For the appointment of at least five trustees as follows:

a. the chief executive officers of the hospitals participating in the community hospital public trust authority and may include the chief executive officers of hospitals located within the hospital district,

b. (1) one county commissioner or their designee from each beneficiary county which the hospital district embraces, appointed by the commissioners of each such county, and

(2) the chief administrative officer or his or her designee from a municipality in which the hospital district is situated, if such municipality is the beneficiary of the public trust, and

c. one member appointed by the Governor who has no direct affiliation with any hospital participating in the community hospital public trust authority; provided, that if pursuant to the provisions of this paragraph the Board will have less than five members, the Governor shall appoint additional members; and

10. The time and place of the regular meetings and the manner in which special meetings may be called. A community hospital public trust authority shall keep a complete record of all its proceedings.

D. As a condition precedent, each community hospital public trust authority must receive approval from the Attorney General that the public trust is in the proper form.

E. A certified copy of the public trust agreement must be filed with the Secretary of State and with the court clerk of each beneficiary county and municipality.

F. Each public trust established pursuant to the Oklahoma Community Hospitals Public Trust Authorities Act shall not be amended without a two-thirds (2/3) vote of approval of the trustees of such trust.

Added by Laws 2003, c. 432, § 3, emerg. eff. June 7, 2003.

§63-3250.4. Hospitals within hospital district – License, accreditation, and certification requirements – Participation in federal medical programs.

Hospitals located within a hospital district:

1. Shall be licensed by the State Department of Health and shall meet the standards, requirements and essentials of the Joint

Commission of Accreditation of Health Care Organizations or the American Osteopathic Association or meet Medicare certification by the Center for Medicare and Medicaid Services. Provided, the State Commissioner of Health may waive any such standards, requirements and essentials as the Commissioner deems necessary; and

2. May provide services and receive payments therefor pursuant to Titles XVIII and XIX of the federal Social Security Act, and may participate in other federal medical programs.

Added by Laws 2003, c. 432, § 4, emerg. eff. June 7, 2003.

§63-3250.5. Members and officers of community hospital public trust authority – Residency – Bond.

A. Each member of a community hospital public trust authority shall be a resident of the state and a registered voter.

B. The members of the community hospital public trust authority shall serve without compensation but may be reimbursed for all reasonable and actual and necessary travel expenses incurred in the performance of their duties in accordance with the provisions of the State Travel Reimbursement Act.

C. Each officer handling funds of the public trust shall furnish a good and sufficient fidelity bond in an amount and with surety as may be specified by the Oklahoma Central Purchasing Act. The cost of the bond shall be paid from funds of the community hospital public trust authority.

Added by Laws 2003, c. 432, § 5, emerg. eff. June 7, 2003.

§63-3250.6. Authority, powers, and duties of community hospital public trust authority – Conflict of interest – Compliance with statutes – Audits – Issuance of bonds.

A. 1. Each community hospital public trust authority shall be a governmental entity and a body politic and corporate with powers of government and with authority to establish and operate a hospital district and to exercise the rights, privileges and functions specified by the Oklahoma Community Hospitals Public Trust Authorities Act and Sections 176 through 180.3 of Title 60 of the Oklahoma Statutes.

2. Nothing in this subsection shall be construed as authorizing any hospital district to levy or collect taxes or to pledge the credit of the state or any subdivision of this state.

B. Each community hospital public trust authority shall have the power to:

1. Adopt bylaws and promulgate rules for the regulation of its affairs and the conduct of its business;

2. Adopt an official seal;

3. Act as a vehicle for securing funds for education, indigent medical care, trauma, emergency and other health care services;

4. Coordinate the delivery and efficiency of health care services within the hospital district established pursuant to the Oklahoma Community Hospitals Public Trust Authorities Act;

5. Sue and be sued;

6. Make and enter into all contracts necessary or incidental to the performance of its duties and the execution of its powers pursuant to the Oklahoma Community Hospitals Public Trust Authorities Act;

7. Purchase or lease equipment, furniture, materials and supplies, and incur such other expenses as may be necessary to discharge its duties and responsibilities or to implement the provisions of the Oklahoma Community Hospitals Public Trust Authorities Act;

8. Accept grants and other funds from agencies of this state and the United States of America, from other government entities, or from any corporation or agency created or designed by the United States or other government entity, and to enter into such agreements as the United States or such corporation or agency may require;

9. Accept grants and gifts from private individuals and organizations;

10. Accept and make intergovernmental transfers authorized by state law. A hospital district may make intergovernmental transfers to the Oklahoma Health Care Authority to the extent permitted by state or federal law;

11. Issue bonds and other evidences of indebtedness, and to secure the payment thereof by mortgage, pledge, or deed of trust of, or any other encumbrance upon, any or all of its then-owned or after-acquired real or personal property, assets, franchises, or revenues;

12. Become a member of other cooperatives, joint ventures, partnerships, corporations or other legal entities or to own stock therein;

13. Conduct its business and exercise its powers within or without this state;

14. Assess fees, levies, assessments, or charges upon and enforce the payment of such fees, levies, assessments or charges against any hospital located within the geographical boundaries of its hospital district and to remit such monies to the Oklahoma Health Care Authority for purposes of meeting the state’s share for the supplemental Medicaid programs to the extent and manner authorized by federal law. Fees, levies, assessments or charges may be enforced by a community hospital public trust authority through civil action brought in the district court in the county in which the community hospital public trust authority is located;

15. Appoint officers, agents and employees, prescribe their duties and fix their compensation;

16. Engage in long-term planning for the operation and management of a community hospital public trust authority;

17. Establish petty cash funds as needed and provide for appropriate accounting procedures and controls; and

18. Do all other things necessary and proper to implement the provisions of the Oklahoma Community Hospitals Public Trust Authorities Act.

C. No director or officer of a community hospital public trust authority shall vote on any issue before the authority in which such director or officer has a direct interest in any contract or for any work by or for the community hospital public trust authority.

D. The trustees of each community hospital public trust authority created pursuant to the Oklahoma Community Hospitals Public Trust Authorities Act shall make and adopt bylaws for the due and orderly administration and regulation of the affairs of the community hospital public trust authority. All bylaws and amendments thereto of a community hospital public trust authority shall be submitted in writing to each beneficiary of the community hospital public trust authority, the Governor of this state and to the Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the State Senate.

E. No appropriation of state funds shall be made to any community hospital public trust authority. Each authority may receive the funds it may be entitled to receive pursuant to the Medicaid program as administered by the Oklahoma Health Care Authority.

F. Each community hospital public trust authority shall comply with:

1. The annual budget provisions of the state requiring a balanced budget. A copy of the budget shall be submitted annually to the Governor and to each beneficiary of the community hospital public trust authority;

2. The Public Competitive Bidding Act of 1974;

3. The Oklahoma Open Records Act;

4. The Oklahoma Open Meeting Act; and

5. The provisions of Sections 176 through 180.3 of Title 60 of the Oklahoma Statutes and the Community Hospitals Public Trust Authorities Act.

G. 1. Each community hospital public trust authority shall provide for complete financial audits on all accounts of the community hospital public trust authority and authorize periodic audits by an independent external auditing agency. Such audits shall be performed annually in a format approved by the State Auditor and Inspector. The audits shall be made in accordance with generally accepted auditing standards and government auditing standards. Financial statements shall be prepared in accordance with generally accepted accounting principles. Such audits shall be

submitted to the State Auditor and Inspector and to the beneficiary of the community hospital public trust authority for review.

2. In addition to the audits specified by this subsection, the State Auditor and Inspector, whenever the State Auditor and Inspector deems it appropriate, and at least once each five (5) years, or upon receipt of a request to do so from the beneficiary of a community hospital public trust authority, the Governor, the Attorney General, the President Pro Tempore of the Senate, the Speaker of the House of Representatives or the community hospital public trust authority shall conduct a special audit of the authority. Such audit shall be paid from the funds of the community hospital public trust authority.

H. 1. Except for acts of dishonesty, no trustee of a community hospital public trust authority shall be charged personally with any liability whatsoever by reason of any act or omission committed or suffered in the performance of such trust or in the operation of the trust property.

2. A community hospital public trust authority established pursuant to the provisions of the Oklahoma Community Hospitals Public Trust Authorities Act shall be covered by The Governmental Tort Claims Act.

3. Officers, employees, agents, independent contractors and employees of independent contractors of hospitals participating in the hospital district shall not be covered by The Governmental Tort Claims Act. The provisions of this paragraph shall not affect the immunity provided to hospitals or to officers and employees of hospitals covered by Section 152 of Title 51 of the Oklahoma Statutes.

4. In no event shall the state, county or municipality be construed to be or become liable for any act, omission or obligation of a trustee or of the community hospital public trust authority.

I. A community hospital public trust authority may be terminated by agreement of the trustees of this state; provided, that such community hospital public trust authority shall not be terminated while there exists any outstanding contractual obligations chargeable against the trust property.

J. 1. Compliance with the provisions of Sections 176 through 180.3 of Title 60 of the Oklahoma Statutes and the Oklahoma Community Hospitals Public Trust Authorities Act by a community hospital public trust authority shall be and constitute a binding contract with the county or counties and municipality beneficiaries for the acceptance of the beneficial interest in the trust property by the designated beneficiary and the application of the proceeds of the trust property and its operation for the purposes, and in accordance with the stipulations, of the public trust instrument.

2. Each community hospital public trust authority shall be the regularly constituted authority of the beneficiary for the

performance of the functions for which the community hospital public trust authority shall have been created.

K. 1. A community hospital public trust authority shall have the power and duty to make and issue bonds and to pledge revenues of the community hospital public trust authority subject to the Oklahoma Bond Oversight and Reform Act. Nothing in the Oklahoma Community Hospitals Public Trust Authorities Act shall authorize the issuance of any bonds by a community hospital public trust authority payable other than from revenues of the community hospital public trust authority.

2. Community hospital public trust authority revenue bonds issued under the provisions of this subsection shall not at any time be deemed to constitute a debt of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any political subdivision, but such bonds shall be payable solely from the funds herein provided.

3. Such revenue bonds shall contain on the face thereof a statement to the effect that neither the state nor the community hospital public trust authority shall be obligated to pay the same or the interest thereon except from the revenues of the project or projects for which they are issued and that neither the faith and credit nor the taxing power of the state or any political subdivision thereof is pledged, or may hereafter be pledged, to the payment of the principal of or the interest on such bonds.

4. The interest income derived from any obligation issued by a community hospital public trust authority shall be exempt from the tax imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes.

Added by Laws 2003, c. 432, § 6, emerg. eff. June 7, 2003.

§63-3250.7. Reports.

Each community hospital public trust authority shall submit an annual report to each beneficiary of the authority, the Governor, the President Pro Tempore of the State Senate and the Speaker of the Oklahoma House of Representatives. Such report shall be submitted in accordance with the requirements for financial statement audits in Section 212A of Title 74 of the Oklahoma Statutes, and shall include an account of the operations and actions of the authority and an accounting of all revenue received and disbursed by the authority for the previous fiscal year.

Added by Laws 2003, c. 432, § 7, emerg. eff. June 7, 2003.

§63-3250.8. Medicaid Payment Reimbursement Fund.

A. 1. There is hereby created in the State Treasury a revolving fund to be designated the “Medicaid Payment Reimbursement Fund”.

2. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of:

a. all monies received by the Oklahoma Health Care Authority pursuant to the Oklahoma Community Hospitals Public Trust Authorities Act and otherwise specified or authorized by law including, but not limited to, monies received by the Authority from assessments levied on hospitals included in a hospital district, and

b. interest attributable to investment of money in the fund.

3. All monies accruing to the credit of the fund are hereby appropriated and shall be expended by the Authority for services to Medicaid beneficiaries residing within or receiving services within the boundaries of the community hospitals public trust.

B. Any monies received from any assessment levied on hospitals within a hospital district for purposes of providing the state matching funds for supplemental Medicaid programs pursuant to the provisions of the Oklahoma Community Hospitals Public Trust Authorities Act shall be submitted to the Oklahoma Health Care Authority for deposit into the Medicaid Payment Reimbursement Fund.

C. The Oklahoma Health Care Authority shall transfer to the Medicaid Payment Reimbursement Fund any payment received by the Oklahoma Health Care Authority pursuant to the Oklahoma Community Hospitals Public Trust Authorities Act and rules promulgated by the Oklahoma Health Care Authority pursuant to federal law and the provisions of the Oklahoma Community Hospitals Public Trust Authorities Act.

D. 1. The Oklahoma Health Care Authority shall make Medicaid reimbursement payments to hospitals to the extent permitted by federal law and rules promulgated by the Oklahoma Health Care Authority pursuant to federal law.

2. Each community hospital public trust authority established shall be limited to receipt of supplemental Medicaid program funds for its designated area.

Added by Laws 2003, c. 432, § 8, emerg. eff. June 7, 2003. Amended by Laws 2004, c. 460, § 1, emerg. eff. June 4, 2004.

§63-3250.9. Waivers authorizing Medicaid supplements.

The Oklahoma Health Care Authority Board shall submit an application for any waiver necessary to authorize Medicaid supplements to hospital districts to the extent permitted by federal law and pursuant to the Oklahoma Community Hospitals Public Trust Authorities Act.

Added by Laws 2003, c. 432, § 9, emerg. eff. June 7, 2003.

§63-3271. Short title.

This act shall be known and may be cited as the "Oklahoma State University Medical Authority Act".
Added by Laws 2006, c. 287, § 1, emerg. eff. June 7, 2006.

§63-3272. Definitions.

As used in the Oklahoma State University Medical Authority Act:

1. "Graduate Medical Education" or "GME" means educational programs meeting the guidelines of the American Osteopathic Association offered as an extension of the Oklahoma State University Center for Health Sciences, College of Osteopathic Medicine in cooperation with a hospital or other healthcare provider;

2. "Hospital" means a hospital as such term is defined by Section 1-701 of Title 63 of the Oklahoma Statutes and facilities within the definition of "ambulatory surgical center" as defined in Section 2657 of Title 63 of the Oklahoma Statutes;

3. "Patient" means an individual receiving care from an Oklahoma State University Center for Health Sciences intern, resident or full or part-time physician trainer;

4. "Declaration of necessity" means an official action of the Oklahoma State University Medical Authority to fulfill the terms of an Academic Affiliation or other agreement or to provide facilities, financing or any other general support to enhance the stability, quality or otherwise furtherance of the graduate medical education programs of the Oklahoma State University Center for Health Sciences; and

5. "Academic Affiliation Agreement" means an agreement between the Oklahoma State University Center for Health Sciences and an entity providing facilities, equipment and support for the graduate medical education programs of the Oklahoma State University Center for Health Sciences.
Added by Laws 2006, c. 287, § 2, emerg. eff. June 7, 2006.

§63-3273. Purposes - Legislative findings.

A. The purposes of the Oklahoma State University Medical Authority Act are to provide for an effective and efficient administration, to ensure a dependable source of funding, and to effectuate the mission and purposes of the Oklahoma State University Medical Authority. The mission and purposes of the Oklahoma State University Medical Authority are to support and upon a declaration of necessity, to serve as teaching and training facilities for students enrolled at the Oklahoma State University Center for Health Sciences, upon a declaration of necessity, to acquire and provide a site for conducting medical and biomedical research by faculty members of the Oklahoma State University Center for Health Sciences and to facilitate and upon a declaration of necessity, to provide care for the patients of Oklahoma State University Center for Health Sciences physician trainers. The Oklahoma State University Medical

Authority shall maintain a close affiliation with the Oklahoma State University Center for Health Sciences and shall coordinate their operations and activities in a cooperative manner.

B. The Legislature finds that the needs of the citizens of this state and the needs of the Oklahoma State University Center for Health Sciences will be best served by an Authority charged with the mission of supporting the Graduate Medical Education programs of the Oklahoma State University Center for Health Sciences, entering into Academic Affiliation Agreements in support of Oklahoma State University physician and healthcare training programs, operating or leasing the operations of the teaching hospital or hospitals for the benefit of the Oklahoma State University Center for Health Sciences and providing care for the patients of Oklahoma State University physician trainers.

C. The Board of Regents for the Oklahoma Agricultural and Mechanical Colleges shall retain full power to govern the personnel, curriculum and facilities of the Oklahoma State University Center for Health Sciences.

Added by Laws 2006, c. 287, § 3, emerg. eff. June 7, 2006.

§63-3274. Hospitals - Operation, licensing, accreditation, and certification - Teaching and training.

A. Any hospital or hospitals purchased, leased or constructed by the Oklahoma State University Medical Authority shall be operated as general hospitals and shall be licensed by the State Commissioner of Health, and shall, as far as possible, meet the standards, requirements and essentials of the Joint Commission on Accreditation of Health Care Organizations and the American Osteopathic Association or, alternatively, meet Medicare certification by the Center for Medicare and Medicaid Services. Provided, the State Commissioner of Health may waive any such standards, requirements and essentials as the Commissioner deems necessary.

B. Any such hospitals may provide services and receive payments under Titles XVIII and XIX of the federal Social Security Act, and may participate in other federal medical programs.

C. Any such hospitals shall be available as teaching and training hospitals for the colleges of the Oklahoma State University Center for Health Sciences, for other health and educational facilities and shall provide indigent patient care.

Added by Laws 2006, c. 287, § 4, emerg. eff. June 7, 2006.

§63-3275. Oklahoma State University Medical Authority - Members - Qualifications, appointment, and removal - Applicable statutes.

A. There is hereby created the Oklahoma State University Medical Authority, an agency of the State of Oklahoma, a body corporate and politic, with powers of government and with the authority to exercise the rights, privileges and functions as

specified in the Oklahoma State University Medical Authority Act. The Oklahoma State University Medical Authority is covered by the Governmental Tort Claims Act.

B. The Authority shall consist of seven (7) members as follows:

1. One member shall be appointed by the Governor, with the advice and consent of the Senate;

2. One member shall be appointed by the President Pro Tempore of the Senate;

3. One member shall be appointed by the Speaker of the House of Representatives;

4. One member shall be the Chief Executive Officer of the Oklahoma Health Care Authority, or a designee;

5. One member shall be the President of the Oklahoma State University Center for Health Sciences;

6. One member to be appointed by the President of Oklahoma State University who shall be the Chief Executive Officer of any entity, other than the Oklahoma State University Medical Trust, with whom the Oklahoma State University College of Osteopathic Medicine has entered into an Academic Affiliation Agreement to serve as the primary site of practice and teaching hospital for medical residency programs, or a designee; and

7. One member shall be the Chief Executive Officer of the Oklahoma State University Medical Authority who shall be an ex officio, nonvoting member.

C. All appointed members shall be appointed by June 1, 2006. Of the members of the Authority initially appointed, the member appointed by the President Pro Tempore of the Senate shall serve a term of three (3) years; the member appointed by the Speaker of the House of Representatives shall serve a term of two (2) years; and the member appointed by the Governor shall serve a term of one (1) year. Successors shall be appointed for terms of three (3) years.

D. Each member of the Authority, prior to appointment, shall be a resident of the state and a qualified elector.

E. Members shall be removable only for cause by the appointing authority. Any vacancy occurring on the Authority shall be filled by the original appointing authority.

F. The members of the Authority shall serve without compensation but may be reimbursed for all actual and necessary travel expenses incurred in performance of their duties in accordance with the provisions of the State Travel Reimbursement Act.

G. All members of the Authority and administrative personnel of the Authority shall be subject to the provisions of the Oklahoma Ethics Commission Rules, Chapter 62 Appendix of Title 74 of the Oklahoma Statutes.

H. A quorum of the Authority shall be four (4) voting members. The Authority shall elect a chair and vice chair from among its members. The chair must be an appointed member of the Authority.

I. The Authority shall be exempt from the Oklahoma Central Purchasing Act but shall be subject to the purchasing policies of Oklahoma State University Center for Health Sciences and shall be subject to the Oklahoma Open Meeting Act and the Oklahoma Open Records Act, except as otherwise provided by this act. Any information submitted to or compiled by the Authority except for budgetary information related to appropriations or the appropriations process with respect to the marketing plans, financial statements, trade secrets, research concepts, methods or products, or any other proprietary information of the Authority, persons, firms, associations, partnerships, agencies, corporations, institutions of higher education, nonprofit research institutions or other entities shall be confidential, except to the extent that the person or entity which provided the information or which is the subject of the information consents to disclosure. Executive sessions may be held to discuss such materials if deemed necessary by the Authority.

Added by Laws 2006, c. 287, § 5, emerg. eff. June 7, 2006.

§63-3276. Oklahoma State University Medical Authority - Powers and duties - Applicable statutes.

A. On and after July 1, 2006, the Authority shall have the power and duty to:

1. Adopt bylaws and promulgate rules for the regulation of its affairs and the conduct of its business;

2. Adopt an official seal;

3. Maintain an office at a location to be determined by the Authority;

4. Sue and be sued, subject to the provisions of The Governmental Tort Claims Act;

5. Enter into cooperative agreements with the Board of Regents for the Oklahoma Agricultural and Mechanical Colleges for educational programs, professional staffing, research and other medical activities;

6. Make and enter into all contracts necessary or incidental to the performance of its duties and the execution of its powers pursuant to the Oklahoma State University Medical Authority Act;

7. Purchase or lease equipment, furniture, materials and supplies, and incur such other expenses as may be necessary to maintain and operate hospitals or clinics, or to discharge its duties and responsibilities or to make any of its powers effective;

8. Acquire by purchase, lease, gift, or by any other manner, and to maintain, use and operate or to contract for the maintenance, use and operation of or lease of any and all property of any kind,

real, personal, or mixed or any interest therein unless otherwise provided by the Oklahoma State University Medical Authority Act;

9. Appoint such officers, agents and employees, including but not limited to attorneys, as it deems necessary and to prescribe their duties and to fix their compensation;

10. Accept grants from the United States of America, or from any corporation or agency created or designed by the United States of America, and, in connection with any grant, to enter into such agreements as the United States of America or such corporation or agency may require;

11. Make and issue bonds and to pledge revenues of the Authority subject to the Oklahoma Bond Oversight and Reform Act. Nothing in the Oklahoma State University Medical Authority Act shall authorize the issuance of any bonds of the Authority payable other than from revenues of the Authority. Funds appropriated to the Authority shall not be used for issuance of bonds. Authority revenue bonds issued under the provisions of this act shall not at any time be deemed to constitute a debt of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any political subdivision, but such bonds shall be payable solely from the funds herein provided. Such revenue bonds shall contain on the face thereof a statement to the effect that neither the state nor the Authority shall be obligated to pay the same or the interest thereon except from the revenues of the project or projects for which they are issued and that neither the faith and credit nor the taxing power of the state or any political subdivision thereof is pledged, or may hereafter be pledged, to the payment of the principal of or the interest on such bonds. The maximum amount of outstanding bonds at any time shall not exceed Fifty Million Dollars ($50,000,000.00) unless a greater amount is expressly approved by the Legislature by a concurrent resolution adopted prior to commencing any action in anticipation of issuance of revenue bonds of the Oklahoma State University Medical Authority for the greater amount;

12. Provide for complete financial audits on all accounts of the Oklahoma State University Medical Authority and to authorize periodic audits by an independent external auditing agency. Such audits shall be performed annually in a format approved by the State Auditor and Inspector, and all such audits shall be submitted to the State Auditor and Inspector for review. Such audits shall be made in accordance with generally accepted auditing standards and government auditing standards. Financial statements shall be prepared in accordance with generally accepted accounting principles. In addition to said audits, whenever the State Auditor and Inspector deems it appropriate, and at least once each five (5) years, or upon receipt of a request to do so from the Governor, the Attorney General, the President Pro Tempore of the Senate, the Speaker of the

House of Representatives or the Authority, the State Auditor and Inspector shall conduct a special audit of the Authority;

13. Engage in long-term planning for the operation and management of the Authority;

14. Establish petty cash funds and provide for appropriate accounting procedures and controls;

15. Contract with national manufacturers and distributors of drugs and medical supplies when appropriate to carry out the purposes of this act;

16. Do all other things necessary and proper to implement the provisions of the Oklahoma State University Medical Authority Act;

17. Waive, by such means as the Authority deems appropriate, the exemption from federal income taxation of interest on the Authority's bonds provided by the Internal Revenue Code of 1986, as amended, or any other federal statute providing a similar exemption;

18. Arrange for guaranties or insurance of its bonds by the federal government or by any private insurer, and to pay any premiums therefor; and

19. Make a declaration of necessity as provided in Section 3273 of this title. The Authority may, in its exclusive judgment, make a declaration of necessity when such a declaration is deemed necessary to effectuate the purposes of the Oklahoma State University Medical Authority Act.

B. The Oklahoma State University Medical Authority shall be subject to the Oklahoma Budget Law of 1947.

C. The Authority shall prepare monthly a "budget vs. actual" report which shows by budget activity the monthly and year-to-date revenues and expenditures compared to budgeted revenues and expenditures. Such report shall be submitted to the Office of Management and Enterprise Services and to the Directors of the House of Representatives Fiscal Division and the Senate Fiscal Division.

D. The Authority shall be subject to the professional risk management program provided for in Section 85.58A of Title 74 of the Oklahoma Statutes.

Added by Laws 2006, c. 287, § 6, emerg. eff. June 7, 2006. Amended by Laws 2012, c. 304, § 520.

§63-3277. Medicaid eligibility criteria - Determination.

The Oklahoma Health Care Authority shall continue to determine eligibility criteria and standards for Medicaid recipients.

Added by Laws 2006, c. 287, § 7, emerg. eff. June 7, 2006.

§63-3278. Agreements and obligations - Public purpose - Conditions.

All agreements and obligations undertaken, as permitted under this section, by the Oklahoma State University Medical Authority shall be for a public purpose. In addition to any other limitations, conditions or restrictions provided by law, the

following conditions shall apply to contractual agreements entered into pursuant to this section:

1. Private and public funds shall be accounted for separately; and

2. The state shall not assume any liability for private entities.

Added by Laws 2006, c. 287, § 8, emerg. eff. June 7, 2006.

§63-3279. Oklahoma State University Medical Authority Agency Special Account - Official Depository Account - Bond coverage.

A. The funds deposited in the Oklahoma State University Medical Authority Agency Special Account created in subsection B of this section shall be invested by the State Treasurer in the manner provided for by law. The return on such investments shall be credited to the accounts of the Authority.

B. There is hereby created in the State Treasury an Official Depository Account for the Oklahoma State University Medical Authority, to be designated the Oklahoma State University Medical Authority Agency Special Account. The Official Depository Account shall consist of an agency clearing account and an agency special account. All revenues, except federal entitlements and state appropriations, generated by the Oklahoma State University Medical Authority shall be deposited in these accounts.

C. The Authority shall be subject to blanket bond coverage as provided in Sections 85.26 through 85.31 of Title 74 of the Oklahoma Statutes, provided the Authority shall be authorized to purchase increased amounts of fidelity bond coverage for employees for whom it is deemed necessary by the Authority. When the amount listed in Section 85.29 of Title 74 of the Oklahoma Statutes is deemed inadequate, the cost of increased coverage shall be borne by the Authority.

Added by Laws 2006, c. 287, § 9, emerg. eff. June 7, 2006.

§63-3280. Issuance of bonds - Procedure - Characteristics - Approvals.

A. Subject to the provisions of paragraph 11 of subsection A of Section 6 of this act, the Oklahoma State University Medical Authority may provide by resolution, from time to time, for the issuance of revenue bonds for its lawful purposes, in such amount or amounts as are necessary, incidental or convenient to the exercise of powers, rights, privileges and functions conferred upon it by the Oklahoma State University Medical Authority Act or other law. The principal of and interest on any indebtedness shall be payable solely from the revenues of the Authority and such other funds as may be provided by law for such payment. The Authority may provide for credit enhancement as additional security or liquidity for its bonds and enter into such agreements as may be necessary or

appropriate to provide for the repayment of any funds advanced by the provider of any such credit enhancement including the payment of any fees and expenses incurred in connection therewith. The bonds of each issue shall bear interest at fixed or variable rates and shall bear an average interest rate not to exceed eleven percent (11%) per annum, shall mature at such time or times not exceeding thirty (30) years from their date or dates of issue, as may be determined by the Authority, and may be made redeemable before maturity at the option of the Authority, at such time or times and at such price or prices and pursuant to such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form of the bonds and the manner of execution thereof, and shall fix the denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank and trust company within or without this state. If any officer whose signature or facsimile of whose signature appears on any bonds shall cease to be said officer before the delivery of the bonds, the signature or the facsimile shall nevertheless be valid and sufficient for all purposes, the same as if the person had remained in office until such delivery. All bonds issued pursuant to the provisions of the Oklahoma State University Medical Authority Act shall have all the qualities and incidences of negotiable instruments subject to the laws of this state. The Authority may sell the bonds in such amounts and in such manner, either at public or private sale, and for such price, as it may determine to be in the best interests of the state. If the bonds are not sold by competitive bid, the sale must be approved by the State Bond Advisor.

B. All fees and expenses of bond sales must be approved by the State Bond Advisor and the Bond Oversight Commission. Prior to the preparation of definitive bonds, the Authority, subject to like restrictions, may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds which have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which have become mutilated or which have been destroyed or lost. Except as otherwise provided by Section 14 of this act, bonds may be issued pursuant to the provisions of the Oklahoma State University Medical Authority Act without obtaining the consent of any department, division, commission, board, bureau, or agency of this state, and without any other proceedings or the occurrence of any other conditions or things than those proceedings, conditions, or things that are specifically required by the Oklahoma State University Medical Authority.

C. The Authority may, by resolution, provide for the issuance of refunding bonds then outstanding, including the payment of any redemption premium, any interest accrued to the date of redemption

of such bonds, and for incurring additional indebtedness for its lawful purposes. The issuance of such bonds shall be governed by the provisions of the Oklahoma State University Medical Authority Act.
Added by Laws 2006, c. 287, § 10, emerg. eff. June 7, 2006.

§63-3281. Issuance of bonds - Approval of Attorney General.

Before any bond shall be issued and delivered by the Oklahoma State University Medical Authority, a certified copy of the proceedings for the issuance thereof, together with any other information which the Attorney General of the State of Oklahoma may require as the Bond Commissioner of the State of Oklahoma, shall be submitted to the Attorney General. If the Attorney General shall find that such bonds have been issued in accordance with law, he shall approve such bonds and execute a certificate to that effect. The Attorney General shall file such certificates in the office of the State Auditor and Inspector, and the certificates shall be recorded in a record kept for that purpose. All bonds approved by the Attorney General, and issued in accordance with the approved proceedings, shall be valid and binding obligations of the Authority and shall be incontestable for any course from and after the date of such approval.
Added by Laws 2006, c. 287, § 11, emerg. eff. June 7, 2006.

§63-3282. Issuance of bonds - Approval of Supreme Court.

The Oklahoma State University Medical Authority or the Oklahoma State University Medical Trust may file an application with the Supreme Court of the State of Oklahoma for approval of any bonds to be issued under the provisions of the Oklahoma State University Medical Authority Act, and exclusive original jurisdiction is hereby conferred upon the Supreme Court to hear and determine such application. The Supreme Court shall give such applications precedence over the other business of the Court and consider and determine the validity of the bonds and consider the application and any protest which may be filed thereto. Notice of the hearing on each application shall be given by notice published in a newspaper of general circulation in this state that on a day named the Authority or the Trust will ask the Court to hear the application and approve the bonds. Such notice shall inform all interested parties that they may file a protest against the issuance of the bonds, may be present at the hearing, and may contest the legality thereof. Such notice shall be published one time, not less than ten (10) days prior to the date named for the hearing and the hearing may be adjourned from time to time in the discretion of the Court. If the Court is satisfied that the bonds have been properly authorized in accordance with the Oklahoma State University Medical Authority Act, and that when issued such bonds will constitute valid obligations in accordance with their terms, the Court shall render

its written opinion approving the bonds and shall fix the time within which the petition for rehearing may be filed. The decision of the Court shall be a judicial determination of the validity of the bonds, shall be conclusive as to the Authority of the Trust, its officers and agents, and thereafter the bonds so approved and the revenues pledged to their payment shall be incontestable in any court in the State of Oklahoma.
Added by Laws 2006, c. 287, § 12, emerg. eff. June 7, 2006.

§63-3283. Revenue bonds not debt of state or political subdivision - Statement on bonds - Tax exempt.

Revenue bonds of the Oklahoma State University Medical Authority issued pursuant to the provisions of the Oklahoma State University Medical Authority shall not constitute a debt of the state or of any political subdivision thereof, or a pledge of the full faith and credit of the state, or of any political subdivision thereof, but such bonds shall be payable solely from the funds provided therefor. The forms of the bonds so issued shall contain on the face thereof a statement to the effect that neither the state nor the Authority shall be obligated to pay the same or the interest thereon except from the revenues of the Authority pledged to the payment of such bonds and that neither the faith and credit nor the taxing power of the state or any political subdivision thereof is pledged, or may hereafter be pledged, to the payment of the principal of or interest on such bonds. The bonds so issued shall be exempt from taxation by the State of Oklahoma and any political subdivision thereof, including the income therefrom, and any gain from the sale thereof.
Added by Laws 2006, c. 287, § 13, emerg. eff. June 7, 2006.

§63-3284. Bonds - Investment securities - Collateral security.

Bonds issued pursuant to provisions of the Oklahoma State University Medical Authority Act are hereby made securities in which all public officers and public boards, agencies and instrumentalities of the state and its political subdivisions, all banks, trust companies, trust and loan associations, investment companies, and others carrying on a banking business, and all insurance companies and insurance associations, and others carrying on an insurance business, may legally and properly invest. Such bonds are also approved as collateral security for the deposit of any public funds and for the investment of trust funds.
Added by Laws 2006, c. 287, § 14, emerg. eff. June 7, 2006.

§63-3285. Annual report to Governor and Legislature.

The Oklahoma State University Medical Authority shall submit an annual report to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives. Such report shall be submitted in accordance with the requirements for financial

statement audits in Section 212A of Title 74 of the Oklahoma Statutes, and shall include an account of the operations and actions of the Authority and an accounting of all revenue received and disbursed by the Authority for the previous fiscal year. The report shall include an accounting of expenses related to each of the following:

1. Education and training of students of the Oklahoma State University, resident physicians and others;

2. Care and treatment of patients for whom the Authority receives any form of state or federal reimbursement; and

3. Research.

Added by Laws 2006, c. 287, § 15, emerg. eff. June 7, 2006.

§63-3286. Oklahoma State University Medical Authority Disbursing Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma State University Medical Authority, to be designated the "Oklahoma State University Medical Authority Disbursing Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of appropriated revenues and federal entitlements. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma State University Medical Authority for the purpose of operating the Oklahoma State University Medical Center and supporting the residency program of the Oklahoma State University Center for Health Sciences.

Added by Laws 2006, c. 287, § 16, emerg. eff. June 7, 2006. Amended by Laws 2009, c. 1, § 2, emerg. eff. March 9, 2009.

§63-3287. Oklahoma State University Medical Authority Marketing Revolving Fund.

A. There is hereby created in the State Treasury a revolving fund for the Oklahoma State University Medical Authority, to be designated the "Oklahoma State University Medical Authority Marketing Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Oklahoma State University Medical Authority pursuant to the provisions of this section. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma State University Medical Authority for the purpose of marketing research and planning, public education, special events customary to the health care industry, advertising and promotion of special and general services provided or sponsored by the Oklahoma State University Medical Authority and such other purposes specifically authorized by the Legislature. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the

Director of the Office of Management and Enterprise Services for approval and payment.

B. An amount equal to one-tenth of one percent (1/10 of 1%) of the total annual operating budget of the Oklahoma State University Medical Authority and such other funds as may be specifically designated for deposit to the fund shall be deposited in the Oklahoma State University Medical Authority Marketing Revolving Fund.

C. The Oklahoma State University Medical Authority Marketing Revolving Fund shall be audited annually by the State Auditor and Inspector. The Oklahoma State University Medical Authority shall reimburse the State Auditor and Inspector from the Oklahoma State University Authority Marketing Revolving Fund for any expenses incurred in auditing said fund.

Added by Laws 2006, c. 287, § 17, emerg. eff. June 7, 2006. Amended by Laws 2012, c. 304, § 521.

§63-3288. Regulation of traffic and parking on Oklahoma State University Medical Authority property - Appointment of campus police officers and guards.

A. The Oklahoma State University Medical Authority may regulate traffic and the parking of vehicles on property used by or for the Oklahoma State University Medical Authority. Such regulations shall be in writing, and copies thereof, including amendments thereto, shall be filed in the office of the Secretary of State, and in the office of the city clerk of the City of Tulsa. The municipal court of the City of Tulsa shall have jurisdiction to hear and determine prosecutions for violations of such regulations, which may be prosecuted and shall be punishable as violations of ordinances of the City of Tulsa. The Authority may cause to be removed, and may enter into contracts for such purpose, any vehicle parked in violation of such regulations.

B. The Authority may appoint campus police officers and guards for buildings and grounds of the Oklahoma State University Medical Authority in the same manner and with the same powers as campus police appointed by governing boards of state institutions for higher education under the provisions of Section 360.15 et seq. of Title 74 of the Oklahoma Statutes, and who may prevent or stop improper conduct and trespass in and upon such buildings and grounds, and make arrests and prosecute any and all persons arrested for such improper conduct and trespassing. Employees of the Authority serving as police officers shall be certified as provided for in Section 3311 of Title 70 of the Oklahoma Statutes.

C. The Authority and the City of Tulsa may enter into a cooperative agreement to effectuate the provisions of this section.

Added by Laws 2006, c. 287, § 18, emerg. eff. June 7, 2006.

§63-3289. Resident physicians of Oklahoma State University Center for Health Sciences - Payroll, benefits and employment status - Termination of privileges.

The Oklahoma State University Medical Authority is authorized to place resident physicians of the Oklahoma State University Center for Health Sciences on the Oklahoma State University Medical Authority payroll, and is further authorized to acquire health, life, and dental insurance for such residents. Such residents shall not be considered employees of the Authority and shall not be eligible to participate in the Oklahoma Public Employees Retirement System. This section shall not preclude the right of the Oklahoma State University Medical Authority to terminate, for cause, the practicing privileges of any resident physician within the Oklahoma State University Medical Authority.

Added by Laws 2006, c. 287, § 19, emerg. eff. June 7, 2006.

§63-3290. Oklahoma State University Medical Trust

A. The State of Oklahoma expressly approves the creation of a public trust to be named the "Oklahoma State University Medical Trust", of which the State of Oklahoma shall be the beneficiary, provided such approval shall be contingent upon satisfaction of the following conditions:

1. Finalizing of the declaration of trust;

2. Adoption of the declaration of trust by an official action of the trustees of the Trust;

3. Submission of the Trust for acceptance of the beneficial interest and approval as required by Section 177 of Title 60 of the Oklahoma Statutes; and

4. The approved declaration of trust shall:

a. clearly state that the principal purpose of the Oklahoma State University Medical Trust is to effectuate the purposes of the Oklahoma State University Medical Authority as established in the Oklahoma State University Medical Authority Act,

b. except as otherwise provided by law, provide that the title to real property held by the Oklahoma State University Medical Authority shall not be transferred, conveyed, or assigned to the Oklahoma State University Medical Trust without the express consent of the Legislature as the governing entity of the beneficiary pursuant to Section 176 of Title 60 of the Oklahoma Statutes,

c. provide that any indebtedness incurred by the Oklahoma State University Medical Trust or the trustees of the Trust shall not be secured with or create a lien upon real property to which title is held by the Oklahoma State University Medical Authority and shall not

involve the bonding capacity of the Oklahoma State University Medical Authority,

d. provide that the trust estate of the Oklahoma State University Medical Trust shall not include fee simple title to real property owned by the Oklahoma State University Medical Authority,

e. clearly state that the creation of the Oklahoma State University Medical Trust shall not in any way reduce, limit or interfere with the power granted to the Oklahoma State University Medical Authority in the Oklahoma State University Medical Authority Act,

f. provide that any lease or contractual agreement involving use of the real property to which title is held by the Oklahoma State University Medical Authority and any improvements thereto shall contain a provision and covenants requiring the proper maintenance and upkeep of the real property and improvements,

g. provide that the trustees of the Oklahoma State University Medical Trust shall be the acting members of the Oklahoma State University Medical Authority as provided in the Oklahoma State University Medical Authority Act, and

h. provide that the trustees of the Oklahoma State University Medical Trust shall have the duty to submit an annual report to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The report shall be submitted by January 1 of each year and shall include an account of all operations, actions of the Trust, account of all revenue received and disbursed by the Trust for the previous fiscal year. The report shall also provide a complete accounting of how the Trust meets its primary function of effectuating the purposes of the Oklahoma State University Medical Authority, as established in the Oklahoma State University Medical Authority Act.

B. The Oklahoma State University Medical Trust shall require any agreements which it enters into with any entity pursuant to Section 22 of this act for the operations of facilities leased by the Oklahoma State University Medical Authority to the Trust to include, but not be limited to:

1. The inclusion of all the members of the Trust, except the Chief Executive Officer of the Oklahoma Health Care Authority, as five of the six members representing the State of Oklahoma in a governing committee, and the sixth member of the governing committee representing the State of Oklahoma to be designated by the President of Oklahoma State University;

2. Binding arbitration shall not be required by such agreements for resolving issues under consideration by the governing committee; and

3. Major decisions shall be resolved by the governing committee, and approval of any major decision by the governing committee must include the approval of a majority of the state appointees and the approval of a majority of the private entity appointees to the governing committee. Major decisions shall include:

a. approval of the operating and capital budgets,

b. sale or disposition of assets over Two Hundred Fifty Thousand Dollars ($250,000.00),

c. the termination or transfer or material addition or material diminution of medical services at the Oklahoma State University Medical Center related to and part of a teaching program of the Oklahoma State University Center for Health Sciences, and

d. other major decisions as may be agreed upon by the Trust and the private entity.

C. To the extent it is determined by legislative enactment that the Trust has expended funds in contravention of its mission as set forth in this section, the Trust shall remit, upon thirty (30) days' written notice from the Oklahoma State University Medical Authority, such sum or sums to the Oklahoma State University Medical Authority.

D. In the event the Trust enters into a joint venture or acquires an interest in a not-for-profit entity to effectuate the administration of the mission of the Trust, that entity shall not be subject to the Oklahoma Open Meeting Act and the Oklahoma Open Records Act. Any information submitted to or compiled by the Trust with respect to marketing plans, financial statements, trade secrets, research concepts, methods or products or any other proprietary information submitted to or compiled by the Trust, persons, firms, associations, partnerships, agencies, corporations, institutions of higher education, nonprofit research institutions or other entities shall be confidential, except to the extent that the person or entity which provided such information or which is the subject of such information consents to disclosure. Executive sessions may be held to discuss such materials if deemed necessary by the Trust. The provisions of this subsection shall not apply to budgetary information related to appropriations or the appropriations process.

Added by Laws 2006, c. 287, § 20, emerg. eff. June 7, 2006. Amended by Laws 2016, c. 387, § 2, emerg. eff. June 6, 2016.

§63-3291. Submission of certain agreements to Contingency Review Board - Declaratory judgment of validity by Supreme Court of Oklahoma.

A. Contingent upon the creation of the Oklahoma State University Medical Trust as provided in Section 20 of this act, the Trust, prior to acceptance, shall submit to the Contingency Review Board for review the proposed agreement regarding the lease and operations of any hospital or hospitals owned by the Oklahoma State University Medical Authority to any entity authorized to transact business in the state and an independent statement as to the fairness of said proposed agreement for the State of Oklahoma. The Contingency Review Board shall upon receipt of the proposed agreement meet within fifteen (15) business days to review the proposed agreement; and unless the Contingency Review Board disapproves the proposed agreement, the agreement may be executed but no lease of the hospital or hospitals shall become effective until after Supreme Court approval pursuant to subsection B of this section.

B. 1. If a proposed agreement is not disapproved by the Contingency Review Board pursuant to subsection A of this section, the Oklahoma State University Medical Authority and Oklahoma State University Medical Trust, within thirty (30) calendar days after the time for Contingency Review Board action has expired, may file a petition with the Supreme Court of Oklahoma for a declaratory judgment determining the validity of the proposed agreement. The review of the Court shall be based upon the exercise of any of the powers, rights, privileges, and functions conferred upon the authority or the Oklahoma State University Medical Trust, as applicable, under the Oklahoma State University Medical Authority Act and Oklahoma laws. Exclusive original jurisdiction is conferred upon the Supreme Court to hear and determine such petitions. The Supreme Court shall give such petitions precedence over other business of the Court except habeas corpus proceedings.

2. Notice of the hearing of such a petition shall be given by a notice published in a newspaper of general circulation in this state that on a day specified the Supreme Court will hear the petition to approve the proposed agreement and enter a declaratory judgment. The notice shall be published one time not less than ten (10) days prior the date specified for the hearing. The notice shall inform property owners, taxpayers, citizens and all persons having or claiming any right, title, or interest in the proposed agreement or properties or funds to be affected by the implementation of the proposed agreement, or affected in any way thereby, that they may file protests against the approval of the proposed agreement, and be present at the hearing to contest the legality of the proposed agreement. The hearing may be adjourned from time to time at the discretion of the Court.

3. If the Court is satisfied that the proposed agreement is in accordance with the Oklahoma State University Medical Authority Act and Oklahoma laws, the Court shall enter a declaratory judgment

approving and declaring the proposed agreement to be valid and conclusive as to the Authority, the Trust, and all other parties to the proposed agreement; and, upon petition of the Authority, shall issue an order permanently enjoining all persons described in the notice required by this subsection from thereafter instituting any action or proceeding contesting the validity of the proposed agreement. A declaratory judgment rendered pursuant to this subsection shall have force and effect of a final judgment or decree and shall be incontestable in any court in this state.

4. As used in the Oklahoma State University Medical Authority Act, "proposed agreement" means one or more contracts regarding the lease and operations of any hospital or hospitals owned by the Oklahoma State University Medical Authority and all other agreements contemplated by or referred to in the contract regarding such lease and operations.

Added by Laws 2006, c. 287, § 21, emerg. eff. June 7, 2006.

§63-3292. Leases from Oklahoma State University Medical Authority to Oklahoma State University Medical Trust - Transfers of title - Other agreements.

A. Contingent upon the creation of the Oklahoma State University Medical Trust as provided in Section 20 of this act, the Oklahoma State University Medical Authority is hereby authorized to lease, for a term of not more than fifty (50) years, renewable at the option of the Authority, all real property owned by the Authority and any other sites under the control of the Authority to the Oklahoma State University Medical Trust. Any lease agreement made pursuant to this section shall be contingent upon:

1. Prior review by the Attorney General of any contractual agreement between the Oklahoma State University Medical Trust and any entity authorized to transact business in the State of Oklahoma regarding the lease and operations. The Attorney General shall disapprove the agreement if it is determined that provisions of the agreement are not consistent with state law; and

2. The execution of an operating and lease agreement between the Oklahoma State University Medical Trust and any entity authorized to transact business in the State of Oklahoma.

B. Concurrent with the execution of a lease of real property from the Oklahoma State University Medical Authority to the Oklahoma State University Medical Trust as provided in subsection A of this section, the Authority is authorized to transfer title to and possession of all tangible and intangible personal property under its control to the Trust. In any contractual agreement regarding the lease and operations of a hospital or hospitals between the Oklahoma State University Medical Trust and any entity authorized to transact business in the State of Oklahoma, the Trust is authorized to sell or otherwise convey to such entity all tangible and

intangible personal property the Trust may receive from the Oklahoma State University Medical Authority. Any contract or other agreement which purports to exercise the powers authorized by this subsection is subject to review by the Contingency Review Board, as specified in Section 21 of this act.

C. If a contracting entity fails to take possession of the leased premises, or abandons or surrenders possession of the leased premises other than to a state agency, at any time during the term of the lease between the Oklahoma State University Medical Trust and the contracting entity, the interest in the real property leased to the Oklahoma State University Medical Trust by the Oklahoma State University Medical Authority shall revert to and be the sole and exclusive property of the Oklahoma State University Medical Authority.

D. Contingent upon the execution of an agreement between the Oklahoma State University Medical Trust and any entity authorized to transact business in the State of Oklahoma, as specified in subsection A of this section, the Oklahoma State University Medical Authority is authorized to enter into an agreement for such entity to provide patient care services and perform other related duties imposed upon the Oklahoma State University Medical Authority by law. Such an agreement between the Oklahoma State University Medical Authority and such entity is exempt from the requirements of the Oklahoma Central Purchasing Act and any rules adopted by the Oklahoma State University Medical Authority pursuant to the Administrative Procedures Act. The governing committee created by the agreement and the Oklahoma State University Medical Trust shall be subject to the Open Meeting Act and the Open Records Act to the same extent and with the same exceptions as provided to for the Oklahoma State University Medical Authority in Section 5 of this act and shall be exempt from the Oklahoma Central Purchasing Act.
Added by Laws 2006, c. 287, § 22, emerg. eff. June 7, 2006.

§63-3293. Oklahoma State University Medical Trust Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma State University Medical Trust to be designated the "Oklahoma State University Medical Trust Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of appropriated revenues. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma State University Medical Trust.
Added by Laws 2006, c. 287, § 23, emerg. eff. June 7, 2006.

§63-3301. Joint Legislative Commission to Study and Evaluate the Operations of the Oklahoma State University Center for Health Sciences and the Indigent Health Care System in the Tulsa

Metropolitan Service Area - Membership - Duties and responsibilities.

A. There is hereby created until February 6, 2006, a Joint Legislative Commission to Study and Evaluate the Operations of the Oklahoma State University Center for Health Sciences and the Indigent Health Care System in the Tulsa Metropolitan Service Area. The Commission shall be composed of nine (9) members as follows:

1. Three members from the House of Representatives, to be appointed by the Speaker of the House of Representatives;

2. Three members from the Senate, to be appointed by the President Pro Tempore of the Senate; and

3. Three members from the Office of the Governor, to be appointed by the Governor.

B. The co-chairpersons of the Commission shall be appointed by the Speaker of the House of Representatives and the President Pro Tempore of the Senate. Five members shall constitute a quorum. A quorum shall be present to conduct official business of the Commission. Vacancies on the Commission shall be filled by the authority where such vacancies exist. The Commission shall commence work not later than July 15, 2005.

C. Supportive services shall be provided by the staff of the Oklahoma House of Representatives and the State Senate. The Commission shall also have the authority to hire such consultants or auditors as deemed necessary to accomplish the duties and responsibilities of the Commission. The expense of hiring any consultants or auditors shall be paid by the Oklahoma State University Center for Health Sciences and/or private or foundation funds.

D. The duties and responsibilities of the Commission shall include, but not be limited to:

1. Study, evaluate and investigate the management and operations of the Oklahoma State University Center for Health Sciences, including any relationships currently existing or proposed with hospitals in the Tulsa Metropolitan Service Area;

2. Evaluate the mission and ability of the Oklahoma State University Center for Health Sciences in providing medical teaching and residency programs to prepare doctors for placement in rural Oklahoma communities;

3. Investigate potential options for providing a stable teaching hospital environment for the continuation of residency programs for the Oklahoma State University Center for Health Sciences;

4. Audit and study all financial arrangements or proposed financial agreements related to maintaining the highest quality medical teaching and residency program possible for the Oklahoma State University Center for Health Sciences; and

5. Study, make recommendations, and submit a written report to the Legislature and the Governor by December 15, 2005, regarding the Oklahoma State University Center for Health Sciences and the future of the delivery and efficiency of teaching, residency, and medical services across rural Oklahoma and the delivery of care to the indigent, underserved, and nonindigent populations of the Tulsa Metropolitan Service Area. The report shall include, at a minimum, recommendations for appropriate written agreements for the lease and management of facilities, provision of indigent care, and recommended minimum levels of state appropriations required for the achievement of a long-term solution for graduate medical education at the Oklahoma State University Center for Health Sciences.

E. In performing its duties and responsibilities, the Commission may hold public hearings in various geographical locations of the state and may invite individuals and organizations to make presentations to the Commission. The Commission is further granted the authority to administer oaths, subpoena witnesses and records, and to hear evidence.

F. Travel reimbursement shall be the responsibility of the appointing authority and shall be subject to the State Travel Reimbursement Act. Legislative members to the Commission shall be reimbursed pursuant to the provisions of Section 456 of Title 74 of the Oklahoma Statutes.

G. The Commission shall not be subject to the provisions of the Oklahoma Open Records Act with respect to any proprietary information, financial information related to a private for-profit business entity or a nonprofit organization, or other information that would place a business entity or nonprofit organization at a competitive disadvantage or that the entity would not disclose to a third party without the requirement of judicial process. The Commission may require that documents and records that it requests or that it compels be produced for its review subject to a protective order that prohibits disclosure of the information provided to any person other than a member of the Commission or its designated agents or representatives.

Added by Laws 2005, c. 410, § 4, eff. July 1, 2005.

§63-4001. Short title.

Sections 4002 through 4043 of this title shall be known and may be cited as the "Oklahoma Vessel and Motor Registration Act".

Added by Laws 1989, c. 346, § 1, eff. Jan 1, 1990. Amended by Laws 1990, c. 304, § 1, emerg. eff. May 30, 1990.

§63-4002. Definitions.

As used in the Oklahoma Vessel and Motor Registration Act:

1. "Boat livery" means a business establishment engaged in renting or hiring out vessels for profit;

2. “Canoe” means a light narrow boat with both ends sharp and which is propelled by paddling and includes similar craft such as kayaks;

3. "Certificate of documentation" means a document issued by the United States Coast Guard which is legal proof of ownership of a vessel;

4. "Certificate of registration" means a document which is legal proof of registration of a vessel or motor;

5. "Certificate of title" means a document which is proof of legal ownership of a vessel and/or motor;

6. "Commission" means:

a. the Oklahoma Tax Commission, or

b. the equivalent vessel registration and licensing agency of a federally recognized Indian tribe in this state;

7. "Dealer" means any person engaged in the business of selling, trading, renting with option to purchase, or attempting to negotiate or negotiating sales or exchanges of interests in new or used vessels or motors, or new and used vessels or motors, or any combination thereof;

8. "Dealer agreement" means the agreement, authorization or written contract between a manufacturer and distributor and a new vessel dealer which purports to establish the legal rights and obligations of the parties to the agreement, authorization or written contract with regard to the purchase and sale of new vessels or new motors;

9. "Designated successor" means one or more persons nominated by the new vessel dealer, in a written document filed by the dealer with the manufacturer or distributor at the time the dealer agreement is executed, to succeed the dealer in the event of the dealer's death or incapacity. If a designated successor is not able to succeed the new vessel dealer because of the designated successor's death or legal incapacity, the dealer shall execute a new document nominating a designated successor within sixty (60) calendar days after the date of the death or incapacity;

10. "Distributor" means a person, resident or nonresident, who in whole or in part offers for sale, sells, or distributes a new vessel or new motor to a new vessel dealer or who maintains a factory representative, resident or nonresident, or who controls a person, resident or nonresident, who in whole or in part offers for sale, sells, or distributes a new vessel or new motor to a new vessel dealer;

11. "Distributor branch" means a branch office similarly maintained by a distributor or wholesaler for the same purposes a factory branch is maintained;

12. "Distributor representative" means any person, firm, association, corporation or trust and each officer and employee

thereof engaged as a representative of a distributor or distributor branch of vessels or motors, for the purpose of making or promoting the sale of his or her, its or their vessels or motors, or for supervising or contacting his, its or their dealers or prospective dealers;

13. "Documented vessel" means any vessel in this state which shall have and carry on board the original certificate of documentation in legible form as issued by the United States Coast Guard or federal agency successor thereto. All documented vessels shall be required to display a current State of Oklahoma annual registration decal;

14. "Factory branch" means a branch office maintained by a person, firm, association, corporation or trust who manufactures or assembles vessels or motors for the sale of vessels or motors to distributors, or for the sale of vessels or motors to dealers, or for directing or supervising, in whole or in part, its representatives;

15. "Factory representative" means any person, firm, association, corporation or trust and each officer and employee thereof engaged as a representative of a manufacturer of vessels or motors or by a factory branch, for the purpose of making or promoting the sale of his, her, its or their vessels or motors, or for supervising or contacting his, its or their dealers or prospective dealers;

16. "Hull identification number" means the serial number affixed to the outside of the hull of a vessel on the upper starboard side (right) corner of the transom (back wall) which is assigned by the manufacturer or the Commission;

17. "Inboard motor" means an internal combustion engine mounted inside a vessel which provides the transfer of power to move a vessel through the water;

18. "Inboard/outboard motor" means an internal combustion engine mounted inside a vessel and an external stern drive attached through the transom of the vessel providing the transfer of power to move the vessel through the water;

19. "John boat" means a narrow, flat bottomed square-ended boat propelled by a pole, paddle or a motor less than ten (10) horsepower;

20. "Lifeboat" means a vessel carried on another vessel in excess of sixty-five (65) feet for use if such other vessel has to be abandoned;

21. "Manufacturer" means a person who manufactures or assembles new vessels or new motors, or a distributor, factory branch, or factory representative;

22. "Motor" means any internal combustion engine mounted at the stern of a vessel or placed inside a vessel which provides the transfer of power to move the vessel through the water;

23. "New vessel dealer" means a person who holds a dealer agreement granted by a manufacturer or distributor for the sale of the manufacturer's or distributor's vessels or motors, who is engaged in the business of purchasing, selling, exchanging, or dealing in new vessels or new motors, and who has an established place of business;

24. "Operate" means to navigate or be in actual physical control of a vessel or otherwise use a vessel or motor;

25. "Outboard motor" means an internal combustion engine capable of being externally mounted at the stern of a vessel which provides the transfer of power to move a vessel through the water;

26. "Owner" means a person, other than a lienholder, having a property interest in or title to a vessel or motor. The term includes a person entitled to the use or possession of a vessel or motor subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security;

27. “Paddleboat” means a boat less than eight (8) feet in length designed to be propelled solely by human power through a belt, chain or gears;

28. "Permanent number" means the distinctive and unique number which:

a. the Commission permanently assigns to a vessel, irrespective of any change of ownership of said vessel. The permanent number shall begin with the letters "OK", followed by four numerals, and then followed by two letters, or

b. any federally recognized Indian tribe in this state assigns to a vessel;

provided, the number is configured as prescribed in 33 C.F.R., Parts 173 and 174;

29. "Person" means a natural person, partnership, corporation, association, trust, estate or other legal entity;

30. "Proposed new vessel dealer" means a person who has an application pending for a new dealer agreement with a manufacturer or distributor. Proposed new vessel dealer does not include a person whose dealer agreement is being renewed or continued;

31. "Purchase date" means the purchase date on a bill of sale or the date of complete assignment of title by the current owner;

32. "State" means the State of Oklahoma;

33. "State of principal use" means the state where the vessel or motor is used, is to be used, or remains for any period in excess of sixty (60) calendar days;

34. "Vessel" means every device, other than a canoe, paddleboat or seaplane on the water, used or capable of being used as a means

of transportation on water, including but not limited to personal watercraft; and

35. "Waters of this state" means and includes all waters within the territorial limits of this state; provided, such phrase shall not mean or include waters which are entirely owned by a private person or persons, and to which the public is not permitted access. Added by Laws 1989, c. 346, § 2, eff. Jan. 1, 1990. Amended by Laws 1990, c. 304, § 2, emerg. eff. May 30, 1990; Laws 1992, c. 284, § 1, eff. Jan. 1, 1993; Laws 2003, c. 393, § 1, emerg. eff. June 4, 2003; Laws 2012, c. 323, § 1, eff. July 1, 2013.

§63-4003. Title and annual registration required - Vessels affected - Outboard motors affected - Sellers, traders and lessors required to be licensed.

A. 1. Except as otherwise provided in Sections 4005 and 4024 of this title, every vessel in this state, irrespective of whether used on waters of this state, is required to be titled within thirty (30) calendar days from the purchase date or from the date the owner becomes a resident of this state and annually registered under the provisions of the Oklahoma Vessel and Motor Registration Act, Section 4002 et seq. of this title. The owner of any such vessel shall file an application as required by the Oklahoma Vessel and Motor Registration Act with the Oklahoma Tax Commission for a certificate of title, a number, and for the annual registration for such vessel on forms prescribed and furnished by the Commission.

2. The provisions of this subsection shall not apply to new vessels in the inventory or stock of licensed dealers for resale which new vessels shall be subject to ad valorem taxation.

3. Said provisions shall apply to and cover all used vessels in the possession and inventory of a dealer except as provided for in Section 4036 of this title.

B. 1. Except as otherwise provided in Sections 4005 and 4024 of this title, every outboard motor in excess of ten (10) horsepower in this state, irrespective of whether used on waters of this state, is required to be titled within thirty (30) calendar days from the purchase date, or from the expiration of registration, or from the date the owner becomes a resident of this state and registered under the provisions of the Oklahoma Vessel and Motor Registration Act.

The owner of any such motor shall file an application as required by the Oklahoma Vessel and Motor Registration Act for a certificate of title and for an annual registration for such vessel on forms prescribed and furnished by the Commission.

2. The provisions of this subsection shall not apply to new motors in the inventory or stock of licensed dealers for resale which such new motors shall be subject to ad valorem taxation.

3. Said provisions shall apply to and cover all used motors in the possession and inventory of a dealer except as provided for in Section 4036 of this title.

C. Any person engaged in the business of selling, trading, renting with option to purchase, or attempting to or negotiating sales or exchanges of interests in new or used vessels or motors, or new and used vessels or motors, or any combination thereof shall be licensed pursuant to Section 4033 of this title.

Laws 1989, c. 346, § 3, eff. Jan. 1, 1990; Laws 1992, c. 284, § 2, eff. Jan. 1, 1993.

§63-4004. Administration of act - Promulgation of rules and preparation of forms and records - Jurisdiction to enforce act and rules - Determination of factory-delivered price - Manual of procedure - Rules to comply with certain other laws.

A. It shall be the duty of the Oklahoma Tax Commission, and the Commission is hereby granted authority and jurisdiction to administer the Oklahoma Vessel and Motor Registration Act, Section 4002 et seq. of this title, with the aid of its motor license agents and all duly authorized peace officers of this state.

B. The Commission is hereby authorized to promulgate all necessary rules and prepare forms and records to enact and enforce the provisions of the Oklahoma Vessel and Motor Registration Act.

C. All duly authorized peace officers of this state are hereby granted authority and jurisdiction to enforce the provisions of and any rules pertaining to the Oklahoma Vessel and Motor Registration Act within their jurisdiction.

D. The Commission shall have the authority in cases of dispute to determine the factory-delivered price of any vessel or motor.

E. The Commission shall periodically cause to be prepared and shall distribute to each authorized motor license agent a manual of procedure containing instructions, directions and guidelines to be followed by all motor license agents in the performance of their duties regarding vessels and motors.

F. All rules promulgated pursuant to the provisions of this act shall comply with Article 1 of the Administrative Procedures Act, Section 250 et seq. of Title 75 of the Oklahoma Statutes. In addition to other filing requirements of law, such rules shall be filed with the Commissioner of Public Safety.

Laws 1989, c. 346, § 4, eff. Jan. 1, 1990; Laws 1992, c. 284, § 3, eff. Jan. 1, 1993.

§63-4005. Exemptions.

A. A vessel or motor shall not be required to be titled and registered pursuant to the provisions of the Oklahoma Vessel and Motor Registration Act, Section 4002 et seq. of this title, if:

1. Such vessel or motor is owned by the United States, a state other than the State of Oklahoma, any agency thereof, or any subdivision of the state; provided, however, if such vessel is used for recreational or rental purposes on the waters of this state, said vessel shall be registered and numbered in accordance with Section 4002 et seq. of this title;

2. Such vessel or motor is owned by a visiting nonresident and is currently registered in another state. Provided that if any such vessel or motor remains in Oklahoma in excess of sixty (60) calendar days, such vessel or motor shall be registered pursuant to the provisions of the Oklahoma Vessel and Motor Registration Act and the registration fees due thereon from the date of entry into Oklahoma must be paid;

3. Such vessel or motor is from a country other than the United States provided such vessel or motor does not remain in Oklahoma in excess of sixty (60) calendar days;

4. Such vessel is used exclusively and solely as a lifeboat;

5. Such vessel is used exclusively and solely for racing purposes;

6. Such vessel is a commercial flotation device which is issued a permit by the Oklahoma Scenic River Commission pursuant to the provisions of Section 1461 et seq. of Title 82 of the Oklahoma Statutes; provided, a commercial flotation device shall be required to be titled pursuant to the provisions of Section 4008 of this title; or

7. Such vessel is a documented vessel provided such documented vessel shall be required to be registered pursuant to the provisions of Section 4016 of this title.

B. Motors classified as inboard motors shall not be required to be titled or registered pursuant to the provisions of the Oklahoma Vessel and Motor Registration Act.

C. All vessels and motors which are owned by the State of Oklahoma, its agencies or departments, or political subdivisions thereof, or which, under the law, would be exempt from direct ad valorem taxation, shall be titled and registered pursuant to the provisions of the Oklahoma Vessel and Motor Registration Act. Provided, all vessels and motors titled and registered to the Department of Public Safety shall be exempt from all registration fees.

D. All other vessels shall be titled and registered pursuant to the provisions of the Oklahoma Vessel and Motor Registration Act. Added by Laws 1989, c. 346, § 5, eff. Jan. 1, 1990. Amended by Laws 1990, c. 304, § 3, emerg. eff. May 30, 1990; Laws 1992, c. 284, § 4, eff. Jan. 1, 1993; Laws 1993, c. 321, § 1, emerg. eff. June 7, 1993; Laws 1994, c. 152, § 1, eff. July 1, 1994; Laws 2005, c. 190, § 16, eff. Sept. 1, 2005.

§63-4006. Utilization of motor license agents.

The Commission is hereby authorized and directed to utilize its motor license agents appointed under the Oklahoma Vehicle License and Registration Laws in the administration of the Oklahoma Vessel and Motor Registration Act.

Added by Laws 1989, c. 346, § 6, eff. Jan. 1, 1990.

§63-4007. Confidentiality of title and registration information - Penalties - Copies of certificate of title or registration.

A. Except as otherwise provided by this section, all information contained in the certificate of title or the registration of any vessel or motor shall be confidential and privileged, subject only to disclosure to the following:

1. Any duly authorized peace officer of this state in the regular course of the peace officer's duties;

2. Any official person or body of any other state or of the United States, when required in their governmental functions;

3. Any person or firm, when the Oklahoma Tax Commission is satisfied the request for information is reasonable and is related primarily to boating safety;

4. Any filer of a mechanics, storage or abandoned vessel possessory lien under the applicable provisions of Sections 91 through 200 of Title 42, Section 908 of Title 47 or Section 4217.4 of Title 63 of the Oklahoma Statutes, when such information is required to fulfill the notification requirements contained therein;

5. Any vessel or motor manufacturer or an authorized representative thereof in connection with matters of vessel or motor safety and theft, vessel motor emissions, vessel or motor product alterations, recalls or advisories, performance monitoring of vessel or motor parts and dealers, vessel or motor market research activities, including survey research, and removal of non-owner records from the original owner records of vessel or motor manufacturers. The confidentiality of the information shall be protected, as set out above, and used only for the purpose stated; provided, further, that the Tax Commission shall be authorized to review the use of and the measures employed to safeguard the information; and provided, further, that the manufacturer or representative shall bear the cost incurred by the Tax Commission in the production of the information requested. If the confidentiality provisions, pursuant to this section, are violated, the provisions of subsection D of Section 205 of Title 68 of the Oklahoma Statutes shall apply and the privilege of obtaining information shall be terminated. Any manufacturer or representative violating the provisions of this section, upon conviction, shall be punishable by a fine not to exceed Fifty Thousand Dollars ($50,000.00); and

6. Any person compiling and publishing vessel or motor statistics, provided that such statistics do not disclose the names

or addresses of individuals. Such information shall be provided upon payment of a fee as determined by the Tax Commission.

B. The Tax Commission or a motor license agent may furnish the holder of a security interest in a specific vessel or motor upon payment of the fee specified by Section 4014 of this title, a copy or certified copy of the certificate of title or registration information for such vessel.

Laws 1989, c. 346, § 7, eff. Jan. 1, 1990; Laws 1992, c. 284, § 5, eff. Jan. 1, 1993; Laws 2004, c. 534, § 12, eff. Nov. 1, 2004; Laws 2005, c. 479, § 3, eff. July 1, 2005.

§63-4008. Application for certificate of title - Transmittal - Issuance - Confirmation.

Except as otherwise provided in Section 4005 of this title, the owner of every vessel or motor in this state shall possess a certificate of title as proof of ownership of such vessel or motor. Application for a certificate of title, whether an original or duplicate, may be made to the Oklahoma Tax Commission or any motor license agent. When application is made with a motor license agent, the application information shall be transmitted either electronically or by mail to the Commission by the motor license agent. If the application information is transmitted electronically, the motor license agent shall forward the required application along with evidence of ownership, where required, by mail. Where the transmission of application information cannot be performed electronically, the Commission is authorized to provide postage-paid envelopes to motor license agents for the purpose of mailing the application along with evidence of ownership, where required. The Commission shall upon receipt of proper application information issue an Oklahoma certificate of title. Such certificates may be mailed to the applicant. Upon issuance of a certificate of title, the Commission shall provide the appropriate motor license agent with confirmation of such issuance.

Laws 1989, c. 346, § 8, eff. Jan. 1, 1990; Laws 1992, c. 284, § 6, eff. Jan. 1, 1993.

§63-4009. Application for certificate of title or registration - Contents - Manufacturer's certificate of origin - Identification number - Homemade vessels - Lien entry form for certain vessels - Delivery of certificate.

A. The application for a certificate of title and registration for a vessel or an outboard motor shall be upon a form furnished by the Oklahoma Tax Commission and shall contain:

1. A full description of the vessel or outboard motor;

2. The manufacturer's serial and model number or other identification number;

3. The length of the vessel;

4. The date on which first sold by the manufacturer or dealer to the owner;

5. Any distinguishing marks;

6. A statement of the applicant's source of title;

7. Whether the vessel is a documented vessel and the number assigned to such vessel;

8. Any security interest upon said vessel or outboard motor, or vessel and motor; and

9. Such other information as the Commission may require.

Every original or duplicate certificate of title and registration for a vessel or an outboard motor shall contain all items listed in this subsection.

B. To obtain an original certificate of title for a vessel or outboard motor that is being registered for the first time in this state or for a vessel or outboard motor that has not been previously registered in any other state, the applicant shall be required to deliver, as evidence of ownership, a manufacturer's certificate of origin or at the discretion of the Commission a copy of the manufacturer's certificate of origin properly assigned by the manufacturer, distributor, or dealer licensed in this or any other state shown thereon to be the last transferee to the applicant upon a form to be prescribed and approved by the Commission. A manufacturer's certificate of origin shall contain:

1. The manufacturer's serial or other identification number;

2. Date on which first sold by the manufacturer to the dealer;

3. Any distinguishing marks including model and the year same was made;

4. A statement of any security interests upon said vessel or outboard motor, or vessel and motor; and

5. Such other information as the Commission may require.

C. In the absence of a dealer's or manufacturer's number, the Commission may assign such identifying number to the vessel or outboard motor, which shall be permanently stamped, burned or pressed into or attached onto such vessel or outboard motor.

D. Every dealer selling new or used vessels or outboard motors and every individual not licensed as a dealer who sells a new or used vessel or outboard motor shall verify the hull identification number or serial number is the same as the number on the current registration of the vessel or outboard motor. The seller of the vessel or outboard motor shall sign a notarized affidavit, under penalty of perjury, affirming the numbers are the same.

E. 1. Before a homemade vessel is issued a hull identification number from the Commission, the vessel and the motor shall be inspected by a commissioned officer of the Oklahoma Highway Patrol Division of the Department of Public Safety or by any other employee of the Department or any other law enforcement officer of the state as the Commissioner of Public Safety may designate, pursuant to the

rules promulgated by the Commissioner of Public Safety. For the purposes of this act, "homemade vessel" means any vessel not allotted a hull identification number (HIN) by a manufacturer, and specifically excludes any vessel upon which the hull identification number has been covered, altered, defaced, destroyed, or removed.

2. The Department of Public Safety is hereby granted authority and jurisdiction, pursuant to Article 1 of the Administrative Procedures Act, Section 250 et seq. of Title 75 of the Oklahoma Statutes, to promulgate, administer and enforce all necessary rules deemed necessary to implement the provisions of this section.

3. The Department of Public Safety shall prescribe all forms deemed necessary to implement the provisions of this section.

F. It shall be unlawful to:

1. Improperly display or fail to display a vessel's hull identification number;

2. Operate or possess a vessel on which the hull identification number has been removed; or

3. Operate or possess a motor on which the serial number has been removed.

G. When registering in this state a vessel which was titled in another state and which title contains the name of a secured party on the face of the other state certificate of title, the Oklahoma Tax Commission or the motor license agent shall complete a lien entry form as prescribed by said Commission. A statement of the lien or encumbrance shall be included on the Oklahoma certificate of title and the lien or encumbrance shall be deemed continuously perfected as though it had been perfected pursuant to Section 4013 of this title. For completing the lien entry form and recording the security interest on the certificate of title, the Commission or the motor license agent shall collect a fee of Three Dollars ($3.00) which shall be in addition to other fees provided by the Oklahoma Vessel and Motor Registration Act.

H. Upon payment of all fees and taxes, a certificate of title, a certificate of registration and, for a vessel, two registration decals or, for an outboard motor, one registration decal shall be delivered to the applicant. Provided, yearly decals shall be issued for vessels and motors titled and registered to the Department of Public Safety.

Added by Laws 1989, c. 346, § 9, eff. Jan. 1, 1990. Amended by Laws 1992, c. 284, § 7, eff. Jan. 1, 1993; Laws 1997, c. 146, § 8, eff. Nov. 1, 1997; Laws 1999, c. 332, § 1, eff. Nov. 1, 1999; Laws 2005, c. 190, § 17, eff. Sept. 1, 2005.

§63-4009.1. Serial numbers for outboard motors – Rules - Penalties.

A. 1. The Department of Public Safety shall promulgate rules specifying the location and manner in which serial numbers for outboard motors shall be affixed. In promulgating such rules, the

Department shall consider the existence of voluntary industry standards, the current state of technology and the overall process of reducing vessel and motor thefts in this state.

2. Any outboard motor manufactured on or after October 1, 1985, which is for sale in this state shall comply with the rules promulgated pursuant to this section.

3. Any person, firm or corporation which sells or offers to sell any outboard motor or outboard motor part manufactured on or after October 1, 1985, which does not comply with this subsection shall be, upon conviction, guilty of a misdemeanor, punishable by a fine of up to Five Hundred Dollars ($500.00), imprisonment in the county jail for a period of up to one (1) year, or both such fine and imprisonment.

B. 1. It is unlawful for any person to knowingly possess any outboard motor or outboard motor part upon which the serial number required by subsection A of this section has been removed, erased, defaced or otherwise altered to prevent identification.

2. It is unlawful for any person to knowingly possess, manufacture, sell or exchange, offer to sell or exchange, aid in sale or exchange, supply in blank, authorize or direct, give away, or to conspire to or attempt to commit any of the previously mentioned acts, any counterfeit manufacturer's outboard motor or outboard motor part serial number plate or decal, used for the purpose of identification of any outboard motor or outboard motor part, or to conspire or attempt to commit any of these acts.

3. Any person violating any provision of this subsection shall be, upon conviction, guilty of a felony.

C. If any serial number required by this section to identify ownership of an outboard motor or outboard motor part does not exist or has been removed, erased, defaced or otherwise altered to prevent identification, and the true identity cannot be determined, the outboard motor or outboard motor part may be seized by any peace officer in this state and shall be subject to forfeiture pursuant to the procedures established for the law enforcement agency by which the seizing officer is employed. Such outboard motor or outboard motor part may not be sold or used to propel a vessel on the waters of this state unless and until the Department of Public Safety is directed by the Oklahoma Tax Commission to issue to the outboard motor or outboard motor part a replacement identifying number which shall be affixed to the motor or part and shall thereafter be used for identification purposes of the motor or part.

Added by Laws 1999, c. 332, § 6, eff. Nov. 1, 1999.

§63-4010. Repealed by Laws 1992, c. 284, § 59, eff. Jan. 1, 1993.

§63-4011. Repealed by Laws 1992, c. 284, § 59, eff. Jan. 1, 1993.

§63-4012. Sale or transfer of ownership - Assignment of certificate - Presentment of assigned certificate - Delivery of certificate - Filing and indexing - Passage of ownership by operation of law - Homemade vessels - Bills of sale - Duplicate certificates.

A. In the event of the sale or transfer of the ownership of a vessel or motor for which a certificate of title has been issued, the holder of such certificate shall endorse on the back of same a complete assignment thereof with warranty of title in form printed thereon with a statement of all liens or encumbrances on said vessel or motor sworn to before a notary public or some other person authorized by law to take acknowledgments, and deliver same to the purchaser or transferee at the time of delivery to him of such vessel or motor. The purchaser or transferee, unless such person is a bona fide dealer licensed by the State of Oklahoma, shall, within thirty (30) calendar days from the time of delivery to him of such vessel or motor, present the assigned certificate of title to the Oklahoma Tax Commission, or one of its motor license agents, accompanied by the fee required pursuant to Section 4014 of this title, together with any excise tax or registration fee that may be due, whereupon a new certificate of title, shall be issued to the assignee.

B. A licensed dealer shall, on selling or otherwise disposing of a vessel or motor, execute and deliver to the purchaser thereof the certificate of title properly and completely reassigned.

C. Said certificate, when so assigned and returned to the Commission, together with any subsequent assignment or reissue thereof, shall be appropriately filed and indexed so that at all times it will be possible to trace title to the vessel or motor designated therein. Provided, when the ownership of any vessel or motor shall pass by operation of law, the person owning such vessel or motor may, upon furnishing satisfactory proof to the Commission of such ownership, procure a title to said vessel or motor, regardless of whether a certificate of title has ever been issued. Provided, however, all homemade vessels shall first comply with the provisions of subsection D of Section 4009 of this title.

D. The dealer shall execute and deliver to the purchaser bills of sale for all new vessels or new motors sold by him. On presentation of a bill of sale by a dealer for a new vessel or motor sold in this state, accompanied by any fee required by Section 4014 of this title and any excise tax that may be due, a certificate of title shall be issued.

E. Upon proper proof of a lost certificate of title being made to the Commission or one of its motor license agents, accompanied by an application therefor and payment of the fees required by Section 4014 of this title, a duplicate certificate of title shall be issued to said applicant.

Laws 1989, c. 346, § 12, eff. Jan. 1, 1990; Laws 1992, c. 284, § 8, eff. Jan. 1, 1993.

§63-4013. Perfection of security interest - Applicability of Title 12A - Surrender of certificate or application to secured party - Delivery to Commission - Satisfaction and release - Penalty - New certificate - Security interests perfected prior to effective date of act.

A. 1. Except for a security interest in vessels or motors held by a dealer for sale or lease, a security interest, as defined in paragraph (37) of Section 1-201 of Title 12A of the Oklahoma Statutes, in a vessel or motor as to which a certificate of title may be properly issued by the Oklahoma Tax Commission shall be perfected only when a lien entry form prescribed by the Tax Commission, and the existing certificate of title, if any, or application for a certificate of title and manufacturer's certificate of origin or other identification number containing the name and address of the secured party and the date of the security agreement and the required fee are delivered to the Tax Commission or to a motor license agent. The filing and duration of perfection of a security interest, pursuant to the provisions of Title 12A of the Oklahoma Statutes, including, but not limited to, Section 1-9-311 of Title 12A of the Oklahoma Statutes, shall not be applicable to perfection of security interests in vessels or motors as to which a certificate of title may be properly issued by the Tax Commission, except as to vessels or motors held by a dealer for sale or lease and except as provided in subsection D of this section. In all other respects Title 12A of the Oklahoma Statutes shall be applicable to such security interests in vessels or motors as to which a certificate of title may be properly issued by the Tax Commission.

2. Whenever a person creates a security interest in a vessel or motor, such person shall surrender to the secured party the certificate of title or the signed application for a new certificate of title, on the form prescribed by the Tax Commission, and the manufacturer's certificate of origin or other identification number. The secured party shall deliver the lien entry form and the required lien filing fee within twenty-five (25) calendar days as provided hereafter with certificate of title or the application for certificate of title, and the manufacturer's certificate of origin or other identification number to the Tax Commission or to a motor license agent. Perfection of the security interest shall begin from the date of the delivery to the Tax Commission or to a motor license agent of (i) the lien entry form, (ii) the lien filing fee, and (iii) the certificate of title or application for certificate of title and the manufacturer's certificate of origin or other identification number. When a vessel or motor title is presented to

a motor license agent for transfer or registration and the documents reflect a lienholder, the motor license agent shall perfect the lien as provided for in subsection G of Section 1105 of Title 47 of the Oklahoma Statutes.

3. Upon the receipt of the lien entry form and the required fees with either the certificate of title or an application for certificate of title and manufacturer's certificate of origin or other identification number, a motor license agent shall, by placement of a clearly distinguishing mark, record the date and number shown in a conspicuous place, on each of these instruments.

4. The certificate of title or the application for certificate of title and manufacturer's certificate of origin or other identification number with the record of the date of receipt clearly marked thereon shall be returned to the debtor together with a notice that the debtor is required to register and pay all additional fees and taxes due within thirty (30) calendar days from the date of purchase of said vessel or motor.

5. Any person creating a security interest in a vessel or motor that has been previously registered in the debtor's name and on which all taxes due the state have been paid shall surrender the certificate of ownership to the secured party. The secured party shall have the duty to record the security interest as provided in this section and shall, at the same time, obtain a new certificate of title which shall show the secured interest on the face of such certificate of title.

6. The lien entry form with the date and assigned number thereof clearly marked thereon shall be returned to the secured party. If the lien entry form is received and authenticated, as herein provided, by a motor license agent, such agent shall make a report thereof to the Tax Commission upon the forms and in the manner as may be prescribed by the Tax Commission.

7. The Tax Commission shall have the duty to record the lien upon the face of the certificate of title issued at the time of registering and paying all fees and taxes due on such vessel or motor.

B. 1. A secured party shall, within seven (7) business days after the satisfaction of such security interest, furnish directly or by mail a release of a security interest to the Tax Commission and mail a copy thereof to the last-known address of the debtor. If the security interest has been satisfied by payment from a licensed used boat dealer to whom the used vessel or motor has been transferred, the secured party shall also, within seven (7) business days after such satisfaction, mail a certified copy of copy number one of the release of security interest to such dealer. If the secured party fails to furnish such release as herein required, the secured party shall be liable to the debtor for a penalty of One

Hundred Dollars ($100.00) and, in addition, any loss caused to the debtor by such failure.

2. Upon release of a security interest the owner may obtain a new certificate of title omitting reference to the security interest, by submitting to the Tax Commission or to a motor license agent:

a. a release signed by the secured party, an application for new certificate of title and the proper fees, or

b. by submitting to the Tax Commission or the motor license agent an affidavit, supported by such documentation as the Tax Commission may require, by the owner on a form prescribed by the Tax Commission stating that the security interest has been satisfied and stating the reasons why a release cannot be obtained, an application for a new certificate of title and the proper fees.

Upon receiving such affidavit that the security interest has been satisfied, the Tax Commission shall issue a new certificate of title eliminating the satisfied security interest and the name and address of the secured parties who have been paid and satisfied. The Tax Commission shall accept a release of a security interest in any form that identifies the debtor, the secured party, and the vessel or motor and contains the signature of the secured party. The Tax Commission shall not require any particular form for the release of a security interest.

The words “security interest” when used in the Oklahoma Vessel and Motor Registration Act do not include liens dependent upon possession.

C. The Tax Commission shall file and index certificates of title so that at all times it will be possible to trace a certificate of title to the vessel or motor designated therein, identify the lien entry form, and the names and addresses of secured parties, or their assignees, so that all or any part of such information may be made readily available to those who make legitimate inquiry of the Tax Commission as to the existence or nonexistence of security interest in the vessel or motor.

D. 1. Any security interest in a vessel or motor properly perfected prior to January 1, 1990, may be continued as to its effectiveness or duration as provided by Section 1-9-515 of Title 12A of the Oklahoma Statutes, or may be terminated, assigned or released as provided by Sections 1-9-513 and 1-9-514 of Title 12A of the Oklahoma Statutes, as fully as if this section had not been enacted, or, at the option of the secured party, may also be perfected under this section, and, if so perfected, the time of perfection under this section shall be the date said security interest was originally perfected under the prior law.

2. Upon request of the secured party, the debtor or any other holder of the certificate of title shall surrender said certificate of title to the secured party and shall do such other acts as may be required to perfect said security interest under this section.
Added by Laws 1989, c. 346, § 13, eff. Jan. 1, 1990. Amended by Laws 1992, c. 284, § 9, eff. Jan. 1, 1993; Laws 1996, c. 337, § 1, eff. July 1, 1996; Laws 2000, c. 371, § 179, eff. July 1, 2001; Laws 2004, c. 534, § 13, eff. Nov. 1, 2004.

§63-4014. Fees.

A. The charge for each certificate of title for any vessel or motor issued shall be Two Dollars and twenty-five cents ($2.25), which charge shall be in addition to any excise taxes or fees imposed by law for such vessel or motor. One Dollar ($1.00) of each such fee shall be deposited in the Oklahoma Tax Commission Reimbursement Fund.

B. The charge for a duplicate certificate of title shall be Two Dollars and twenty-five cents ($2.25) which charge shall be in addition to any other fees imposed by this section for any such vessel or motor. One Dollar ($1.00) of such fee shall be deposited in the Oklahoma Tax Commission Reimbursement Fund.

C. For each security interest recorded on a certificate of title, or manufacturer's certificate of origin or other identification number, such person shall pay a fee of Eight Dollars ($8.00), which shall be in addition to other fees provided for in this section.

D. 1. When an application for a new certificate of title or duplicate certificate of title for a vessel or motor is made to the Commission or one of its motor license agents, anapplication fee in the amount of One Dollar and twenty-five cents ($1.25) for the issuance of such certificate of title shall be charged and collected.

2. For recording a security interest on a certificate of title or manufacturer's certificate of origin or other identification number, the Commission or a motor license agent shall charge Two Dollars ($2.00) for each security interest so recorded.

E. 1. The charge for a copy of certificate of title information is One Dollar ($1.00) for each instrument.

2. The charge for a certified copy of certificate of title information is Two Dollars ($2.00) for each instrument.
Added by Laws 1989, c. 346, § 14, eff. Jan. 1, 1990.

§63-4015. Application required - Time - Contents.

Except as otherwise provided by Sections 4005 and 4024 of this title, every owner of a vessel or motor possessing a certificate of title shall make an application for the registration of such vessel or motor with the Oklahoma Tax Commission or with a motor license

agent within thirty (30) calendar days from the purchase date, or from the expiration of registration, or from the date the owner becomes a resident of this state. The application shall contain such information as shall be required by the Commission pursuant to the provisions of the Oklahoma Vessel and Motor Registration Act, Section 4002 et seq. of this title.
Laws 1989, c. 346, § 15, eff. Jan. 1, 1990; Laws 1992, c. 284, § 10, eff. Jan. 1, 1993.

§63-4016. Application for registration of vessel - Contents - Issuance of certificate and assignment of permanent number - Availability and inspection of certificate and bill of sale.

A. Every owner of a vessel, when making application for registration, shall furnish the following information:

1. A full description of the vessel including the manufacturer's serial, model, or other identification number, the manufacturer's factory delivered price, and the total delivered price of said vessel;

2. The correct name and address, the name of the city, county and state in which the person in whose name the vessel is to be registered resides;

3. The county of location of the vessel; and

4. Such other information as may be prescribed by the Commission.

B. Upon the filing of a registration application for a vessel and the payment of the fees provided for in the Oklahoma Vessel and Motor Registration Act, Section 4002 et seq. of this title, the Oklahoma Tax Commission shall issue the owner of the vessel a certificate of registration and two registration decals and shall also assign a permanent number for the vessel described in the application. The registration decals and the permanent number shall be recorded on the annual registration certificate covering such vessel. The permanent number shall be displayed upon the vessel as required by Section 4030 of this title.

C. The current certificate of registration shall be legible and available for inspection at all times.

D. On all new and used vessels, prior to receipt of the certificate of registration and the registration decals, the dealer's bill of sale shall be available for inspection at all times for the first thirty (30) calendar days from the date of purchase. Thereafter, prior to receipt of the certificate of registration and the registration decals, the official registration receipt from the Commission or a motor license agent shall be available for inspection at all times.
Added by Laws 1989, c. 346, § 16, eff. Jan. 1, 1990. Amended by Laws 1992, c. 284, § 11, eff. Jan. 1, 1993; Laws 1997, c. 146, § 9, eff. Nov. 1, 1997; Laws 1999, c. 332, § 2, eff. Nov. 1, 1999.

§63-4017. Application for registration of motor - Contents - Issuance of certificate - Availability and inspection of certificate and bill of sale.

A. Every owner of an outboard motor in excess of ten (10) horsepower, when making application for registration, shall furnish the following information:

1. A full description of the outboard motor including the manufacturer's serial, model, or other identification number, the manufacturer's factory delivered price, and the total delivered price of said outboard motor;

2. The correct name and address, and the name of the city, county and state in which the person in whose name the outboard motor is to be registered resides;

3. The county of location of such outboard motor; and

4. Such other information as may be prescribed by the Oklahoma Tax Commission.

B. Upon the filing of a registration application for an outboard motor and the payment of the fees provided for in the Oklahoma Vessel and Motor Registration Act, the Commission shall issue the owner of the outboard motor a certificate of registration and a registration decal.

C. The current certificate of registration shall be legible and available for inspection at all times.

D. On all new and used outboard motors, prior to receipt of the certificate of registration and the registration decal, the dealer's bill of sale shall be available for inspection at all times for the first thirty (30) calendar days from the date of purchase. Thereafter, prior to receipt of the certificate of registration and the registration decal, the official registration receipt from the Commission or a motor license agent shall be available for inspection at all times.

Added by Laws 1989, c. 346, § 17, eff. Jan. 1, 1990. Amended by Laws 1992, c. 284, § 12, eff. Jan. 1, 1993; Laws 1997, c. 146, § 10, eff. Nov. 1, 1997; Laws 1999, c. 332, § 3, eff. Nov. 1, 1999.

§63-4018. Members of armed forces or spouses - Registration requirements.

A. Any vessel or motor in this state which is not registered and licensed for the current year in the state of residence or domicile of any person who is a member of the Armed Forces of the United States or the spouse of such member owning a vessel or motor must be registered as provided by the Oklahoma Vessel and Motor Registration Act, except that any such vessel or motor which has been licensed in some other state by such member or spouse of such member while stationed in said other state may be operated in this state for the remainder of the year or period for which it is

licensed. If the vessel or motor currently is registered with the Armed Forces of the United States rather than being registered in a state and the member is transferred to a duty station within this state pursuant to military orders, the member or spouse of such member owning the vessel or motor shall not be required to register the vessel or motor in this state for a period of thirty (30) days after the date the member is required to report for duty by said military.

B. Any person who is a member of the Armed Forces of the United States who is a resident of this state and who is stationed in this state or spouse of such person may make application for a certificate of registration pursuant to the provisions of this section.

C. Any person who is a member of the Armed Forces of the United States, or spouse applying for a registration of any such vessel or motor shall submit an appropriate statement, to be attached to the vessel or motor registration application, showing the following: A description of the vessel or motor owned by applicant; the state and address of the applicant's legal residence or domicile; that applicant or applicant's spouse is on active duty in the Armed Forces of the United States assigned or stationed at a named location in compliance with official military orders. The statement shall be signed by the applicant and certified to by a proper officer of the organization to which applicant is assigned for duty, or where the applicant is the spouse of such member serving in a foreign country the statement shall be signed by said spouse under the penalties of perjury.

Added by Laws 1989, c. 346, § 18, eff. Jan. 1, 1990.

§63-4019. Registration fees - Due date - Delinquency - Registration dates - Proportional fees.

A. 1. The registration fees herein levied upon vessels and motors located within this state shall be due on the first day of July each year and shall become delinquent on the first day of August thereafter.

2. Any person owning a vessel or motor subject to the provisions of this subsection and failing or refusing to file application for the registration of such vessel or motor and to pay the annual registration fee as provided by the Oklahoma Vessel and Motor Registration Act, on or before the 31st day of July each year, shall be deemed delinquent.

B. On the registration of new vessels or new motors purchased in this state and on new or used vessels or motors used in this state or brought into this state between July 1 and September 30, inclusive, of any year the payment of the full annual registration and license fee shall be collected; and between October 1 and December 31, inclusive, of any year the payment of three-fourths

(3/4) the annual registration and license fee shall be collected; and between January 1 and March 31, inclusive, of any year the payment of one-half (1/2) the annual registration and license fee shall be collected; and between April 1 and June 30, inclusive, of any year the payment of one-fourth (1/4) of the annual registration and license fee shall be collected.

C. Any person registering a vessel or motor under the provisions of the Oklahoma Vessel and Motor Registration Act may elect to have the vessel or motor registered for a three-year period. If a person elects to register the vessel or motor for a three-year period, the person shall pay ninety percent (90%) of the registration fees that the person would have otherwise paid if the person had registered the vessel or a motor on an annual basis over the three-year period. If a person is registering a vessel or motor pursuant to the provisions of subsection B of this section and elects to register the vessel or motor for a three-year period, the partial year registration shall count as one of the three (3) years of registration. The motor license agent registering the vessel or motor for a three-year period shall receive one hundred percent (100%) of the fees the motor license agent would have otherwise received pursuant to subsection B of Section 1141.1 of Title 47 of the Oklahoma Statutes if the vessel or motor had been registered on an annual basis over the three-year period.

Added by Laws 1989, c. 346, § 19, eff. Jan. 1, 1990. Amended by Laws 1990, c. 304, § 4, emerg. eff. May 30, 1990; Laws 2004, c. 379, § 1, eff. Nov. 1, 2004.

§63-4020. Notice of registration requirements.

The Oklahoma Tax Commission shall notify through the mail, or via electronic mail, all persons who have not opted out of the notification system within the state who have previous vessel or motor registrations on record of the period for registration that are due to be registered in July of that year. Persons choosing to receive such annual notification through the mail shall be assessed an annual fee of fifty cents ($0.50), notwithstanding the provisions of Section 1114.1 of Title 47 of the Oklahoma Statutes, which shall be used by the Tax Commission for printing and mailing of renewal notifications. Members of the armed forces of the United States, the Reserve Corps of the armed forces of the United States, and the Oklahoma National Guard and their spouses eligible for the military registration fee, as provided in Section 4021 of this title, shall receive a renewal notification without payment of such fee. The printed notice shall contain all necessary information for such registration including a breakdown of all charges to be paid by the owner. The breakdown of the charges to be paid by the owner shall include the charges an owner would pay to register the vessel or motor for a one-year period and the charges an owner would pay to

register the vessel or motor for a three-year period. Use of a postcard or electronic mail-type renewal notice is specifically permitted. The content and form of the notice shall also contain instructions as to the procedure for renewal upon presentation to a motor license agent or by return mail to the Tax Commission's state office. The Tax Commission shall provide information on its public website instructing persons on the procedure for obtaining an annual notification via electronic mail, free of charge, outlining all charges and fees associated with the registration of vessels and motors, as well as an explanation of the apportionment of vessel and motor registration fees and penalties. The cost of mailing shall be One Dollar ($1.00) for titles or other forms or devices required by the Oklahoma Vessel and Motor Registration Act. Provided, that the Tax Commission may adjust any mailing costs as deemed appropriate to allow for increased or additional fees charged by the United States Postal Service.

Failure by any applicant to receive notification of renewal as provided by this section shall not excuse the applicant from properly obtaining any registration at the proper time by presenting proof of ownership to the Tax Commission's state office or to a motor license agent.

Added by Laws 1989, c. 346, § 20, eff. Jan. 1, 1990. Amended by Laws 2004, c. 379, § 2, eff. Nov. 1, 2004; Laws 2010, c. 390, § 1, emerg. eff. June 7, 2010.

§63-4021. Fees - Exemptions - Credits - Duplicate certificates.

A. The application required for the initial and subsequent registration of a vessel or a motor shall be accompanied by payment of the following fees:

1. Where the manufacturer’s factory delivered price, or in the absence of such price being published in a recognized publication for the use of marine dealers and/or for purposes of insurance and financing firms, where the provable original or new cost of all materials, is One Hundred Fifty Dollars ($150.00) or less, the registration and license fee for the first and for each succeeding year’s registration shall be One Dollar ($1.00);

2. Where the manufacturer’s factory delivered price, or in the absence of such price being published as provided in paragraph 1 of this section, where the value of such vessel or motor is determined and fixed as above required and, is in excess of One Hundred Fifty Dollars ($150.00), there shall be added to the fee of One Dollar ($1.00), the sum of One Dollar ($1.00) for each One Hundred Dollars ($100.00) or any fraction thereof, in excess of One Hundred Fifty Dollars ($150.00) provided such fee shall not exceed One Hundred Fifty Dollars ($150.00);

3. After the first year’s registration in this state under the Oklahoma Vessel and Motor Registration Act of any new vessel or new

motor under paragraph 2 of this subsection, the registration for the second year shall be ninety percent (90%) of the fee computed and assessed hereunder for the first year, and thereafter, such fee shall be computed and assessed at ninety percent (90%) of the previous year's fee and shall be so computed and assessed for the next nine (9) successive years provided such fee shall not exceed One Hundred Fifty Dollars ($150.00);

4. The initial and subsequent registration fee for any vessel which is a part of a fleet used for lodging and for which a rental fee and sales tax are collected shall be Forty Dollars ($40.00) in lieu of the fees required by paragraphs 1 through 3 of this subsection. For the purpose of this paragraph, "fleet" means twenty or more vessels operated by a business organization from a single anchorage. The fee provided for in this paragraph may be reduced annually to zero until the total reduction equals the difference between the sum of the fees paid pursuant to paragraphs 1 through 3 of this subsection for the two registration years preceding January 1, 1990, and the fee provided for in this paragraph;

5. For any vessel or motor owned and numbered, registered or licensed prior to January 1, 1990, in this or any other state, or in the absence of such registration upon proof of the year, model and age of same, the registration fee shall be computed and assessed at the rate hereinabove provided for a new vessel or motor based on the value thereof determined as provided in this subsection, but reduced as though same had been registered for each prior year of its existence. Except as provided in paragraph 1 of this subsection, the registration fee for the eleventh year computed in accordance with the provisions of this subsection shall be the amount of the fee to be assessed for such eleventh year and shall be the minimum annual registration fee for such vessel or motor for any subsequent year; and

6. The initial and subsequent registration fee for any vessel or motor which is not being used in a trade or business or for any commercial purpose and is owned by:

a. a nonresident member of the Armed Forces of the United States assigned to duty in this state in compliance with official military or naval orders,

b. a resident member of the Armed Forces of the United States assigned to duty in this state in compliance with official military or naval orders,

c. the spouse, who resides in Oklahoma, of a resident or nonresident member of the Armed Forces of the United States serving in a foreign country, or

d. any Oklahoma resident who is stationed out of state due to an official assignment of the Armed Forces of the United States,

shall be the lesser of either a Fifteen Dollar ($15.00) registration fee or the fee computed and assessed for vessels or motors of similar age and model pursuant to this section.

B. As used in this section, the term "manufacturer's factory delivered price" shall represent the recommended retail selling price and shall not mean the wholesale price to a dealer.

C. The Oklahoma Tax Commission shall assess the registration fees and penalties for the year or years a vessel or motor was not registered as provided in the Oklahoma Vessel and Motor Registration Act. For vessels or motors not registered for two (2) or more years, the registration fees and penalties shall be due only for the current year and one (1) previous year.

D. Upon each vessel or motor repossessed by a mortgagee, a fee of Forty-six Dollars ($46.00) shall be assessed. This fee shall be in lieu of any applicable vessel or motor excise tax and registration fees. Each motor license agent accepting applications for certificates of title for such vessel or motors shall receive Seven Dollars ($7.00) to be deducted from the license fee specified in this paragraph for each application accepted.

E. All vessels or motors owned by the State of Oklahoma, its agencies or departments, or political subdivisions thereof, or which under the law would be exempt from direct ad valorem taxation, shall be registered pursuant to the provisions of the Oklahoma Vessel and Motor Registration Act for an annual fee of Two Dollars and twenty-five cents ($2.25) irrespective of whether registered by a motor license agent or the Tax Commission.

F. All vessels and motors owned:

1. By the Boy Scouts of America, the Girl Scouts of U.S.A., and the Camp Fire USA, devoted exclusively to youth programs emphasizing physical fitness, character development and citizenship training;

2. By the Department of Public Safety; and

3. By organizations which are exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), and which are primarily devoted to the establishment, development, operation, promotion, and participation in, alone or in conjunction with others, educational and training programs and competitive events to provide knowledge, information, or comprehensive skills related to the sports of sailing, fishing, boating, and other aquatic related activities;

are hereby exempt from the payment of registration fees required by this section. Provided all of such vessels or motors shall be registered and shall otherwise comply with the provisions of the Oklahoma Vessel and Motor Registration Act.

G. A credit shall be allowed with respect to the fee for registration of any new vessel or new motor, when such new vessel or motor is a replacement for:

1. A new original vessel or new original motor which is stolen from the purchaser/registrant within ninety (90) days of the date of purchase of the original vessel or new original motor as certified by a police report or other documentation as required by the Tax Commission; or

2. A defective new original vessel or new original motor returned by the purchaser/registrant to the seller within six (6) months of the date of purchase of the defective new original vessel or new original motor as certified by the manufacturer.

Such credit shall be in the amount of the fee for registration which was paid for the new original vessel or new original motor and shall be applied to the registration fee for the replacement vessel or motor. In no event will said credit be refunded.

H. Upon proper proof of a lost certificate of registration being made to the Tax Commission or one of its motor license agents, accompanied by an application therefor and payment of the fees required by the Oklahoma Vessel and Motor Registration Act, a duplicate certificate of registration shall be issued to the applicant. The charge for such duplicate certificate of registration shall be Two Dollars and twenty-five cents ($2.25), which charge shall be in addition to any other fees imposed by Section 4022 of this title for any such vessel or motor.

I. In addition to any other fees levied by the Oklahoma Vessel and Motor Registration Act, there is levied and there shall be paid to the Tax Commission, for each year a vessel or motor is registered, a fee of One Dollar ($1.00) for each vessel or motor for which a registration or license fee is required pursuant to the provisions of this section. The fee shall accrue and shall be collected upon each vessel or motor under the same circumstances and shall be payable in the same manner and times as apply to vessel and motor licenses and registrations under the provisions of the Oklahoma Vessel and Motor Registration Act; provided, the fee shall be paid in full for the then current year at the time any vehicle is first registered in a calendar year.

Monies collected pursuant to this subsection shall be apportioned by the Tax Commission to the State Treasurer for deposit in the Trauma Care Assistance Revolving Fund created in Section 330.97 of this title.

The collection and payment of the fee shall be a prerequisite to license or registration of any vessel or motor.

J. If a vessel or motor is donated to a nonprofit charitable organization, the nonprofit charitable organization shall be exempt from paying any current or past due registration fees, excise tax, transfer fees, and penalties and interest; provided, subsequent to such donation, if the person, entity or party acting on another's behalf who donated the vessel or motor, purchases the same vessel or motor from the nonprofit charitable organization receiving the

original donation, such person, entity or party acting on another's behalf shall be liable for all current and past due registration fees, excise tax, transfer fees, and penalties and interest on such vehicle.
Added by Laws 1989, c. 346, § 21, eff. Jan. 1, 1990. Amended by Laws 1999, c. 332, § 4, eff. Nov. 1, 1999; Laws 2000, c. 6, § 14, emerg. eff. March 20, 2000; Laws 2002, c. 374, § 2, eff. July 1, 2003; Laws 2004, c. 534, § 14, eff. Nov. 1, 2004; Laws 2005, c. 190, § 18, eff. Sept. 1, 2005; Laws 2006, c. 272, § 6, eff. Nov. 1, 2006.
NOTE: Laws 1999, c. 278, § 3 repealed by Laws 2000, c. 6, § 33, emerg. eff. March 20, 2000. Laws 2004, c. 379, § 3 repealed by Laws 2005, c. 1, § 101, emerg. eff. March 15, 2005. Laws 2005, c. 1, § 100 repealed by Laws 2006, c. 16, § 49, emerg. eff. March 29, 2006. Laws 2006, c. 16, § 48 repealed by Laws 2007, c. 1, § 54, emerg. eff. Feb. 22, 2007.
NOTE: Laws 2002, c. 374, § 2 made no changes to this section.

§63-4022. Application directly to Commission or motor vehicle agent - Copies - Fees.

A. In addition to the registration fees required by Section 4021 of this title, when any such application for registration is made directly to the Commission or to any motor vehicle agent, a One Dollar and twenty-five cents ($1.25) fee for each year the vessel or motor is registered shall be collected and apportioned as provided by the provisions of the Oklahoma Vessel and Motor Registration Act.

B. 1. The charge for a copy of certificate of registration information is One Dollar ($1.00) for each instrument.

2. The charge for a certified copy of certificate of registration information is Two Dollars ($2.00) for each instrument.
Added by Laws 1989, c. 346, § 22, eff. Jan. 1, 1990. Amended by Laws 2004, c. 379, § 4, eff. Nov. 1, 2004.

§63-4023. Purpose of fees - Payment in lieu of ad valorem taxes.

The registration fees herein imposed upon vessels and motors shall be for the purpose of reimbursing and providing funds for general governmental functions of the state, and when paid in full such fees shall be in lieu of all ad valorem taxes, general or local, to which such vessels and motors may be subject as personal property under the laws of this state.
Added by Laws 1989, c. 346, § 23, eff. Jan. 1, 1990.

§63-4024. Late registration - Failure or refusal to file application - Penalties.

A. In the event a new vessel or a new motor is not registered within thirty (30) calendar days from the date purchased in this state by a resident of this state, the penalty shall be Twenty-five Dollars ($25.00), provided that in no event shall the penalty exceed

an amount equal to the registration fee. The rate of the registration fee shall be fixed and determined by the date of the sale by the dealer of said new vessel or motor to the purchaser.

B. If a new or used vessel or motor is brought into Oklahoma by a resident of this state and is not registered within thirty (30) calendar days from the date such vessel or motor enters the state as required by the Oklahoma Vessel and Motor Registration Act, the penalty shall be Twenty-five Dollars ($25.00), provided that in no event shall the penalty exceed an amount equal to the registration fee.

C. If a vessel or motor is purchased or is brought into Oklahoma by a nonresident of this state and such vessel or motor remains over sixty (60) calendar days and is not registered as required by the Oklahoma Vessel and Motor Registration Act, the penalty shall be Twenty-five Dollars ($25.00).

D. Any person in this state owning a vessel or motor subject to the provisions of this subsection and failing or refusing to file application for the registration of such vessel or motor and to pay the registration fee as required by the Oklahoma Vessel and Motor Registration Act, within one (1) month after the expiration date, shall be deemed delinquent and there shall be added a penalty of twenty-five cents ($0.25) per day on the registration fee for each day such registration is delinquent. The penalty for failure to register shall accrue for a three-month calendar period. Thereafter, the penalty shall be Twenty-five Dollars ($25.00), provided that in no event shall the penalty exceed an amount equal to the registration fee.

E. The failure to register any vessel or motor as required by the Oklahoma Vessel and Motor Registration Act shall in addition to penalties, subject such vessel or motor to the seizure provisions as provided in the Oklahoma Vehicle License and Registration Act.
Added by Laws 1989, c. 346, § 24, eff. Jan. 1, 1990.

§63-4025. Payment of fees and taxes by check - Nonpayment of check - Cancellation of title and registration - Credit of motor license agent's account - Collection - Penalties.

A. When, at the time of titling and registration of any vessel or motor payment is made by check for fees and taxes and the check is not paid by the bank on which drawn for any reason, such certificate of title or registration and other such instruments issued at the time of titling or registration of such vessel or motor shall be canceled immediately, without notice, by the Commission or motor license agent who issued such title or registration certificate. In all such cases the title or registration certificate, number, receipt, and any other official document issued at the time of the acceptance of such check shall be null and void and returned to the issuer.

B. The motor license agent shall transmit all documents and the dishonored check to the Oklahoma Tax Commission for credit to the motor license agent's account. The Commission may enter into a contract for the collection of dishonored checks and canceled instruments.

C. In all such cases, such vessels or motors shall be subject to the fees and penalties provided in the Oklahoma Vessel and Motor Registration Act as though no attempt to register the vehicle had been made and a further penalty of Twenty-five Dollars ($25.00) shall be assessed.

Added by Laws 1989, c. 346, § 25, eff. Jan. 1, 1990. Amended by Laws 1997, c. 294, § 7, eff. July 1, 1997.

§63-4026. Repossession by mortgagee - Liability for delinquent registration.

At any time that a mortgagee repossesses a vessel or motor on which the registration has become delinquent as of the date of such repossession, the mortgagee shall not be required, as a condition for registration of said vessel or motor to pay any of the penalties which had accrued as of the date of such repossession otherwise prescribed in the Oklahoma Vessel and Motor Registration Act. Provided that said penaltiesshall not be waived unless such vessel or motor is registered by the mortgagee within five (5) days after it is repossessed. Provided further, that if the mortgagor or spouse, becomes the owner of the vessel or motor withinninety (90) days from the date of repossession, the penalty shall reattach and be paid when application is made for the new title.

Added by Laws 1989, c. 346, § 26, eff. Jan. 1, 1990.

§63-4027. Lien of title and registration fees and penalties - Priority - Seizure - Costs of taking into custody and storage - Foreclosure.

All title and registration fees and penalties levied by the terms and provisions of the Oklahoma Vessel and Motor Registration Act shall become and remain a first lien upon any vessel or motor on which said fees, taxes and penalty is due and unpaid. Said lien shall be prior, superior and paramount to all other liens of whatsoever kind or character.

After the thirtieth day after such title and registration fees become delinquent, it shall be the duty of the Oklahoma Tax Commission or the Department of Public Safety, its designated officers or employees, and of sheriffs and all other duly authorized peace officers of this state, to seize and take into custody every vessel or motor required to be titled and registered pursuant to the Oklahoma Vessel and Motor Registration Act but which is not so registered by the owner thereof, and such vessel or motor shall not be released to the owner thereof until it is duly registered and the

fee due thereon paid in full, together with any penalty provided by law, plus the cost of seizure, including a reasonable cost of taking such vessel or motor into custody and storing it. In the event the owner or possessor of any such vessel or motor seized, as provided by law, shall fail to pay the registration fee and penalty due thereon, together with said costs of seizure and storage, said officer shall proceed to foreclose the lien thereon by selling such vessel or motor following the procedure for foreclosure of liens on personal property prescribed in Section 91 of Title 42 of the Oklahoma Statutes.

The provisions of the Uniform Tax Procedure Code under Title 68 of the Oklahoma Statutes providing procedures and remedies with respect to all state taxes shall also be available for the enforcement of the provisions of the Oklahoma Vessel and Motor Registration Act.

Added by Laws 1989, c. 346, § 27, eff. Jan. 1, 1990.

§63-4028. Apportionment of fees, taxes and penalties.

All titling and registration fees, taxes and penalties collected by the Oklahoma Tax Commission pursuant to the provisions of Sections 4014 and 4021 of this title shall be apportioned as provided in Section 1104 of Title 47 of the Oklahoma Statutes.

Laws 1989, c. 346, § 28, eff. Jan. 1, 1990; Laws 1992, c. 284, § 13, eff. Jan. 1, 1993.

§63-4029. Refusal, revocation or cancellation of certificate of title or registration.

A. If the Oklahoma Tax Commission shall determine at any time that an applicant for a certificate of title of or registration for a vessel or motor is not entitled thereto, it may refuse to issue such certificate or to register such vessel or motor. The Commission may for a similar reason, after ten (10) calendar days' notice and a hearing, revoke the certificate of title and registration already acquired. Said notice may be served in person or by registered mail.

B. In addition, in every case where a vessel or motor has been titled or registered upon an application containing any false statement of a fact required in this section to be shown in an application for the title or registration thereof, the Commission shall give written notice of at least ten (10) calendar days to the owner of the vessel or motor and shall require the owner to appear before it for the purpose of showing cause why said title or registration should not be canceled. Unless satisfactory explanation is given by the owner concerning such false statement, the Commission shall cancel the title or registration. The owner of the vessel or motor shall then be required to immediately retitle or reregister the vessel or motor and pay the required fees. The owner

shall not be entitled to refund or credit for the fees paid for titling and registration of the vessel or motor made under the application which contained any false statement of fact.

C. The Commission shall insert in said application forms appropriate notice to the applicant that any false statement of a fact required to be shown in such application for title or registration subjects the applicant to prosecution.

Laws 1989, c. 346, § 29, eff. Jan. 1, 1990; Laws 1992, c. 284, § 14, eff. Jan. 1, 1993.

§63-4030. Permanent number system for vessels.

A. 1. The Oklahoma Tax Commission shall, and each federally recognized Indian tribe of this state may, develop and implement a permanent number system for vessels which is consistent with United States Coast Guard statutes and regulations. The system shall be effective upon the effective date of this act.

2. Except as otherwise provided by this section, every vessel on the waters of this state shall display the permanent number assigned to it by the Tax Commission or by a federally recognized Indian tribe of this state, which number shall not be obliterated, erased, mutilated, removed or missing.

3. In order to ensure that:

a. a permanent number issued by a federally recognized Indian tribe of this state conforms to federal statutory and regulatory requirements of the United States Coast Guard, and

b. the rights prescribed in paragraph 2 of this subsection are extended to every federally recognized Indian tribe of this state,

every vessel on the waters of this state assigned a permanent number by a federally recognized Indian tribe of this state which issues permanent numbers shall be recorded and maintained by the Tax Commission in the same manner as the Tax Commission records and maintains the permanent number of vessels on the waters of this state which are assigned by the Tax Commission.

B. The vessels authorized to display a number other than that required by the provisions of the Oklahoma Vessel and Motor Registration Act are:

1. A documented vessel, provided that such vessel is currently registered, is displaying both current registration decals, and the name, hailing port and official federal documentation number assigned to it are displayed on the vessel according to federal law or federal rules and regulations;

2. A vessel from a country other than the United States temporarily using the waters of this state;

3. A vessel from another state owned by an out-of-state resident using the waters of this state;

4. A vessel whose owner is the United States, a state or a subdivision thereof; provided, however, if such vessel is used for recreational or rental purposes on the public waters of this state, that vessel shall display the permanent number assigned to it by the Tax Commission;

5. A vessel that is used exclusively and solely for racing purposes;

6. A vessel that is used exclusively and solely as a lifeboat; and

7. A commercial flotation device which is assigned a permit by the Scenic Rivers Commission pursuant to the provisions of Sections 1461 et seq. of Title 82 of the Oklahoma Statutes.

C. Except as otherwise provided for in this section, every vessel and every outboard motor on the waters of this state shall display the current registration decals or decal assigned to it by the Tax Commission. The outboard motor registration decal shall be affixed to the upper portion of the motor cowling in such a manner that approximately one-half (1/2) of the decal is displayed on the left side of the motor cowling extending toward the rear of the motor cowling. Vessel registration decals shall be:

1. Affixed on each side of the forward half of the vessel; and

2. In line with and within six (6) inches aft of the permanent number.

D. The owner of any vessel issued a permanent number pursuant to the provisions of the Oklahoma Vessel and Motor Registration Act, Section 4002 et seq. of this title, shall place on or attach to the vessel the permanent number in such manner that it may be clearly visible. The permanent number shall:

1. Be maintained in legible condition;

2. Be painted, applied as a decal, or otherwise affixed to each side of the forward half of the vessel in contrasting color to the background, as high above the waterline as is practical;

3. Read from left to right;

4. Be comprised of numbers and letters printed in block style of at least three (3) inches in height and one-half (1/2) inch in stroke width; and

5. Have spaces or hyphens that are equal to the width of a letter other than "I" or a number other than "1" between the letter and number groupings.

No other similar numbers shall be displayed on either side of the forward half of the vessel.

E. The provisions of this section shall not apply to sailboards or fishing tubes.

F. The Tax Commission shall adopt rules for the placement of the registration decal in an alternate location for antique boats. In this subsection, "antique boat" means a boat that:

1. Is used primarily for recreational purposes; and

2. Was manufactured before 1968.

Such rules shall allow vessels registered as antique boats to display the registration decal on the left portion of the windshield. In the absence of a windshield, the rules shall allow operators of antique boats to attach the registration decal to the certificate of registration and make such decal and certificate available for inspection when the boat is operated on public water.
Added by Laws 1989, c. 346, § 30, eff. Jan. 1, 1990. Amended by Laws 1990, c. 304, § 5, emerg. eff. May 30, 1990; Laws 1992, c. 284, § 15, eff. Jan. 1, 1993; Laws 1994, c. 152, § 2, eff. July 1, 1994; Laws 1997, c. 199, § 1, eff. Nov. 1, 1997; Laws 1999, c. 332, § 5, eff. Nov. 1, 1999; Laws 2003, c. 34, § 1, eff. Nov. 1, 2003; Laws 2003, c. 393, § 2, emerg. eff. June 4, 2003; Laws 2004, c. 379, § 5, eff. Nov. 1, 2004; Laws 2005, c. 1, § 102, emerg. eff. March 15, 2005; Laws 2008, c. 59, § 1, eff. Nov. 1, 2008.
NOTE: Laws 2004, c. 364, § 2 repealed by Laws 2005, c. 1, § 103, emerg. eff. March 15, 2005.

§63-4031. Boat liveries - Records - Safety equipment - Compliance with act.

A. The owner of a boat livery shall cause to be kept a record of the name and address of the person or persons hiring any vessel, the identification number of such vessel, the number of occupants of said vessel, the departure date and time, and the expected date and time of return. The record shall be preserved for at least six (6) months.

B. Neither the owner of a boat livery nor his agent or employee shall permit any vessel to be operated or to depart from his premises unless it shall have been provided, either by owner or renter, with the equipment required pursuant to the Oklahoma Boating Safety Regulation Act and any rules promulgated thereto.

C. The owner of a boat livery shall be required to comply with the Oklahoma Vessel and Motor Registration Act, Section 4002 et seq. of this title.
Laws 1989, c. 346, § 31, eff. Jan. 1, 1990; Laws 1992, c. 284, § 16, eff. Jan. 1, 1993.

§63-4032. Violations - Punishments.

A. It shall be unlawful for any person to:

1. Lend or to sell to, or knowingly permit the use of by one not entitled thereto, any certificate of title or registration issued to or in the custody of the person so lending or permitting the use thereof;

2. Alter or in any manner change a certificate of title or registration certificate issued under the laws of this or any other state;

3. Procure from another state or country or display upon any vessel owned by the person within this state, except as otherwise provided by the Oklahoma Vessel and Motor Registration Act, Section 4002 et seq. of this title, any number issued by any state or country other than this state, unless there shall be displayed upon such vessel at all times the permanent number assigned to it by the Commission;

4. Buy, sell or dispose of, or have in the person's possession for sale, use or storage, any secondhand or used vessel or motor on which the registration fee has not been paid, as required by law, and on which vessel or motor said person neglects, fails or refuses to display at all times the permanent number assigned to it;

5. Register a vessel or motor on an assigned certificate of title. This particular paragraph shall be applicable to all persons except bona fide dealers who are holders of current and valid dealers' licenses;

6. Operate a vessel or motor upon the waters of this state after the registration deadline for that vessel or motor without a proper title and registration, as prescribed by the Oklahoma Vessel and Motor Registration Act, for the current year;

7. Release a certificate of title or excise tax receipt to any unauthorized person or source, including any dealer. Violation of this paragraph shall constitute sufficient grounds for discharge of a motor license agent by the Commission;

8. Alter or in any manner change a permanent number issued for a vessel under the laws of this state or any other state; or

9. Offer for sale any used vessel, used motor, or any used vessel or motor part if the vessel, motor, or part:

a. is not currently registered, if required,

b. has had the hull identification number or serial number removed,

c. has a hull identification number or serial number which does not match the number listed on the current title or registration, or

d. appears, is suspected, or is known to be stolen.

Anyone violating the provisions of this subsection shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine not to exceed Fifty Dollars ($50.00) for each such violation.

B. Any owner who knowingly makes or causes to be made any false statement of a fact required in this section to be shown in an application for the title or registration of one or more vessels or motors shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than One Thousand Dollars ($1,000.00), or shall be imprisoned in the county jail for not more than one (1) year, or both such fine and imprisonment.

C. A violation of this section and any of the provisions of Sections 4002 through 4031 of this title where a specific penalty

has not been imposed shall constitute a misdemeanor and upon conviction thereof the person having violated it shall be fined not less than Ten Dollars ($10.00) and not more than One Hundred Dollars ($100.00).

D. In addition thereto, it is specifically provided that any person stating or giving or causing to be stated or given any false information as to the location of any vessel or motor shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not more than Five Hundred Dollars ($500.00), or by imprisonment in the county jail for a period not to exceed one (1) year, or by both such fine and imprisonment.

Added by Laws 1989, c. 346, § 32, eff. Jan. 1, 1990. Amended by Laws 1992, c. 284, § 17, eff. Jan. 1, 1993; Laws 2003, c. 393, § 3, emerg. eff. June 4, 2003; Laws 2004, c. 364, § 3, eff. Nov. 1, 2004.

§63-4033. Dealers license required - Multiple locations - Bona fide dealer status - Applications - Report of transfer of ownership - Posting license - Authority granted by license - Compliance with act.

A. It shall be unlawful for any person to engage in the business of selling, or to serve in the capacity of, or act as a dealer of new or used vessels, or motors, or new and used vessels, and motors or any combination thereof in this state without first obtaining a license therefor as provided for by the Oklahoma Vessel and Motor Registration Act. Any person having more than one location where such business is carried on or conducted shall be required to obtain and hold a current license for each such location.

B. 1. Dealer licenses issued pursuant to this section shall be issued only to persons that prove to the satisfaction of the Oklahoma Tax Commission that they are clearly recognizable as bona fide dealers. Proof of bona fide dealer status shall include, but need not be limited to, the following:

a. Maintenance of a display area capable of regularly displaying at least three vessels or motors, or a minimum of one thousand two hundred (1,200) square feet, indoors or outdoors,

b. Annual sales of substantial numbers of new or used vessels or motors. "Substantial sales" normally means sale of five or more vessels or motors unless the applicant can show unusual circumstances justifying lesser sales,

c. Consistent identification of the business as a dealer or mercantile establishment in advertising, signs, telephone book listings, and the like. The dealership must be clearly identifiable as such by any person who visits or deals with it,

d. Location of dealership in areas where zoning permits such sales and commercial operations,
e. Regular hours of operation from May 1 to September 1, inclusive, at least five (5) days per week, and
f. a picture, upon application for a new license, of the business location which includes the selling lot and the office and business sign.

2. The Oklahoma Tax Commission shall issue a license to sell new vessels or motors only to those persons having a dealer agreement to sell new vessels or new motors in this state.

C. 1. Applications for licenses required to be obtained pursuant to the provisions of this section shall be verified by the oath or affirmation of the applicant and shall be on forms prescribed by the Commission and furnished to such applicants, and shall contain such information as the Commission deems necessary to enable it to fully determine the qualifications and eligibility of the applicant to receive the license requested. The Commission shall require in such application, or otherwise, information relating to:

a. the applicant's financial standing,
b. the applicant's business integrity,
c. whether the applicant has an established place of business and is primarily engaged in the pursuit, avocation or business for which a license or licenses have been requested,
d. whether the applicant is able to properly conduct the business for which a license or licenses have been requested, and
e. such other pertinent information consistent with the safeguarding of the public interest and the public welfare.

All such applications for license or licenses shall be accompanied by the appropriate fee or fees therefor in accordance with the schedule set out in Section 4034 of this title.

2. In the event any such application is denied and the license for which requested is not issued, the entire license fee shall be returned to the applicant.

3. All licenses issued under the provisions of the Oklahoma Vessel and Motor Registration Act shall expire on December 31 following the date of issue and shall be nontransferable. All applications for renewal of a license issued pursuant to the provisions of this section shall be submitted by December 1 of each year, and such license will be issued by January 1. If applications have not been made for renewal of licenses by December 31 of each year it shall be illegal for any person to sell or to serve in the capacity or act as a dealer. If after January 31 of each year the license has not been renewed or the renewal paid, then such licensee

shall be required to apply for a license as a new applicant. Motor vehicle license agents will be notified not to accept such dealers' titles until such time as licenses have been issued by the Commission. Provided, however, such dealers may transfer titles to vessels or motors purchased for resale prior to the expiration of their license. Such dealer shall provide the purchaser with a copy of the invoice showing purchase of the vessel or motor prior to the expiration of the dealer's license. Such transfers shall only be allowed within two (2) years of the license expiration.

D. Application for a dealer's license must show that such dealer has not violated any of the provisions of this section.

E. The Oklahoma Tax Commission may require every person licensed as a dealer, pursuant to the provisions of this subsection, to make a report to the Commission within a period of seven (7) days after the transfer by such person of the legal ownership of every vessel or motor upon a form prescribed and furnished by the Commission, showing the name and address of the purchaser, a description of the vessel or motor, including but not limited to the make, model, year made, permanent vessel number or motor number, as the case might be, the date of the transfer and such other information as the Commission may require, and containing a certificate signed by the seller that the purchaser was given notice at the time of the sale or transfer that the purchaser is required by law to obtain a certificate of title for such vessel or motor from the Commission within thirty (30) calendar days after such sale or transfer. The Commission may cancel or suspend, in the manner provided by law, the license of any person licensed as a dealer pursuant to the provisions of this section who fails or refuses to comply with the provisions of this section. Dealers failing to comply with provisions of this section shall be responsible for all taxes due on such sales or on such vessels or motors.

F. The license of each dealer shall be posted in a conspicuous place in the dealer's place or places of business.

G. 1. A new dealer's license authorizes a dealer to transfer, purchase and sell new and used vessels and motors.

2. A used dealer's license authorizes a dealer to transfer, purchase and sell used vessels and motors.

3. A new dealer's license or a used dealer's license authorizes a dealer to transfer and assign titles and purchase new and used vessels and motors without paying excise tax.

H. Any dealer agreement executed or renewed on and after the effective date of this act shall comply with the provisions of the Oklahoma Vessel and Motor Registration Act.

Added by Laws 1989, c. 346, § 33, eff. Nov. 1, 1989. Amended by Laws 1990, c. 304, § 6, emerg. eff. May 30, 1990; Laws 1992, c. 284, § 18, eff. Jan. 1, 1993.

§63-4034. Fees.

The schedule of license fees to be charged and received by the Oklahoma Tax Commission for the licenses issued pursuant to Section 4033 of this title shall be as follows:

1. For the license issued initially to each dealer of new vessels or new motors, the fee shall be Two Hundred Dollars ($200.00) per location licensed. In addition to the license fee, a Ten Dollar ($10.00) fee per dealer agreement for each such vessel or motor sold at each location licensed shall be charged. The annual renewal fee shall be One Hundred Dollars ($100.00) per location per year. Any changes in the make of vessels or motors sold at any location licensed shall be specified in the renewal application. A fee of Ten Dollars ($10.00) per location shall be charged for such additional dealer agreement for each such vessel or motor sold; and

2. For the license issued initially to each dealer of used vessels or motors, the fee shall be Fifty Dollars ($50.00) per each location licensed with an annual renewal fee of Fifty Dollars ($50.00) per location per year.

Laws 1989, c. 346, § 34, eff. Nov. 1, 1989; Laws 1992, c. 284, § 19, eff. Jan. 1, 1993.

§63-4035. Demonstration permits - Record of purchases and sales.

A. Upon issuance of a license to sell new vessels or new motors, there shall be assigned and issued to such dealer three demonstration permits for vessels, three demonstration permits for motors, or three demonstration permits for each such class the dealer has been authorized to sell. Such permits shall be displayed upon each vessel or motor owned by the dealer when the vessel or motor is driven or displayed on any water of this state. No such demonstration permit issued to any dealer shall be used or displayed upon any secondhand or used vessel or motor, or upon any new vessel or motor which is for private use, or for hire. Any dealer or agent thereof for purposes of demonstrating a vessel or motor for a sale, or any other person, with consent of the dealer, while contemplating purchase, may operate a new vessel or motor with the dealer's demonstration permit affixed so long as this intent is limited to a consecutive seventy-two-hour period, or a weekend. For the purposes of this subsection, “driven or displayed on any water of this state” does not include the use of a vessel or motor for participation in a contest.

B. Each dealer of new and used vessels or motors, shall keep a record of the purchase and sale of each vessel or motor he buys or sells, which shall show the name of the seller or buyer as the case may be, and a complete description of the vessel or motor purchased or sold, and such other information as the Commission may prescribe.

Added by Laws 1989, c. 346, § 35, eff. Nov. 1, 1989. Amended by Laws 1990, c. 304, § 7, emerg. eff. May 30, 1990; Laws 2004, c. 364, § 4, eff. Nov. 1, 2004.

§63-4035.1. Manufacturer's testing permits - Display - Fee.

Upon application, there shall be assigned and issued up to ten manufacturer's testing permits to manufacturers of new boats or motors. Such permits shall be displayed upon each vessel or motor owned by the manufacturer when the vessel or motor is driven or tested on the waters of this state. No such tester permit shall be used upon any new vessel or motor which is for private use or for hire.

The manufacturer's testing permit shall be provided at a cost of Five Dollars ($5.00) each and shall expire on December 31 of each year.

Added by Laws 1991, c. 126, § 6, emerg. eff. April 29, 1991.

§63-4036. Used vessels or motors - Expiration of registration - Use of demonstration permit - Purchase or transfer of ownership of out-of-state used vessel or motor - Application for certificate of title - Sale or transfer of ownership - Tax stamp - Registration by purchaser.

A. When a registration expires on a used vessel or motor while in the possession of a dealer, the dealer shall affix a dealer's demonstration permit to such vessel or motor whenever the vessel or motor is used for demonstration.

B. Upon the purchase or transfer of ownership of an out-of-state used vessel or motor by a dealer, or the purchase or transfer of ownership of a vessel or motor which does not have a certificate of title or a certificate of registration the dealer shall make application for an Oklahoma certificate of title pursuant to the Oklahoma Vessel and Motor Registration Act, Section 4002 et seq. of this title. Upon receipt of the Oklahoma certificate of title, the dealer shall follow the procedure as set forth in subsection A of this section. Provided, nothing in this title shall be construed as requiring a dealer to register a vessel or motor purchased in another state which will not be operated or sold in this state.

C. Upon sale or transfer of ownership of the used vessel or motor, the dealer shall place upon the reassignment portion of the certificate of title a tax stamp issued by the county treasurer of the county in which the dealer has his primary place of business. The tax stamp shall be issued upon payment of a fee of Three Dollars and fifty cents ($3.50) and shall be in lieu of the dealer's ad valorem tax on the inventories of used vessels or motors but shall not relieve any other property of the dealer from ad valorem taxation.

D. Upon sale of a used vessel or motor to another licensed dealer, the selling dealer shall place the tax stamp required in subsection C of this section upon the certificate of title.

E. The purchaser of every used vessel or motor except as otherwise provided by law, shall obtain registration and title for the vessel or motor within thirty (30) calendar days from the date of purchase of same.

Added by Laws 1989, c. 346, § 36, eff. Nov. 1, 1989. Amended by Laws 1990, c. 304, § 8, emerg. eff. May 30, 1990; Laws 1992, c. 284, § 20, eff. Jan. 1, 1993.

§63-4037. Dealer agreements - Restrictions.

A. The following are the subjects that shall be covered by a dealer agreement:

1. Length of term of dealer agreement;

2. Performance and marketing standards;

3. Notice provisions relative to termination, cancellation, or nonrenewal of a dealer agreement;

4. The parties' respective obligations relative to preparation and delivery of the product and warranty service;

5. The parties' respective obligations upon termination, cancellation, or nonrenewal of the dealer agreement relative to the disposal of inventory and equipment, furnishings, special tools, and signs required by the manufacturer or distributor and acquired within the two (2) years last preceding such termination, cancellation, or nonrenewal; and

6. Process and procedure for the resolution of disputes between the parties.

B. 1. No manufacturer shall enter into a dealer agreement with a dealer for the same product line regardless of brand name within a fifteen (15) mile radius of an existing dealer of the same product line regardless of brand name, provided any dealer agreements in existence on June 3, 1989, may be extended or re-issued.

2. The provisions of this subsection shall not apply to dealer agreements relating to inboard and inboard/outboard motors or to dealer agreements relating to canoes.

Added by Laws 1989, c. 346, § 37, emerg. eff. June 3, 1989. Amended by Laws 1990, c. 304, § 9, emerg. eff. May 30, 1990; Laws 1993, c. 321, § 2, emerg. eff. June 7, 1993.

§63-4037.1. Relocating existing dealership within or into relevant market area where same product line is represented.

In the event that a dealer seeks to establish a new vessel or new motor dealership or relocate an existing vessel or motor dealership within or into a relevant market area where the same product line is then represented, the dealer shall notify the Tax Commission and each new vessel or new motor dealer of such product

line in the relevant market area of the intention to establish or relocate a dealership within or into that market area. The relevant market area is the area within a radius of fifteen (15) miles of the site of the proposed new vessel or new motor dealership. Within fifteen (15) days of receiving such notice such new vessel or new motor dealer may file with the Commission a protest to the establishing or relocating of the proposed new vessel or new motor dealership. When such a protest is filed, the Commission shall inform the dealer that a timely protest has been filed, and that the dealer shall not establish or relocate the proposed new vessel or new motor dealership until the Commission has held a hearing, nor thereafter, if the Commission has determined that there is good cause for not permitting such new vessel or new motor dealership. The manufacturer or factory representative of the same product line may obtain a waiver of protest from each new vessel or new motor dealer of the same product line within that relevant market area. If a waiver of protest from each dealer within the relevant market area is not attached to the application for the new dealer seeking to establish, the Commission shall render a final decision no later than sixty (60) days after the Commission's receipt of the notice of protest. In any hearing held pursuant to this section on additional dealerships or relocation of dealerships the new dealer or existing dealer relocating shall have the burden of proof. For the purposes of this section, the reopening in a relevant market area of a new vessel or new motor dealership that has not been in operation for two (2) years or more shall be deemed the establishment of a new vessel or new motor dealership. For the purpose of this section, the designation of an additional location in an existing dealership agreement shall be deemed to be the establishment of a new vessel or new motor dealership.
Added by Laws 1990, c. 304, § 11, emerg. eff. May 30, 1990.

§63-4037.2. Good cause for not relocating additional dealership for same product line - Circumstances considered.

In determining whether good cause has been established for not entering into or relocating an additional dealership for the same product line, the Tax Commission shall take into consideration the existing circumstances, including, but not limited to:

1. Permanency of the investment of the proposed dealership;

2. Effect on the retail new vessel or new motor business and the consuming public in the relevant market area;

3. Whether it is injurious to the public welfare for an additional new vessel or new motor dealership to be established;

4. Whether the new vessel or new motor dealers of the same line-make in that relevant market area are providing adequate competition and convenient consumer care for the new vessel or new

motor and service facilities, equipment, supply of new vessel or new motor parts, and qualified service personnel; and

5. Whether the establishment of an additional new vessel or new motor dealership would increase competition, and therefore be in the public interest.

Added by Laws 1990, c. 304, § 12, emerg. eff. May 30, 1990.

§63-4038. Designated successor of deceased or incapacitated new vessel dealer - Continuation of existing dealer agreement - Refusal to honor succession - Notice.

A. A designated successor of a deceased or incapacitated new vessel dealer may succeed the dealer in the ownership or operation of the dealership under the existing dealer agreement, if the designated successor gives the manufacturer or distributor written notice of his intention to succeed to the dealership within sixty (60) days after the dealer's death or incapacity and agrees to be bound by all of the terms and conditions of the dealer agreement. A manufacturer or distributor may refuse to honor the existing dealer agreement with the designated successor for good cause or criteria agreed to in the existing dealer agreement, and may require the designated successor to supply personal and financial data necessary to determine whether the existing dealer agreement should be honored.

B. Within sixty (60) days after receiving the notice of the designated successor's intent to succeed the dealer in the ownership and operation of the dealership or within sixty (60) days after receiving the requested personal and financial data, whichever last occurs, if a manufacturer or distributor believes that good cause or other criteria exists for refusing to honor the succession, the manufacturer or distributor may serve upon the designated successor notice of its refusal to approve the succession.

Added by Laws 1989, c. 346, § 38, emerg. eff. June 3, 1989.

§63-4039. Termination of dealer agreement - Continued sale of parts.

After the termination of the dealer agreement by the manufacturer, the manufacturer shall continue to sell parts to the dealer in order that the dealer may continue to service any ofthe manufacturer's products which the dealer may have sold to customers prior to termination for a period not to exceed eighteen (18) months from the date of termination.

Added by Laws 1989, c. 346, § 39, emerg. eff. June 3, 1989.

§63-4039.1. Commercial vessel dealer - Docking of vessels for sale.

Any currently licensed Oklahoma vessel dealer owning a commercial marina on the waters of this state may dock his vessels for sale at his marina.

Added by Laws 1991, c. 126, § 7, emerg. eff. April 29, 1991. Amended by Laws 1992, c. 284, § 21, eff. Jan. 1, 1993.

§63-4040. Brokers prohibited - Exception.

A. It shall be unlawful to be a broker.

B. For the purposes of this section, "broker" means a person who, for a fee, commission or other valuable consideration, arranges or offers to arrange a transaction involving the sale, for purposes other than resale, of a new or used vessel or new or used motor, and who is not:

1. A new or used vessel or new or used motor dealer or agent or employee of such a dealer; or

2. A distributor or an agent or employee of such a distributor.

However, an individual shall not be deemed to be a broker if the individual is the owner of the new or used vessel or new or used motor which is the object of the brokering transaction.

Added by Laws 1989, c. 346, § 40, eff. Jan. 1, 1990. Amended by Laws 2003, c. 393, § 4, emerg. eff. June 4, 2003.

§63-4041. Violations - Denial, revocation or suspension of license - Fine.

The Oklahoma Tax Commission may deny an application for a license, or revoke or suspend a license or impose a fine not to exceed Five Hundred Dollars ($500.00) against a dealer for each day that any provision of this section or Sections 4033 through 4040 of this title is violated or for any of the following reasons:

1. On satisfactory proof of unfitness of the applicant in any application for any license pursuant to the provisions of the Oklahoma Vessel and Motor Registration Act;

2. For any material misstatement made by an applicant in any application for any license pursuant to the provisions of the Oklahoma Vessel and Motor Registration Act;

3. For any failure to comply with any provision of the Oklahoma Vessel and Motor Registration Act or any rule promulgated by the Commission under authority vested in it by the Oklahoma Vessel and Motor Registration Act, Section 4002 et seq. of this title;

4. A change of condition after license is granted resulting in failure to maintain the qualifications for license;

5. Being a dealer who:

a. has required a purchaser of a new vessel or motor, as a condition of sale and delivery thereof, to also purchase special features, appliances, accessories or equipment not desired or requested by the purchaser and installed by the dealer,

b. uses any false or misleading advertising in connection with his business as such a dealer,

c. has committed any unlawful act which resulted in the revocation of any similar license in another state,

d. has failed or refused to perform any written agreement with any retail buyer involving the sale of a vessel or motor,

e. has been convicted of a crime involving moral turpitude,

f. has committed a fraudulent act in selling, purchasing, or otherwise dealing in vessels or motors or has misrepresented the terms and conditions of a sale, purchase, or contract for sale or purchase of a vessel or motor or any interest therein including an option to purchase such vessel or motor, or

g. has failed to meet or maintain the conditions and requirements necessary to qualify for the issuance of a license;

6. Being a dealer who does not have an established place of business;

7. Being a new vessel or new motor dealer who:

a. does not provide for a suitable repair shop separate from the display room with ample space to repair or recondition one or more vessels or motors at the same time, and which is equipped with such parts, tools and equipment as may be requisite for the servicing of vessels or motors in such a manner as to make them comply with the safety laws of this state and to properly fulfill the dealer's or manufacturer's warranty obligation. Provided that the provisions of this subparagraph shall not apply to:

(1) mercantile establishments engaged in the selling of vessels and motors if:

(a) such vessel and motor business does not constitute more than ten percent (10%) of the business of such establishment,

(b) the vessels sold at such establishment are under fourteen (14) feet in length, and

(c) the outboard motors sold at such establishment are under ten (10) horsepower, or

(2) dealers which are engaged solely in the business of selling canoes. For the purposes of this subsection, "canoe" shall mean a vessel that is long relative to its width, that has curved sides and is tapered to two (2) pointed ends, or is tapered to one (1) pointed end and blunt on the other end, and is generally of traditional shape,

b. does not hold a dealer agreement in effect with a manufacturer or distributor of new vessels or motors for the sale of the same and is not authorized by the manufacturer or distributor to render predelivery preparation of such vessels or motors sold to purchasers and to perform any authorized post-sale work pursuant to the manufacturer's or distributor's warranty, or

c. does not properly service a new vessel or motor before delivery of same to the original purchaser thereof.

Added by Laws 1989, c. 346, § 41, eff. Jan. 1, 1990. Amended by Laws 1990, c. 304, § 10, emerg. eff. May 30, 1990; Laws 1992, c. 284, § 22, eff. Jan. 1, 1993.

§63-4042. Denial, suspension or revocation of license - Hearing - Notice - Production of documents - Subpoena - Witnesses.

The Commission may deny any application for license, or suspend or revoke a license issued or impose a fine, only after a hearing of which the applicant, or licensee affected, shall be given at least ten (10) days' written notice specifying the reason for denying the applicant a license, or, in the case of a revocation or suspension or imposition of a fine, the offenses of which the licensee is charged. Such notices may be served as provided by law for the service of notices, or by mailing a copy by registered mail to the last-known residence or business address of such applicant or licensee. The hearing on such charges shall be at such time and place as the Commission may prescribe and the aforementioned notice shall further specify the time and place. The Commission shall have the power to compel the production of all records, papers and other documents which may be deemed relevant to the proceeding bearing upon the complaints. The Commission shall have the power to subpoena and bring before it any person, or take testimony of any such person by deposition, with the same fees and mileage and in the same manner as prescribed in proceedings before courts of the state in civil cases. Any party to such hearing shall have the right to the attendance of witnesses in his behalf upon designating to the Commission the person or persons sought to be subpoenaed.

Added by Laws 1989, c. 346, § 42, eff. Jan. 1, 1990.

§63-4043. Injunction - Parties.

The Commission is hereby authorized, without cost, bond or deposit, to institute injunctive actions in courts of competent jurisdiction, in the name of the State of Oklahoma on the relation of said Commission, to enforce the provisions of Sections 4033 through 4042 of this title. Any licensee or other person who violates or threatens to violate any provision of Sections 4033

through 4042 of this title or rule or regulation enacted thereunder or order of the Commission may be enjoined from so doing.
Laws 1989, c. 346, § 43, eff. Jan. 1, 1990; Laws 1992, c. 284, § 23, eff. Jan. 1, 1993.

§63-4044. Permits for displays and sales of new vessels or motors held off premises of licensed dealer.

The Oklahoma Tax Commission shall issue permits for displays and sales of new vessels or motors which are held off the premises of a licensed dealer thereof as follows:

1. A promotion by an individual new vessel or motor dealer which is held off the premises of such dealer and at which sales activities are conducted may be held only under the following conditions:

a. the dealer participates in an advertised vessel or motor show in which at least two other vessel or motor dealers are participating,

b. application for a permit for a sales promotion by an individual dealer shall be made to the Commission at least seven (7) calendar days prior to such promotion, and such permit shall be issued by the Commission upon payment of a fee of Fifty Dollars ($50.00) per event,

c. the permit shall be valid for a period not to exceed fourteen (14) consecutive days, and

d. the Commission shall not issue a permit to a dealer if he has obtained a permit within the past forty-five (45) calendar days for the same location;

2. A dealer may not be denied a permit on the grounds that the sales promotion is to be held within the relevant market area of another dealer of the same product line;

3. A dealer who fails to obtain such a permit shall be subject to the penalties and fines provided for in Section 4041 of Title 63 of the Oklahoma Statutes.

Provided, a permit shall not be required pursuant to the provisions of this section for a display or sale of new vessels or motors which is held off the premises of a licensed dealer if the display or sale is held within a twenty-five (25) mile radius of the location of the dealership; and

4. Prior to the completion of a sale at an off-premises location, the dealer shall be required to disclose in writing to any person purchasing a new vessel or motor the following information:

a. that location of the dealership making the sale, and

b. that other dealers may not be willing to do repair or warranty work on vessels not purchased at their dealership.

Any salesperson working at an off-premises location shall not wear any identification or clothing indicating an affiliation with another retailer.
Added by Laws 1990, c. 315, § 6, eff. July 1, 1990. Amended by Laws 1992, c. 284, § 24, eff. Jan. 1, 1993; Laws 1993, c. 321, § 3, emerg. eff. June 7, 1993; Laws 1997, c. 55, § 1, eff. Nov. 1, 1997.

§63-4101. Short title - Definitions.

A. This section and Sections 4102 through 4108 of this title shall be known and may be cited as the "Oklahoma Vessel and Motor Excise Tax Act".

B. The terms used in the Oklahoma Vessel and Motor Excise Tax Act shall have the same definitions as those terms are defined by the Oklahoma Vessel and Motor Registration Act, Section 4002 et seq. of this title.
Laws 1989, c. 346, § 44, eff. Jan. 1, 1990; Laws 1992, c. 284, § 25, eff. Jan. 1, 1993.

§63-4102. Administration by Oklahoma Tax Commission - Execution of forms, declarations, applications, statements or other information in writing.

A. The Oklahoma Tax Commission is hereby granted authority and jurisdiction to administer the Oklahoma Vessel and Motor Excise Tax Act, and the Commission is hereby authorized to promulgate, adopt and enforce all necessary rules and regulations and to prescribe all forms which it deems necessary to carry the Oklahoma Vessel and Motor Excise Tax Act into effect and to enforce the provisions thereof.

B. All forms, declarations, applications, statements or other information in writing and executed by owners or representatives of owners are hereby declared to be executed and shall be considered to be executed under penalties of perjury.
Added by Laws 1989, c. 346, § 45, eff. Jan. 1, 1990.

§63-4103. Excise tax - Amount - When due - Delinquency - Failure or refusal to pay - Penalty - Exceptions - Credits.

A. There is hereby levied an excise tax of three and one-fourth percent (3 1/4%) of the value of each vessel and motor upon the transfer of legal ownership of any such vessel or motor registered in this state and upon the use of any such vessel or motor registered in this state, and upon the use of any such vessel or motor registered for the first time in this state required to be registered pursuant to the Oklahoma Vessel and Motor Registration Act. The tax hereby levied shall be due at the time of the transfer of legal ownership or first registration in this state of such vessel or motor and shall be collected by the Oklahoma Tax Commission at the time of the issuance of a certificate of title for

any such vessel or motor. The excise tax levied by the Oklahoma Vessel and Motor Excise Tax Act shall be delinquent from and after the thirtieth day after the legal ownership or possession of any vessel or motor is obtained. Any person failing or refusing to pay the tax as herein provided on or before the date of delinquency shall pay, in addition to the tax, a penalty of twenty-five cents ($0.25) per day for each day of delinquency, but such penalty shall in no event exceed the amount of the tax.

B. The provisions of this section shall not apply to transfers made without consideration between husband and wife or parent and child.

C. There shall be a credit allowed with respect to the excise tax paid for a new vessel or motor which is a replacement for:

a. a new original vessel or motor which is stolen from the purchaser/registrant within ninety (90) days of the date of purchase of the original vessel or motor as certified by a police report or other documentation as required by the Commission, or

b. a defective new original vessel or motor returned by the purchaser/registrant to the seller within six (6) months of the date of purchase of the defective new original vessel or motor as certified by the manufacturer.

Said credit shall be in the amount of the excise tax which was paid for the new original vessel or motor and shall be applied to the excise tax due on the replacement vessel or motor. In no event will said credit be refunded.

Added by Laws 1989, c. 346, § 46, eff. Jan. 1, 1990.

§63-4104. Apportionment and distribution of revenue.

All revenue derived under the Oklahoma Vessel and Motor Excise Tax Act, Section 4102 et seq. of this title, shall be apportioned and distributed by the Oklahoma Tax Commission as provided for in Section 1101 of Title 47 of the Oklahoma Statutes of the Oklahoma Vehicle License and Registration Act.

Laws 1989, c. 346, § 47, eff. Jan. 1, 1990; Laws 1992, c. 284, § 26, eff. Jan. 1, 1993.

§63-4105. Value of vessel or motor - Time, method of determination - Disputed value.

A. The value of any vessel or motor for the purposes of the excise tax levied by Section 4103 of this title shall be determined as of the time the person applying for a certificate of title thereto obtained either legal ownership or possession of the vessel or motor which shall be the actual date of the sale or other transfer of legal ownership, which date shall be shown by the assignment on the certificate of title or, in the case of a new

vessel or motor on the manufacturer's certificate or statement of origin hereby required, and by the application for registration, required to be furnished by the licensed dealer for use by the purchaser. The value of a new vessel or new motor for excise tax purposes shall be the manufacturer's price of such vessel or motor delivered at the factory. As used herein, the manufacturer's factory-delivered price shall represent the recommended retail selling price and shall not mean the wholesale price to a dealer. Further, for purposes of the Oklahoma Vessel and Motor Excise Tax Act, Section 4102 et seq. of this title, a new vessel or new motor used by a licensed dealer for demonstration purposes shall be considered a new vessel or new motor upon the first time sale and registration of such vessel or motor. The value of a used vessel or used motor shall be sixty-five percent (65%) of the manufacturer's price of such vessel or motor delivered at the factory for subsequent transfers for the first year and for the second year and sixty-five percent (65%) of the value of the previous year so fixed for each successive year for which such vessel or motor is registered and licensed in this or any other state, until such vessel or motor reaches a minimum value of Two Hundred Fifty Dollars ($250.00).

B. The Commission shall have the authority in cases of dispute to determine the factory delivered price or price of any vessel or motor.

C. In computing the excise tax, the fees collected shall be rounded to the nearest dollar.

Laws 1989, c. 346, § 48, eff. Jan. 1, 1990; Laws 1992, c. 284, § 27, eff. Jan. 1, 1993.

§63-4106. Exemptions.

An original or a transfer certificate of title shall be issued without the payment of the excise tax levied by this act for:

1. Any vessel or motor owned by a nonresident which is already registered in another state and has been in Oklahoma for a period in excess of sixty (60) calendar days in any single registration year.

2. Any vessel or motor brought into this state by a person formerly living in another state, who has owned and registered said vessel or motor in such other state of his residence at least sixty (60) calendar days prior to the time it is required to be registered in this state;

3. Any vessel or motor registered by the United States, State of Oklahoma or by any of the political subdivisions thereof;

4. Any vessel or motor the legal ownership of which is obtained by the applicant for a certificate of title by inheritance;

5. Any vessel or motor which is owned and being offered for sale by a person licensed as a dealer under the provisions of the

Oklahoma Vessel and Motor Registration Act, registered in Oklahoma and the excise tax paid thereon;

6. Any vessel or motor, the ownership of which was obtained by the lienholder or mortgagee under or by foreclosure of a lien or mortgage in the manner provided by law or to the insurer under subrogated rights arising by reason of loss under an insurance contract;

7. Any vessel or motor, the legal ownership of which is obtained by transfers:

a. from one corporation to another corporation pursuant to a reorganization. As used in this section, the term "reorganization" means:
   (1) a statutory merger or consolidation, or
   (2) the acquisition by a corporation of substantially all of the properties of another corporation when the sole consideration is all or a part of the voting stock of the acquiring corporation, or of its parent or subsidiary corporation;

b. in connection with the winding up, dissolution or liquidation of a corporation only when there is a distribution in kind to the shareholders of the property of such corporation;

c. to a corporation for the purpose of organization of such corporation when the former owners of the vessel or motor transferred are immediately after the transfer in control of the corporation, and the stock or securities received by each is substantially in proportion to his interest in the vessel or motor prior to the transfer;

d. to a partnership in the organization of such partnership if the former owners of the vessel or motor transferred are, immediately after the transfer, members of such partnership and the interest in the partnership received by each is substantially in proportion to his interest in the vessel or motor prior to the transfer;

e. from a partnership to the members thereof when made in the dissolution of such partnership;

8. All vessels or motors owned by the council organizations or similar state supervisory organizations of the Boy Scouts of America, Girl Scouts of U.S.A. and the Campfire Girls; and

9. All vessels or motors owned by organizations which are exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), and which are primarily devoted to the establishment, development, operation, promotion, and participation in, alone or in conjunction with others, educational and training programs and competitive

events to provide knowledge, information, or comprehensive skills related to the sports of sailing, fishing, boating, and other aquatic related activities.
Added by Laws 1989, c. 346, § 49, eff. Jan. 1, 1990. Amended by Laws 2006, c. 272, § 7, eff. Nov. 1, 2006.

§63-4107. Tax in lieu of all other taxes - Sales tax on unattached accessories.

A. The excise tax levied by the Oklahoma Vessel and Motor Excise Tax Act is in lieu of all other taxes on the transfer or the first registration in this state of vessels and motors, including the optional equipment and accessories attached thereto at the time of the sale and sold as a part thereof, except:

1. Vessel and motor registration fees levied pursuant to the provisions of the Oklahoma Vessel and Motor Registration Act; and

2. Any fees for the issuance of either an original, renewal, transfer or duplicate certificate of title.

B. This section shall not relieve any vessel or motor dealer from liability for the sales tax on all sales of accessories or optional equipment, or parts, which are not attached to and sold as a part thereof and included in the sale of such vessels or motors.
Added by Laws 1989, c. 346, § 50, eff. Jan. 1, 1990.

§63-4108. Failure or refusal to pay tax - Report to Commission - Seizure - Hearing - Sale.

A. In any case where the owner of a vessel or motor subject to the tax levied by the Oklahoma Vessel and Motor Excise Tax Act fails or refuses to pay the same, after proper demand therefor by an officer or agent of the Oklahoma Tax Commission, such officer or agent shall immediately report such failure to the Commission and shall, at the same time in case of failure to pay, seize and hold said vessel or motor, as provided by law in case of failure to pay the annual vessel or motor registration fee.

B. The Commission shall, upon demand of the owner of the vessel or motor, accord a hearing to said owner as provided by law and enter its findings and order accordingly. If it is determined by the Commission that said tax is due and payable, then it shall issue its warrant, directly to the sheriff of the county, ordering and directing the sale of such vessel or motor according to the same procedure provided by law for the sale of vessels and motors for failure to pay the required registration fee. Such seizure and sale may, at the time, include both the registration fee due and the excise tax levied by the Oklahoma Vessel and Motor Excise Tax Act, together with all costs of an advertisement and sale. The sale shall be conducted in the manner provided by law for the sale of personal property under execution.
Added by Laws 1989, c. 346, § 51, eff. Jan. 1, 1990.

§63-4200. Short title.

Section 4201 et seq. of this title shall be known and may be cited as the "Oklahoma Boating Safety Regulation Act".

Added by Laws 1989, c. 346, § 52, emerg. eff. June 3, 1989. Amended by Laws 1992, c. 284, § 28, eff. Jan. 1, 1993.

§63-4201. Definitions.

In addition to the terms defined by the Oklahoma Vessel and Motor Registration Act, for the purposes of the Oklahoma Boating Safety Regulation Act:

1. "Buoy" means an anchored marker for marking a position on the water, or a hazard, shoal or mooring, or any other prohibitive activity area;

2. "Capacity plate" means a sign posted in view of the operator's station on a vessel which designates the maximum weight capacity and horsepower restrictions of a vessel for safe operation;

3. "Diver's flag" means a red flag not less than twenty (20) inches by twenty-four (24) inches with a four-inch white stripe running from one upper corner to a diagonal lower corner, and such flag is used to indicate a submerged diver;

4. "Emergency vessel" means any law enforcement vessel which is legally authorized to operate in the emergency mode;

5. "Law enforcement vessel" means any vessel legally authorized to operate under the color of law;

6. “Lienholder” means a person holding a security interest in a vessel, as shown on the vessel title;

7. "Manipulate" means to guide, steer or otherwise control;

8. "Marine sewage" means any substance, treated or untreated, that contains any of the waste products of humans or animals or foodstuffs;

9. "Marine toilet" means any latrine, head, lavatory or toilet intended to receive marine sewage and which is located on or in any vessel;

10. "Operator" means the person who operates, has actual physical control, or has charge of the navigation or use of a vessel;

11. "Parasail" means any device which, when airborne, is used or capable of being used for lifting or suspending a person who is being or will be towed by a vessel;

12. “Passenger” means any person riding in or upon any vessel or being towed for recreation on water skis, an inner tube, kneeboard, parasail or any similar device;

13. "Personal flotation device" means only a United States Coast Guard approved flotation device;

14. "Personal watercraft" means a vessel which uses an inboard motor powering a water jet pump as its primary source of motive

power and which is designed to be operated by a person sitting, standing or kneeling on the vessel, rather than the conventional manner of sitting or standing inside the vessel, or a vessel which is similar in appearance and operation to a personal watercraft but which is powered by an outboard or propeller driven motor, or a vessel less than sixteen (16) feet in length which travels across the water above or on a cushion of air provided by engines, propellers or other means of propulsion;

15. "Sanctioned event" means any organized event on the waters of this state, including but not limited to regattas, motorboat or other boat races, marine parades, tournaments and exhibitions, which is approved and permitted by an authorizing agency;

16. "Under way" means the movement of a vessel whether by mechanical or nonmechanical means which is other than incidental to the force of wind, waves or current; and

17. "Wake" means the track of waves left by a vessel or other object moving through the water, and such waves are greater than the natural waves in the immediate area of the vessel, or are cresting and showing white water, or may cause injury or damage to any person or property.

Added by Laws 1989, c. 346, § 53, emerg. eff. June 3, 1989. Amended by Laws 1992, c. 284, § 29, eff. Jan. 1, 1993; Laws 2002, c. 66, § 2; Laws 2008, c. 95, § 1, eff. Nov. 1, 2008.

§63-4202. Administration and enforcement of act - Promulgation of rules - Forms.

The Department of Public Safety is hereby granted authority and jurisdiction to administer and enforce all provisions of the Oklahoma Boating Safety Regulation Act, Section 4201 et seq. of this title, and the Oklahoma Vessel and Motor Registration Act, Section 4002 et seq. of this title. The Department is authorized to promulgate and enforce all necessary rules pursuant to Article 1 of the Administrative Procedures Act, Section 250 et seq. of Title 75 of the Oklahoma Statutes, and shall prescribe all forms it deems necessary to implement the provisions of the Oklahoma Boating Safety Regulation Act.

Laws 1989, c. 346, § 54, emerg. eff. June 3, 1989; Laws 1992, c. 284, § 30, eff. Jan. 1, 1993.

§63-4202.1. Operators of emergency vessels - Exercise of certain privileges.

A. The operator of an emergency vessel, when responding to an emergency call, when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a response to an emergency situation, may exercise the privilege set forth in this section, subject to the conditions set forth in subsection B of this section.

B. The operator of an emergency vessel may:

1. Park, moor or beach the vessel irrespective of the provisions of this title;

2. Proceed past a restrictive buoy, but only after slowing down as may be necessary for safe operation;

3. Exceed the maximum speed or wake limits so long as that action does not endanger life or property; and

4. Disregard rules governing direction of movement or turning in specified directions.

C. The exemptions granted in this section shall apply only when an emergency vessel is making use of audible and visual signals meeting the requirements of Section 4207 of this title.

D. The provisions of this section shall not relieve the operator of an emergency vessel from the duty to drive with due regard for the safety of all persons or protect the driver from the consequences of reckless disregard for the safety of others.

Added by Laws 1997, c. 199, § 2, eff. Nov. 1, 1997.

§63-4203. Repealed by Laws 1992, c. 284, § 59, eff. Jan. 1, 1993.

§63-4204. Administration and enforcement of Act upon waters under jurisdiction of Grand River Dam Authority - Authority as motor license agent - Remission of fees.

A. The provisions of the Oklahoma Boating Safety Regulation Act shall apply to the waters of this state under the jurisdiction of the Grand River Dam Authority, provided, the Department of Public Safety may have jurisdiction to administer and enforce the provisions of the Oklahoma Boating Safety Regulation Act upon waters of this state under the jurisdiction of the Grand River Dam Authority. The administration and enforcement of the Oklahoma Boating Safety Regulation Act upon the waters under the jurisdiction of the Grand River Dam Authority are vested in the Grand River Dam Authority. Said Authority, and its employees, shall, except as otherwise provided in this section, have the same authority with respect to the enforcement and administration of the Oklahoma Boating Safety Regulation Act upon such waters as are vested by the Oklahoma Boating Safety Regulation Act in the Department of Public Safety with respect to the other waters of this state.

B. The Authority may be designated by the Oklahoma Tax Commission as a motor license agent to award numbers and issue certificates of title and registration for vessels and motors in accordance with the provisions of the Oklahoma Vessel and Motor Registration Act and with any rules and regulations of the said Oklahoma Tax Commission either from blocks of numbers and certificates assigned to said Authority by said Oklahoma Tax Commission or such other method as shall be prescribed by the Oklahoma Tax Commission. The Authority shall remit all fees

collected by it pursuant to this section to the Oklahoma Tax Commission to be apportioned and deposited in accordance with the provisions of the Oklahoma Vessel and Motor Registration Act.
Added by Laws 1989, c. 346, § 56, emerg. eff. June 3, 1989.

§63-4205. Sanctioned water events - Administering entities - Safety rules - Permits - Filing of notification of event - Holding event in unsafe manner or unsafe environmental conditions.

A. The United States Army Corps of Engineers, the Oklahoma Department of Tourism and Recreation, and the Grand River Dam Authority may authorize the holding of sanctioned events on any waters of this state under their jurisdiction. Said administering entities shall promulgate rules pursuant to Article 1 of the Oklahoma Administrative Procedures Act, concerning the safety of other vessels and persons thereon, both observers and participants. No sanctioned event shall be held without a written permit from said administering entity, and said written permit shall be available for inspection at all times during the event.

B. Whenever a sanctioned event is proposed to be held, the administering entity shall, upon granting approval to hold such event and at least ten (10) days prior thereto, file a notification in writing of said event with the Marine Enforcement Section of the Highway Patrol Division of the Department of Public Safety. Such notification shall set forth the date, time, location where the sanctioned event is proposed to be held, the type of event and the person in charge of said event.

C. No person shall hold or give permission to hold any sanctioned event in an unsafe manner or under unsafe environmental conditions so as to endanger life or property. Should any duly authorized peace officer of this state determine within their jurisdiction that such event is being held or conducted in an unsafe manner or under unsafe environmental conditions, such officer shall have the authority to cancel or terminate said event.
Added by Laws 1989, c. 346, § 57, emerg. eff. June 3, 1989. Amended by Laws 1992, c. 284, § 31, eff. Jan. 1, 1993; Laws 2000, c. 189, § 11, eff. July 1, 2000; Laws 2011, c. 104, § 5, eff. Nov. 1, 2011.

§63-4206. Use of personal flotation devices.

A. 1. The operator of a vessel less than twenty-six (26) feet in length, while under way, shall require each passenger who is twelve (12) years of age or younger to wear a personal flotation device.

2. Any person operating or manipulating, or who is a passenger on a personal watercraft, water skis, a sailboard or a similar device shall wear a personal flotation device approved and designed for the activity in which the person is engaged.

B. Each personal flotation device shall be in good and serviceable condition, of the type prescribed by the United States Coast Guard and of a size suitable to the person who is or will be wearing it. A ski belt is not a United States Coast Guard approved personal flotation device.

Added by Laws 1989, c. 346, § 58, emerg. eff. June 3, 1989. Amended by Laws 1992, c. 284, § 32, eff. Jan. 1, 1993; Laws 1997, c. 199, § 3, eff. Nov. 1, 1997.

§63-4207. Lights and other equipment.

A. Every vessel in all weathers between the hours from sunset to sunrise and during periods of restricted visibility shall carry and exhibit the lights prescribed by the United States Coast Guard when under way, including, but not limited to, the following:

1. Every power-driven vessel shall carry and exhibit:
   a. a masthead light forward. A vessel less than twenty (20) meters, or less than sixty-five (65) feet seven and one-half (7 1/2) inches in length need not exhibit this light forward of amidships but shall exhibit it as far forward as practicable, and
   b. side lights, and
   c. a stern light;
2. Any power-driven vessel of less than twelve (12) meters, or less than thirty-nine (39) feet four and one-half (4 1/2) inches in length may carry and exhibit, in lieu of the lights prescribed in paragraph 1 of this subsection, an all-around white light and side lights;
3. Every sailing vessel shall carry and exhibit:
   a. side lights, and
   b. a stern light;
4. Any sailing vessel of less than twenty (20) meters, or less than sixty-five (65) feet seven and one-half (7 1/2) inches, in length may combine the lights prescribed in paragraph 3 of this subsection within one lantern carried at or near the top of the mast where it can be seen as nearly all-around as possible;
5. Any sailing vessel may carry and exhibit, in addition to the lights prescribed in paragraph 3 of this subsection but not in conjunction with any combination lantern as provided in paragraph 4 of this subsection, two all-around lights in a vertical line, the upper being red and the lower being green, at or near the top of the mast where they can be seen as nearly all-around as possible;
6. Every sailing vessel of less than seven (7) meters, or less than twenty-three (23) feet eleven and one-half (11 1/2) inches in length shall carry and exhibit if practicable, the lights prescribed in paragraph 3 or 4 of this subsection. If such exhibition is not practicable, there shall be carried ready at hand on the vessel a

lantern or flashlight showing a white light which shall be exhibited in sufficient time to avert collision;

7. Every sailing vessel propelled by a combination of sail and motor shall carry and exhibit the lights of a power-driven vessel prescribed in paragraph 1 or 2 of this subsection;

8. Every manually powered vessel may carry and exhibit the lights prescribed in this subsection for sailing vessels. If such lights are not carried and exhibited, there shall be carried ready at hand on the vessel a lantern or flashlight showing a white light which shall be exhibited in sufficient time to avert collision; and

9. Every vessel at anchor shall carry and exhibit an all-around white light in such a position where it may best be seen. The deck of an anchored vessel may be illuminated by available auxiliary lights, provided the auxiliary lights do not interfere with the visibility of required lights or impair the safe navigation of other vessels.

For purposes of this section, "restricted visibility" shall mean any condition which restricts visibility including but not limited to fog, mist, falling snow, heavy rain or sandstorm.

B. Every vessel shall be provided with an efficient whistle or other sound-producing mechanical appliance; provided, however, no vessel, except for emergency and law enforcement vessels, shall be equipped with a siren.

C. Every vessel of eight (8) meters or greater, or twenty-six (26) feet three (3) inches or greater, in length shall be equipped with an efficient bell.

D. Every vessel shall be required to carry:

1. At least one wearable personal flotation device for each person on board so placed as to be readily accessible and of a size suitable to the person who is or will be wearing it; and

2. At least one type IV (throwable) personal flotation device on board, so placed as to be readily accessible. This paragraph shall not apply to any vessel under sixteen (16) feet in length.

All lifesaving devices shall be in good and serviceable condition.

E. Every vessel using flammable liquid as fuel shall be equipped with such number, size, and type of United States Coast Guard approved fire extinguisher as prescribed in the rules of the Department of Public Safety. Such extinguisher shall be capable of promptly and effectively extinguishing burning fuel. Fire extinguishers shall be at all times kept in condition for immediate and effective use and shall be so placed and secured to the vessel as to be readily accessible.

F. The provisions of subsections B, C, and E of this section shall not apply to vessels while competing in any race conducted pursuant to Section 4205 of this title, or, if such vessels are designed and intended solely for racing, while engaged in such

navigation as is incidental to the tuning up of vessels and motors for the race.

G. Every vessel shall have the carburetor or carburetors of every motor therein, except outboard motors, using any liquid as fuel, equipped with a United States Coast Guard or U.L. or S.A.E. approved backfire flame arrestor or other appropriate attachment, as prescribed by the rules of the Department of Public Safety.

H. Every vessel, except open vessels, using any liquid as fuel shall be provided with such means as may be prescribed by the United States Coast Guard for properly and efficiently ventilating the bilges of the motor and fuel tank compartments so as to remove any explosive or inflammable gases.

I. No person shall operate or give permission for the operation of a vessel which is not equipped as required by this section or modification thereof and as prescribed in the rules of the Department of Public Safety.

Added by Laws 1989, c. 346, § 59, emerg. eff. June 3, 1989. Amended by Laws 1992, c. 284, § 33, eff. Jan. 1, 1993; Laws 1997, c. 199, § 4, eff. Nov. 1, 1997; Laws 2003, c. 393, § 5, emerg. eff. June 4, 2003.

§63-4208. Noise control equipment and noise levels.

A. No person shall operate upon the waters of this state any vessel or motor which is not equipped with a muffler or muffler system in good working order. The use of cutouts, removal of mufflers or muffler baffles, cutting or punching of holes in mufflers or otherwise modifying the original muffler or muffling system installed by the manufacturer or any subsequent muffler or muffling system so as to increase or modify the noise level is prohibited. This section shall not apply to vessels in the act of participating in a sanctioned event.

B. No person shall authorize, cause or permit unnecessary sounding of any whistle, horn, bell, siren or other sound-producing device on a vessel while such vessel is within any harbor limits or in areas of congested vessel traffic.

Laws 1989, c. 346, § 60, emerg. eff. June 3, 1989; Laws 1992, c. 284, § 34, eff. Jan. 1, 1993.

§63-4209. Unlawful possession of vessel or motor - Penalties.

A person not entitled to possession of a vessel or motor who, without the consent of the owner and with intent to deprive him of the vessel or motor or its possession, takes, uses, or operates the vessel or motor, upon conviction, shall be guilty of a felony and shall be punished by a fine of not more than One Thousand Dollars ($1,000.00), or by imprisonment for not more than five (5) years, or by both such fine and imprisonment.

Laws 1989, c. 346, § 61, emerg. eff. June 3, 1989; Laws 1992, c. 284, § 35, eff. Jan. 1, 1993.

§63-4209.1. Knowingly receiving, possessing, selling or disposing of stolen or converted vessel or motor - Penalties.

A person not entitled to the possession of a vessel or motor who receives, possesses, sells or disposes of such vessel or motor, knowing said vessel or motor to be stolen or converted under circumstances constituting a crime, upon conviction, shall be guilty of a felony and shall be punished by a fine of not more than One Thousand Dollars ($1,000.00), or by imprisonment for not more than five (5) years, or by both such fine and imprisonment.
Added by Laws 1992, c. 284, § 36, eff. Jan. 1, 1993.

§63-4209.2. Removing or falsifying identification number of vessel or motor - Penalties.

A. As used in this section:

1. "Identification number" includes any identifying number, serial number, motor serial number or other distinguishing number or mark, placed on a vessel or motor by its manufacturer or by authority of the Oklahoma Tax Commission or in accordance with the laws of another state or country;

2. "Remove" includes deface, cover and destroy; and

3. "Falsify" includes alter and forge.

B. Any person or persons who shall remove or falsify or cause to be removed or falsified the hull identification number of a vessel or motor in this state, without first giving notice of such act to the Oklahoma Tax Commission, upon such form as the Commission may prescribe, or any person who shall give a wrong description in any application for the registration of any vessel or motor in this state for the purpose of concealing or hiding the identity of such vessel or motor, upon conviction, shall be guilty of a felony and shall be punished by imprisonment in the State Penitentiary for a term of not less than one (1) year and not more than five (5) years.

C. A person who buys, receives, possesses, sells or disposes of a vessel or motor, knowing that the identification number of the vessel or motor has been removed or falsified, upon conviction, shall be guilty of a misdemeanor.

D. A person who buys, receives, possesses, sells or disposes of a vessel or motor, knowing that the identification number of the vessel or motor has been removed or falsified and with intent to conceal or misrepresent the identity of the vessel or motor, upon conviction, shall be guilty of a felony and shall be punished by a fine of not more than One Thousand Dollars ($1,000.00), or by imprisonment for not more than five (5) years, or by both such fine and imprisonment.

E. An identification number may be placed on a vessel or motor by its manufacturer in the regular course of business or placed or restored on a vehicle or engine by authority of the Commission without violating this section. An identification number so placed or restored is not falsified.
Added by Laws 1992, c. 284, § 37, eff. Jan. 1, 1993.

§63-4209.3. Making false statement in application for certificate of title or assignment thereof for stolen vessel or motor - Penalties.

Any person who shall knowingly make any false statement of a material fact, either in his application for a certificate of title, as provided for in this title, or in any assignment thereof, or who, with intent to procure or pass title to a vessel or motor which he knows or has reason to believe has been stolen, or who shall receive or transfer possession of the same from or to another, or who shall have in his possession any vessel or motor which he knows or has reason to believe has been stolen, and who is not a duly authorized peace officer of this state engaged at the time in the performance of his duty as such officer, upon conviction, shall be guilty of a felony and shall be punished by a fine of not less than One Hundred Dollars ($100.00) and not more than Five Thousand Dollars ($5,000.00), or imprisonment in the State Penitentiary for a period of not less than one (1) year nor more than ten (10) years, or by both such fine and imprisonment, at the discretion of the court. This provision shall not be exclusive of any other penalties prescribed by an existing or future law for the larceny or unauthorized taking of a vessel or motor.
Added by Laws 1992, c. 284, § 38, eff. Jan. 1, 1993.

§63-4209.4. Altering or forging certificate of title or assignment thereof - Penalties.

Any person who shall alter or forge, or cause to be altered or forged, any certificate of title issued by the Oklahoma Tax Commission, pursuant to the provisions of this title, or any assignment thereof, or who shall hold or use any such certificate or assignment, knowing the same to have been altered or forged, upon conviction, shall be guilty of a felony and shall be punished by a fine of not less than Fifty Dollars ($50.00), and not more than Five Thousand Dollars ($5,000.00), or by imprisonment in the State Penitentiary for a period of not less than one (1) year, nor more than ten (10) years, or by both such fine and imprisonment, at the discretion of the court.
Added by Laws 1992, c. 284, § 39, eff. Jan. 1, 1993.

§63-4209.5. Injuring, tampering with or damaging vessel or motor or accessories, appurtenances or attachments thereto - Climbing into or upon vessel with intent to commit crime.

A. A person who, with intent and without right to do so, injures or tampers with any vessel or motor or in any other manner damages any part or portion of said vessel or motor or any accessories, appurtenance or attachments thereto, upon conviction, shall be guilty of a misdemeanor.

B. A person who, without right to do so and with intent to commit a crime, climbs into or upon a vessel whether it is in motion or at rest, attempts to manipulate any of the levers, starting mechanism or other mechanism or device of a vessel while the same is at rest and unattended, or sets in motion any vessel while the same is at rest and unattended, upon conviction, shall be guilty of a misdemeanor.

Added by Laws 1992, c. 284, § 40, eff. Jan. 1, 1993.

§63-4209.6. Falsely reporting theft or conversion of vessel or motor.

A person who knowingly makes a false report of the theft or conversion of a vessel or motor to any duly authorized peace officer of this state, upon conviction, shall be guilty of a misdemeanor.

Added by Laws 1992, c. 284, § 41, eff. Jan. 1, 1993.

§63-4209.7. Additional unlawful acts - Penalties.

A. Except as otherwise authorized by law, it shall be unlawful for any person to commit any of the following acts:

1. To lend or to sell to, or knowingly permit the use of by, one not entitled thereto any certificate of title or certificate of registration issued to or in the custody of the person so lending or permitting the use thereof;

2. To alter or in any manner change a certificate of title or certificate of registration issued under the laws of this state or any other state;

3. To purchase identification or number plates on a certificate of title assigned to another vessel or motor; or

4. To sell or dispose of, in any manner, a used vessel or motor without delivering to the purchaser an Oklahoma certificate of title in such purchaser's name or one properly and completely assigned to him at the time of sale.

B. Anyone violating any of the provisions of this section, upon conviction, shall be guilty of a misdemeanor and shall be fined not less than Ten Dollars ($10.00) and not more than One Hundred Dollars ($100.00).

Added by Laws 1992, c. 284, § 42, eff. Jan. 1, 1993.

§63-4209.8. Inspections for purpose of locating stolen vessels and related equipment.

Any peace officer of the State of Oklahoma may inspect any vessel, motor, trailer, or related equipment in any public garage or repair shop or in any place where such vessel, motor, trailer or related equipment is being held for sale or wrecking, for the purpose of locating stolen vessels, motors, trailers, or related equipment and investigating the title and registration of those items.

Added by Laws 1997, c. 146, § 11, eff. Nov. 1, 1997.

§63-4210. Operation of certain devices or vessels – Prohibited acts – Yielding to emergency vessels - Penalties.

A. No person shall operate, manipulate or give permission to any person to operate or manipulate any parasails, water skis, surfboard, personal watercraft, or similar device, or any vessel in a reckless or negligent manner so as to endanger the life or property of any person.

B. No person shall lease or otherwise give permission to another person to operate any vessel on any waters of this state, except privately owned waters, while the operator is under the influence of alcohol or any substance included in the Uniform Controlled Dangerous Substances Act or any combination of alcohol and such substance.

C. Upon the immediate approach of an authorized emergency vessel making use of an audible or a visual signal or a combination thereof, the operator of every other vessel shall immediately stop his or her vessel whenever or wherever practical or otherwise yield the right-of-way until such authorized emergency vessel has passed, except when otherwise directed by a duly authorized peace officer of this state.

D. No person shall overload or give permission to overload a vessel with passengers or gear so as to exceed the posted capacity plate, United States Coast Guard standards, or the vessel manufacturer’s recommended capacity.

E. No person shall operate or give permission to operate any vessel on the waters of this state for which the manufacturer has affixed a maximum horsepower capacity plate so as to exceed the posted capacity plate or to exceed the United States Coast Guard standards for maximum horsepower capacity; provided, this provision shall not apply to vessels operating in sanctioned events.

F. No person shall operate, drive or be in actual physical control of any vessel on any waters of this state, except privately owned waters, at speeds in excess of the speed limits established for those waters.

G. No person shall operate on the waters of this state, except privately owned waters, any vessel, including personal watercraft,

within fifty (50) feet in proximity to another vessel when running at speeds of over ten (10) miles per hour; provided, this prohibition shall not apply to vessels operating in sanctioned events.

H. Any violation of the provisions of this section shall constitute a misdemeanor and shall be punishable, upon conviction, by a fine of not less than Fifty Dollars ($50.00) nor more than Two Hundred Fifty Dollars ($250.00) and shall be subject to imprisonment in the county jail for a period not to exceed six (6) months.

Added by Laws 1989, c. 346, § 62, emerg. eff. June 3, 1989. Amended by Laws 1992, c. 284, § 43, eff. Jan. 1, 1993; Laws 1996, c. 337, § 2, eff. July 1, 1996; Laws 2000, c. 237, § 1, emerg. eff. May 24, 2000; Laws 2003, c. 393, § 6, emerg. eff. June 4, 2003; Laws 2008, c. 95, § 2, eff. Nov. 1, 2008; Laws 2011, c. 201, § 1, eff. July 1, 2011.

§63-4210.1. Negligent homicide - Penalties.

A. When the death of any person ensues within one (1) year as a proximate result of injury received by the operating of a vessel by any person sixteen (16) years of age or older in reckless disregard of the safety of others, the person so operating such vessel shall be guilty of negligent homicide.

B. Any person convicted of negligent homicide shall be punished by imprisonment in the county jail for not more than one (1) year, or by a fine of not less than One Hundred Dollars ($100.00) and not more than One Thousand Dollars ($1,000.00), or by both such fine and imprisonment.

Added by Laws 1992, c. 284, § 44, eff. Jan. 1, 1993.

§63-4210.2. Eluding or attempting eluding peace officer - Assisting peace officer - Arrests.

Any operator of a vessel who has received a visual and audible signal, a red light and a siren, from any duly authorized peace officer of this state, operating a vessel showing the same to be a law enforcement vessel, directing the said operator to bring his vessel to a stop and who willfully increases his speed or extinguishes his lights in an attempt to elude such officer, or willfully attempts in any other manner to elude the officer, or who does elude such officer, upon conviction, shall be guilty of a misdemeanor and shall be punished by a fine of not more than Two Thousand Dollars ($2,000.00), or by imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment.

Said peace officer, while attempting to stop a violator of this section, may communicate a request for the assistance of other duly authorized peace officers from any office, department or agency of this state. Any such officer within this state, having knowledge of

such request, is authorized to render such assistance in stopping the violator and may effect an arrest under this section upon probable cause.
Added by Laws 1992, c. 284, § 45, eff. Jan. 1, 1993.

§63-4210.3. Transporting weapon in or discharging weapon from vessel - Exceptions - Penalties.

It shall be unlawful to transport a shotgun, rifle or pistol in or to discharge such weapons from a vessel, except for the purposes of hunting animals or fowl, and in compliance with existing state and federal laws. Anyone violating the provisions of this section, upon conviction, shall be guilty of a misdemeanor and shall be punished by a fine of not less than Fifty Dollars ($50.00) and not more than One Hundred Dollars ($100.00), or by imprisonment in the county jail for not less than ten (10) days and not more than six (6) months, or by both such fine and imprisonment. Any person in possession of a valid handgun license from this state or a reciprocal state authorized by the Oklahoma Self-Defense Act shall not be deemed guilty of transporting a pistol in violation of this section when a handgun is carried concealed or unconcealed upon or about their person in compliance with the provisions of the Oklahoma Self-Defense Act.
Added by Laws 1992, c. 284, § 46, eff. Jan. 1, 1993. Amended by Laws 1998, c. 286, § 9, eff. July 1, 1998; Laws 2012, c. 259, § 47, eff. Nov. 1, 2012.

§63-4210.4. Care and prudent speed to be used in operation of vessel - Operation in wake zone - Parking, mooring or beaching in a swimming area - Violation.

A. Any person who operates or gives permission to operate a vessel on any waters of this state shall operate the same at a careful and prudent speed not greater than nor less than is reasonable or proper, having due regard to other vessels, water skiers, swimmers, sanctioned events, restrictive and informational markers or buoys, existing wind conditions, waves, wakes or other weather conditions then existing.

B. No person shall operate or give permission to operate a vessel in a wake zone at a speed which is other than reasonable and prudent and which shows due regard for the existence of actual or potential hazards and obstacles, or in such a manner as to endanger the life, limb or property of any other person, or in such a manner as to create a wake. For the purpose of this title, "no wake zone" means any area posted with buoys or within one hundred fifty (150) feet of any boat ramp, dock, pier, or anchored or moored vessel.

C. No person shall park, moor, or beach a vessel at the perimeter of or within a swimming area marked with buoys and cable.

D. Any violation of the provisions of this section shall constitute a careless act in the operation of the vessel.
Added by Laws 1992, c. 284, § 47, eff. Jan. 1, 1993. Amended by Laws 1997, c. 199, § 5, eff. Nov. 1, 1997.

§63-4210.5. Removing, tampering, or interfering with or attaching vessel to waterway marker, navigational aid or buoy.

No person shall remove, tamper or otherwise interfere with or attach or moor a vessel to the anchor cable or any other part of any waterway marker, navigational aid or buoy.
Added by Laws 1992, c. 284, § 48, eff. Jan. 1, 1993.

§63-4210.6. Sitting and standing in vessel while under way.

No person shall sit or ride on the sides of any vessel or the back of any seat of a vessel while under way at any speed greater than idle or trolling speed; provided, however, the operator of such vessel may stand if said vessel is specifically designed to be operated from a standing position. No person shall sit or ride on the covered bow of any vessel while under way at any speed greater than idle or trolling speed unless such vessel is designed as such to allow access to the covered bow by way of side walkways or factory-equipped walk-through areas which are surrounded by life rails, deck rails, bow rails, or other such enclosure extending at least twenty-four (24) inches above the deck; provided, that no person riding in or operating a vessel shall extend any appendage over the edge of the vessel either above or below the rail if such vessel is at any speed greater than idle or trolling speed. No person shall stand on the covered bow of any vessel while under way at a speed greater than idle or trolling speed.
Added by Laws 1992, c. 284, § 49, eff. Jan. 1, 1993. Amended by Laws 2000, c. 317, § 1, emerg. eff. June 5, 2000.

§63-4210.7. Occupying front or back deck of vessel while under way.

No operator shall allow any person to occupy the front or back deck of any vessel while under way at any speed greater than idle or trolling speed unless such vessel is equipped with factory-installed seating or is designed as such to allow access to the front or back deck by way of side walkways or factory-equipped, walk-through areas to a flat deck surrounded by life rails, deck rails, stern rails, bow rails, or other such enclosures extending at least twenty-four (24) inches above the deck.
Added by Laws 1992, c. 284, § 50, eff. Jan. 1, 1993. Amended by Laws 1997, c. 199, § 6, eff. Nov. 1, 1997; Laws 2000, c. 317, § 2, emerg. eff. June 5, 2000.

§63-4210.8. Operation or control of vessel under influence of alcohol or other intoxicating substance.

A. It shall be unlawful for any person to operate or be in actual physical control of a vessel upon the waters of this state, except privately owned waters, who:

1. Has a blood or breath alcohol concentration of eight-hundredths (0.08) or more at the time of a test of the person's blood or breath;

2. Is under the influence of any other intoxicating substance to a degree which renders such person incapable of safely operating a vessel upon the waters of this state; or

3. Is under the influence of alcohol and any other intoxicating substance to a degree which renders such person incapable of safely operating a vessel upon the waters of this state.

As used in this section, "other intoxicating substance" means any controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act or any other substance, other than alcohol, which is capable of being ingested, inhaled, injected or absorbed into the human body and is capable of adversely affecting the central nervous system, vision, hearing or other sensory or motor functions.

B. 1. Any person operating a vessel upon the waters of this state, except privately owned waters, shall be deemed to have given consent to a test or tests of such person's blood, breath, saliva or urine for the purpose of determining the presence and concentration of alcohol or any other intoxicating substance. Such tests shall be performed within two (2) hours of an arrest and in the same manner as provided for in Section 752 of Title 47 of the Oklahoma Statutes.

2. Evidence that the person has refused to submit to a test or tests as required by this section shall be admissible upon the trial of any criminal action or proceeding arising out of acts alleged to have been committed in violation of the provisions of this section.

3. Any person refusing to submit to such test or tests shall be in violation of this section and subject to the fines provided for herein.

C. 1. Any person convicted of a violation of this section shall be guilty of a misdemeanor and fined in an amount not to exceed One Thousand Dollars ($1,000.00). Any second or subsequent conviction shall be punishable by a fine in an amount of not less than One Thousand Dollars ($1,000.00), nor more than Two Thousand Five Hundred Dollars ($2,500.00).

2. A person arrested by a law enforcement officer for a violation of this section may be allowed to post a cash bail in an amount set by the arresting law enforcement officer not to exceed the maximum fine provided by this section, or deposit a valid license to operate a motor vehicle in exchange for an official receipt issued by the arresting officer as provided for in Section 1111 et seq. of Title 22 of the Oklahoma Statutes.

Added by Laws 1996, c. 337, § 3, eff. July 1, 1996. Amended by Laws 1997, c. 199, § 8, eff. Nov. 1, 1997. Renumbered from Title 63, § 4210A by Laws 2003, c. 393, § 9, emerg. eff. June 4, 2003. Amended by Laws 2011, c. 201, § 2, eff. July 1, 2011.

§63-4210.9. Implied consent to administer drug or alcohol test.

A. 1. Any person who operates a vessel upon the waters of this state shall be deemed to have given consent to a test or tests of the blood or breath of the person, for the purpose of determining the alcohol concentration as defined in Section 7 of this act, and the blood, saliva or urine of the person, for the purpose of determining the presence or concentration of any other intoxicating substance as defined in this section, if arrested for any offense arising out of acts alleged to have been committed while the person was operating or in actual physical control of a vessel upon the waters of this state while under the influence of alcohol or other intoxicating substance, or the combined influence of alcohol and any other intoxicating substance, or if the person is involved in a boating collision that resulted in the immediate death or serious injury of any person and is removed from the scene of the collision to a hospital or other health care facility outside this state before a law enforcement officer can effect an arrest.

2. A law enforcement officer, having reasonable grounds to believe that such person was operating or in actual physical control of a vessel while under the influence may direct the administration of or administer the test or tests.

3. As used in this section, "other intoxicating substance" means any controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act and any other substance, other than alcohol, which is capable of being ingested, inhaled, injected or absorbed into the human body and is capable of adversely affecting the central nervous system, vision, hearing or other sensory or motor functions.

B. 1. The law enforcement agency by which the arresting officer is employed may designate, in accordance with the rules of the Board of Tests for Alcohol and Drug Influence, whether blood or breath is to be tested for the alcohol concentration thereof, and whether blood, saliva or urine is to be tested for the presence or concentration of any other intoxicating substance therein.

2. In the event the law enforcement agency does not designate the test to be administered, breath shall be the substance tested for alcohol concentration. Blood may also be tested to determine the alcohol concentration thereof in the event that breath cannot be tested to determine the alcohol concentration thereof because of the lack of an approved device or qualified person to administer a breath test or because such breath test for any other reason cannot be administered in accordance with the rules of the Board.

3. In the event the law enforcement agency does not designate the test to be administered, blood, saliva or urine shall be the substance tested for the presence or concentration of any other intoxicating substance or the combination of alcohol and any other intoxicating substance.

C. In the event the person is incapable of submitting to and successfully completing, by reason of illness or injury or other physical disability, the test to be administered, an alternate test may be administered in accordance with the rules of the Board.

D. 1. Any person who is unconscious or otherwise incapable of refusing to submit to a test of the blood or breath of the person to determine the alcohol concentration thereof, or to a test of the blood, saliva or urine of the person to determine the presence or concentration of any other intoxicating substance therein, shall be deemed not to have withdrawn the consent provided by subsection A of this section, and such test may be administered as provided herein.

2. An unconscious person who has been issued a citation by a law enforcement officer for one of the offenses listed in subsection A of this section is arrested for purposes of this section. The arresting officer must leave a copy of the citation with the arrested person which may be accomplished by handing it to the arrested person, or by leaving it with the personal effects of the arrested party, so as to inform the unconscious person of the arrest.

3. Any person who has been arrested for one of the offenses listed in subsection A of this section who is unconscious or injured and who requires immediate medical treatment as determined by a treating physician may be released by the arresting officer on the recognizance of the person for medical reasons. The arresting officer who releases an arrested person on the recognizance of the person must indicate the release on the face of the citation. Any person released on his or her own recognizance for medical reasons shall remain at liberty pending the filing of charges.

E. In addition to any test designated by the arresting officer, the arrested person may also designate any additional test to be administered to determine the concentration of alcohol, or the presence or concentration of any other intoxicating substance or the combination of alcohol and any other intoxicating substance. The cost of such additional test shall be at the expense of the arrested person.

A sufficient quantity of any specimen obtained at the designation of the arrested person shall be available to the law enforcement agency employing the arresting officer. Such specimens shall be treated in accordance with the rules applicable to the specimens obtained by an arresting officer.

F. When a law enforcement officer has determined that the blood alcohol content of an individual is to be tested for the presence or

concentration of alcohol, other intoxicating substance, or the combination of alcohol and any other intoxicating substance, the law enforcement officer shall inform the individual to be tested that the withdrawal of blood shall only be performed by certain medical personnel as provided for in Section 4 of this act.
Added by Laws 2011, c. 201, § 3, eff. July 1, 2011.

§63-4210.10. Qualified persons to withdraw blood.

A. Only a licensed medical doctor, licensed osteopathic physician, licensed chiropractic physician, registered nurse, licensed practical nurse, or physician's assistant, certified by the State Board of Medical Licensure and Supervision, the State Board of Osteopathic Examiners or Board of Chiropractic Examiners; an employee of a hospital or other health care facility authorized by the hospital or health care facility to withdraw blood; or other qualified person authorized by the Board of Tests for Alcohol and Drug Influence acting at the request of a law enforcement officer, may withdraw blood for purpose of having a determination made of its concentration of alcohol or the presence or concentration of other intoxicating substance. Only qualified persons authorized by the Board of Tests for Alcohol and Drug Influence may collect breath, saliva or urine, or administer tests of breath under the provisions of this section.

B. If the person authorized to withdraw blood as specified in subsection A of this section is presented with a written statement:

1. Authorizing blood withdrawal signed by the person whose blood is to be withdrawn;

2. Signed by a duly authorized peace officer that the person whose blood is to be withdrawn has agreed to the withdrawal of blood;

3. Signed by a duly authorized peace officer that the person whose blood is to be withdrawn has been placed under arrest and that the officer has probable cause to believe that the person, while intoxicated, has operated a vessel in such manner as to have caused the death or serious physical injury of another person, or the person has been involved in a boating collision and has been removed from the scene of the collision that resulted in the death or great bodily injury of any person, as defined in subsection B of Section 646 of Title 21 of the Oklahoma Statutes, to a hospital or other health care facility outside the State of Oklahoma before the law enforcement officer was able to effect an arrest for such offense; or

4. In the form of an order from a district court that blood be withdrawn, the person authorized to withdraw the blood and the hospital or other health care facility where the withdrawal occurs may rely on such a statement or order as evidence that the person has consented to or has been required to submit to the clinical

procedure and shall not require the person to sign any additional consent or waiver form. In such a case, the person authorized to perform the procedure, the employer of such person, and the hospital or other health care facility shall not be liable in any action alleging lack of consent or lack of informed consent.

C. No person specified in subsection A of this section, no employer of such a person, and no hospital or other health care facility where blood is withdrawn shall incur any civil or criminal liability as a result of the proper withdrawal of blood when acting at the request of a law enforcement officer by the provisions of Section 3 or 5 of this act, or when acting in reliance upon a signed statement or court order as provided in this section, if the act is performed in a reasonable manner according to generally accepted clinical practice. No person specified in subsection A of this section shall incur any civil or criminal liability as a result of the proper collection of breath, saliva or urine when acting at the request of a law enforcement officer under the provisions of Section 3 or 5 of this act or when acting pursuant to a court order.

D. The blood, breath, saliva or urine specimens obtained shall be tested by the appropriate test as determined by the Board of Tests for Alcohol and Drug Influence, or tested by a laboratory that is exempt from the Board rules pursuant to Section 759 of Title 47 of the Oklahoma Statutes, to determine the alcohol concentration thereof, or the presence and concentration of any other intoxicating substance which might have affected the ability of the person tested to operate a vessel safely.

E. When blood is withdrawn or saliva or urine is collected for testing of its alcohol concentration or other intoxicating substance presence or concentration, at the request of a law enforcement officer, a sufficient quantity of the same specimen shall be obtained to enable the tested person, at his or her own option and expense, to have an independent analysis made of such specimen. The excess blood, saliva or urine specimen shall be retained by a laboratory approved by the Board of Tests for Alcohol and Drug Influence, in accordance with the rules and regulations of the Board, or by a laboratory that is exempt from the Board rules pursuant to Section 759 of Title 47 of the Oklahoma Statutes, for sixty (60) days from the date of collection. At any time within that period, the tested person or his or her attorney may direct that such blood, saliva or urine specimen be sent or delivered to a laboratory of his or her own choosing and approved by the Board for an independent analysis. Neither the tested person, nor any agent of such person, shall have access to the additional blood, saliva or urine specimen prior to the completion of the independent analysis, except the analyst performing the independent analysis and agents of the analyst.

F. When a test of breath is performed for the purpose of determining the alcohol concentration thereof, except when such test is performed by means of an automated analyzer as designated by the Board of Tests for Alcohol and Drug Influence, a sufficient quantity of breath, or of the alcohol content of a fixed or measured quantity of breath, shall be obtained, in accordance with the rules and regulations of the Board to enable the tested person, at his or her own option and expense, to have an independent analysis made of such specimen. The excess specimen of breath, or of its alcohol content, shall be retained by the law enforcement agency employing the arresting officer, in accordance with the rules and regulations of the Board, for sixty (60) days from the date of collection. At any time within that period, the tested person, or his or her attorney, may direct that such specimen be sent or delivered to a laboratory of his or her own choosing and approved by the Board for an independent analysis. Neither the tested person, nor any agent of such person, shall have access to the additional specimen of breath, or of its alcohol content, prior to the completion of the independent analysis thereof, except the analyst performing the independent analysis and agents of the analyst.

G. The costs of collecting blood, breath, saliva or urine specimens for the purpose of determining the alcohol or other intoxicating substance thereof, by or at the direction of a law enforcement officer, shall be borne by the law enforcement agency employing such officer. The cost of collecting, retaining and sending or delivering to an independent laboratory the excess specimens of blood, breath, saliva or urine for independent analysis at the option of the tested person shall also be borne by such law enforcement agency. The cost of the independent analysis of such specimen of blood, breath, saliva or urine shall be borne by the tested person at whose option such analysis is performed. The tested person, or his or her agent, shall make all necessary arrangements for the performance of such independent analysis other than the forwarding or delivery of such specimen.

H. Tests of blood or breath for the purpose of determining the alcohol concentration thereof, and tests of blood, saliva or urine for the purpose of determining the presence or concentration of any other intoxicating substance therein, under the provisions of this section, whether administered by or at the direction of a law enforcement officer or administered independently, at the option of the tested person, on the excess specimen of such person's blood, breath, saliva or urine, to be considered valid and admissible in evidence under the provisions of this section, shall have been administered or performed in accordance with the rules and regulations of the Board of Tests for Alcohol and Drug Influence, or performed by a laboratory that is exempt from the Board rules pursuant to Section 759 of Title 47 of the Oklahoma Statutes.

I. Any person who has been arrested for any offense arising out of acts alleged to have been committed while the person was operating or in actual physical control of a vessel while under the influence of alcohol, any other intoxicating substance or the combined influence of alcohol and any other intoxicating substance, who is not requested by a law enforcement officer to submit to a test, shall be entitled to have an independent test of his or her blood, breath, saliva or urine, which is appropriate as determined by the Board of Tests for Alcohol and Drug Influence for the purpose of determining its alcohol concentration or the presence or concentration of any other intoxicating substance therein, performed by a person of his or her own choosing who is qualified as stipulated in this section. The arrested person shall bear the responsibility for making all necessary arrangements for the administration of such independent test and for the independent analysis of any specimens obtained, and bear all costs thereof. The failure or inability of the arrested person to obtain an independent test shall not preclude the admission of other competent evidence bearing upon the question of whether such person was under the influence of alcohol, or any other intoxicating substance or the combined influence of alcohol and any other intoxicating substance.

J. Any agency or laboratory certified by the Board of Tests for Alcohol and Drug Influence or any agency or laboratory that is exempt from the Board rules pursuant to Section 759 of Title 47 of the Oklahoma Statutes, which analyzes breath, blood, or urine shall make available a written report of the results of the test administered by or at the direction of the law enforcement officer to:

1. The tested person, or his or her attorney;
2. The Commissioner of Public Safety; and
3. The Fatality Analysis Reporting System (FARS) analyst of the state, upon request.

The results of the tests provided for in this section shall be admissible in civil actions.

Added by Laws 2011, c. 201, § 4, eff. July 1, 2011.

§63-4210.11. Refusal to submit to drug or alcohol testing - Exceptions.

If a conscious person under arrest refuses to submit to testing of his or her blood or breath for the purpose of determining the alcohol concentration thereof, or to a test of his or her blood, saliva or urine for the purpose of determining the presence or concentration of any other intoxicating substance, or the combined influence of alcohol and any other intoxicating substance, none shall be given, unless the investigating officer has probable cause to believe that the person under arrest, while intoxicated, has operated a vessel in such a manner as to have caused the death or

serious physical injury of any other person or persons. In that event, the test otherwise authorized by law may be made in the same manner as if a search warrant had been issued for the test or tests. The sample shall be taken in a medically acceptable manner at a hospital or other suitable health care facility.
Added by Laws 2011, c. 201, § 5, eff. July 1, 2011.

§63-4210.12. Laboratory report - Evidence.

A. At any proceeding held relevant to this act, a report of the findings of the laboratory of the Oklahoma State Bureau of Investigation, the medical examiner's report of investigation or autopsy report, or a laboratory report from a forensic laboratory operated by the State of Oklahoma or any political subdivision thereof, which has been made available to the person or an authorized representative at least five (5) days prior to the hearing, with reference to all or part of the evidence submitted, when certified as correct by the persons making the report shall be received as evidence of the facts and findings stated, if relevant and otherwise admissible in evidence. If the report is deemed relevant by either party, the court shall admit the report without the testimony of the person making the report, unless the court, pursuant to this subsection, orders the person to appear.

B. When any alleged controlled dangerous substance has been submitted to the laboratory of the Oklahoma State Bureau of Investigation for analysis, and the analysis shows that the submitted material is a controlled dangerous substance, the distribution of which constitutes a felony under the laws of this state, no portion of the substance shall be released to any other person or laboratory absent an order of a district court. The defendant shall additionally be required to submit to the court a procedure for transfer and analysis of the subject material to ensure the integrity of the sample and to prevent the material from being used in any illegal manner.

C. The court, upon motion of either party, shall order the attendance of any person preparing a report submitted as evidence in the hearing when it appears there is a substantial likelihood that material evidence not contained in the report may be produced by the testimony of any person having prepared a report. The hearing shall be held and, if sustained, an order issued not less than five (5) days prior to the time when the testimony shall be required.

D. If within five (5) days prior to the hearing or during a hearing, a motion is made pursuant to this section requiring a person having prepared a report to testify, the court may hear a report or other evidence but shall continue the hearing until such time notice of the motion and hearing is given to the person making the report, the motion is heard, and, if sustained, the testimony ordered can be given.

Added by Laws 2011, c. 201, § 6, eff. July 1, 2011.

§63-4210.13. Criminal trials - Use of alcohol or drug tests as evidence.

A. Upon the trial of any criminal action or proceeding arising out of acts alleged to have been committed by any person while operating or in actual physical control of a vessel while under the influence of alcohol or any other intoxicating substance, or the combined influence of alcohol and any other intoxicating substance, evidence of the alcohol concentration in the blood or breath of the person as shown by analysis of the blood or breath of the person performed in accordance with the provisions of Section 4 of this act and Section 759 of Title 47 of the Oklahoma statutes or evidence of the presence or concentration of any other intoxicating substance as shown by analysis of such person's blood, breath, saliva, or urine specimens in accordance with the provisions of Section 4 of this act and Section 759 of Title 47 of the Oklahoma Statutes shall be admissible. Evidence that the person has refused to submit to either of said analyses is also admissible. For the purpose of this section, when the person is under the age of twenty-one (21) years, evidence that there was, at the time of the test, any measurable quantity of alcohol is prima facie evidence that the person was under the influence of alcohol in violation of Section 3 of this act. For persons twenty-one (21) years of age or older:

1. Evidence that there was, at the time of the test, an alcohol concentration of seven-hundredths (0.07) or less is prima facie evidence that the person was not under the influence of alcohol; and

2. Evidence that there was, at the time of the test, an alcohol concentration of eight-hundredths (0.08) or more shall be admitted as prima facie evidence that the person was under the influence of alcohol.

B. For purposes of this section, "alcohol concentration" means grams of alcohol per one hundred (100) milliliters of blood if the blood was tested, or grams of alcohol per two hundred ten (210) liters of breath if the breath was tested.

C. To be admissible in a proceeding, the evidence shall first be qualified by establishing that the test was administered to the person within two (2) hours after the arrest of the person.

Added by Laws 2011, c. 201, § 7, eff. July 1, 2011.

§63-4210.14. Use of other competent evidence.

The provisions of Sections 3 through 7 of this act do not limit the introduction of any other competent evidence bearing on the question of whether the person was under the influence of alcohol or any other intoxicating substance, or the combined influence of alcohol and any other intoxicating substance.

Added by Laws 2011, c. 201, § 8, eff. July 1, 2011.

§4210A. Renumbered as § 4210.8 of this title by Laws 2003, c. 393, § 9, emerg. eff. June 4, 2003.

§63-4211. Diving or submerging in body of water - Use of buoys - Operating vessel in diving area.

A. Any person diving or submerging in a body of water with the aid of any mechanical diving or breathing device or suit shall place a buoy with a flag in the water at or near the point of submergence or fly a flag from a vessel indicating divers are present, in the following manner:

1. Either the nationally recognized diver's flag or Alpha flag may be flown;

2. When flown from a vessel, at least one flag shall be flown not less than one (1) meter above the highest point of the vessel and shall be visible from a three-hundred-sixty-degree circle;

3. The buoy, flag or flags shall be in place only while actual diving operations are in progress;

4. No diving buoys may be closer than one hundred (100) yards to any functional boat ramp; and

5. The flag or flags shall be in good condition and legible, and the flag shall be in the extended position so as to be visible to any other vessel.

B. It shall be unlawful for any person to operate a vessel within one hundred fifty (150) feet of a diving buoy except while engaged in the rescue of a person in such area.

Added by Laws 1989, c. 346, § 63, emerg. eff. June 3, 1989. Amended by Laws 1992, c. 284, § 51, eff. Jan. 1, 1993; Laws 1999, c. 9, § 1, eff. Nov. 1, 1999.

§63-4211.1. Inner tubes, air mattresses or floating chairs - Distance from shore restricted.

Inner tubes, air mattresses, floating chairs or similar devices shall not be more than fifty (50) feet from shore when being used by a swimmer.

Added by Laws 1992, c. 284, § 52, eff. Jan. 1, 1993. Amended by Laws 1997, c. 199, § 7, eff. Nov. 1, 1997.

§63-4212. Towing person or persons using parasails, water skis or similar devices - Time restrictions - Professional exhibitions excepted - Colliding with or striking object or person - Operation of personal watercraft.

A. 1. No person shall operate or give permission to operate a vessel on any waters of this state for towing a person or persons using parasails or on water skis, a surfboard, or similar device unless there is in such vessel:

a. a person who is at least eight (8) years old, and who, in addition to the operator, is in a position to observe the progress of the person or persons being towed,

b. if the vessel is not a personal watercraft, an efficient wide angle convex rear view mirror installed on such vessel in such manner as to permit the person operating said vessel to face the direction of travel and be in a position to observe the progress of the person or persons being towed, or

c. if the vessel is a personal watercraft, two efficient wide angle convex rear view mirrors installed on such vessel in such manner as to permit the person operating such watercraft to face the direction of travel and be in a position to observe the progress of the person or person being towed.

2. Water skiing shall be allowed with any watercraft which is designed to accommodate two or more persons.

B. No person shall operate or give permission to operate a vessel on any waters of this state towing a person or persons using parasails or on water skis, a surfboard, a sailboard or similar device nor shall any person engage in parasailing, water skiing, surfboarding, sailboarding or similar activity at any time between the hours from sunset to sunrise or at such time visibility due to other existing conditions is obscured so as to endanger life or property.

C. The provisions of subsections A and B of this section do not apply to a performer engaged in a professional exhibition or a person or persons engaged in an activity authorized under Section 4205 of this title.

D. No person shall operate or give permission to operate or manipulate any vessel, tow rope or other device by which the direction or location of parasails, water skis, a surfboard, or similar device may be affected or controlled in such a way as to cause the parasails, water skis, surfboard, or similar device, or any person thereon to collide with or strike against any object or person.

E. 1. No person shall operate or give permission to operate a personal watercraft or similar device capable of being remote controlled by the skier unless such device is factory equipped with an engine kill switch capable of shutting off the engine in the event the skier becomes detached from the personal watercraft device. A person operating a personal watercraft equipped by the manufacturer with a lanyard type engine cutoff switch shall attach such lanyard to his or her person, clothing, or personal flotation device as appropriate for the specific vessel.

2. No person shall operate a personal watercraft at any time between the hours from sunset to sunrise unless equipped with prescribed lights.

Added by Laws 1989, c. 346, § 64, emerg. eff. June 3, 1989. Amended by Laws 1992, c. 284, § 53, eff. Jan. 1, 1993; Laws 1993, c. 60, § 1, emerg. eff. April 12, 1993; Laws 1994, c. 231, § 1, eff. Sept. 1, 1994; Laws 2003, c. 393, § 7, emerg. eff. June 4, 2003.

§63-4213. Placing or disposing of marine sewage in state waters prohibited - Use of total retention marine toilets required.

A. No person shall place or dispose of marine sewage in any waters of this state.

B. On and after July 1, 1995, no person shall operate a vessel equipped with a marine toilet which is not a total retention system in accordance with federal regulations regarding marine toilets.

Added by Laws 1989, c. 346, § 65, emerg. eff. June 3, 1989. Amended by Laws 1990, c. 304, § 13, emerg. eff. May 30, 1990; Laws 1992, c. 284, § 54, eff. Jan. 1, 1993; Laws 1993, c. 321, § 4, emerg. eff. June 7, 1993.

§63-4214. Collision, accident, or other casualty - Rendering of assistance by vessel operator - Notice - Accident report - Notice to appear - Written report – Drug and alcohol test.

A. The operator and/or passenger of a vessel involved in a collision, accident, or other casualty, shall render to other persons involved in the collision, accident, or other casualty reasonable assistance as may be necessary and practicable and shall immediately, by the quickest means of communication, give notice of such accident to the local police department if such accident occurs within a municipality, or to the office of the county sheriff or nearest state highway patrol headquarters after complying with the requirements of this section. The operator of a vessel involved in a collision, accident, or other casualty shall give his name, address, and identification of his vessel, in writing, to any person injured in the collision, accident, or other casualty and to the owner of any property damaged in the collision, accident, or other casualty.

B. Any operator of a vessel involved in a collision, accident, or other casualty who could be cited for a violation of the Oklahoma Boating Safety Regulation Act where the collision, accident or other casualty resulted in the immediate death or great bodily injury, as defined in subsection B of Section 646 of Title 21 of the Oklahoma Statutes, of any person shall submit to drug and alcohol testing as soon as practicable after such collision, accident or other casualty occurs. The boating violation shall constitute probable cause for purposes of Section 752 of Title 47 of the Oklahoma Statutes and the procedures found in Section 752 of Title 47 of the Oklahoma Statutes

shall be followed to determine the presence of alcohol or controlled dangerous substances within the blood system of the operator of the vessel.

C. If a collision, accident, or other casualty results in death or injury to a person or damage to property in excess of Two Thousand Dollars ($2,000.00), the operator of the vessel involved in the collision, accident, or other casualty shall file with the Department of Public Safety a full description of the collision, accident, or other casualty, and such information as the Department may require. No person shall be prosecuted or subjected to any penalty for providing such report to the Department and any statement or information included in such report shall not be received against the person upon any criminal investigation, proceeding or trial.

D. Whenever a person is halted by any duly authorized peace officer of this state for any violation of Chapters 70, 71 or 72 of this title, which shall be punishable as a misdemeanor, and is not taken before a magistrate as hereinbefore required or permitted, the officer shall prepare in quadruplicate using the "Oklahoma Uniform Violations Complaint", a written notice to appear in court, such notices to appear to be serially numbered, containing the name and address of the person, the state registration number of the vessel, if any, the offense charged, the time and place when and where the person shall appear in court, and such other pertinent information as may be necessary.

E. The time specified in the notice to appear must be at least five (5) calendar days after the alleged violation unless the person charged with the violation shall demand an earlier hearing.

F. The person charged with the violation may give his written promise to appear in court by signing the written notice to appear prepared by the officer, in which event the officer shall deliver a copy of the notice to appear to the person, and thereupon the officer shall not take the person into physical custody for the violation.

G. If the person charged with the violation is a minor, then the citing officer shall ascertain from the minor the name and address of the parents or legal guardian of the minor, and the officer shall cause a copy of the "violation" to be mailed to the address of the parents or legal guardian, within three (3) calendar days after the date of violation.

H. Except for felony violations, any duly authorized peace officer of this state at the scene of a boating accident may issue a written notice to appear to the operator of a vessel involved in the accident when, based upon personal investigation, the officer has reasonable and probable grounds to believe that the person has committed any offense in connection with the accident.

I. In accordance with any request duly made by an authorized official or agency of the United States, any information compiled or otherwise available to the Department of Public Safety pursuant to this section shall be transmitted to the official or agency of the United States.

J. Any employee or officer of an agency of this state, or employee or officer of a municipality or county in this state, shall make a written report to the Department of Public Safety if an occurrence involving a vessel or its equipment results in one or more of the following:

1. A person dies;

2. A person is injured and requires medical treatment beyond first aid;

3. Damage to the vessel and other property totals more than Two Thousand Dollars ($2,000.00) or there is a complete loss of the vessel;

4. A person disappears from the vessel under circumstances that indicate death or injury;

5. A person drowns in swimming to retrieve a vessel that is adrift from its mooring or dock, having departed from a position of inherent safety such as a shore or pier;

6. A person drowns while swimming from a vessel for pleasure and the vessel does not contribute to the drowning;

7. A person drowns after falling from a vessel that is moored or anchored for use as a swimming platform or other purpose;

8. A person dies or is injured while in the act of launching a vessel into a body of water;

9. A person drowns or is injured while surfing;

10. A fatality or injury occurs to an operator or a crew member while participating in an organized/sanctioned race, or warm-up, in a vessel uniquely designed for racing; or

11. Damage, injury or death on a docked, moored or anchored vessel resulting from unusual wake or wave conditions.

Added by Laws 1989, c. 346, § 66, emerg. eff. June 3, 1989. Amended by Laws 1991, c. 182, § 65, eff. Sept. 1, 1991; Laws 1992, c. 284, § 55, eff. Jan. 1, 1993; Laws 2008, c. 95, § 3, eff. Nov. 1, 2008; Laws 2009, c. 41, § 1, eff. Nov. 1, 2009.

§63-4215. Negligent operation - Liability.

A. The owner of a vessel shall be liable for any injury or damage occasioned by the negligent operation of such vessel, whether such negligence consists of a violation of the provisions of the statutes of this state, or the violation of any municipal ordinance, or neglecting to observe such ordinary care and such operation as the rules of the common law require. The owner shall not be liable, however, unless such vessel is being used with his or her express or implied consent. Nothing contained herein shall be construed to

relieve any other person from any liability which he or she would otherwise have.

B. The owner of a vessel shall not be liable for any injury or damage occasioned by the negligent operation of the vessel as provided in subsection A of this section if:

1. The owner is engaged in the trade or business of renting or leasing vessels;

2. The owner is in compliance with the Oklahoma Vessel and Motor Registration Act, Section 4001 et seq. of this title;

3. The injury or damage occurred during a period of rental or lease;

4. The owner did not knowingly permit or entrust the vessel to be operated by a reckless or otherwise incompetent operator where the owner knew or should have known that the injury or damage would have occurred; and

5. The owner has:

a. briefed the renter of the vessel on the location of fire extinguishers and life vests when applicable,

b. ensured there are enough life vests of the proper size for every passenger on the boat,

c. presented guidelines to the renter for safely piloting a vessel, and

d. executed a safety check on lighting, gasoline, oil, and bilge water removal systems.

Added by Laws 1989, c. 346, § 67, emerg. eff. June 3, 1989. Amended by Laws 2017, c. 244, § 1, emerg. eff. May 12, 2017.

§63-4216. Actions against nonresident owners or operators - Service of notice - Venue.

In an action in any court of this state, arising out of injury to person or property caused by any vessel or motor while operating in the waters of this state, including the Oklahoma portion of boundary rivers, or moored in such waters or against shore land in this state, when the owner or operator is a nonresident of this state or a corporation not incorporated under the laws of this state, service of the original notice may be made upon such nonresident owner or operator or upon such foreign corporation in the manner provided in Sections 2004 and 2005 of Title 12 of the Oklahoma Statutes. The venue of such an action shall be the county in which the damage occurred and the presence of such vessel and the doing of said damage within the territory comprising the State of Oklahoma, together with the subsequent removal of said vessel from the jurisdiction of the State of Oklahoma, shall constitute a waiver by the owner or operator thereof of any objection to the venue of such an action commenced in a proper court of this state.

Added by Laws 1989, c. 346, § 68, emerg. eff. June 3, 1989.

§63-4217. Abandonment of vessel - Removal.

A. It shall be unlawful to abandon a vessel on the waters of this state or other public property. Any officer of the Department of Public Safety or any other law enforcement agency shall deem a vessel abandoned and shall have authority to remove or direct the removal of a vessel when found upon any portion of the waters of this state or other public property, if, after a period of forty-eight (48) hours, there is no evidence of an apparent owner who intends to remove the vessel. Any law enforcement officer prior to removing such vessel shall attempt to notify the owner of such vessel if the vessel has an identification number registered in this state or if the name and address of the owner is attached to such vessel.

B. If such officer has reasonable cause to believe a vessel has been abandoned in a location which would be hazardous to the free flow of traffic or would be highly susceptible to damage from vandalism or other harm, he shall have authority to remove or direct the removal of the vessel immediately. At the time of ordering the removal of an abandoned vessel, the authorizing officer shall also determine the sale value of the vessel and certify that amount on the removal order.

C. Any officer of the Department of Public Safety is hereby authorized to cause to be removed any vessel found upon the waters of this state or any other public property when:

1. Report has been made that such vessel has been stolen or taken without the consent of its owner;

2. The officer has reason to believe the vessel has been abandoned as defined in this section;

3. The person operating or in control of such vessel is arrested for an alleged offense for which the officer is required by law to take the person arrested or summoned before a proper magistrate without unnecessary delay;

4. At the scene of an accident, when the owner or operator is not in a position to take charge of his vessel and direct or request proper removal; or

5. When a vessel and/or motor registration is thirty (30) days past the date of expiration.

Such officer may ensure the safe removal of said vessel by use of a trailer.

Added by Laws 1989, c. 346, § 69, emerg. eff. June 3, 1989. Amended by Laws 1992, c. 284, § 56, eff. Jan. 1, 1993; Laws 2002, c. 66, § 3.

§63-4217.1. Abandoned vessels – Notice of removal.

Any officer who has removed or directed the removal of any vessel, or an authorized person in the employing agency of the officer, shall within seventy-two (72) hours of the removal notify

the Department of Public Safety of the removal. The notice of removal shall contain the name and address of the owner, if known, the make, model, vessel identification number, registration number, date stored, place stored and the estimated value. Upon receipt of such notice of removal, the Department of Public Safety shall promptly request the Oklahoma Tax Commission or other appropriate registering jurisdiction to furnish the name and address of the owner of and any lienholder on the vessel and must within five (5) days from receipt of the requested information send a notice to the owner and any lienholder by regular mail, postage prepaid, at the addresses furnished by the Tax Commission or registering jurisdiction, of the location of the vessel. This section shall not be construed to create any civil liability upon the state, any agency of the state or employee thereof for failure to provide notice to the owner or lienholder.
Added by Laws 2002, c. 66, § 4.

§63-4217.2. Abandoned vessels - Contest of removal or storage - Hearing.

A. After the removal or storage of any abandoned or wrecked vessel at the request of a public agency, the registered or legal owner of the vessel, or their agent, may contest the validity of the removal or storage, by filing a written request for a hearing with the public agency. The written request may be filed before or after the vessel is retrieved from the storage operator. The public agency shall not be required to conduct a hearing if the request is received more than ten (10) days following actual or constructive notice to the owner or driver of the vessel that the vessel has been so removed or stored. A hearing shall be scheduled within seventy-two (72) hours of the request, excluding weekends and holidays. The public agency may authorize its own officer or employee to conduct the hearing, so long as the hearing officer is not the same person who directed the removal or storage of the vessel. The public agency may, with the consent of the person requesting the hearing, schedule the hearing by telephone and conduct the hearing on the merits by telephone conference call.

The hearing officer shall apply the law to the evidence and make a determination whether the vessel removal and storage was justified. If deemed unjustified, the public agency shall bear the cost of hookup and tow mileage, and the operator shall waive all storage costs in such cases as a condition of eligibility to respond to a service call request from a public agency. The vessel owner or agent shall not be charged any type of fee or costs relating to impoundment or storage in such case. If the tow and storage is deemed justified, the owner or agent shall bear the cost of reasonable tow and storage.

B. Failure of either the registered or legal owner, or their agent, to timely request or to timely appear for a scheduled hearing shall satisfy the hearing requirement of this section.

C. The hearing conducted by the public agency pursuant to this section shall not be governed by the Administrative Procedures Act. The owner of a stored vessel may, either in lieu of such hearing or after such hearing, file a petition in the district court of the county wherein the vessel is stored. The district court is vested with original jurisdiction to conduct a de novo hearing and determine the validity of removal and storage.

D. The provisions of this section shall not apply to the removal of vessels pursuant to Section 954A of Title 47 of the Oklahoma Statutes.

Added by Laws 2002, c. 66, § 5.

§63-4217.3. Abandoned vessels – Regaining possession.

The owner of a vessel or lienholder of the vessel abandoned in violation of Section 4217 of Title 63 of the Oklahoma Statutes, or the owner of any vessel or lienholder of the vessel or insurer of a vessel when the insurer has purchased the vessel as a total loss vessel from the registered owner which shall have been lawfully removed from any waters of this state or other public property may regain possession of the vessel in accordance with rules of the Department of Public Safety upon payment of the reasonable cost of removal and storage of the vessel. The cost of removal and storage shall be paid to the wrecker or towing service. An operator shall release the vessel from storage upon authorization from the owner, agent or lienholder of the vessel or, in the case of a total loss, the insurer of the vessel where the vessel is to be moved to an insurance pool yard for sale.

Added by Laws 2002, c. 66, § 6.

§63-4217.4. Abandoned vessels – Lien – Foreclosure by sale – Notice – Application of proceeds.

A. Every person lawfully in possession of an abandoned vessel shall have a special lien thereon for the compensation due from the owner of such abandoned vessel for all expenses incurred.

B. The lien may be foreclosed by a sale of such abandoned vessel upon giving notice and in the following manner. The notice shall contain:

1. The name of the party bringing action and the name of the owner or any person claiming any interest therein;

2. A full description of the vessel, giving all available information as to the make, year, serial number, registration decal number with year and the state from which the registration was issued;

3. A full statement of all the facts;

4. The amount of the claim, giving a full description of the work, labor, storage or any other costs involved; and

5. The date, time and place of the sale.

The notice shall be posted in three public places in the county in which the vessel is to be sold at least ten (10) days before the time specified therein for such sale, and a copy of said notice shall be mailed to the owner and any other person claiming any interest in the abandoned motor vehicle, at their last-known mailing address, by registered mail on the same date of posting said notice.

C. Proceedings for such sale under this section shall not be commenced until ten (10) days after the lien has accrued.

D. A return of such sale shall be made at the time of sale and proof of posting and mailing of the notice of sale of abandoned vessel.

E. The proceeds from the sale of an abandoned vessel made pursuant to subsection B of this section shall be applied in the following order:

1. To the reasonable cost incurred in the sale of the abandoned vessel;

2. To the satisfaction of the special lien provided for in subsection A of this section;

3. To the satisfaction of any indebtedness secured by a subordinate security interest or lien in the vessel; and

4. To the owner if the owner is known, and if the owner or the address of the owner is not known, to the Oklahoma Tax Commission to be remitted to the State Treasurer and deposited in the General Revenue Fund.

Added by Laws 2002, c. 66, § 7.

§63-4218. Violations - Penalties.

A. Except as otherwise provided by the provisions of this section, any person violating the provisions of the Oklahoma Boating Safety Regulation Act for which another penalty is not provided, upon conviction thereof, shall be guilty of a misdemeanor and shall be subject to a fine not to exceed Fifty Dollars ($50.00) for each such violation.

B. Any person who violates Section 4213 of this title for which another penalty is not provided, upon conviction thereof, shall be guilty of a misdemeanor and shall be subject to a fine of not less than Two Hundred Dollars ($200.00) and not more than One Thousand Dollars ($1,000.00).

C. Any person who violates any provision of Sections 4206 through 4212 of this title, for which another penalty is not provided, upon conviction thereof, shall be guilty of a misdemeanor and shall be subject to a fine of not to exceed One Hundred Dollars ($100.00) for each such violation.

Added by Laws 1989, c. 346, § 70, emerg. eff. June 3, 1989. Amended by Laws 1992, c. 284, § 57, eff. Jan. 1, 1993; Laws 2003, c. 393, § 8, emerg. eff. June 4, 2003.

§63-4219. Nighttime speed limit.

It shall be unlawful for any person to operate any vessel upon the waters of this state which are under the jurisdiction of the Grand River Dam Authority (GRDA), between the hours of one-half hour after sunset and one-half hour before sunrise at any speed in excess of thirty-five (35) miles per hour. Any person violating the provisions of this section shall be guilty of a misdemeanor and shall be punishable by a fine of not less than Fifty Dollars ($50.00) nor more than Two Hundred Fifty Dollars ($250.00).
Added by Laws 1996, c. 337, § 4, eff. July 1, 1996. Amended by Laws 1997, c. 199, § 9, eff. Nov. 1, 1997.

§63-4220. Repealed by Laws 1992, c. 284, § 59, eff. Jan. 1, 1993.

§63-4220.1. Repealed by Laws 1992, c. 284, § 59, eff. Jan. 1, 1993.

§63-4220.2. Repealed by Laws 1992, c. 284, § 59, eff. Jan. 1, 1993.

§63-4220.3. Repealed by Laws 1992, c. 284, § 59, eff. Jan. 1, 1993.

§63-4220.4. Repealed by Laws 1992, c. 284, § 59, eff. Jan. 1, 1993.

§63-4221. Failure to comply with lawful order or directive of law enforcement officer.

No person shall willfully fail or refuse to comply with any lawful order or directive of any law enforcement officer while in the performance of his or her duty of enforcing the provisions of Title 63 or Title 21 of the Oklahoma Statutes. Failure to comply will constitute a misdemeanor punishable by a fine not to exceed Two Hundred Fifty Dollars ($250.00).
Added by Laws 1996, c. 337, § 5, eff. July 1, 1996. Amended by Laws 2004, c. 364, § 5, eff. Nov. 1, 2004.

§63-4222. Repealed by Laws 2018, c. 27, § 62, eff. Nov. 1, 2018.

§63-4230. Repealed by Laws 1997, c. 240, § 6, emerg. eff. May 23, 1997.

§63-4230.1. Repealed by Laws 2003, c. 459, § 12.

§63-4231. Short title.

Sections 1 through 6 of this act shall be known and may be cited as the "Kyle Williams Boating Safety Education Act".

Added by Laws 2006, c. 228, § 1, eff. Jan. 1, 2007.

§63-4232. Definitions - Requirements for persons younger than sixteen to operate certain motorized vessels, personal watercraft - Boating Safety Education Certificate.

A. As used in this section:

1. "Vessel" shall have the same meaning as defined in Section 4002 of Title 63 of the Oklahoma Statutes, but shall not include personal watercraft; and

2. "Boating safety education course" means a course in safe boating that meets or exceeds the minimum instruction standards as established by the National Association of State Boating Law Administrators in effect at the time the course is completed.

B. A person under sixteen (16) years of age shall not operate any vessel, as defined in this section, powered by a motor or combination of motors in excess of ten (10) horsepower or any sail-powered vessel sixteen (16) feet or greater in length on the waters of this state unless the person has:

1. Successfully completed a boating safety education course or has passed a proctored equivalency examination which tests the knowledge of information included in the curriculum of such a course; and

2. Received a Boating Safety Education Certificate as evidence of successful completion of a boating safety education course or an equivalency examination.

C. A person at least twelve (12) years of age, but who has not reached sixteen (16) years of age, shall not operate a vessel, as defined in this section, powered by a motor or combination of motors in excess of ten (10) horsepower or any sail-powered vessel sixteen (16) feet or greater in length on the waters of this state unless the person:

1. Has met the requirements listed in subsection B of this section; and

2. Is accompanied by a competent adult, eighteen (18) years of age or older, who is in a position on or in the vessel to take immediate control of the vessel being operated.

D. 1. A person under sixteen (16) years of age shall not operate a personal watercraft unless the person has met the requirements listed in subsection B of this section.

2. A person at least twelve (12) years of age, but who has not reached sixteen (16) years of age, shall not operate a personal watercraft unless the person:

a. Has met the requirements listed in subsection B of this section; and

b. Is under the visual supervision by a competent adult, eighteen (18) years of age or older within a distance of five hundred (500) yards.

The operator of a personal watercraft shall stay at least fifty (50) feet away from all moving vessels, shall idle at or in the vicinity of docks and swimmers, and shall wear an approved personal flotation device.

E. The Department of Public Safety shall promulgate rules necessary for:

1. The certification of programs and tests for boating safety education offered by other public or private organizations;

2. The administration of a boating safety education program; and

3. The issuance of boating safety education certificates.

F. A Boating Safety Education Certificate issued by the Department of Public Safety to a person who has successfully completed a boating safety education course or course equivalency examination shall not expire.

G. A person who is operating a vessel on the waters of this state shall have in his or her immediate possession:

1. The original Boating Safety Education Certificate as proof the operator meets the requirements of this section; or

2. A photo identification that clearly shows the operator is sixteen (16) years of age or older.

Failure to present such proof upon request by a peace officer shall be prima facie evidence of a violation of this section.

Added by Laws 2006, c. 228, § 2, eff. Jan. 1, 2007.

§63-4233. Exceptions to certification requirement.

Except as otherwise provided, a person is not required to comply with the certification required by Section 2 of this act if the person:

1. Is not a resident of this state and has proof the person has successfully completed a boating safety education course or equivalency examination in another state or foreign country that is approved by the Department of Public Safety;

2. Is participating in a sanctioned event as defined in Section 4201 et seq. of this title; or

3. Is operating a personal watercraft as defined in Section 4201 et seq. of this title in a no-wake zone while under the supervision of an adult.

Added by Laws 2006, c. 228, § 3, eff. Jan. 1, 2007.

§63-4234. Unlawful acts regarding certificates.

It shall be unlawful for any person to:

1. Alter, forge, counterfeit or falsify any Boating Safety Education Certificate issued under the laws of this or any other state;

2. Possess a Boating Safety Education Certificate that has been altered, forged, counterfeited or falsified;

3. Lend or to sell to, or knowingly permit the use of by one not entitled thereto, any Boating Safety Education Certificate; or

4. Make a false statement or to knowingly conceal a material fact or otherwise commit a fraud in any such application for a Boating Safety Education Certificate.

Added by Laws 2006, c. 228, § 4, eff. Jan. 1, 2007.

§63-4235. Violation of certification requirement - Penalties.

A. Any parent, legal guardian or person having actual responsibility for a person under sixteen (16) years of age, or who is the owner of the vessel operated by a person under sixteen (16) years of age, who knows, or should have known, that the person operating the vessel is not in compliance with the certification required by Section 2 of this act shall constitute a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not less than Fifty Dollars ($50.00) nor more than One Hundred Dollars ($100.00). Any second or subsequent conviction shall be punishable by a fine in an amount of not less than Two Hundred Fifty Dollars ($250.00), nor more than Five Hundred Dollars ($500.00).

B. A violation of the provisions of Section 2 of this act shall constitute a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not less than Two Hundred Fifty Dollars ($250.00) nor more than One Thousand Dollars ($1,000.00).

C. All fines collected under this section shall be deposited to the Boating Safety Education Fund administered by the State Boating Law Administrator as designated by the Commissioner of Public Safety for the purpose of establishing, maintaining and operating a program of boating safety education throughout the State of Oklahoma.

D. A court may defer the imposition of a fine and place a defendant on probation for a period not to exceed sixty (60) days if the defendant:

1. Is a first-time violator of a provision of this section;

2. Pleads guilty or nolo contendere or is found guilty;

3. Requests permission from the court to attend a boating safety education course; and

4. Successfully completes a boating safety education course approved by the Department of Public Safety during the probation period.

E. Any person producing proof in court that a valid Boating Safety Education Certificate or equivalent form recognized by the Department of Public Safety reflecting such person has successfully completed a boating safety education course or is exempt from such course was in effect at the time of the alleged offense of Section 2 of this act shall be entitled to dismissal of such charge upon payment of court costs. If such proof is provided within two (2) regular business days after the violation, the charge shall be dismissed without payment of court costs.

Added by Laws 2006, c. 228, § 5, eff. Jan. 1, 2007.

§63-4236. Boating Safety Education Fund.

There is hereby created in the State Treasury a revolving fund for the Department of Public Safety to be designated the "Boating Safety Education Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of fine monies collected pursuant to Section 4235 of this title and any monies contributed to the fund from any other source. All monies accruing to the credit of such fund are hereby appropriated and shall be budgeted and expended by the Department for the exclusive purposes of establishing and maintaining a boating safety education program throughout the State of Oklahoma. Expenditures from such fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.
Added by Laws 2006, c. 228, § 6, eff. Jan. 1, 2007. Amended by Laws 2012, c. 304, § 522.

§63-4251. Short title.

This act shall be known and may be cited as the "Vessel and Motor Chop Shop, Stolen and Altered Property Act".
Added by Laws 1997, c. 146, § 1, eff. Nov. 1, 1997.

§63-4252. Definitions.

In addition to the terms defined by the Oklahoma Vessel and Motor Registration Act, Section 4002 et seq. of Title 63 of the Oklahoma Statutes, and the terms defined by the Oklahoma Boating Safety Regulation Act, Section 4201 et seq. of Title 63 of the Oklahoma Statutes, for the purposes of the Vessel and Motor Chop Shop, Stolen and Altered Property Act:

1. "Chop shop" means any building, lot or other premises where one or more persons are or have been knowingly engaged in altering, destroying, disassembling, dismantling, reassembling, or knowingly storing any vessel or motor, or vessel or motor part known to be illegally obtained by theft, fraud or conspiracy to defraud, in order to either:

a. alter, counterfeit, deface, destroy, disguise, falsify, forge, obliterate, or remove the identity, including the hull identification number, manufacturer's serial number or other identification number of such vessel or motor or vessel or motor part, in order to misrepresent the identity of such vessel or motor or vessel or motor part, or to prevent the identification of such vessel or motor or vessel or motor part, or

b. sell or dispose of such vessel or motor or vessel or motor part; and

2. "Unidentifiable" means that the uniqueness of a vessel or motor or vessel or motor part cannot be established by either expert law enforcement investigative personnel specially trained and experienced in vessel or motor theft investigative procedures and vessel or motor identification examination techniques, or by expert employees of not-for-profit vessel or motor theft prevention agencies specially trained and experienced in vessel or motor theft investigation procedures and vessel or motor identification examination techniques.

Added by Laws 1997, c. 146, § 2, eff. Nov. 1, 1997.

§63-4253. Crimes and penalties - Exceptions - Punishment for second and subsequent offenses - Restitutions.

A. Any person who knowingly and with intent that a violation of this section be committed:

1. Owns, operates, or conducts a chop shop;

2. Transports any vessel or motor or vessel or motor part to or from a location knowing it to be a chop shop; or

3. Sells, transfers, purchases, or receives any vessel or motor or vessel or motor part either to or from a location knowing it to be a chop shop,

upon conviction, is guilty of a felony, punishable by imprisonment for not more than ten (10) years, or by a fine of not more than One Hundred Thousand Dollars ($100,000.00), or both such imprisonment and fine.

B. Any person who knowingly alters, counterfeits, defaces, destroys, disguises, falsifies, forges, obliterates, or knowingly removes a hull identification number, manufacturer's serial number or other identification number with the intent to misrepresent the identity or prevent the identification of a vessel or motor or vessel or motor part, upon conviction, is guilty of a felony, punishable by imprisonment for not more than ten (10) years, or by a fine of not more than One Hundred Thousand Dollars ($100,000.00), or both such imprisonment and fine.

C. 1. Any person who buys, disposes, sells, transfers, or possesses a vessel or motor or vessel or motor part, with knowledge that the hull identification number, manufacturer's serial number or other identification number of the vessel or motor or vessel or motor part has been altered, counterfeited, defaced, destroyed, disguised, falsified, forged, obliterated, or removed, upon conviction, is guilty of a felony, punishable by imprisonment for not more than five (5) years, or by a fine of not more than Fifty Thousand Dollars ($50,000.00), or both such imprisonment and fine.

2. The provisions of paragraph 1 of this subsection shall not apply to a vessel or motor scrap processor who, in the normal legal

course of business and in good faith, processes a vessel or motor or vessel or motor part by crushing, compacting, or other similar methods, provided that any hull identification number, manufacturer's serial number or other identification number is not removed from the vessel or motor or vessel or motor part prior to or during any such processing.

3. The provisions of paragraph 1 of this subsection shall not apply to any owner or authorized possessor of a vessel or motor or vessel or motor part which has been recovered by law enforcement authorities after having been stolen or where the condition of the hull identification number, manufacturer's serial number or other identification number of the vessel or motor or vessel or motor part is known to or has been reported to law enforcement authorities. It shall be presumed that law enforcement authorities have knowledge of all hull identification numbers, manufacturer's serial numbers or other identification numbers on a vessel or motor or vessel or motor part which are altered, counterfeited, defaced, disguised, falsified, forged, obliterated, or removed, when law enforcement authorities deliver or return the vessel or motor or vessel or motor part to its owner or authorized possessor after it has been recovered by law enforcement authorities after having been reported stolen.

D. A person commits an attempt when, with intent to commit a violation proscribed by subsection A, B or C of this section, the person does any act which constitutes a substantial step toward the commission of the violation proscribed by subsection A, B or C of this section, and upon conviction is guilty of a felony, punishable by imprisonment for not more than five (5) years, or by a fine of not more than Fifty Thousand Dollars ($50,000.00), or both such imprisonment and fine.

E. A person commits conspiracy when, with an intent that a violation proscribed by subsection A, B or C of this section be committed, the person agrees with another to the commission of the violation proscribed by subsection A, B or C of this section, and upon conviction is guilty of a felony, punishable by imprisonment for not more than two (2) years, or by a fine of not more than Twenty-five Thousand Dollars ($25,000.00), or both such imprisonment and fine. No person may be convicted of conspiracy under this section unless an act in furtherance of such agreement is alleged and proved to have been committed by that person or a coconspirator.

F. A person commits solicitation when, with intent that a violation proscribed by subsection A, B or C of this section be committed, the person commands, encourages, or requests another to commit the violation proscribed by subsection A, B or C of this section, and upon conviction is guilty of a felony, punishable by imprisonment for not more than two (2) years, or by a fine of not

more than Ten Thousand Dollars ($10,000.00), or both such imprisonment and fine.

G. A person commits aiding and abetting when, either before or during the commission of a violation proscribed by subsection A, B or C of this section, with the intent to promote or facilitate such commission, the person aids, abets, agrees or attempts to aid another in the planning or commission of the violation proscribed by subsection A, B or C of this section, and upon conviction is guilty of a felony, punishable by imprisonment for not more than one (1) year, or by a fine of not more than Five Thousand Dollars ($5,000.00), or both such imprisonment and fine.

H. A person is an accessory after the fact who maintains, assists, or gives any other aid to an offender while knowing or having reasonable grounds to believe the offender to have committed a violation under subsection A, B, C, D, E, F or G of this section, and upon conviction is guilty of a felony, punishable by imprisonment for not more than one (1) year, or by a fine of not more than Five Thousand Dollars ($5,000.00), or both such imprisonment and fine.

I. No prosecution shall be brought and no person shall be convicted of any violation under this section, where acts of the person, otherwise constituting a violation, were done in good faith in order to comply with the laws or regulations of any state or territory of the United States, or of the federal government of the United States.

J. The sentence imposed upon a person convicted of any violation of this section shall not be reduced to less than one (1) year imprisonment for a second conviction of any violation, or less than five (5) years for a third or subsequent conviction of any violation of this section, and no sentence imposed upon a person for a second or subsequent conviction of any violation of this section shall be suspended or reduced, until such person shall have served the minimum period of imprisonment provided for herein. A person convicted of a second or subsequent violation of this section shall not be eligible for probation, parole, furlough or work release.

K. 1. In addition to any other punishment, a person who violates this section shall be ordered to make restitution to the lawful owner or owners of the stolen vessel or motor or the stolen vessel or motor part or parts, or to the owner's insurer to the extent that the owner has been compensated by the insurer, and to any other person for any financial loss sustained as a result of a violation of this section.

Financial loss shall include, but not be limited to, loss of earnings, out-of-pocket and other expenses, repair and replacement costs and claims payments. "Lawful owner" shall include an innocent bona fide purchaser for value of a stolen vessel or motor or stolen vessel or motor part who does not know that the vessel or motor or

part is stolen; or an insurer to the extent that such insurer has compensated a bona fide purchaser for value.

2. The court shall determine the extent and method of restitution. In an extraordinary case, the court may determine that the best interests of the victim and justice would not be served by ordering restitution. In any such case, the court shall make and enter specific written findings on the record concerning the extraordinary circumstances presented which militated against restitution.

Added by Laws 1997, c. 146, § 3, eff. Nov. 1, 1997.

§63-4254. Seizure of property.

A. Any tool, implement, or instrumentality, including, but not limited to, a vessel or motor or vessel or motor part, used or possessed in connection with any violation of Section 3 of this act may be seized by a member of a state or local law enforcement agency when:

1. The seizure is incident to inspection under an administrative inspection warrant;

2. The seizure is incident to a search made under a search warrant;

3. The seizure is incident to a lawful arrest;

4. The seizure is made pursuant to a valid consent to search;

5. The property seized has been the subject of a prior judgment in favor of the state in a criminal proceeding, or in an injunction or forfeiture proceeding under Section 6 of this act; or

6. There are reasonable grounds to believe that the property is directly or indirectly dangerous to health or safety.

B. When property is seized under this section, the seizing agency may:

1. Place the property under seal; or

2. Remove the property to a place selected and designated by the seizing agency.

Added by Laws 1997, c. 146, § 4, eff. Nov. 1, 1997.

§63-4255. Forfeiture of property.

A. The following are subject to forfeiture unless obtained by theft, fraud or conspiracy to defraud and the rightful owner is known or can be identified and located:

1. Any tool;

2. Any implement; or

3. Any instrumentality, including, but not limited to, any vessel or motor or vessel or motor part, whether owned or unowned by the person from whose possession or control it was seized, which is used or possessed either in violation of Section 3 of this act or to promote or facilitate a violation of Section 3 of this act.

B. Any vessel or motor, other conveyance, or vessel or motor part used by any person as a common carrier is subject to forfeiture under this section where the owner or other person in charge of the vessel or motor, other conveyance, or vessel or motor part is a consenting party to a violation of Section 3 of this act.

C. No vessel or motor, vessel or motor part, other conveyance, tool, implement, or instrumentality is subject to forfeiture under this section by reason of any act or omission which the owner proves to have been committed or omitted without the owner's knowledge or consent.

D. 1. Seizing agencies shall utilize their best efforts to identify any seized vessel or motor or vessel or motor part to determine ownership or the identity of any other person having a right or interest in a seized vessel or motor or vessel or motor part. In its reasonable identification and owner location attempts, the seizing agency shall cause the National Crime Information Center (NCIC) to be searched for stolen or wanted information on vessels or motors similar to the seized vessel or motor or consistent with the seized vessel or motor part.

2. Where a vessel or motor or vessel or motor part has an apparent value in excess of One Thousand Dollars ($1,000.00):

a. the seizing agency shall consult with an expert of the type specified in Section 2 of this act, and

b. the seizing agency shall also request searches of the on-line and off-line files of the National Crime Information Center (NCIC) when the state law enforcement files have been searched with negative results.

E. A forfeiture of a vessel or motor, vessel or motor part, or other conveyance encumbered by a bona fide security interest is subject to the interest of the secured party where the secured party neither had knowledge of nor consented to the act or omission forming the ground for the forfeiture.

F. Property described in subsection A of this section seized and held for forfeiture shall not be subject to replevin and is subject only to the order and judgments of a court of competent jurisdiction hearing the forfeiture proceedings.

G. 1. The district attorney in the county where the seizure occurs shall bring an action for forfeiture in a court of competent jurisdiction. The forfeiture action shall be brought within sixty (60) days from the date of seizure except where the district attorney in the sound exercise of discretion determines that no forfeiture action should be brought because of the rights of property owners, lienholders, or secured creditors, or because of exculpatory, exonerating, or mitigating facts and circumstances.

2. The district attorney shall give notice of the forfeiture proceeding by mailing a copy of the complaint in the forfeiture

proceeding to each person whose right, title, or interest is of record in the Oklahoma Tax Commission, the Department of Public Safety, the Federal Aviation Agency, or any other department of the state, or any other state or territory of the United States, or of the federal government if such property is required to be registered in any such department.

3. Notice of the proceeding shall be given to any such other person as may appear, from the facts and circumstances, to have any right, title, or interest in or to the property.

4. The owner of the property, or any person having, or claiming, right, title, or interest in the property may within sixty (60) days after the mailing of such notice file a verified answer to the complaint and may appear at the hearing on the action for forfeiture.

5. The district attorney shall show at a forfeiture hearing, by a preponderance of the evidence, that such property was used in the commission of a violation of Section 3 of this act, or was used or possessed to facilitate such violation.

6. The owner of property may show by a preponderance of the evidence that the owner did not know, and did not have reason to know, that the property was to be used or possessed in the commission of any violation or that any of the exceptions to forfeiture are applicable.

7. Unless the district attorney shall make the showing required of it, the court shall order the property released to the owner. Where the prosecutor has made such a showing, the court may order:

a. the property be destroyed by the agency which seized it or some other agency designated by the court,

b. the property be delivered and retained for use by the agency which seized it or some other agency designated by the court, or

c. the property be sold at public sale.

H. A copy of a forfeiture order shall be filed with the sheriff of the county in which the forfeiture occurs and with each federal or state department with which such property is required to be registered. Such order, when filed, constitutes authority for the issuance to the agency to whom the property is delivered and retained for use or to any purchaser of the property of a title certificate, registration certificate, or other special certificate as may be required by law considering the condition of the property.

I. Proceeds from sale at public auction, after payment of all reasonable charges and expenses incurred by the agency designated by the court to conduct the sale in storing and selling the property, shall be paid to the general fund of the county of seizure or treasury of the governmental unit employing the seizing agency.

J. No vessel or motor, either seized under Section 4 of this act or forfeited under this section, shall be released by the

seizing agency or used or sold by an agency designated by the court unless any altered, counterfeited, defaced, destroyed, disguised, falsified, forged, obliterated, or removed hull identification number, manufacturer's serial number or other identification number is corrected by the issuance and affixing of either an assigned or replacement hull identification number plate, manufacturer's serial number plate or other identification number plate as may be appropriate under laws or regulations of this state.

K. No motor part having any altered, counterfeited, defaced, destroyed, disguised, falsified, forged, obliterated, or removed hull identification number, manufacturer's serial number or other identification number shall be disposed of upon forfeiture except by destruction thereof, except that this provision shall not apply to any vessel or motor part which is assembled with and constitutes part of a vessel or motor.

L. No vessel or motor or vessel or motor part shall be forfeited under this section solely on the basis that it is unidentifiable. Instead of forfeiture, any seized vessel or motor or vessel or motor part which is unidentifiable shall be the subject of a written report sent by the seizing agency to the Department of Public Safety which report shall include a description of the vessel or motor or vessel or motor part, its color, if any, the date, time and place of its seizure, the name of the person from whose possession or control it was seized, the grounds for its seizure, and the location where the same is held or stored.

M. When a seized unidentifiable vessel or motor or vessel or motor part has been held for sixty (60) days or more after the notice to the Department of Public Safety specified in subsection L of this section has been given, the seizing agency or its agent shall cause the vessel or motor or vessel or motor part to be sold at public sale to the highest bidder. Notice of the time and place of sale shall be posted in a conspicuous place for at least thirty (30) days prior to the sale on the premises where the vessel or motor or vessel or motor part has been stored.

N. When a seized unidentifiable vessel or motor or vessel or motor part has an apparent value of One Thousand Dollars ($1,000.00) or less, the seizing agency shall authorize the disposal of the vessel or motor or vessel or motor part, provided that no such disposition shall be made less than sixty (60) days after the date of seizure.

O. The proceeds of the public sale of an unidentifiable vessel or motor or vessel or motor part shall be deposited in the General Revenue Fund of the state, or treasury of the governmental unit employing the seizing agency after deduction of any reasonable and necessary towing and storage charges.

P. Seizing agencies shall utilize their best efforts to arrange for the towing and storing of vessels or motors and vessel or motor

parts in the most economical manner possible. In no event shall the owner of a vessel or motor or a vessel or motor part be required to pay more than the minimum reasonable costs of towing and storage.

Q. A seized vessel or motor or vessel or motor part that is neither forfeited nor unidentifiable shall be held subject to the order of the court in which the criminal action is pending or, if a request for its release from such custody is made, until the district attorney has notified the defendant or the defendant's attorney of such request and both the prosecution and defense have been afforded a reasonable opportunity for an examination of the property to determine its true value and to produce or reproduce, by photographs or other identifying techniques, legally sufficient evidence for introduction at trial or other criminal proceedings. Upon expiration of a reasonable time for the completion of the examination, which in no event shall exceed fourteen (14) days from the date of service upon the defense of the notice of request for return of property as provided herein, the property shall be released to the person making such request after satisfactory proof of such person's entitlement to the possession thereof. Notwithstanding the foregoing, upon application by either party with notice to the other, the court may order retention of the property if it determines that retention is necessary in the furtherance of justice.

R. When a seized vessel or motor is forfeited, restored to its owner, or disposed of as unidentifiable, the seizing agency shall retain a report of the transaction for a period of at least one (1) year from the date of the transaction.

S. When an applicant for a certificate of title or salvage certificate presents to the Oklahoma Tax Commission proof that the applicant purchased or acquired a vessel or motor at a public sale conducted pursuant to this section and such fact is attested to by the seizing agency, the Oklahoma Tax Commission shall issue a certificate of title, salvage certificate for the vessel or motor upon receipt of the statutory fee, properly executed application for a certificate of title, or other certificate of ownership, and the affidavit of the seizing agency that a state-assigned number was applied for and affixed to the vessel or motor prior to the time that the vessel or motor was released by the seizing agency to the purchaser.

Added by Laws 1997, c. 146, § 5, eff. Nov. 1, 1997.

§63-4256. Civil proceedings.

A. The Attorney General, any district attorney or any aggrieved person may institute civil proceedings against any person in any court of competent jurisdiction seeking relief from conduct constituting a violation of any provision of the Vessel and Motor Chop Shop, Stolen and Altered Property Act. If the plaintiff in

such a proceeding proves the alleged violation, or its threat, by a preponderance of the evidence, any court of competent jurisdiction, after due provision for the rights of innocent persons, shall grant relief by entering any appropriate order or judgment, including, but not limited to:

1. Ordering any defendant to be divested of any interest in any property;

2. Imposing reasonable restrictions upon the future activities or investments of any defendant, including prohibiting any defendant from engaging in the same type of endeavor as the defendant was engaged in previously;

3. Ordering the suspension or revocation of a license, permit, or prior approval granted by any public agency or any other public authority; or

4. Ordering the surrender of the charter of a corporation organized under the laws of the state or the revocation of a certificate authorizing a foreign corporation to conduct business within the state upon finding that the board of directors or a managerial agent acting on behalf of the corporation, in conducting the affairs of the corporation, has authorized or engaged in conduct made unlawful by the Vessel and Motor Chop Shop, Stolen and Altered Property Act and that, for the prevention of future criminal conduct, the public interest requires the charter of the corporation be surrendered and the corporation dissolved or the certificate revoked.

B. In a proceeding under this section, injunctive relief shall be granted in conformity with the principles that govern the granting of relief from injury or threatened injury in other cases, but no showing of special or irreparable injury shall have to be made. Pending final determination of a proceeding under this section, a temporary restraining order or a preliminary injunction may be issued upon a showing of immediate danger of significant injury, including the possibility that any judgment for money damages might be difficult to execute, and, in a proceeding initiated by an aggrieved person, upon the execution of proper bond against injury for an injunction improvidently granted.

C. Any person injured, directly or indirectly, by conduct constituting a violation by any person of Section 3 of this act shall, in addition to any other relief, have a cause of action for threefold the actual damages sustained by the person.

D. A final judgment or decree rendered against the defendant in any civil or criminal proceeding shall estop the defendant in any subsequent civil action or proceeding brought by any person as to all matters as to which the judgment or decree would be an estoppel as between the parties to the civil or criminal proceeding.

E. Notwithstanding any other provision of law providing a shorter period of limitations, a civil action under this section may

be commenced at any time within five (5) years after the conduct made unlawful under Section 3 of this act terminates or the cause of action accrues or within any longer statutory period that may be applicable. If any action is brought by a prosecutor to punish, prevent or restrain any activity made unlawful under Section 3 of this act, the running of the period of limitations shall be suspended during the pendency of such action and for two (2) years following its termination.

F. Personal service of any process in an action under this section may be made upon any person outside the state if the person has engaged in any conduct constituting a violation of Section 3 of this act in this state. The person shall be deemed to have thereby submitted to the jurisdiction of the courts of this state for the purposes of this provision.

G. Obtaining any civil remedy under this section shall not preclude obtaining any other civil or criminal remedy under either this act or any other provision of law. Civil remedies under this section are supplemental and not mutually exclusive.

Added by Laws 1997, c. 146, § 6, eff. Nov. 1, 1997.

§63-4257. Criminal proceedings.

In addition to the power of the Attorney General or any district attorney to institute civil proceedings under Section 6 of this act, the Attorney General or any district attorney is empowered to institute criminal prosecutions for a violation of Section 3 of this act in any court of competent jurisdiction.

Added by Laws 1997, c. 146, § 7, eff. Nov. 1, 1997.

§63-5000.24. Medicaid Buy-In Program.

A. The Oklahoma Health Care Authority, following directives of and upon approval of the Health Care Financing Administration, is directed to implement a Medicaid Buy-In Program for persons with disabilities, if funds become available. Components of such program shall include, but not be limited to:

1. Allowing individuals with disabilities who are sixteen (16) years of age and over, but under sixty-five (65) years of age, and who, except for earned income, would be eligible to receive Supplemental Security Income (SSI) benefits, regardless of whether they have ever received Supplemental Security Income (SSI) cash benefits, the option of purchasing Medicaid coverage that will enable individuals with disabilities to gain and/or maintain employment and reduce their dependency on existing cash benefit programs;

2. Removing work disincentives that inhibit individuals with disabilities from engaging in work that is commensurate with their abilities and capabilities;

3. Developing an infrastructure within and outside state government that supports efforts to enhance employment opportunities for individuals with disabilities; and

4. Ensuring meaningful input in the design, implementation, and evaluation of programs, policies, and procedures developed under such program by individuals with disabilities and other interested parties.

B. The Oklahoma Health Care Authority Board shall promulgate any rules necessary to implement provisions of the Oklahoma Ticket to Work and Work Incentives Improvement Act regarding the Medicaid Buy-In Program.

Added by Laws 2001, c. 365, § 3, emerg. eff. June 4, 2001.

§63-5000.25. Results-based funding pilot project.

A. The Oklahoma Health Care Authority, upon approval of the Health Care Financing Administration, is directed to develop a results-based funding pilot project for eligible persons who participate in the Oklahoma Medicaid program and who are currently receiving outpatient behavioral health services, if funds become available.

B. As used in this section:

1. “Results-based funding” means an approach which emphasizes performance outcome measures, accountability of programmatic results, program results showing cost efficiency and effectiveness for the delivery of such program service, and consumer choice and satisfaction; and

2. "Medicaid" means the medical assistance program established in Title XIX of the Social Security Act, 42 U.S.C.A., Section 1396 et seq., and administered in this state by the Oklahoma Health Care Authority.

Added by Laws 2001, c. 365, § 4, emerg. eff. June 4, 2001.

§63-5003. Legislative declaration - Purpose.

A. The Legislature recognizes that the state is a major purchaser of health care services, and the increasing costs of such health care services are posing and will continue to pose a great financial burden on the state. It is the policy of the state to provide comprehensive health care as an employer to state employees and officials and their dependents and to those who are dependent on the state for necessary medical care. It is imperative that the state develop effective and efficient health care delivery systems and strategies for procuring health care services in order for the state to continue to purchase the most comprehensive health care possible.

B. It is therefore incumbent upon the Legislature to establish the Oklahoma Health Care Authority whose purpose shall be to:

1. Purchase state and education employees' health care benefits and Medicaid benefits;

2. Study all state-purchased and state-subsidized health care, alternative health care delivery systems and strategies for the procurement of health care services in order to maximize cost containment in these programs while ensuring access to quality health care; and

3. Make recommendations aimed at minimizing the financial burden which health care poses for the state, its employees and its charges, while at the same time allowing the state to provide the most comprehensive health care possible.

Added by Laws 1993, c. 332, § 1.

§63-5004. Short title.

Sections 1 through 14 of this act shall be known and may be cited as the "Oklahoma Health Care Authority Act".

Added by Laws 1993, c. 332, § 2.

§63-5005. Definitions.

For purposes of the Oklahoma Health Care Authority Act:

1. "Administrator" means the chief executive officer of the Authority;

2. "Authority" means the Oklahoma Health Care Authority;

3. "Board" means the Oklahoma Health Care Authority Board;

4. "Health services provider" means health insurance carriers, pre-paid health plans, hospitals, physicians and other health care professionals, and other entities who contract with the Authority for the delivery of health care services to state and education employees and persons covered by the state Medicaid program; and

5. "State-purchased health care" or "state-subsidized health care" means medical and health care, pharmaceuticals and medical equipment purchased with or supported by state and federal funds through the Oklahoma Health Care Authority, the Department of Mental Health and Substance Abuse Services, the State Department of Health, the Department of Human Services, the Department of Corrections, the Department of Veterans Affairs, other state agencies administering state-purchased or state-subsidized health care programs, the Oklahoma State Regents for Higher Education, the State Board of Education and local school districts.

Added by Laws 1993, c. 332, § 3. Amended by Laws 1997, c. 109, § 1, eff. Nov. 1, 1997.

§63-5006. Oklahoma Health Care Authority - Creation - Powers and duties - Personnel.

A. There is hereby created the Oklahoma Health Care Authority. The Authority shall have the power and duty to:

1. Purchase health care benefits for Medicaid recipients, and others who are dependent on the state for necessary medical care, as specifically authorized by law;

2. Enter into contracts for the delivery of state-purchased health care and establish standards and criteria which must be met by entities to be eligible to contract with the Authority for the delivery of state-purchased health care;

3. Develop a proposed standard basic health care benefits package or packages to be offered by health services providers, for Medicaid recipients;

4. Study all matters connected with the provision of state-purchased and state-subsidized health care coverage;

5. Develop and submit plans, reports and proposals, provide information and analyze areas of public and private health care interaction pursuant to the provisions of the Oklahoma Health Care Authority Act;

6. Serve as a resource for information on state-purchased and state-subsidized health care access, cost containment and related health issues;

7. Administer programs and enforce laws placed under the jurisdiction of the Authority pursuant to the Oklahoma Health Care Authority Act, and such other duties prescribed by law;

8. Collaborate with and assist the Insurance Commissioner in the development of a Uniform Claim Processing System for use by third-party payors and health care providers;

9. Collaborate with and assist the State Department of Health with the development of licensure standards and criteria for pre-paid health plans; and

10. Exercise all incidental powers which are necessary and proper to carry out the purposes of the Oklahoma Health Care Authority Act.

B. All positions within the Authority shall be unclassified until approval of the annual business and personnel plan submitted by January 1, 1995, by the Governor and the Legislature. In the annual business plan submitted January 1, 1995, the Board shall include a personnel plan which shall list, describe and justify all unclassified positions within the Authority and their compensation. All other employees and positions shall be classified and subject to the provisions of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act.

Added by Laws 1993, c. 332, § 4. Amended by Laws 1995, c. 204, § 6, eff. July 1, 1995; Laws 1999, c. 87, § 1, emerg. eff. April 13, 1999.

§63-5007. Oklahoma Health Care Authority Board.

A. There is hereby created the Oklahoma Health Care Authority Board. On and after July 1, 1994, as the terms of the initially

appointed members expire, the Board shall be composed of seven appointed members who shall serve for terms of four (4) years and shall be appointed as follows:

1. Two members shall be appointed by the President Pro Tempore of the Senate;

2. Two members shall be appointed by the Speaker of the House of Representatives; and

3. Three members shall be appointed by the Governor. Two of the members appointed by the Governor shall be consumers.

B. Members appointed pursuant to this paragraph, with the exception of the consumer members, shall include persons having experience in medical care, health care services, health care delivery, health care finance, health insurance and managed health care. Consumer members shall have no financial or professional interest in medical care, health care services, health care delivery, health finance, health insurance or managed care. In making the appointments, the appointing authority shall also give consideration to urban, rural, gender and minority representation.

C. 1. As the terms of office of members appointed before July 1, 1995, expire, appointments made on or after July 1, 1995, shall be subject to the following requirements:

a. One member appointed by the Governor shall be a resident of the First Congressional District. The term of office of the member appointed by the Governor and serving as of the effective date of this act shall expire on September 1, 2003;

b. One member appointed by the President Pro Tempore of the Senate shall be a resident of the Second Congressional District and a consumer. The term of office of the member appointed by the President Pro Tempore of the Senate and serving as of the effective date of this act shall expire on September 1, 1999;

c. One member appointed by the President Pro Tempore of the Senate shall be a resident of the Third Congressional District. The term of office of the member appointed by the President Pro Tempore of the Senate and serving as of the effective date of this act shall expire on September 1, 2004;

d. One member appointed by the Speaker of the House of Representatives shall be a resident of the Fourth Congressional District. The term of office of the member appointed by the Speaker of the House of Representatives and serving as of the effective date of this act shall expire on September 1, 2001;

e. One member appointed by the Speaker of the House of Representatives shall be a resident of the Fifth Congressional District and a consumer. The term of

office of the member appointed by the Speaker of the House of Representatives and serving as of the effective date of this act shall expire on September 1, 1998;

f. One member appointed by the Governor shall be a resident of the Sixth Congressional District and a consumer. The term of office of the member appointed by the Governor and serving as of the effective date of this act shall expire on September 1, 2000; and

g. The second consumer member appointed by the Governor shall be appointed at large. The term of office of the member appointed by the Governor and serving as of the effective date of this act shall expire on September 1, 2002.

2. Appointments made subsequent to the effective date of this act shall not be restricted to any particular congressional district. Appointments made after July 1 of the year in which a redrawing of a congressional district becomes effective shall be from the state at large. However, no appointments may be made after July 1 of the year in which such modification becomes effective if such appointment would result in more than two members serving from the same modified district.

D. The terms of the members serving on the Board as of the effective date of this act shall expire on September 1 of the year in which the respective terms expire. Thereafter, as new terms begin, members shall be appointed to four-year staggered terms which shall expire on September 1. Should a member serve less than a four-year term, the term of office of the member subsequently appointed shall be for the remainder of the four-year term.

E. On and after July 1, 1994, any subsequently appointed administrator of the Authority shall be appointed by the Board. The administrator shall have the training and experience necessary for the administration of the Authority, as determined by the Board, including, but not limited to, prior experience in the administration of managed health care. The administrator shall serve at the pleasure of the Board.

F. The Board shall have the power and duty to:

1. Establish the policies of the Oklahoma Health Care Authority;

2. Appoint the Administrator of the Authority;

3. Adopt and promulgate rules as necessary and appropriate to carry out the duties and responsibilities of the Authority. The Board shall be the rulemaking body for the Authority; and

4. Adopt, publish and submit by January 1 of each year to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives appropriate administrative policies and the business plan for that year. All actions governed by said

administrative policies and annual business plan shall be examined annually in an independent audit.

G. 1. A vacancy in a position shall be filled in the same manner as provided in subsection A of this section.

2. A majority of the members of the Board shall constitute a quorum for the transaction of business and for taking any official action. Official action of the Board must have a favorable vote by a majority of the members present.

3. Members appointed pursuant to subsection A of this section shall serve without compensation but shall be reimbursed for expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act.

H. The Board and the Authority shall act in accordance with the provisions of the Oklahoma Open Meeting Act, the Oklahoma Open Records Act and the Administrative Procedures Act.

Added by Laws 1993, c. 332, § 5. Amended by Laws 1994, c. 282, § 2, eff. July 1, 1994; Laws 1995, c. 98, § 1, eff. July 1, 1995; Laws 1995, c. 204, § 7, eff. July 1, 1995; Laws 1998, c. 143, § 1, eff. July 1, 1998; Laws 2002, c. 375, § 13, eff. Nov. 5, 2002.

§63-5007.1. Oklahoma Medicaid Accountability and Outcomes Act.

A. This act shall be known and may be cited as the "Oklahoma Medicaid Accountability and Outcomes Act".

B. 1. Subject to the availability of funds, the Joint Legislative Oversight Committee for the Oklahoma Health Care Authority shall enter into a contract for a study of the Oklahoma Medicaid Program. The contract shall be executed with an organization having nationally recognized expertise in the area of health care and health care service delivery.

2. The study shall include the entire Oklahoma Medicaid Program, including the Medicaid managed care programs and services delivered pursuant to the Oklahoma Medicaid Program Reform Act of 2003.

3. The purpose of the study shall be to evaluate access to care, health care outcomes, and the quality and cost of health care and related services delivered through the Oklahoma Medicaid Program.

4. A report of the study and findings shall be made to the Oklahoma Health Care Authority Board, the Governor, and the appropriate committees of the Oklahoma State Senate and the Oklahoma House of Representatives.

Added by Laws 2002, c. 489, § 1, eff. Nov. 1, 2002. Amended by Laws 2003, c. 464, § 9, eff. July 1, 2003.

§63-5008. Administrator - Qualifications - Status - Powers and duties - Contract bidding process - Advisory committees.

A. The Administrator of the Authority shall have the training and experience necessary for the administration of the Authority, as determined by the Oklahoma Health Care Authority Board, including, but not limited to, prior experience in the administration of managed health care. The Administrator shall serve at the pleasure of the Board.

B. The Administrator of the Oklahoma Health Care Authority shall be the chief executive officer of the Authority and shall act for the Authority in all matters except as may be otherwise provided by law. The powers and duties of the Administrator shall include but not be limited to:

1. Supervision of the activities of the Authority;

2. Formulation and recommendation of rules for approval or rejection by the Oklahoma Health Care Authority Board and enforcement of rules and standards promulgated by the Board;

3. Preparation of the plans, reports and proposals required by the Oklahoma Health Care Authority Act, Section 5003 et seq. of this title, other reports as necessary and appropriate, and an annual budget for the review and approval of the Board;

4. Employment of such staff as may be necessary to perform the duties of the Authority including but not limited to an attorney to provide legal assistance to the Authority for the state Medicaid program; and

5. Establishment of a contract bidding process which:

   a. encourages competition among entities contracting with the Authority for state-purchased and state-subsidized health care; provided, however, the Authority may make patient volume adjustments to any managed care plan whose prime contractor is a state-sponsored, nationally accredited medical school. The Authority may also make education or research supplemental payments to state-sponsored, nationally accredited medical schools based on the level of participation in any managed care plan by managed care plan participants,

   b. coincides with the state budgetary process, and

   c. specifies conditions for awarding contracts to any insuring entity.

C. The Administrator may appoint advisory committees as necessary to assist the Authority with the performance of its duties or to provide the Authority with expertise in technical matters. Added by Laws 1993, c. 332, § 6. Amended by Laws 1994, c. 382, § 46, eff. Sept. 1, 1994; Laws 1995, c. 1, § 21, emerg. eff. Mar. 2, 1995; Laws 1995, c. 330, § 1, emerg. eff. June 8, 1995; Laws 1996, c. 3, § 11, emerg. eff. March 6, 1996.

NOTE: Laws 1994, c. 282, § 3 repealed by Laws 1995, c. 1, § 40, emerg. eff. Mar. 2, 1995. Laws 1995, c. 204, § 8 repealed by Laws 1996, c. 3, § 25, emerg. eff. March 6, 1996.

§63-5009. Development of managed care system - Administration of Oklahoma Medicaid Program.

A. On and after July 1, 1993, the Oklahoma Health Care Authority shall be the state entity designated by law to assume the responsibilities for the preparation and development for converting the present delivery of the Oklahoma Medicaid Program to a managed care system. The system shall emphasize:

1. Managed care principles, including a capitated, prepaid system with either full or partial capitation, provided that highest priority shall be given to development of prepaid capitated health plans;

2. Use of primary care physicians to establish the appropriate type of medical care a Medicaid recipient should receive; and

3. Preventative care.

The Authority shall also study the feasibility of allowing a private entity to administer all or part of the managed care system.

B. On and after January 1, 1995, the Authority shall be the designated state agency for the administration of the Oklahoma Medicaid Program.

1. The Authority shall contract with the Department of Human Services for the determination of Medicaid eligibility and other administrative or operational functions related to the Oklahoma Medicaid Program as necessary and appropriate.

2. To the extent possible and appropriate, upon the transfer of the administration of the Oklahoma Medicaid Program, the Authority shall employ the personnel of the Medical Services Division of the Department of Human Services.

3. The Department of Human Services and the Authority shall jointly prepare a transition plan for the transfer of the administration of the Oklahoma Medicaid Program to the Authority. The transition plan shall include provisions for the retraining and reassignment of employees of the Department of Human Services affected by the transfer. The transition plan shall be submitted to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives on or before January 1, 1995.

C. In order to provide adequate funding for the unique training and research purposes associated with the demonstration program conducted by the entity described in paragraph 7 of subsection B of Section 6201 of Title 74 of the Oklahoma Statutes, and to provide services to persons without regard to their ability to pay, the Oklahoma Health Care Authority shall analyze the feasibility of establishing a Medicaid reimbursement methodology for nursing

facilities to provide a separate Medicaid payment rate sufficient to cover all costs allowable under Medicare principles of reimbursement for the facility to be constructed or operated, or constructed and operated, by the organization described in paragraph 7 of subsection B of Section 6201 of Title 74 of the Oklahoma Statutes.
Added by Laws 1993, c. 332, § 7. Amended by Laws 1994, c. 282, § 4, eff. July 1, 1994; Laws 1995, c. 1, § 22, emerg. eff. March 2, 1995; Laws 1997, c. 292, § 11, eff. July 1, 1997; Laws 2000, c. 343, § 1, emerg. eff. June 6, 2000; Laws 2003, c. 464, § 10, eff. July 1, 2003; Laws 2004, c. 378, § 3, emerg. eff. June 3, 2004.
NOTE: Laws 1994, c. 103, § 1 repealed by Laws 1995, c. 1, § 40, emerg. eff. March 2, 1995.

§63-5009.1. Oklahoma Health Care Authority - Acceptance of federal grants - Appropriations in advance.

A. 1. The Oklahoma Health Care Authority may accept grants from the federal government of monies or services for the purpose of augmenting any assistance program or other program within the jurisdiction of the Authority or to reimburse the state for any such assistance payments.

2. The Authority shall comply with the requirements of any federal agency governing the federal grants in any manner not inconsistent with the Constitution and laws of this state.

B. The Authority may make apportionments in advance of funds under its control, in accordance with the requirements of the federal government, when such funds are to be matched in whole or in part by federal funds; provided, the provisions of this subsection shall not authorize the Authority to make apportionments in advance of such funds in violation of any constitutional or statutory restrictions or provisions.
Added by Laws 1996, c. 177, § 1, eff. Nov. 1, 1996.

§63-5009.2. Advisory Committee on Medical Care for Public Assistance Recipients.

A. The Advisory Committee on Medical Care for Public Assistance Recipients, created by the Oklahoma Health Care Authority, pursuant to 42 Code of Federal Regulations, Section 431.12, for the purpose of advising the Authority about health and medical care services, shall include among its membership the following:

1. Board-certified physicians and other representatives of the health professions who are familiar with the medical needs of low-income population groups and with the resources available and required for their care. The Advisory Committee shall, at all times, include at least one physician from each of the six classes of physicians listed in Section 725.2 of Title 59 of the Oklahoma Statutes; provided, however, such physicians shall be participating providers in the State Medicaid Plan;

2. Members of consumers' groups, including, but not limited to:
a. Medicaid recipients, and
b. representatives from each of the following consumer organizations which represent the interests of:
(1) people who are economically disadvantaged,
(2) children,
(3) the elderly,
(4) people with mental illness,
(5) people who are developmentally disabled, and
(6) people with alcohol or substance abuse problems;
3. The Director of the Department of Human Services; and
4. A member approved and appointed by the Oklahoma Academy of Pediatrics who shall:
a. monitor provider relations with the Oklahoma Health Care Authority, and
b. create a forum to address grievances.

B. The Advisory Committee shall meet bimonthly to review and make recommendations related to:
1. Policy development and program administration;
2. Policy changes proposed by the Authority prior to consideration of such changes by the Authority;
3. Financial concerns related to the Authority and the administration of the programs under the Authority; and
4. Other pertinent information related to the management and operation of the Authority and the delivery of health and medical care services.

C. 1. The Administrator of the Authority shall provide such staff support and independent technical assistance as needed by the Advisory Committee to enable the Advisory Committee to make effective recommendations.

2. The Advisory Committee shall elect from among its members a chair and a vice-chair. A majority of the members of the Advisory Committee shall constitute a quorum to transact business, but no vacancy shall impair the right of the remaining members to exercise all of the powers of the Advisory Committee.

3. Members shall not receive any compensation for their services, but shall be reimbursed pursuant to the provisions of the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

D. The Authority shall give due consideration to the comments and recommendations of the Advisory Committee in the Authority's deliberations on policies, administration, management and operation of the Authority.

Added by Laws 1992, c. 291, § 1, eff. Sept. 1, 1992. Amended by Laws 1996, c. 213, § 1, eff. Nov. 1, 1996. Renumbered from § 187.1 of Title 56 by Laws 1996, c. 213, § 2, eff. Nov. 1, 1996. Amended by Laws 2006, c. 315, § 17, emerg. eff. June 9, 2006.

§63-5009.3. Repealed by Laws 2001, c. 277, § 14, eff. July 1, 2001.

§63-5009.4. Advisory Task Force on SoonerCare – Duties.

A. The duties of the Advisory Task Force on SoonerCare shall include:

1. Addressing methods of educating SoonerCare members regarding access to and proper utilization of emergency medical services provided by hospitals and other health care providers;

2. Reviewing the eligibility determination process of the Department of Human Services to ensure accuracy on physician assignments and adequacy of education regarding availability of and access to services;

3. Reviewing issues related to notification of participants by contracting providers as a condition of payment;

4. Actively promoting equitable reimbursement rates for emergency room screening; and

5. Addressing patient and provider educational endeavors necessary for expansion of SoonerCare to the Aged, Blind and Disabled and Title XXI populations.

B. The Task Force shall make recommendations to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives no later than January 31, 2001.

Added by Laws 1999, c. 32, § 2, emerg. eff. April 5, 1999.

§63-5009.5. Acturarial certification of Medicaid managed care plan capitation rates.

Contracted Medicaid managed care plan capitation rates shall be certified as actuarially sound and shall reflect any Legislative or Authority programmatic or administrative changes. The results of the actuarial certification shall be disclosed to the public at least thirty (30) days prior to implementation of the modification.

Added by Laws 2002, c. 489, § 2, eff. Nov. 1, 2002.

§63-5009.6. Diabetes self-management training report.

A. The Oklahoma Health Care Authority shall examine the feasibility of a state plan amendment to the Oklahoma Medicaid Program for diabetes self-management training (DSMT).

B. By December 1, 2018, the Authority shall submit a report to the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Governor estimating the potential costs to the state, clinical findings, reviews of pilot projects and research from other states on the effects of DSMT on persons with a diabetes diagnosis.

C. Beginning July 1, 2019, and subject to the availability of funding, the Authority shall draft a state plan amendment for DSMT for persons with a diabetes diagnosis. The provisions of this

subsection shall only apply if the report required by subsection B of this section demonstrates DSMT to be evidence-based and essential to qualifying participants in the Oklahoma Medicaid Program.

D. As used in this section, "diabetes self-management training (DSMT)" means the process of facilitating the knowledge, skill and ability necessary for diabetes self-care. This process requires incorporating the patient's unique needs and experiences into an individualized education and support plan that promotes new behaviors and solutions, including, but not limited to, healthy eating, physical activity, self-monitoring and medication use. Added by Laws 2018, c. 34, § 1, eff. Nov. 1, 2018.

§63-5010. Analysis of state health care programs - Exploration of cost containment and delivery alternatives.

A. The Oklahoma Health Care Authority shall analyze the state-purchased and state-subsidized health care programs and explore options for cost containment and delivery alternatives for those programs that are consistent with the purposes of those programs, including, but not limited to:

1. Creation of economic incentives for the persons for whom the state purchases or subsidizes health care to appropriately utilize and purchase health care services, including the development of flexible benefit plans to offset increases in individual financial responsibility;

2. Utilization of provider arrangements that encourage cost containment and ensure access to quality care, including, but not limited to, prepaid delivery systems, utilization review, and prospective payment methods;

3. Coordination of state agency efforts to purchase drugs effectively;

4. Development of recommendations and methods for purchasing medical equipment and supporting services on a volume discount basis; and

5. Development of data systems to obtain utilization data from state-purchased and state-subsidized health care programs in order to identify cost centers, utilization patterns, provider and hospital practice patterns, and procedure costs.

B. 1. The Authority shall prepare for the Governor, the Legislature and the Joint Legislative Oversight Committee for the Oklahoma Health Care Authority an annual report on the savings realized and all costs incurred in the implementation of any drug cost containment programs including, but not limited to:

a. development and implementation of a drug prior authorization list, and

b. other uses of prior authorizations.

2. Costs shall include direct costs such as staffing, contracts and other resources used.

Added by Laws 1993, c. 332, § 8. Amended by Laws 2004, c. 218, § 1, eff. Nov. 1, 2004.

§63-5011. State-purchased health care benefits – Utilization and financial data review – Collection of cost and quality of service data.

A. The Authority shall:

1. Require utilization review and financial data review from participating entities which contract with the Authority for state-purchased and state-subsidized health care on a quarterly basis;

2. Centralize enrollment files for all persons covered by state-purchased and state-subsidized health care benefit plans;

3. Develop enrollment demographics on a plan-specific basis; and

4. Establish methods for collecting, analyzing, and disseminating information on the cost and quality of services rendered by health care providers to all persons covered by such plans.

B. The administrator may require that any entity that contracts for the delivery of services pursuant to a state-purchased or state-subsidized health care benefit plan administered by the Authority shall provide to said administrator all information deemed necessary to fulfill the administrator's duties as set forth in the Oklahoma Health Care Authority Act, Section 5003 et seq. of this title. All data related to claims and produced pursuant to the Oklahoma Health Care Authority Act shall be the property of this state.

C. Any savings realized pursuant to this section and Section 5009 of this title shall not be used to increase benefits unless such use is authorized by law.

Added by Laws 1993, c. 332, § 9. Amended by Laws 1994, c. 282, § 5, eff. July 1, 1994; Laws 1999, c. 87, § 2, emerg. eff. April 13, 1999.

§63-5011.1. State-purchased health care benefits – Optometrists to be permitted to provide vision care or medical diagnosis and treatment of the eye.

A. All state-purchased and state-subsidized health care benefit plans, including but not limited to Medicaid, which offer services for vision care or medical diagnosis and treatment for the eye shall allow optometrists to be providers of those services. Such state-purchased and state-subsidized health care benefit plans shall also require equal payment for the same services provided by an optometrist if the services are within the scope of practice of optometry.

B. With respect to optometric services, any state-purchased and state-subsidized health care benefit plan, including but not limited to Medicaid, which uses a gatekeeper or equivalent for referrals for

services for vision care or for medical diagnosis and treatment of the eye, shall require such covered services be provided on a referral basis within the medical group or network at the request of an enrollee who has a condition requiring vision care or medical diagnosis and treatment of the eye if:

1. A referral is necessitated in the judgment of the primary care physician; and

2. Treatment for the condition falls within the licensed scope of practice of an optometrist.

C. All state-purchased and state-subsidized health care benefit plans shall have a defined set of standards and procedures for selecting providers, including specialists, to serve enrollees. The standards and procedures shall be drafted in such a manner that they are applicable to all categories of providers and shall be utilized by the health plan in a manner that is without bias for or discrimination against a particular category or categories of providers.

D. No health care benefit plan specified by this section shall require a provider to have hospital privileges if hospital privileges are not usual and customary for the services the provider provides.

E. Nothing in this section shall be construed to:

1. Prohibit any state-purchased and state-subsidized health care benefit plan which offers services for vision care or medical diagnosis and treatment for the eye from determining the adequacy of the size of its network;

2. Prohibit an optometrist from agreeing to a fee schedule;

3. Limit, expand, or otherwise affect the scope of practice of optometry; or

4. Alter, repeal, modify or affect the laws of this state except where such laws are in conflict or are inconsistent with the express provisions of this section.

F. Existing state-purchased and state-subsidized health care benefit plans shall comply with the requirements of this section upon issuance or renewal on or after the effective date of this act. Added by Laws 2000, c. 54, § 3, eff. Nov. 1, 2000.

§63-5012. Submission of plans, proposals and recommendations to Legislature - Contents.

On or before January 1, 1996, the Authority shall submit plans, recommendations and proposals to the Governor and the Legislature regarding state-purchased and state subsidized health care. Said plans, proposals and recommendations shall include, but not be limited to:

1. A plan for local and regional health planning for health care delivery;

2. A proposal for the containment of health care costs;

3. In collaboration with the Oklahoma State Regents, a proposal for enhancing the number of primary care physicians and physician extenders graduating from schools in Oklahoma and remaining to practice within the state. The plan shall include recommendations for improving access to basic health care through more effective utilization of allied health care professionals and appropriate geographic distribution of physicians and other health care professionals;

4. A plan for facilitating the use of practice parameters based upon outcomes research;

5. A proposal for the utilization of Resource Based-Relative Value System for use as a rate schedule by third-party payors and health care providers; and

6. A plan to reduce liability exposure and expense for all health care providers.

Added by Laws 1993, c. 332, § 10.

§63-5013. Authority as resource for information on state health care access, cost containment and related health issues.

A. The Authority shall serve as a resource for information on state-purchased and state-subsidized health care access, cost containment and related health issues, and shall:

1. Provide data and information required by the Governor, the Legislature, or its committees, and to state agencies, institutions of higher education and cities, towns, counties and school districts and to private citizens and groups, within the limitations of the resources available to the Authority;

2. Participate with any state agency or institution of higher education in developing specific goals, programs, and performance monitoring systems to assist in the development of health care delivery in this state;

3. Conduct or contract for studies which are related to health care delivery, involving product or process innovation; and

4. Prepare, publish and distribute such studies, reports, bulletins and other materials as it considers appropriate regarding health care studies and other relevant health care topics. Provided that a copy of any material which evaluates health plans or health care providers shall be provided to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate at least sixty (60) days prior to public dissemination.

Added by Laws 1993, c. 332, § 11. Amended by Laws 1996, c. 355, § 1, eff. July 1, 1996.

§63-5013.1. Persons providing Medicaid home- and community-based personal care services pursuant to contract with Authority.

A. An individual who only provides Medicaid home- and community-based personal care services, pursuant to a contract with

the Oklahoma Health Care Authority, shall be exempt from the provisions of the Home Care Act, Section 1-1960 et seq. of Title 63 of the Oklahoma Statutes.

B. The Authority, with the assistance of the Aging Services Division of the Department of Human Services, shall develop qualifying criteria that comply with federal standards for personal care services under the Medicaid program for persons providing Medicaid home- and community-based personal care services pursuant to a contract with the Oklahoma Health Care Authority. Such criteria shall also include requirements for a criminal history investigation to be conducted on such persons pursuant to Section 1-1950.1 of Title 63 of the Oklahoma Statutes.

Added by Laws 1997, c. 219, § 3, emerg. eff. May 19, 1997.

§63-5014. Repealed by Laws 2004, c. 378, § 5, emerg. eff. June 3, 2004.

§63-5015. Review of state-purchased and state-subsidized health care programs and regulatory agencies - Report to Legislature.

The Oklahoma Health Care Authority shall review state-purchased and state-subsidized health care programs and health care regulatory agencies, including, but not limited to, medical services within the Department of Mental Health and Substance Abuse Services, the Department of Veterans Affairs, the Department of Human Services, the State Department of Health, the Oklahoma Medical Center, the State Education and Employees Group Insurance Board, and any other state-purchased and state-subsidized health care programs as deemed appropriate by the administrator, and submit to the Legislature, no later than December 1, 1995, an initial report including, but not limited to:

1. A description of the respective roles of these programs and agencies regarding health care cost containment;

2. A plan to increase the combined efficiency of these programs and agencies to control costs and maintain or improve access to quality care;

3. Methods to ensure coordination between these programs and agencies and the Authority;

4. An analysis of the real and potential impacts of cost shifting; and

5. Recommendations regarding structural changes in the state's current health care delivery system.

Added by Laws 1993, c. 332, § 13. Amended by Laws 1997, c. 109, § 3, eff. Nov. 1, 1997.

§63-5015.1. Legal division or unit.

A. The Oklahoma Health Care Authority Board shall establish a legal division or unit in the Oklahoma Health Care Authority. The

Administrator of the Oklahoma Health Care Authority may employ attorneys as needed, which may be on full-time and part-time basis. Provided the Oklahoma Health Care Authority shall not exceed the authorized full-time equivalent limit for attorneys as specified by the Legislature in the appropriations bill for the Authority. Except as otherwise provided by this section, such attorneys, in addition to advising the Board, Administrator and Authority personnel on legal matters, may appear for and represent the Board, Administrator and Authority in legal actions and proceedings.

B. The Legislature shall establish full-time-equivalent limits for attorneys employed by the Oklahoma Health Care Authority.

C. It shall continue to be the duty of the Attorney General to give official opinions to the Board, Administrator and Authority, and to prosecute and defend actions therefor, if requested to do so. The Attorney General may levy and collect costs, expenses of litigation and a reasonable attorney fee for such legal services from the Authority. The Attorney General is authorized to levy and collect costs, expenses and fees which exceed the costs associated with the salary and benefits of one attorney FTE position per fiscal year.

D. The Board, Administrator or Authority shall not contract for representation by private legal counsel unless approved by the Attorney General. Such contract for private legal counsel shall be in the best interests of the state.

E. 1. The Attorney General shall be notified by the Board or its counsel of all lawsuits against the Authority, its officers or employees that seek injunctive relief which would impose obligations requiring the expenditure of funds in excess of unencumbered monies in the agency's appropriations or beyond the current fiscal year.

2. The Attorney General shall review any such cases and may represent the interests of the state, if the Attorney General considers it to be in the best interest of the state to do so, in which case the Attorney General shall be paid as provided in subsection C of this section. Representation of multiple defendants in such actions may, at the discretion of the Attorney General, be divided with counsel for the Board, Administrator and Authority as necessary to avoid conflicts of interest.

Added by Laws 1995, c. 95, § 1, emerg. eff. April 13, 1995.

§63-5016. Oklahoma Health Care Authority Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma Health Care Authority to be designated the "Oklahoma Health Care Authority Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Authority, from any source. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Authority for

any purpose authorized by law. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.
Added by Laws 1993, c. 332, § 14. Amended by Laws 2012, c. 304, § 523.

§63-5017. Oklahoma Health Care Authority Federal Disallowance Fund.

There is hereby created in the State Treasury a fund for the Oklahoma Health Care Authority to be designated the "Oklahoma Health Care Authority Federal Disallowance Fund". The fund shall be a continuing fund, not subject to fiscal year limitations. It shall consist of monies received by the Oklahoma Health Care Authority which, in the opinion of the Oklahoma Health Care Authority Board, may be subject to federal disallowances and interest which may accrue on said receipts. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma Health Care Authority at the discretion of the Oklahoma Health Care Authority Board for eventual settlement of the appropriate pending disallowances. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

The Administrator of the Oklahoma Health Care Authority may request the Director of the Office of Management and Enterprise Services to transfer monies between the Oklahoma Health Care Authority Federal Disallowance Fund and any other fund of the authority, as needed for the expenditure of funds.
Added by Laws 1995, c. 96, § 1, eff. July 1, 1995. Amended by Laws 2012, c. 304, § 524.

§63-5018. Confidentiality of Medicaid applications and records - Disclosure to authorized representative.

All applications and records concerning any applicant or recipient under the Medicaid Program shall be confidential and shall be open to inspection only to persons duly authorized by the Oklahoma Health Care Authority, this state, or the United States, and for purposes directly related to plan administration. Provided, however, the Oklahoma Health Care Authority shall maintain a process to allow an authorized representative of a client of the State Medicaid Program to have access to confidential information when necessary for eligibility determination and the appeals process. For purposes of this section, "authorized representative" shall mean any person designated by a client of the State Medicaid Program to review confidential information about the client pertinent to eligibility determination and the appeals process. For purposes of this section, "purposes directly related to plan administration"

means establishing eligibility, determining the amount of medical assistance, providing services to recipients, conducting or assisting with an investigation or prosecution, or civil or criminal proceedings in relation to the administration of the State Medicaid Program.

Applications and records considered confidential are those which disclose:

1. The name and address of the recipient;
2. The medical services provided;
3. The recipient's social and economic circumstances;
4. The agency's evaluation of personal information;
5. The medical data which includes but is not limited to diagnosis and past history of disease and disability; and
6. Any information received for the purpose of verifying income eligibility and determining the amount of medical assistance payments.

Added by Laws 1995, c. 170, § 3, emerg. eff. May 8, 1995.

§63-5018.1. Concurrent applications by active duty military members.

If a person who is on active duty with the United States Armed Forces makes an application to the Oklahoma Health Care Authority to receive any type of benefits, either for himself or herself or for an immediate family member, and the person has previously made the same or a substantially similar application in another state which was pending at the time the person became a resident of this state, the Authority shall consider the application as if it had been made in this state at the time it was originally made in the other state.
Added by Laws 2015, c. 66, § 2, eff. Nov 1, 2015.

§63-5019. Repealed by Laws 2004, c. 378, § 5, emerg. eff. June 3, 2004.

§63-5020. Oklahoma Health Care Authority Medicaid Program Fund.

There is hereby created in the State Treasury a fund for the Oklahoma Health Care Authority to be designated the "Oklahoma Health Care Authority Medicaid Program Fund". The fund shall be a continuing fund, not subject to fiscal year limitations. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma Health Care Authority at the discretion of the Oklahoma Health Care Authority Board. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

The Administrator of the Oklahoma Health Care Authority may request the Director of the Office of Management and Enterprise

Services to transfer monies between the Oklahoma Health Care Authority Medicaid Program Fund and any other fund of the Authority, as needed for the expenditure of funds.
Added by Laws 1995, c. 306, § 6, eff. July 1, 1995. Amended by Laws 2012, c. 304, § 525.

§63-5021. Repealed by Laws 2004, c. 378, § 5, emerg. eff. June 3, 2004.

§63-5022. Repealed by Laws 2017, c. 324, § 3, emerg. eff. July 1, 2017.

§63-5022.1. Repealed by Laws 2017, c. 324, § 3, emerg. eff. July 1, 2017.

§63-5022.2. Nursing facilities liability insurance costs – Medicaid reimbursement.

The Oklahoma Health Care Authority shall promulgate rules which shall provide that the liability insurance costs of nursing facilities shall be allowable costs for purposes of Medicaid reimbursement.
Added by Laws 2000, c. 340, § 6, eff. July 1, 2000.

§63-5023. Adjustment of per diem rate – Medicaid savings.

Effective January 1, 2000, and every January thereafter, the Oklahoma Health Care Authority will adjust the nursing facility per diem rate in an amount equal to the total amount of the savings to the Medicaid program as a result of the automatic cost-of-living adjustment on Social Security benefits received by nursing home recipients, as published in the Federal Register.
Added by Laws 1999, c. 348, § 3, eff. July 1, 1999.

§63-5024. Incorporated physician providers – Income deferral programs.

A. 1. Effective July 1, 2001, the Oklahoma Health Care Authority is authorized to offer to eligible contracted incorporated physician providers, elective income deferral programs which can result in federal income tax advantages and other advantages to such providers and their employees. These deferral programs shall take into account present and future provisions of the United States Internal Revenue Code which now or in the future might have the beneficial effect of magnifying the after-tax value payments made by the state to incorporated physician providers.

2. The Oklahoma Health Care Authority may adopt a plan that provides for the investment of deferral amounts in life insurance or annuity contracts which offer a choice of underlying investment

options. Contract-issuing companies shall be limited to companies that are licensed to do business in this state.

3. As a condition of participation in these income deferral programs, all participating incorporated physician providers shall be subject to provisions for forfeiture of benefits for failure to maintain in force a Medicaid provider agreement and to furnish services to Medicaid recipients for a specified duration.

B. The Oklahoma Health Care Authority may consult with the State Treasurer and the Attorney General of the state for advice in establishing the program.

C. The Oklahoma Health Care Authority Board shall have the authority to promulgate rules regarding the operation of the program.

Added by Laws 2001, c. 147, § 2, emerg. eff. April 30, 2001.
Amended by Laws 2001, c. 317, § 6, emerg. eff. June 1, 2001; Laws 2002, c. 122, § 1.

§63-5025. Reimbursement methodology - Established.

The Oklahoma Health Care Authority may establish, with available funds, a reimbursement methodology that will enhance the reimbursement for services provided to Medicaid beneficiaries in emergency hospitals in rural areas of the state.

Added by Laws 2001, c. 317, § 2, eff. Nov. 1, 2001.

§63-5026. Medicaid prescription drug program – Definition of phenylketonuria.

A. The Oklahoma Health Care Authority Board shall, in administering the Medicaid prescription drug program, utilize the following definition for "phenylketonuria" to mean: An inborn error of metabolism attributable to a deficiency of or a defect in phenylalanine hydroxylase, the enzyme that catalyzes the conversion of phenylalanine to tyrosine. The deficiency permits the accumulation of phenylalanine and its metabolic products in the body fluids. The deficiency can result in mental retardation (phenylpyruvic oligophrenia), neurologic manifestations (including hyperkinesia, epilepsy, and microcephaly), light pigmentation, and eczema. The disorder is transmitted as an autosomal recessive trait and can be treated by administration of a diet low in phenylalanine.

B. The Oklahoma Health Care Authority Board shall promulgate any rules necessary to effectuate the provisions of this section.

Added by Laws 2005, c. 452, § 2, eff. Nov. 1, 2005.

§63-5027. Health care district.

A. As used in this section "health care district" means a subordinate health care entity that better promotes efficient administration of health care service delivery for counties with a

population of one hundred thousand (100,000) or less to eligible persons in this state.

B. A locally designated health care district shall:

1. Coordinate the delivery of health care services in local jurisdictions such as municipalities and counties; provided, however, jurisdictions containing multiple areas shall be contiguous and shall possess commonality as it relates to need;

2. Be authorized to adjust Medicaid provider rates above the state minimum established by the Oklahoma Health Care Authority;

3. Be authorized to contract with employer-sponsored health plans or private health plans to provide services to Medicaid and indigent beneficiaries; and

4. Be authorized to expand health care services or health care providers within health care districts.

C. Health care districts may be established by local communities wherein locally generated tax dollars are received for the benefit of local hospitals or other local health care services. The districts shall have the same boundaries as the area over which the locally assessed tax is levied.

D. Health care districts may be established by the governing boards of the hospitals located within the area over which the locally assessed tax for the benefit of the local hospital or other local health care service is levied. The governing board of the hospital shall be the governing board of the local health care district.

E. 1. Each health care district may certify to the Oklahoma Health Care Authority the amount of funds generated by tax assessment within the health care district for the benefit of the local hospital or other local health care services.

2. The Authority shall submit such information to the Centers for Medicare and Medicaid Services (CMS) for the purpose of applying for federal matching funds. The Authority shall submit any necessary applications for waivers to accomplish the provisions of this act.

F. The Oklahoma Health Care Authority Board is hereby directed to promulgate rules to enact the provisions of this section. The rules shall, at a minimum, address:

1. Internal establishment of local health care district accounts within the Authority including, but not limited to, procedures for remitting funds out of such accounts back to the local health care district; and

2. Methods for certifying funds for each local health care district and for reporting such amounts to the Centers for Medicare and Medicaid Services for federal matching purposes. The revenue for each health care district account shall consist of federal matching dollars received for such certified funds.

The Oklahoma Health Care Authority shall apply for federal matching funds based on the amount of funds certified by the local health care district for such purposes. The Authority shall not reduce the amount of disbursements otherwise due to a health care district based on the health care district's receipt of the local area dedicated monies and any attributable federal matching funds; and

3. Procedures for continuing the Authority's claims payment function, pursuant to a draw-down process for funds, for each Medicaid service within the local health care district.

Added by Laws 2007, c. 168, § 2, eff. Nov. 1, 2007.

§63-5028. Care coordination models for aged, blind and disabled persons.

A. The Oklahoma Health Care Authority shall initiate requests for proposals for care coordination models for aged, blind and disabled persons. Care coordination models for members receiving institutional care shall be phased in two (2) years after the initial enrollment period of a care coordination program.

B. The Oklahoma Health Care Authority Board shall promulgate rules to implement the provisions of this act.

Added by Laws 2015, c. 244, § 1, eff. Nov. 1, 2015.

§63-5028.1. Request for information for care coordination models for newborns through children 18 years of age.

A. The Oklahoma Health Care Authority, with assistance from the Department of Human Services and the Department of Mental Health and Substance Abuse Services, shall initiate a request for information for care coordination models for newborns through children eighteen (18) years of age in the custody of the Department of Human Services.

B. Any request for information shall require consideration of and incorporate efforts to continue the implementation of relevant initiatives as provided by the Master Settlement Agreement ("Pinnacle Plan") and administered by the Department of Human Services.

C. The Oklahoma Health Care Authority, with assistance from the Department of Human Services and the Department of Mental Health and Substance Abuse Services, shall provide a summary of the request for information responses to the President Pro Tempore of the Oklahoma State Senate, the Speaker of the Oklahoma House of Representatives and the Governor on or before January 1, 2018.

D. The Oklahoma Health Care Authority Board shall promulgate rules to implement the provisions of this section.

Added by Laws 2017, c. 208, § 1, eff. Nov. 1, 2017.

§63-5029. Mailing information to victims of domestic violence.

A. The Oklahoma Health Care Authority shall coordinate with domestic violence sexual assault programs certified by the Office of the Attorney General who provide counseling services for victims of domestic violence to ensure that any information relating to billing or explanation of benefits (EOB) provided, maintained, monitored or otherwise handled by the Authority or any other state agency including, but not limited to, services rendered by such facilities, is not sent by paper mail to the actual physical address of persons receiving such services.

B. The Oklahoma Health Care Authority Board shall promulgate rules to implement the provisions of this act.

Added by Laws 2015, c. 324, § 1, eff. Nov. 1, 2015.

NOTE: Editorially renumbered from § 5028 of this title to avoid duplication in numbering.

§63-5030.1. Medicaid Drug Utilization Review Board.

A. There is hereby created within the Oklahoma Health Care Authority the Medicaid Drug Utilization Review Board, which shall be responsible for the development, implementation and assessment of retrospective and prospective drug utilization programs under the direction of the Authority.

B. The Medicaid Drug Utilization Review Board shall consist of ten (10) members appointed by the administrator of the Authority as follows:

1. Four physicians, licensed and actively engaged in the practice of medicine or osteopathic medicine in this state, of which:

   a. three shall be physicians chosen from a list of not less than six names submitted by the Oklahoma State Medical Association, and

   b. one shall be a physician chosen from a list of not less than two names submitted by the Oklahoma Osteopathic Association;

2. Four licensed pharmacists actively engaged in the practice of pharmacy, chosen from a list of not less than six names submitted by the Oklahoma Pharmaceutical Association;

3. One person representing the lay community, who shall not be a physician or a pharmacist, but shall be a health care professional with recognized knowledge and expertise in at least one of the following:

   a. clinically appropriate prescribing of covered outpatient drugs,

   b. clinically appropriate dispensing and monitoring of covered outpatient drugs,

   c. drug use review, evaluation and intervention, and

   d. medical quality assurance; and

4. One person representing the pharmaceutical industry who is a resident of the State of Oklahoma, chosen from a list of not less than two names submitted by the Pharmaceutical Research and Manufacturers of America. The member representing the pharmaceutical industry shall be prohibited from voting on action items involving drugs or classes of drugs.

C. Members shall serve terms of three (3) years, except that one physician, one pharmacist and the lay representative shall each be initially appointed for two-year terms in order to stagger the terms. In making the appointments, the administrator shall provide, to the extent possible, for geographic balance in the representation on the Medicaid Drug Utilization Review Board. Members may be reappointed for a period not to exceed three three-year terms and one partial term. Vacancies on the Medicaid Drug Utilization Review Board shall be filled for the balance of the unexpired term from new lists submitted by the entity originally submitting the list for the position vacated.

D. The Medicaid Drug Utilization Review Board shall elect from among its members a chair and a vice-chair who shall serve one-year terms, provided they may succeed themselves.

E. The proceedings of all meetings of the Medicaid Drug Utilization Review Board shall comply with the provisions of the Oklahoma Open Meeting Act and shall be subject to the provisions of the Administrative Procedures Act.

F. The Medicaid Drug Utilization Review Board may advise and make recommendations to the Authority regarding existing, proposed and emergency rules governing retrospective and prospective drug utilization programs. The Oklahoma Health Care Authority Board shall promulgate rules pursuant to the provisions of the Administrative Procedures Act for implementation of the provisions of this section.

Added by Laws 1995, c. 161, § 2, emerg. eff. May 2, 1995. Amended by Laws 1996, c. 221, § 4, eff. Nov. 1, 1996. Renumbered from § 504.1 of Title 56 by Laws 1996, c. 221, § 7, eff. Nov. 1, 1996. Amended by Laws 1999, c. 201, § 1, eff. July 1, 1999; Laws 2006, c. 92, § 1, eff. Nov. 1, 2006.

§63-5030.2. Definitions.

As used in Sections 1 through 5 of this act:

1. “Compendia” means the “American Hospital Formulary Services Drug Information”, “U.S. Pharmacopoeia Drug Information”, peer-reviewed medical literature, other information provided by individuals involved in health care, and information as needed by the Medicaid Drug Utilization Review Board;

2. “Criteria” means those explicit and predetermined elements that are used to assess or measure drug use on an ongoing basis to

determine if the use is appropriate, medically necessary, and not likely to result in adverse medical outcomes;

3. "Authority" means the Oklahoma Health Care Authority;

4. "Drug-disease contraindication" means the possibility that the therapeutic effect of a drug would be adversely altered by the presence of another disease or condition;

5. "Drug interactions" means the possibility that two or more drugs taken by a patient may lead to clinically significant toxicity that is uncharacteristic of any one of the drugs present or that the taking of which leads to interference with the effectiveness of one or any of the drugs;

6. "Drug to drug interaction" means a clinically significant adverse medical effect that results from the use of two or more drugs together;

7. "Drug Utilization Review" or "DUR" means both retrospective and prospective drug utilization review designed to educate physicians and pharmacists and thereby ensure that prescriptions are appropriate, medically necessary and not likely to have adverse medical results;

8. "Overutilization" or "underutilization" means the use of a drug in such quantities that the desired therapeutic goal is not achieved;

9. "Prospective drug utilization review" means the part of a drug utilization review program that occurs before a drug is dispensed, and that is designed to screen, based on explicit and predetermined criteria and standards, for potential drug therapy problems, including, but not limited to:

a. therapeutic duplication,

b. drug-disease contraindications,

c. incorrect drug dosage or duration of drug treatment,

d. drug allergy interactions, and

e. clinical abuse or misuse; and

10. "Retrospective drug utilization review" means the part of the drug utilization review program that assesses or measures drug use based on an historical review of drug use data against predetermined and explicit criteria and standards on an ongoing basis with professional input. Retrospective drug utilization review includes the periodic examination of Medicaid drug pharmacy claims data and other information sources to identify the frequency of patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care:

a. among physicians, pharmacists, and patients, or

b. associated with specific drugs.

Added by Laws 1999, c. 201, § 2, eff. July 1, 1999.

§63-5030.3. Powers and duties of board.

A. The Medicaid Drug Utilization Review Board shall have the power and duty to:

1. Advise and make recommendations regarding rules promulgated by the Oklahoma Health Care Authority Board to implement the provisions of this act;

2. Oversee the development, implementation and assessment of a Medicaid retrospective and prospective drug utilization review program, including making recommendations regarding contractual agreements of the Oklahoma Health Care Authority with any entity involved in processing and reviewing Medicaid drug profiles for the drug utilization review program in accordance with the provisions of this act;

3. Develop and apply the criteria and standards to be used in retrospective and prospective drug utilization review. The criteria and standards shall be based on the compendia and federal Food and Drug Act approved labeling, and shall be developed with professional input;

4. Provide a period for public comment on each meeting agenda. As necessary, the Medicaid Drug Utilization Review Board may include a public hearing as part of a meeting agenda to solicit public comment regarding proposed changes in the prior authorization program and the retrospective and prospective drug utilization review processes. Notice of proposed changes to the prior authorization status of a drug or drugs shall be included in the monthly meeting agenda at least thirty (30) days prior to the consideration or recommendation of any proposed changes in prior authorization by the Medicaid Drug Utilization Review Board;

5. Establish provisions to timely reassess and, as necessary, revise the retrospective and prospective drug utilization review process;

6. Make recommendations regarding the prior authorization of prescription drugs pursuant to the provisions of Section 5 of this act; and

7. Provide members of the provider community with educational opportunities related to the clinical appropriateness of prescription drugs.

B. Any party aggrieved by a decision of the Oklahoma Health Care Authority Board or the Administrator of the Oklahoma Health Care Authority, pursuant to a recommendation of the Medicaid Drug Utilization Review Board, shall be entitled to an administrative hearing before the Oklahoma Health Care Authority Board pursuant to the provisions of the Administrative Procedures Act.

Added by Laws 1999, c. 201, § 3, eff. July 1, 1999.

§63-5030.4. Drug utilization review program.

1. The Medicaid Drug Utilization Review Board shall develop and recommend to the Oklahoma Health Care Authority Board a

retrospective and prospective drug utilization review program for medical outpatient drugs to ensure that prescriptions are appropriate, medically necessary, and not likely to result in adverse medical outcomes.

2. The retrospective and prospective drug utilization review program shall be operated under guidelines established by the Medicaid Drug Utilization Review Board as follows:

a. The retrospective drug utilization review program shall be based on guidelines established by the Medicaid Drug Utilization Review Board using the mechanized drug claims processing and information retrieval system to analyze claims data in order to:

(1) identify patterns of fraud, abuse, gross overuse or underuse, and inappropriate or medically unnecessary care,

(2) assess data on drug use against explicit predetermined standards that are based on the compendia and other sources for the purpose of monitoring:

(a) therapeutic appropriateness,

(b) overutilization or underutilization,

(c) appropriate use of generic drugs,

(d) therapeutic duplication,

(e) drug-disease contraindications

(f) drug-drug interactions,

(g) incorrect drug dosage,

(h) duration of drug treatment, and

(i) clinical abuse or misuse, and

(3) introduce remedial strategies in order to improve the quality of care and to conserve program funds or personal expenditures.

b. (1) The prospective drug utilization review program shall be based on guidelines established by the Medicaid Drug Utilization Review Board and shall provide that, before a prescription is filled or delivered, a review will be conducted by the pharmacist at the point of sale to screen for potential drug therapy problems resulting from:

(a) therapeutic duplication,

(b) drug-drug interactions,

(c) incorrect drug dosage or duration of drug treatment,

(d) drug-allergy interactions, and

(e) clinical abuse or misuse.

(2) In conducting the prospective drug utilization review, a pharmacist may not alter the prescribed

outpatient drug therapy without the consent of the prescribing physician or purchaser.

Added by Laws 1999, c. 201, § 4, eff. July 1, 1999.

§63-5030.4A. Disease state management programs – Feasibility study.

A. The Oklahoma Health Care Authority shall study the feasibility of implementing one or more disease state management programs.

B. The components of the study shall include, but not be limited to:

1. A description and assessment of the findings, costs of the program, savings incurred and estimated costs and savings of an expansion of the pilot program for asthma disease state management developed by the Authority;

2. An overview of disease state management programs for enrollees of health management organizations contracting with the Authority pursuant to the Sooner Care Plus Program;

3. An assessment of the adaptability of such disease state management programs for the Medicaid fee-for-service population;

4. An overview of representative vendors of the disease state management programs, including their characteristics, capabilities and charges for products and services;

5. An overview and assessment of the disease state management pilot project developed by the Oklahoma State Education Employees Government Insurance Board; and

6. A record, if available, of the savings generated by disease state management programs in other states by pharmaceutical manufacturers for Medicaid fee-for-service recipients.

C. The study shall be under the joint direction of the Disease State Management Director and the Pharmacy Director of the Oklahoma Health Care Authority. The Directors shall consult with the following entities as they deem necessary:

1. Medical, pharmacy, and nursing professionals who are experienced in disease state management programs;

2. Appropriate pharmaceutical manufacturers in connection with study components outlined in paragraphs 4 and 5 of subsection B of this section;

3. Disease state management vendors; and

4. Other resources as necessary including, but not limited to, health care advocates.

D. The Oklahoma Health Care Authority shall submit periodic progress reports to the Joint Legislative Oversight Committee. The Oklahoma Health Care Authority shall publish and submit a final report by December 1, 2002, to the Speaker of the Oklahoma House of Representatives, the President Pro Tempore of the Senate, the Governor, and the chair of the Health and Social Services Subcommittee of the Appropriation and Budget Committee of the

Oklahoma House of Representatives and of the Health and Social Services Subcommittee of the Committee on Appropriations of the Oklahoma State Senate.

E. As used in this section, "disease state management program" means an integrated system of interventions, measurements and refinements of health care delivery that include:

1. Patient education and involvement in self-care techniques;

2. Clinical policies/best practices that extend across the entire continuum of care;

3. Outpatient drug management;

4. Clinical information systems with the capacity to identify, classify, and track defined patient populations;

5. Informed support of physicians;

6. Team-oriented multidisciplinary approach; and

7. Feedback or continuous review.

Added by Laws 2002, c. 411, § 1, emerg. eff. June 5, 2002.

§63-5030.5. Drug prior authorization program - Conditions.

A. Except as provided in subsection F of this section, any drug prior authorization program approved or implemented by the Medicaid Drug Utilization Review Board shall meet the following conditions:

1. The Medicaid Drug Utilization Review Board shall make note of and consider information provided by interested parties, including, but not limited to, physicians, pharmacists, patients, and pharmaceutical manufacturers, related to the placement of a drug or drugs on prior authorization;

2. Any drug or drug class placed on prior authorization shall be reconsidered no later than twelve (12) months after such placement;

3. The program shall provide either telephone or fax approval or denial within twenty-four (24) hours after receipt of the prior authorization request; and

4. In an emergency situation, including a situation in which an answer to a prior authorization request is unavailable, a seventy-two-hour supply shall be dispensed, or, at the discretion of the Medicaid Drug Utilization Review Board, a greater amount that will assure a minimum effective duration of therapy for an acute intervention.

B. In formulating its recommendations for placement of a drug or drug class on prior authorization to the Oklahoma Health Care Authority Board, the Medicaid Drug Utilization Review Board shall:

1. Consider the potential impact of any administrative delay on patient care and the potential fiscal impact of such prior authorization on pharmacy, physician, hospitalization and outpatient costs. Any recommendation making a drug subject to placement on prior authorization shall be accompanied by a statement of the cost and clinical efficacy of such placement;

2. Provide a period for public comment on each meeting agenda. Prior to making any recommendations, the Medicaid Drug Utilization Review Board shall solicit public comment regarding proposed changes in the prior authorization program in accordance with the provisions of the Oklahoma Open Meeting Act and the Administrative Procedures Act; and

3. Review Oklahoma-Medicaid-specific data related to utilization criterion standards as provided in division (1) of subparagraph b of paragraph 2 of Section 5030.4 of this title.

C. The Oklahoma Health Care Authority Board may accept or reject the recommendations of the Medicaid Drug Utilization Review Board in whole or in part, and may amend or add to such recommendations.

D. The Oklahoma Health Care Authority shall immediately provide coverage under prior authorization for any new drug approved by the United States Food and Drug Administration. If a new drug does not fall in a class that is already placed under prior authorization, that drug must be reviewed by the Drug Utilization Review Board within one hundred (100) days of approval by the United States Food and Drug Administration to determine whether to continue the prior authorization criteria.

E. 1. Prior to a vote by the Medicaid Drug Utilization Review Board to consider expansion of product-based prior authorization, the Authority shall:

a. develop a written estimate of savings expected to accrue from the proposed expansion, and

b. make the estimate of savings available, on request of interested persons, no later than the day following the first scheduled discussion of the estimate by the Medicaid Drug Utilization Review Board at a regularly scheduled meeting.

2. The written savings estimate based upon savings estimate assumptions specified by paragraph 3 of this subsection prepared by the Authority shall include as a minimum:

a. a summary of all paid prescription claims for patients with a product in the therapeutic category under consideration during the most recent month with complete data, plus a breakdown, as available, of these patients according to whether the patients are residents of a long-term care facility or are receiving Advantage Waiver program services,

b. current number of prescriptions, amount reimbursed and trend for each product within the category under consideration,

c. average active ingredient cost reimbursed per day of therapy for each product and strength within the category under consideration,

d. for each product and strength within the category under consideration, where applicable, the prevailing State Maximum Allowable Cost reimbursed per dosage unit,

e. the anticipated impact of any patent expiration of any product within the category under consideration scheduled to occur within two (2) years from the anticipated implementation date of the proposed prior authorization expansion, and

f. a detailed estimate of administrative costs involved in the prior authorization expansion including, but not limited to, the anticipated increase in petition volume.

3. Savings estimate assumptions shall include, at a minimum:

a. the prescription conversion rate of products requiring prior authorization (Tier II) to products not requiring prior authorization (Tier I) and to other alternative products,

b. aggregated rebate amount for the proposed Tier I and Tier II products within the category under consideration,

c. market shift of Tier II products due to other causes including, but not limited to, patent expiration,

d. Tier I to Tier II prescription conversion rate, and

e. nature of medical benefits and complications typically seen with products in this class when therapy is switched from one product to another.

4. The Medicaid Drug Utilization Review Board shall consider prior authorization expansion in accordance with the following Medicaid Drug Utilization Review Board meeting sequence:

a. first meeting: publish the category or categories to be considered for prior authorization expansion in the future business section of the Medicaid Drug Utilization Review Board agenda,

b. second meeting: presentation and discussion of the written estimate of savings,

c. third meeting: make formal notice in the agenda of intent to vote on the proposed prior authorization expansion, and

d. fourth meeting: vote on prior authorization expansion.

F. The Medicaid Drug Utilization Review Board may establish protocols and standards for the use of any prescription drug determined to be medically necessary, proven to be effective and approved by the United States Food and Drug Administration (FDA) for the treatment and prevention of human immunodeficiency virus/acquired immune deficiency syndrome (HIV/AIDS) without prior

authorization, except when there is a generic equivalent drug available.
Added by Laws 1999, c. 201, § 5, eff. July 1, 1999. Amended by Laws 2001, c. 340, § 1, emerg. eff. June 1, 2001; Laws 2002, c. 411, § 2, emerg. eff. June 5, 2002; Laws 2005, c. 206, § 1, eff. Nov. 1, 2005; Laws 2014, c. 341, § 1, eff. July 1, 2014; Laws 2015, c. 306, § 1.

§63-5051.1. Recovery from tortfeasors of amounts paid for medical expenses of injured and diseased persons - Liens or other legal action.

A. 1. The payment of medical expenses by the Oklahoma Health Care Authority for or on behalf of or the receipt of medical assistance by a person who has been injured or who has suffered a disease as a result of the negligence or act of another person creates a debt to the Authority, subject to recovery by legal action pursuant to this section. Damages for medical costs are considered a priority over all other damages and should be paid by the tortfeasor prior to other damages being allocated or paid.

2. The payment of medical expenses by the Authority for or on behalf of a person who has been injured or who has suffered a disease, and either has a claim or may have a claim against an insurer, to the extent recoverable, creates a debt to the Authority whether or not such person asserts or maintains a claim against an insurer.

B. The Authority shall provide notice to all recipients of medical assistance at the time of application for such assistance of their obligation to report any claim or action, and any judgment, settlement or compromise arising from the claim or action, for injury or illness for which the Authority makes payments for medical assistance.

C. The recipient of medical assistance from the Authority for an injury or disease who asserts a claim or maintains an action against another on account of the injury or disease, or the recipient's legal representative, shall notify the Authority of the claim or action and of any judgment, settlement or compromise arising from the claim or action prior to the final judgment, settlement or compromise.

D. If the injured or diseased person asserts or maintains a claim against another person or tortfeasor on account of the injury or disease, the Authority:

1. Shall have a lien upon payment of the medical assistance to the extent of the amount so paid upon that part going or belonging to the injured or diseased person of any recovery or sum had or collected or to be collected by the injured or diseased person up to the amount of the damages for the total medical expenses, or by the heirs, personal representative or next of kin in case of the death

of the person, whether by judgment or by settlement or compromise. The lien authorized by this subsection shall:

a. be inferior only to a lien or claim of the attorney or attorneys handling the claim on behalf of the injured or diseased person, the heirs or personal representative,

b. not be applied or considered valid against any temporary or permanent disability award of the claimant due under the Workers' Compensation Act,

c. be applied and considered valid as against any insurer adjudged responsible for medical expenses under the Workers' Compensation Act, and

d. be applied and considered valid as to the entire settlement, after the claim of the attorney or attorneys for fees and costs, unless a more limited allocation of damages to medical expenses is shown by clear and convincing evidence;

2. May take any other legal action necessary to recover the amount so paid or to be paid to the injured or diseased person or to the heirs, personal representative or next of kin in case of the death of the person; and

3. Shall have the right to file a written notice of its lien in any action commenced by the injured or diseased person.

E. The Authority, to secure and enforce the right of recovery or reimbursement on behalf of the injured or diseased person, may initiate and prosecute any action or proceeding against any other person or tortfeasor who may be liable to the injured or diseased person, if the injured or diseased person has not initiated any legal proceedings against the other person or tortfeasor.

F. Any person or insurer that has been notified by the Authority of a claim of lien authorized by this section and who, directly or indirectly, pays to the recipient any money as a settlement or compromise of the recipient's claim arising out of the injury shall be liable to the Authority for the money value of the medical assistance rendered by the Authority in an amount not in excess of the amount to which the recipient was entitled to recover from the tortfeasor or insurer because of the injury.

G. A Medicaid special needs trust for the purposes of establishing or maintaining Medicaid eligibility shall not be approved until such time as the Authority has been made whole and paid in full for all paid medical claims which are associated with the action.

H. A Medicaid recipient must notify the Authority prior to a compromise or settlement against a third party in which the Authority has provided or has become obligated to provide medical assistance.

I. As used in this section:

1. "Medical expenses" includes the cost of hospital, medical, surgical and dental services, care and treatment, rehabilitation, and prostheses and medical appliances, and nursing and funeral services;

2. "Person" includes, in addition to an individual, the guardian of an individual, and the administrator or executor of the estate of an individual, and a corporation; and

3. "Insurer" means any insurance company that administers accident and health policies or plans or that administers any other type insurance policy containing medical provisions, and any nonprofit hospital service and indemnity and medical service and indemnity corporation, actually engaged in business in the state, regardless of where the insurance contract is written, or plan is administered or where such corporation is incorporated.

Added by Laws 1970, c. 313, § 1, emerg. eff. April 7, 1970. Amended by Laws 1981, c. 159, § 1, emerg. eff. May 8, 1981; Laws 1986, c. 22, § 1, emerg. eff. March 18, 1986; Laws 1996, c. 221, § 1, eff. Nov. 1, 1996. Renumbered from § 200 of Title 56 by Laws 1996, c. 221, § 6, eff. Nov. 1, 1996. Amended by Laws 2005, c. 91, § 1, eff. Nov. 1, 2005; Laws 2007, c. 74, § 1, eff. Nov. 1, 2007.

§63-5051.2. Right to reimbursement for medical services - Assignment to Oklahoma Health Care Authority.

A. Whenever the Oklahoma Health Care Authority pays for medical services or renders medical services, for or on behalf of a person who has been injured or suffered an illness or disease, the right of the provider of the services to reimbursement shall be automatically assigned to the Oklahoma Health Care Authority, upon notice to the insurer or other party obligated as a matter of law or agreement to reimburse the provider on behalf of the patient.

B. Upon the assignment, the Authority, for purposes of the claim for reimbursement, becomes a provider of medical services.

C. The assignment of the right to reimbursement shall be applied and considered valid against any employer or insurer under the Workers' Compensation Act in this state.

D. Each insurer, upon receiving a claim from the Oklahoma Health Care Authority, shall accept the state’s right of recovery, to process and, if appropriate, pay the claim to the same extent that the plan would have been liable if it had been billed at the point of sale or by the original provider of services. Insurer shall not deny the Authority claims on the basis of the date of submission, the format of the claim, or for failure to present proper documentation of coverage at the point of sale.

E. Insurer shall make appropriate payments to the Authority as long as the claim is submitted for consideration within three (3) years from the date the service was furnished. Any action by the Authority to enforce the payment of the claim shall be commenced

within six (6) years of the submission of the claim by the Authority.
Added by Laws 1981, c. 159, § 2, emerg. eff. May 8, 1981. Amended by Laws 1996, c. 221, § 2, eff. Nov. 1, 1996. Renumbered from § 200a of Title 56 by Laws 1996, c. 221, § 6, eff. Nov. 1, 1996. Amended by Laws 2007, c. 74, § 2, eff. Nov. 1, 2007.

§63-5051.3. Medical assistance - Homestead lien.

A. Pursuant to the provisions of this section, the Oklahoma Health Care Authority is authorized to file and enforce a lien against the homestead of a recipient for payments of medical assistance made by the Authority to the recipient who is an inpatient of a nursing facility or an intermediate care facility for individuals with intellectual disabilities (ICF/IID) if the Authority, upon competent medical testimony, determines the recipient cannot reasonably be expected to be discharged and returned home. A one-year period of compensated inpatient care at a nursing facility or an ICF/IID shall constitute a determination by the Authority that the recipient cannot reasonably be expected to be discharged and returned home.

B. Upon certification for Title XIX of the federal Social Security Act payments for a nursing facility or ICF/IID care, the Authority shall provide written notice to the recipient that:

1. A one-year period of compensated inpatient care at a nursing facility or ICF/IID shall constitute a determination by the Authority that the recipient cannot reasonably be expected to be discharged and returned home;

2. A lien will be filed against the homestead of the recipient pursuant to the provisions of this section and that the amount of the lien shall be for the amount of assistance paid by the Authority from the date the recipient became eligible for compensated inpatient care at a nursing facility or ICF/IID until the time of the filing of the lien and for any amount paid thereafter for such medical assistance to the recipient; and

3. The recipient is entitled to a hearing with the Authority prior to the filing of the lien pursuant to this section.

The notice shall also contain an explanation of the lien and the effect the lien will have on the ownership of the homestead of the recipient and any other person residing in the homestead. The notice shall be signed by the recipient or the legal guardian of the recipient acknowledging that the recipient or the legal guardian of the recipient understands the notice and the effect that the payment of medical assistance on the recipient's behalf will have upon the homestead of the recipient.

C. The lien filed pursuant to subsection E of this section shall be for the amount of assistance paid beginning from the date the recipient began receiving inpatient care from a nursing facility

or ICF/IID and for any amount paid thereafter for the medical assistance to the recipient.

D. The Authority shall not file a lien on the homestead of the recipient pursuant to subsection E of this section while the homestead is the lawful residence of:

1. The surviving spouse of the recipient;

2. A child related to the recipient by blood or marriage who is twenty (20) years of age or less;

3. An adult child related to the recipient by blood or marriage who is incapacitated as defined by the Authority; or

4. A brother or sister of the recipient who has an equity interest in the home and who was residing in the home for at least one (1) year immediately preceding the date the recipient was admitted to the nursing facility or ICF/IID and has resided there on a continuous basis since that time.

E. No lien for payment of medical assistance pursuant to this section shall be effective unless:

1. The Authority has provided notice to the recipient of the intent to file a lien against the homestead of the recipient and of the opportunity for a hearing on the matter; and

2. After the notice specified in paragraph 1 of this subsection has been given, a lien is filed for record against the legal description of the homestead in the office of the county clerk of the county in which the homestead of the recipient is located. The lien shall contain the following information:

a. the name and address of the place of residence of the recipient,

b. the amount of the assistance paid at the time of the filing of the lien,

c. the date the recipient began receiving compensated inpatient care at a nursing facility or ICF/IID,

d. the legal description of the real property against which the lien will be recorded, and

e. such other information as the Authority requires.

F. 1. After the lien has been filed pursuant to subsection E of this section, the Authority may enforce a lien only:

a. after the death of the surviving spouse of the recipient,

b. when there is no child related to the recipient by blood or marriage who is twenty (20) years of age or less residing in the homestead,

c. when there is no adult child related to the recipient by blood or marriage who is incapacitated as defined by the Authority residing in the homestead, and

d. when no brother or sister of the recipient is residing in the homestead, who has resided there for at least one (1) year immediately before the date of the

recipient's admission to the facility or institution, and has resided there on a continuous basis since that time.

2. A lien filed pursuant to subsection E of this section shall remain on the homestead:

a. until the lien is satisfied,

b. until the value of the homestead is consumed by the lien, at which time the Authority may force the sale of the homestead to satisfy the lien, or

c. after transfer of title of the real property by conveyance, sale, succession, inheritance, or will.

3. The lien filed pursuant to subsection E of this section may be enforceable by the Authority before or after the death of the recipient.

4. The lien created by this section shall be treated as a mortgage and shall be assignable by the Authority to another entity and shall be released in accordance with the provisions as set forth in Section 15 of Title 46 of the Oklahoma Statutes.

5. The lien shall sever a joint tenancy; however, the lien shall be enforceable only to the extent of the ownership of the person receiving assistance as it existed at the time the recipient began receiving assistance.

G. The recipient, the heirs, personal representative, or assigns of the recipient may discharge said lien at any time by paying the amount of the lien to the Authority.

H. At the end of the one-year limitation, the Authority shall exclude from consideration as a resource the value of the homestead of the recipient.

I. The payment of medical assistance on behalf of the recipient by the Authority and the signing of the notice pursuant to subsection B of this section shall constitute a waiver of the homestead rights of the recipient for the purposes of this section and Section 3 of Article XII of the Oklahoma Constitution.

J. 1. Pursuant to the provisions of this subsection, if the homestead is sold to enforce the lien authorized pursuant to the provisions of this section, an amount up to Six Thousand Dollars ($6,000.00) from the proceeds of the sale of the homestead, less the value of any prepaid burial or insurance policies or designated accounts for funeral expenses already owned by the recipient, may be set aside in an irrevocable trust on behalf of the recipient, in which the Authority is to be included as the remainder, and the funds are to be used for the funeral expenses of the recipient.

2. Payment of the funeral expenses from the proceeds of the sale of the homestead shall be made as follows:

a. if the proceeds exceed the amount of the lien, the payment of funeral expenses shall be first satisfied from any amount in excess of the lien amount. After

the excess is exhausted, the remainder of funeral expenses shall be satisfied from the lien amount prior to payment of any reimbursement to the Authority, and

b. if the proceeds from the sale of the homestead do not exceed the amount of the lien, the payment of funeral expenses shall be satisfied from the lien amount prior to payment of any reimbursement to the Authority.

K. As used in this section:

1. "Nursing facility" means any home, establishment, or institution which offers or provides on a regular basis twenty-four-hour medical services, skilled nursing care, necessary special dietary service, and personal care and supervision to three or more of its residents who are not related to the owner or administrator of the facility; and

2. "ICF/IID" means intermediate care facilities for individuals with intellectual disabilities, which provide comprehensive and individualized health care and rehabilitation services to individuals to promote their functional status and independence.

L. If any provision of this section shall be in conflict with any applicable federal statutes and regulations, the federal statutes and regulations shall prevail and be controlling until such time as the federal statutes and regulations shall be revised to conform to this section.

Added by Laws 1986, c. 175, § 1, emerg. eff. May 15, 1986. Amended by Laws 1996, c. 221, § 3, eff. Nov. 1, 1996. Renumbered from § 200b of Title 56 by Laws 1996, c. 221, § 6, eff. Nov. 1, 1996. Amended by Laws 2015, c. 278, § 1, eff. Nov. 1, 2015; Laws 2017, c. 255, § 1, eff. Nov. 1, 2017.

§63-5051.4. Coverage under Medicaid Program Reform Act of 2003 - Enrollment fee and/or premium.

The Oklahoma Health Care Authority is hereby authorized to charge an enrollment fee and/or premium for the provision of health care coverage under the Oklahoma Medicaid Program Reform Act of 2003. Such charges, if unpaid, create a debt to the state and are subject to recovery by the Authority by any legal action against an enrollee, the heirs or next of kin of the enrollee in the event of the death of the enrollee. The Authority may end coverage for the nonpayment of such enrollment and/or premium pursuant to rules promulgated by the Oklahoma Health Care Authority Board.

Added by Laws 2003, c. 464, § 11, eff. July 1, 2003.

§63-5051.5. Data files comparisons - File systems maintained by insurers - Exchange of information with Authority.

A. 1. On or after November 1, 2003, any entity that provides health insurance in this state including, but not limited to, a licensed insurance company, not-for-profit hospital service, medical

indemnity corporation, managed care organization, self-insured plan, pharmacy benefit manager or other party that is, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service is hereby required to compare data from its files with data in files provided to the entity by the Oklahoma Health Care Authority and accept the Authority's right of recovery and the assignment of rights and not charge the Authority or any of its authorized agents any fees for the processing of claims or eligibility requests. Data files requested by or provided to the Authority shall provide the Authority with eligibility and coverage information that will enable the Authority to determine the existence of third party coverage for Medicaid recipients and the necessary information to determine during what period Medicaid recipients may be or may have been covered by the health insurer and the nature of the coverage that is or was provided, including the name, address, and identifying number of the plan.

2. The insurer shall transmit to the Authority, in a manner prescribed by the Centers for Medicare and Medicaid Services or as agreed between insurer and the Authority, an electronic file of all identified subscribers or policyholders, or their dependents, for whom there is data corresponding to the information contained in subsection C of this section.

B. 1. An insurer shall comply with a request under the provisions of this subsection no later than sixty (60) days after the date of transmission by the Authority and shall only be required to provide the Authority with the information required by subsection C of this section.

2. The Authority may make such request for data from an insurer no more than once every six (6) months, as determined by the date of the Authority's original request.

C. Each insurer shall maintain a file system containing the name, address, group policy number, coverage type, social security number, and date of birth of each subscriber or policyholder, and each dependent of the subscriber or policyholder covered by the insurer, including policy effective and termination dates, claim submission address, and employer's mailing address.

D. The Oklahoma Health Care Authority Board shall promulgate rules governing the exchange of information under this section. Such rules shall be consistent with all laws relating to the confidentiality or privacy of personal information or medical records including, but not limited to, provisions under the federal Health Insurance Portability and Accountability Act (HIPAA).

Added by Laws 2003, c. 464, § 12, eff. July 1, 2003. Amended by Laws 2007, c. 74, § 3, eff. Nov. 1, 2007; Laws 2011, c. 204, § 1, eff. Nov. 1, 2011.

§63-5052. Opportunity for hearing before Authority - Record - Review by Administrator - Judicial review.

A. Any applicant or recipient, adversely affected by a decision of the Oklahoma Health Care Authority on benefits or services provided pursuant to the provisions of this title, shall be afforded an opportunity for a hearing pursuant to the provisions of subsection B of this section after such applicant or recipient has been notified of the adverse decision of the Authority.

B. 1. Upon timely receipt of a request for a hearing as specified in the notice of adverse decision and exhaustion of other available administrative remedies, the Authority shall hold a hearing pursuant to the provisions of rules promulgated by the Oklahoma Health Care Authority Board pursuant to this section.

2. The record of the hearing shall include, but shall not be limited to:

a. all pleadings, motions, and intermediate rulings,

b. evidence received or considered,

c. any decision, opinion, or report by the officer presiding at the hearing, and

d. all staff memoranda or data submitted to the hearing officer or members of the agency in connection with their consideration of the case.

3. Oral proceedings shall be electronically recorded by the Authority. Any party may request a copy of the tape recording of such person's administrative hearing or may request a transcription of the tape recording to comply with any federal or state law.

C. Any decision of the Authority after such a hearing pursuant to subsection B of this section shall be subject to review by the Administrator of the Oklahoma Health Care Authority upon a timely request for review by the applicant or recipient. The Administrator shall issue a decision after review. A hearing decision of the Authority shall be final and binding unless a review is requested pursuant to the provisions of this subsection. The decision of the Administrator may be appealed to the district court in which the applicant or recipient resides within thirty (30) days of the date of the decision of the Administrator as provided by the provisions of subsection D of this section.

D. Any applicant or recipient under this title who is aggrieved by a decision of the Administrator rendered pursuant to this section may petition the district court in which the applicant or recipient resides for a judicial review of the decision pursuant to the provisions of Sections 318 through 323 of Title 75 of the Oklahoma Statutes. A copy of the petition shall be served by mail upon the general counsel of the Authority.

Added by Laws 1997, c. 137, § 1, emerg. eff. April 22, 1997.

§63-5053. Short title.

This act shall be known and may be cited as the "Oklahoma Medicaid False Claims Act".
Added by Laws 2007, c. 137, § 1, eff. Nov. 1, 2007.

§63-5053.1. Definitions - Civil penalty for false or fraudulent claims.

A. For purposes of this section:

1. "Claim":

a. means any request or demand for money or property, whether under a contract or otherwise and whether or not the state has title to the money or property, that:

(1) is presented to an officer, employee or agent of the state, or

(2) is made to a contractor, grantee or other recipient, if the money or property is to be spent or used on the state's behalf or to advance a state program or interest, and if this state:

(a) provides or has provided any portion of the money or property requested or demanded, or

(b) will reimburse such contractor, grantee or other recipient for any portion of the money or property which is requested or demanded; and

b. shall not include requests or demands for money or property that the government has paid to an individual as compensation for state employment or as an income subsidy with no restrictions on the individual's use of the money or property;

2. "Knowing" and "knowingly" mean that a person, with respect to information:

a. has actual knowledge of the information,

b. acts in deliberate ignorance of the truth or falsity of the information, or

c. acts in reckless disregard of the truth or falsity of the information.

No proof of specific intent to defraud is required;

3. "Material" means having a natural tendency to influence or be capable of influencing the payment or receipt of money or property; and

4. "Obligation" means an established duty, whether or not fixed, arising from an express or implied contractual, grantor-grantee or licensor-licensee relationship, from a fee-based or similar relationship, from statute or regulation or from the retention of any overpayment.

B. Any person who:

1. Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;

2. Knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;

3. Conspires to commit a violation of the Oklahoma Medicaid False Claims Act;

4. Has possession, custody, or control of property or money used, or to be used, by the state and knowingly delivers, or causes to be delivered, less than all of such money or property;

5. Is authorized to make or deliver a document certifying receipt of property used or to be used by the state and, intending to defraud the state, makes or delivers the receipt without completely knowing that the information on the receipt is true;

6. Knowingly buys or receives as a pledge of an obligation or debt, public property from an officer or employee of the state who lawfully may not sell or pledge property; or

7. Knowingly makes, uses or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the state, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the state;

is liable to the State of Oklahoma for a civil penalty consistent with the civil penalties provision of the Federal False Claims Act, 31 U.S.C. 3729(a), as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note; Public Law 101-410), and as further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Sec. 701 of Public Law 114-74), plus three times the amount of damages which the state sustains because of the act of that person.

C. If the court finds that:

1. The person committing the violation in subsection B of this section furnished officials of this state responsible for investigating false claims violations with all information known to such person about the violation within thirty (30) days after the date on which the defendant first obtained the information;

2. The person fully cooperated with any state investigation of the violation; and

3. At the time the person furnished the state with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this title with respect to the violation, and the person did not have actual knowledge of the existence of an investigation into the violation,

the court may assess not less than two times the amount of damages which the state sustains because of the act of the person.

D. A person violating subsection B of this section shall also be liable to this state for the costs of a civil action brought to recover any such penalty or damages.

E. Any information furnished pursuant to subsections A through D of this section shall be exempt from disclosure under the Oklahoma Open Records Act.

F. This section does not apply to claims, records or statements under the Oklahoma Tax Code.

Added by Laws 2007, c. 137, § 2, eff. Nov. 1, 2007. Amended by Laws 2016, c. 44, § 1, eff. Nov. 1, 2016; Laws 2017, c. 86, § 1, eff. Nov. 1, 2017.

§63-5053.2. Civil actions by Attorney General or individual persons authorized - Complaint procedure.

A. The Attorney General shall diligently investigate a violation under the Oklahoma Medicaid False Claims Act. If the Attorney General finds that a person has violated or is violating the Oklahoma Medicaid False Claims Act, the Attorney General may bring a civil action under this section against the person.

B. 1. A person may bring a civil action for a violation of the Oklahoma Medicaid False Claims Act for the person and for this state. The action shall be brought in the name of the state. The action may be dismissed only if the court and the Attorney General give written consent to the dismissal and state the reasons for consenting.

2. A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the state pursuant to Section 2004 of Title 12 of the Oklahoma Statutes. The complaint shall be filed in camera, shall remain under seal for at least sixty (60) days, and shall not be served on the defendant until the court so orders. The state may elect to intervene and proceed with the action within sixty (60) days after it receives both the complaint and the material evidence and information.

3. The state may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under paragraph 2 of this subsection. Any such motions may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to any complaint filed under this section until twenty (20) days after the complaint is unsealed and served upon the defendant pursuant to Section 2004 of Title 12 of the Oklahoma Statutes.

4. Before the expiration of the sixty-day period or any extensions obtained under paragraph 3 of this subsection, the state shall:

a. proceed with the action, in which case the action shall be conducted by the state, or

b. notify the court that it declines to take over the action, in which case the person bringing the action shall have the right to conduct the action.

5. When a person brings an action under this section, no person other than the state may intervene or bring a related action based on the facts underlying the pending action.

Added by Laws 2007, c. 137, § 3, eff. Nov. 1, 2007. Amended by Laws 2016, c. 44, § 2, eff. Nov. 1, 2016.

§63-5053.3. Actions brought by individuals - Participation by state - Procedure.

A. If the state proceeds with the action pursuant to Section 5053.2 of this title, it shall have the primary responsibility for prosecuting the action, and shall not be bound by an act of the person bringing the action. Such person shall have the right to continue as a party to the action, subject to the limitations set forth in this subsection.

1. The state may dismiss the action notwithstanding the objections of the person initiating the action if the person has been notified by the state of the filing of the motion and the court has provided the person with an opportunity for a hearing on the motion.

2. The state may settle the action with the defendant notwithstanding the objections of the person initiating the action if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, the hearing may be held in camera.

3. Upon a showing by the state that unrestricted participation during the course of the litigation by the person initiating the action would interfere with or unduly delay the state's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the participation of the person, such as:

a. limiting the number of witnesses the person may call,

b. limiting the length of the testimony of the witnesses,

c. limiting the person's cross-examination of witnesses, or

d. otherwise limiting the participation by the person in the litigation.

4. Upon a showing by the defendant that unrestricted participation during the course of the litigation by the person initiating the action would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the person in the litigation.

B. If the state elects not to proceed with the action, the person who initiated the action shall have the right to conduct the action. If the state so requests, it shall be served with copies of all pleadings filed in the action and shall be supplied with copies of all deposition transcripts at the expense of the state. When a

person proceeds with the action, the court, without limiting the status and rights of the person initiating the action, may nevertheless permit the state to intervene at a later date upon a showing of good cause.

C. Whether or not the state proceeds with the action, upon a showing by the state that certain actions of discovery by the person initiating the action would interfere with the state's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay the discovery for a period of not more than sixty (60) days. Such a showing shall be conducted in camera. The court may extend the sixty-day period upon a further showing in camera that the state has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings.

D. Notwithstanding subsection B of Section 5053.2 of this title, the state may elect to pursue its claim through any alternate remedy available to the state, including any administrative proceeding to determine a civil money penalty. If any alternate remedy is pursued in another proceeding, the person initiating the action shall have the same rights in the proceeding as the person would have had if the action had continued under this section. Any finding of fact or conclusion of law made in the other proceeding that has become final shall be conclusive on all parties to an action under this section. For purposes of this subsection, a finding or conclusion is final if it has been finally determined on appeal to the appropriate court of the State of Oklahoma, if all time for filing the appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review.

Added by Laws 2007, c. 137, § 4, eff. Nov. 1, 2007. Amended by Laws 2016, c. 44, § 3, eff. Nov. 1, 2016.

§63-5053.4. Actions brought by individuals - Share of proceeds of actions or settlement - Award of expenses, fees, and costs.

A. 1. If the state proceeds with an action brought by a person under subsection B of Section 5053.2 of this title, the person shall, subject to paragraph 2 of this subsection, receive at least fifteen percent (15%) but not more than twenty-five percent (25%) of the proceeds of the action or settlement of the claim, depending upon the extent to which the person substantially contributed to the prosecution of the action.

2. Where the action is one which the court finds to be based primarily on disclosures of specific information, other than information provided by the person bringing the action, relating to allegations or transactions in a criminal, civil or administrative hearing, in a legislative, administrative or State Auditor and

Inspector report, hearing, audit or investigation, or from the news media, the court may award such sums as it considers appropriate, but in no case more than ten percent (10%) of the proceeds, taking into account the significance of the information and the role of the person bringing the action in advancing the case to litigation.

3. Any payment to a person under paragraph 1 or 2 of this subsection shall be made from the proceeds. Any such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorney fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

B. If the state does not proceed with an action under Section 5053.2 of this title, the person bringing the action or settling the claim shall receive an amount which the court decides is reasonable for collecting the civil penalty and damages. The amount shall be not less than twenty-five percent (25%) and not more than thirty percent (30%) of the proceeds of the action or settlement and shall be paid out of the proceeds. The person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorney fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

C. Whether or not the state proceeds with the action, if the court finds that the action was brought by a person who planned and initiated the violation of the Oklahoma Medicaid False Claims Act upon which the action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action which the person would otherwise receive under subsection A or B of this section, taking into account the role of that person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the action is convicted of criminal conduct arising from his or her role in the violation of the Oklahoma Medicaid False Claims Act, that person shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. The dismissal shall not prejudice the right of this state to continue the action, represented by the Office of the Attorney General or its assigns.

D. If the state does not proceed with the action and the person bringing the action conducts the action, the court may award to the defendant its reasonable attorney fees and expenses if the defendant prevails in the action and the court finds that the claim of the person bringing the action was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment.

Added by Laws 2007, c. 137, § 5, eff. Nov. 1, 2007. Amended by Laws 2009, c. 32, § 1, eff. Nov. 1, 2009; Laws 2016, c. 44, § 4, eff. Nov. 1, 2016.

§63-5053.5. Prohibition of certain individual actions - Dismissal - Liability for expenses or fees - Relief following adverse acts - Statute of limitations.

A. In no event may a person bring an action under subsection B of Section 5053.2 of this title which is based upon allegations or transactions which are the subject of a civil suit or an administrative civil money penalty proceeding in which the state is already a party.

B. The court shall dismiss an action or claim under this section, unless opposed by the state, if substantially the same allegations or transactions as alleged in the action or claim were publicly disclosed in a criminal, civil or administrative hearing, in which the state or its agent is a party, in a legislative, or State Auditor and Inspector report, hearing, audit or investigation, or from the news media, unless the action is brought by the Attorney General or the person bringing the action is an original source of the information. For purposes of this subsection, "original source" means an individual who either:

1. Prior to a public disclosure under subsection B of this section, has voluntarily disclosed to the state the information on which allegations or transactions in a claim are based; or

2. Has knowledge that is independent of and materially adds to the publicly disclosed allegations or transactions, and who has voluntarily provided the information to the state before filing an action under the Oklahoma Medicaid False Claims Act.

C. The state is not liable for expenses which a person incurs in bringing an action under this section.

D. In civil actions brought under this section by this state, the provisions of Title 28 of the Oklahoma Statutes shall apply.

E. Any employee, contractor or agent shall be entitled to:

1. All relief necessary to make the employee, contractor or agent whole, if the employee, contractor or agent is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful acts done by the employee, contractor, agent or associated others in furtherance of an action under this act, or other efforts to stop one or more violations of the Oklahoma Medicaid False Claims Act.

2. Relief which shall include reinstatement with the same seniority status the employee, contractor or agent would have had but for the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney fees. An action under this section may be brought in the appropriate district court of the State of Oklahoma for the relief provided in this subsection.

F. An action under this section shall not be brought more than three (3) years after the date when the retaliation occurred. Added by Laws 2007, c. 137, § 6, eff. Nov. 1, 2007. Amended by Laws 2009, c. 32, § 2, eff. Nov. 1, 2009; Laws 2016, c. 44, § 5, eff. Nov. 1, 2016; Laws 2017, c. 86, § 2, eff. Nov. 1, 2017.

§63-5053.6. Service of subpoena - Limitation of actions - Burden of proof - Res judicata.

A. A subpoena requiring the attendance of a witness at a trial or hearing conducted under the Oklahoma Medicaid False Claims Act may be served at any place in Oklahoma.

B. A civil action under Section 5053.2 of this title may not be brought:

1. More than six (6) years after the date on which the violation of the Oklahoma Medicaid False Claims Act is committed; or

2. More than three (3) years after the date when facts material to the right of action are known or reasonably should have been known by the official of the State of Oklahoma charged with responsibility to act in the circumstances, but in no event more than ten (10) years after the date on which the violation is committed, whichever occurs last.

C. If the state elects to intervene and proceed with an action brought under Section 5053.2 of this title, the state may file its own complaint or amend the complaint of a person who has brought an action under Section 5053.2 of this title to clarify or add detail to the claims in which the state is intervening and to add any additional claims with respect to which the state contends it is entitled to relief. For statute of limitations purposes, any such state pleading shall relate back to the filing date of the complaint of the person who originally brought the action to the extent that the claim of the state arises out of the conduct, transactions or occurrences set forth, or attempted to be set forth, in the prior complaint of the person.

D. In any action brought under Section 5053.2 of this title, this state shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

E. Notwithstanding any other provision of law, a final judgment rendered in favor of this state in any criminal proceeding charging fraud or false statements, whether upon a verdict after trial or upon a plea of guilty or nolo contendere, shall estop the defendant from denying the essential elements of the offense in any action which involves the same transaction as in the criminal proceeding and which is brought under the Oklahoma Medicaid False Claims Act. Added by Laws 2007, c. 137, § 7, eff. Nov. 1, 2007. Amended by Laws 2016, c. 44, § 6, eff. Nov. 1, 2016.

§63-5053.7. Jurisdiction.

A. Any action under Section 5053.2 of this title may be brought in any judicial district in which the defendant or, in the case of multiple defendants, any one defendant can be found, resides, transacts business, or in which any act proscribed by the Oklahoma Medicaid False Claims Act occurred. A summons as required by Section 2004 of Title 12 of the Oklahoma Statutes shall be issued by the appropriate district court and served at any place within or outside the State of Oklahoma.

B. The district courts shall have jurisdiction over any action brought under the laws of the state for the recovery of funds paid by a state or local government if the action arises from the same transaction or occurrence as an action brought under the Oklahoma Medicaid False Claims Act.

Added by Laws 2007, c. 137, § 8, eff. Nov. 1, 2007. Amended by Laws 2016, c. 44, § 7, eff. Nov. 1, 2016.

§63-5054. State Medicaid program - Administrative sanctions.

A. The Oklahoma Health Care Authority may administer administrative sanctions to Medicaid recipients who abuse the state Medicaid program.

B. Administrative sanctions shall not be administered by the Oklahoma Health Care Authority until notice and hearing have been provided to the Medicaid recipient.

C. For purposes of this section, "abuse" means practices that result in reimbursement for services that are not medically necessary, including reimbursement for a gross overutilization of services.

Added by Laws 2011, c. 255, § 2, eff. Nov. 1, 2011.

§63-6101. Short title.

This act may be cited as the "Catastrophic Health Emergency Powers Act".

Added by Laws 2003, c. 473, § 1.

§63-6102. Legislative findings.

The Oklahoma Legislature finds that:

1. The government must do more to protect the health, safety, and general well-being of its citizens during a catastrophic health emergency;

2. New and emerging dangers, including emergent and resurgent infectious diseases and incidents of civilian mass casualties, pose serious and immediate threats during a catastrophic health emergency;

3. A renewed focus on the prevention, detection, management, and containment of catastrophic health emergencies is needed;

4. Catastrophic health emergency threats, including those caused by nuclear, biological or chemical events, may require the exercise of extraordinary government powers and functions;

5. This state must have the ability to respond, rapidly and effectively, to potential or actual catastrophic health emergencies;

6. The exercise of catastrophic health emergency powers must promote the common good;

7. Catastrophic emergency health powers must be grounded in a thorough scientific understanding of public health threats and disease transmission;

8. Guided by principles of justice and antidiscrimination, it is the duty of this state to act with fairness and tolerance towards individuals and groups during catastrophic health emergencies;

9. The rights of people to liberty, bodily integrity, and privacy must be respected to the fullest extent possible consistent with maintaining and preserving the health and security of the public during a catastrophic health emergency;

10. This act is necessary to protect the health and safety of the citizens of this state during a catastrophic health emergency; and

11. The provisions of Sections 9 through 25 of this act shall only be activated upon the occurrence of a catastrophic health emergency.

Added by Laws 2003, c. 473, § 2.

§63-6103. Purposes.

The purposes of the Catastrophic Health Emergency Powers Act are:

1. To require the development of a comprehensive plan to provide for a coordinated, appropriate response in the event of a catastrophic health emergency;

2. To authorize the reporting and collection of data and records, the management of property, the protection of persons, and access to communications during a catastrophic health emergency;

3. To facilitate the early detection of a catastrophic health emergency, and allow for immediate investigation of such a catastrophic health emergency by granting access to health information of individuals under specified circumstances;

4. To grant state and local officials the authority during a catastrophic health emergency to provide care, treatment, and vaccination to persons who are ill or who have been exposed to transmissible diseases, and to separate affected individuals from the population at large to interrupt disease transmission;

5. To ensure during a catastrophic health emergency that the needs of infected or exposed persons are properly addressed to the fullest extent possible, given the primary goal of controlling serious health threats; and

6. To provide, during a catastrophic health emergency, state and local officials with the ability to prevent, detect, manage, and contain health threats without unduly interfering with civil rights and liberties.

Added by Laws 2003, c. 473, § 3.

§63-6104. Definitions.

As used in the Catastrophic Health Emergency Powers Act:

1. "Bioterrorism" means the intentional use of any microorganism, virus, infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product, to cause death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism in order to influence the conduct of government or to intimidate or coerce a civilian population;

2. "Catastrophic health emergency" means an occurrence of imminent threat of an illness or health condition that:

a. is believed to be caused by any of the following:
   (1) a nuclear attack,
   (2) bioterrorism,
   (3) a chemical attack, or
   (4) the appearance of a novel or previously controlled or eradicated infectious agent or biological toxin, and

b. poses a high probability of any of the following harms:
   (1) a large number of deaths in the affected population,
   (2) a large number of serious or long-term disabilities in the affected population, or
   (3) widespread exposure to an infectious or toxic agent that poses a significant risk of substantial future harm to a large number of people in the affected population;

3. "Chain of custody" means the methodology of tracking specimens for the purpose of maintaining control and accountability from initial collection to final disposition of the specimens and providing for accountability at each stage of collecting, handling, testing, storing, and transporting the specimens and reporting test results;

4. "Contaminated waste" means:

a. "biological waste", which includes blood and blood products, excretions, exudates, secretions, suctioning and other body fluids, and waste materials saturated with blood or body fluids,

b. "cultures and stocks", which includes etiologic agents and associated biologicals, including specimen cultures and dishes and devices used to transfer, inoculate, and mix cultures, wastes from production of biologicals and serums, and discarded live and attenuated vaccines,

c. "pathological waste", which includes biopsy materials and all human tissues, anatomical parts that emanate from surgery, obstetrical procedures, necropsy or autopsy and laboratory procedures, and animal carcasses exposed to pathogens in research and the bedding and other waste from such animals, but does not include teeth or formaldehyde or other preservative agents, and

d. "sharps", which includes needles, intravenous (IV) tubing with needles attached, scalpel blades, lancets, breakable glass tubes, and syringes that have been removed from their original sterile containers;

5. "Health care facility" means any nonfederal institution, building, or agency or portion thereof, whether public or private or for profit or nonprofit, that is used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any person or persons. This includes, but is not limited to: ambulatory surgical facilities, hospitals, infirmaries, intermediate care facilities, kidney dialysis centers, long-term care facilities, mental health centers, outpatient facilities, public health centers, rehabilitation facilities, residential treatments facilities, skilled nursing facilities, special care facilities, medical laboratories, and adult day-care centers. This also includes, but is not limited to, the following related property when used for or in connection with the foregoing: laboratories; research facilities; pharmacies; laundry facilities; health personnel training and lodging facilities; patient, guest, and health personnel food service facilities; and offices and office buildings for persons engaged in health care professions or services;

6. "Health care provider" means any person or entity who provides health care services including, but not limited to, physicians, pharmacists, dentists, physician assistants, nurse practitioners, registered and other nurses, paramedics, emergency medical or laboratory technicians, and ambulance and emergency medical workers;

7. "Infectious disease" means a disease caused by a living organism or other pathogen, including a fungus, bacillus, parasite, protozoan, or virus. An infectious disease may, or may not, be transmissible from person to person, animal to person, or insect to person;

8. “Isolation” means the physical separation and confinement of an individual or groups of individuals who are infected or reasonably believed to be infected with a transmissible or possibly transmissible disease from nonisolated individuals, to prevent or limit the transmission of the disease to nonisolated individuals;

9. “Mental health support personnel” means, but is not limited to, psychiatrists, psychologists, social workers, and volunteer crisis counseling groups;

10. “Protected health information” means any information, whether oral, written, electronic, visual, or any other form, that relates to the past, present, or future physical or mental health status, condition, treatment, service, products purchased, or provision of care of an individual, and that reveals the identity of the individual whose health care is the subject of the information, or where there is a reasonable basis to believe such information could be utilized either alone or with other information that is, or should reasonably be known to be, available to predictable recipients of such information to reveal the identity of that individual;

11. “Public health authority” means the Oklahoma State Commissioner of Health; or local health department that acts principally to protect or preserve the health of the public; or any person directly authorized to act on behalf of the Oklahoma State Commissioner of Health or local health department;

12. “Public safety authority” means the Commissioner of Public Safety; or any local government agency that acts principally to protect or preserve the public safety; or any person directly authorized to act on behalf of the Commissioner of Public Safety or local agency;

13. “Quarantine” means the physical separation and confinement of an individual or groups of individuals, who are or may have been exposed to a transmissible or possibly transmissible disease and who do not show signs or symptoms of a transmissible disease, from nonquarantined individuals, to prevent or limit the transmission of the disease to nonquarantined individuals;

14. “Specimens” means, but is not limited to, blood, sputum, urine, stool, other bodily fluids, wastes, tissues, and cultures necessary to perform required tests;

15. “Tests” means, but is not limited to, any diagnostic or investigative analyses necessary to prevent the spread of disease or protect the health, safety, and welfare of the public;

16. “Transmissible disease” means an infectious disease that can be transmitted from person to person; and

17. “Trial court” means the district court for the area in which isolation or quarantine is to occur, a court designated by the Public Health Emergency Plan under the Catastrophic Health Emergency

Powers Act, or to the district court for the area in which a catastrophic health emergency has been declared.
Added by Laws 2003, c. 473, § 4. Amended by Laws 2007, c. 69, § 2, eff. Nov. 1, 2007.

§63-6105. Oklahoma Catastrophic Health Emergency Planning Task Force.

A. There is hereby created the Oklahoma Catastrophic Health Emergency Planning Task Force. The purpose of the task force is to prepare a plan for responding to a catastrophic health emergency.

B. The task force shall be comprised as follows:

1. The cabinet secretary with responsibilities for health and human services who shall serve as chair of the task force;

2. The State Commissioner of Health or a designee;

3. The Director of the Department of Public Safety or a designee;

4. The State Attorney General or a designee;

5. The Administrative Director of the Courts or a designee;

6. The Director of Civil Emergency Management or a designee;

7. Two members of the State Senate to be appointed by the President Pro Tempore of the Senate;

8. Two members of the Oklahoma House of Representatives to be appointed by the Speaker of the House of Representatives;

9. The Director of the Tulsa City-County Health Department or a designee;

10. The Director of the Oklahoma City-County Health Department or a designee;

11. The State Fire Marshal;

12. A representative of the Oklahoma State Board of Medical Licensure and Supervision to be appointed by the State Board of Medical Licensure and Supervision;

13. A representative of the State Board of Osteopathic Examiners to be appointed by the State Board of Osteopathic Examiners;

14. A representative of the Governor to be appointed by the Governor;

15. A person appointed by the Governor representing a statewide organization representing hospitals;

16. A representative of the Oklahoma Nurses Association to be appointed by the Oklahoma Nurses Association; and

17. A representative of the Oklahoma Psychological Association to be appointed by the Oklahoma Psychological Association.

C. Appointees shall serve at the pleasure of the appointing authority.

D. No later than December 31, 2004, the task force shall deliver a plan for responding to a catastrophic health emergency to the Governor, the President Pro Tempore of the State Senate, and the

Speaker of the Oklahoma House of Representatives. The plan shall include provisions or guidelines for the following:

1. Notification of and communication with the population during a catastrophic health emergency;

2. Central coordination of resources, manpower, and services, including coordination of responses by state, local, tribal, and federal agencies during a catastrophic health emergency;

3. The location, procurement, storage, transportation, maintenance, and distribution of essential materials including, but not limited to, medical supplies, drugs, vaccines, food, shelter, clothing, and beds during a catastrophic health emergency;

4. The role of law enforcement agencies in response to a catastrophic health emergency;

5. The method of evacuating populations and housing and feeding evacuated populations during a catastrophic health emergency;

6. The identification and training of health care providers to diagnose and treat persons with infectious disease during a catastrophic health emergency;

7. The treatment of persons who have been exposed to or who are infected with diseases or health conditions that may be the cause of a catastrophic health emergency;

8. The safe disposal of contaminated wastes and human remains during a catastrophic health emergency;

9. The safe and effective control of persons treated during a catastrophic health emergency;

10. Tracking the source and outcomes of infected persons during a catastrophic health emergency;

11. Ensuring that during a catastrophic health emergency each city and county within the state identifies the following:

a. sites where medical supplies, food, and other essentials can be distributed to the population,

b. sites where public health and emergency workers can be housed and fed, and

c. routes and means of transportation of people and materials;

12. The recognition of cultural norms, values, religious principles, and traditions that may be relevant during a catastrophic health emergency; and

13. Other measures necessary to carry out the purposes of this act.

E. The task force shall distribute this plan to those who will be responsible for its implementation, other interested persons and the public and seek their review and comments.

F. The task force shall annually review its plan for responding to a catastrophic health emergency.

G. Staff assistance for the task force shall be provided upon request by the chair of the task force by the agency or agencies determined to be appropriate by the chair.

H. Members of the task force shall receive no compensation for serving on the task force, but shall receive travel reimbursement as follows:

1. Legislative members of the task force shall be reimbursed for their necessary travel expenses incurred in the performance of their duties in accordance with Section 456 of Title 74 of the Oklahoma Statutes; and

2. Nonlegislative members of the task force shall be reimbursed pursuant to the Oklahoma Travel Reimbursement Act by their employing or appointing agencies.

Added by Laws 2003, c. 473, § 5.

§63-6301. Reports required from health care providers, coroners, medical examiners, or pharmacists.

A. A health care provider, coroner, or medical examiner shall report all cases of persons who harbor any illness or health condition that may be potential cause of a catastrophic health emergency. Reportable illnesses and health conditions include, but are not limited to, the diseases caused by the biological agents listed in 42 C.F.R., Section 72, app. A (2000) and any illnesses or health conditions identified by the public health authority.

B. In addition to the foregoing requirements for health care providers, a pharmacist shall report any unusual or increased prescription rates, unusual types of prescriptions, or unusual trends in pharmacy visits that may be potential causes of a catastrophic health emergency. Prescription-related events that require a report include, but are not limited to:

1. An unusual increase in the number of prescriptions or over-the-counter pharmaceuticals to treat conditions that the public health authority identifies through regulations;

2. An unusual increase in the number of prescriptions for antibiotics; and

3. Any prescription that treats a disease that is relatively uncommon or may be associated with bioterrorism.

C. The report shall be made electronically or in writing within twenty-four (24) hours to the public health authority. The report shall include as much of the following information as is available: the specific illness or health condition that is the subject of the report; the name of the patient, date of birth, sex, race, occupation, and current home and work addresses, including city and county; the name and address of the health care provider, coroner, or medical examiner and of the reporting individual, if different; and any other information needed to locate the patient for follow-up. For cases related to animal or insect bites, the suspected

locating information of the biting animal or insect, and the name and address of any known owner, shall be reported.

D. Any animal case of a zoonotic disease that is suspected to be a bioterrorism event or associated with an outbreak shall be reported to the State Veterinarian. Appropriate clinical specimens will be required to be rapidly submitted for laboratory confirmation. The State Veterinarian or State Veterinary Diagnostic Laboratory Director or a designee will immediately report by telephone confirmed veterinary cases of public health importance to the State Department of Health.

E. For the purposes of this section, "health care provider" shall include out-of-state medical laboratories, provided that the out-of-state laboratories have agreed to the reporting requirements of this state. Results must be reported by the laboratory that performs the test, but an in-state laboratory that sends specimens to an out-of-state laboratory is also responsible for reporting results.

F. The public health authority may enforce the provisions of this section in accordance with existing enforcement rules.
Added by Laws 2003, c. 473, § 6.

§63-6302. Investigations – Identification of exposed individuals – Closing, evacuation, or decontamination of facilities – Decontamination or destruction of materials – Enforcement powers.

A. The public health authority shall ascertain the existence of cases of an illness or health condition that may be potential causes of a catastrophic health emergency; investigate all such cases for sources of infection or contamination and to ensure that they are subject to proper control measures; and define the distribution of the illness or health condition. To fulfill these duties, the public health authority shall identify exposed individuals as follows:

1. Acting on information developed in accordance with Section 6 of this act, or other reliable information, the public health authority shall identify all individuals thought to have been exposed to an illness or health condition that may be a potential cause of a catastrophic health emergency; and

2. The public health authority shall counsel and interview such individuals where needed to assist in the positive identification of exposed individuals and develop information relating to the source and spread of the illness or health condition. Such information includes the name and address, including city and county, of any person from whom the illness or health condition may have been contracted and to whom the illness or health condition may have spread.

B. The public health authority, for examination purposes, shall close, evacuate, or decontaminate any facility or decontaminate or

destroy any material when the authority reasonably suspects that such facility or material may endanger the public health.

C. The public health authority may enforce the provisions of this section in accordance with existing enforcement rules. An order of the public health authority given to effectuate the purposes of this section shall be enforceable immediately by the public safety authority.

Added by Laws 2003, c. 473, § 7.

§63-6303. Reportable illnesses, health conditions, unusual clusters, or suspicious events – Duty to notify public health authorities – Sharing of information.

A. Whenever the public safety authority or other state or local government agency learns of a case of a reportable illness or health condition, an unusual cluster, or a suspicious event that may be the cause of a catastrophic health emergency, it shall immediately notify the public health authority.

B. Whenever the public health authority learns of a case of a reportable illness or health condition, an unusual cluster, or a suspicious event that it reasonably believes has the potential to be caused by terrorism, it shall immediately notify the public safety authority, tribal authorities, and federal health and public safety authorities.

C. Sharing of information on reportable illnesses, health conditions, unusual clusters, or suspicious events between public health and safety authorities shall be restricted to the information necessary for the treatment, control, investigation, and prevention of a catastrophic health emergency.

Added by Laws 2003, c. 473, § 8.

§63-6401. Governor’s declaration.

A state of catastrophic health emergency may be declared by the Governor upon the occurrence of a "catastrophic health emergency" as defined in paragraph 2 of Section 4 of this act. Prior to such a declaration, the Governor shall consult with the public health authority and may consult with any additional public health or other experts as needed.

Added by Laws 2003, c. 473, § 9.

§63-6402. Executive order.

A state of catastrophic health emergency shall be declared by an executive order that specifies:

1. The nature of the catastrophic health emergency;

2. The political subdivisions or geographic areas subject to the declaration;

3. The conditions that have brought about the catastrophic health emergency;

4. The duration of the state of the catastrophic health emergency, if less than thirty (30) days; and

5. The primary public health authority responding to the catastrophic health emergency.

Added by Laws 2003, c. 473, § 10.

§63-6403. Activation of disaster response and recovery aspects of emergency plans – Powers of Governor.

A. The declaration of a state of catastrophic health emergency shall activate the disaster response and recovery aspects of the state, local, and inter-jurisdictional disaster emergency plans in the affected political subdivisions or geographic areas. Such declaration authorizes the deployment and use of any forces to which the plans apply and the use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or available pursuant to this act.

B. During a state of catastrophic health emergency, the Governor may:

1. Suspend the provisions of any regulatory statute prescribing procedures for conducting state business, or the orders and rules of any state agency, to the extent that strict compliance with the same would prevent, hinder, or delay necessary action (including emergency purchases) by the public health authority to respond to the catastrophic health emergency, or increase the health threat to the population;

2. Utilize all available resources of the state government and its political subdivisions, as reasonably necessary to respond to the catastrophic health emergency;

3. Transfer the direction, personnel, or functions of state departments and agencies in order to perform or facilitate response and recovery programs regarding the catastrophic health emergency;

4. Mobilize all or any part of the National Guard into service of the state. An order directing the National Guard to report for active duty shall state the purpose for which it is mobilized and the objectives to be accomplished;

5. Provide aid to and seek aid from other states during the catastrophic health emergency in accordance with any interstate emergency compact made with this state; and

6. Seek aid from the federal government for the catastrophic health emergency in accordance with federal programs or requirements.

C. The public health authority shall coordinate all matters pertaining to the catastrophic health emergency response of the state. The public health authority shall have primary jurisdiction, responsibility, and authority for:

1. Planning and executing catastrophic health emergency assessment, mitigation, preparedness response, and recovery for the state;

2. Coordinating catastrophic health emergency response between state and local authorities during a catastrophic health emergency;

3. Collaborating with relevant federal government authorities, elected officials of other states, private organizations or companies during a catastrophic health emergency;

4. Coordinating recovery operations and mitigation initiatives subsequent to catastrophic health emergencies; and

5. Organizing public information activities regarding catastrophic health emergency response operations.

D. After the declaration of a state of catastrophic health emergency, special identification for all public health personnel working during the catastrophic health emergency shall be issued as soon as possible. The identification shall indicate the authority of the bearer to exercise public health functions and emergency powers during the state of catastrophic health emergency. Public health personnel shall wear the identification in plain view.
Added by Laws 2003, c. 473, § 11.

§63-6404. Enforcement of public health authority orders - Assistance from public safety authority.

During a state of catastrophic health emergency, the public health authority may request assistance in enforcing orders pursuant to this act from the public safety authority. The public safety authority may request assistance from the National Guard in enforcing the orders of the public health authority.
Added by Laws 2003, c. 473, § 12.

§63-6405. Termination of declaration of emergency by executive order - Special Session of State Legislature.

A. The Governor shall terminate the declaration of a state of catastrophic health emergency by executive order upon finding that the occurrence of the condition that caused the catastrophic health emergency no longer poses a high probability of a large number of deaths in the affected population, a large number of incidents of serious permanent or long-term disability in the affected population, or a significant risk of substantial future harm to a large number of people in the affected population.

B. Notwithstanding any other provision of the Catastrophic Health Emergency Powers Act, the declaration of a state of catastrophic health emergency shall be terminated automatically after thirty (30) days unless renewed by the Governor under the same standards and procedures set forth in this act. Any such renewal shall also be terminated automatically after thirty (30) days unless

renewed by the Governor under the same standards and procedures set forth in the Catastrophic Health Emergency Powers Act.

C. If the Governor declares a catastrophic health emergency, the State Legislature shall automatically be called into Special Session at 8:00 a.m. on the morning of the second day following the date of such declaration for the purpose of concurring with or terminating the catastrophic health emergency. The State Legislature by concurrent resolution may terminate a state of catastrophic health emergency at any time. Thereupon, the Governor shall by appropriate action end the state of catastrophic health emergency. Such termination by the State Legislature shall override any renewal by the Governor.

D. All orders or legislative actions terminating the declaration of a state of catastrophic health emergency shall indicate the nature of the emergency, the area or areas threatened, and the conditions that make possible the termination of the declaration.

Added by Laws 2003, c. 473, § 13.

§63-6501. Safe disposal of contaminated waste – Powers of public health authority.

A. The public health authority may exercise, for such period as the state of catastrophic health emergency exists, the following powers regarding the safe disposal of contaminated waste:

1. To adopt and enforce measures to provide for the safe disposal of contaminated waste as may be reasonable and necessary to respond to the catastrophic health emergency. Such measures may include, but are not limited to, the collection, storage, handling, destruction, treatment, transportation, and disposal of contaminated waste; and

2. To require any business or facility authorized to collect, store, handle, destroy, treat, transport, and dispose of contaminated waste under the laws of this state, and any landfill business or other such property, to accept contaminated waste, or provide services or the use of the business, facility, or property if such action is reasonable and necessary to respond to the catastrophic health emergency as a condition of licensure, authorization, or the ability to continue doing business in the state as such a business or facility. The use of the business, facility, or property may include transferring the management and supervision of such business, facility, or property to the public health authority for a period of time, which shall not exceed the termination of the declaration of a state of catastrophic health emergency.

B. All bags, boxes, or other containers for contaminated waste shall be clearly identified as containing contaminated waste and, if known, the type of contaminated waste.

Added by Laws 2003, c. 473, § 14.

§63-6502. Safe disposal of human remains – Powers of public health authority – Identification and written record.

A. The public health authority may exercise, for such period as the state of catastrophic health emergency exists, the following powers regarding the safe disposal of human remains:

1. To adopt and enforce measures to provide for the safe disposal of human remains as may be reasonable and necessary to respond to the catastrophic health emergency. Such measures may include, but are not limited to, the embalming, burial, cremation, interment, disinterment, transportation, and disposal of human remains;

2. To take possession or control of any human remains; and

3. To order the disposal of any human remains of a person who has died of a transmissible disease through burial or cremation within twenty-four (24) hours after death. To the extent possible, religious, cultural, family, and individual beliefs of the deceased person or the family of the deceased person shall be considered when disposing of any human remains.

B. Any human remains prior to disposal shall be clearly labeled with all available information to identify the decedent and the circumstances of death. Any human remains of a deceased person with a transmissible disease shall have an external, clearly visible tag indicating that the human remains are infected and, if known, the transmissible disease.

C. Every person in charge of disposing of any human remains during a catastrophic health emergency shall maintain a written or electronic record of the human remains and all available information to identify the decedent and the circumstances of death and disposal. If human remains cannot be identified prior to disposal, a qualified person shall, to the extent possible, take fingerprints and photographs of the human remains, obtain identifying dental information, and collect a DNA specimen. All information gathered under this subsection shall be promptly forwarded to the public health authority.

Added by Laws 2003, c. 473, § 15.

§63-6503. Pharmaceutical agents and medical supplies – Purchase and distribution by public health authority - Regulation of use, sale, dispensing, distribution or transportation – Hoarding.

A. The public health authority may purchase and distribute antitoxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or medical supplies that it deems advisable in the interest of preparing for or controlling a catastrophic health emergency, without any additional legislative authorization.

B. If a catastrophic health emergency results in a statewide or regional shortage or threatened shortage of any product under subsection A of this section, whether or not such product has been purchased by the public health authority, the public health authority may control, restrict, and regulate by rationing and using quotas, prohibitions on shipments, allocation, or other means, the use, sale, dispensing, distribution, or transportation of the relevant product necessary to protect the public health, safety, and welfare of the people of the state during the catastrophic health emergency.

C. In making rationing or other supply and distribution decisions, the public health authority may give preference to health care providers, disaster response personnel, and mortuary staff.

D. During a state of catastrophic health emergency, the public health authority may procure, store, or distribute any antitoxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or medical supplies located within the state as may be reasonable and necessary to respond to the catastrophic health emergency, with the right to take immediate possession thereof. If a catastrophic health emergency simultaneously affects more than one state, nothing in this section shall be construed to allow the public health authority to obtain antitoxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or medical supplies for the primary purpose of hoarding such items or preventing fair and equitable distribution among affected states.

Added by Laws 2003, c. 473, § 16.

§63-6504. Civil proceedings relating to destruction of property.

To the extent practicable consistent with the protection of public health, prior to the destruction of any property under the Catastrophic Health Emergency Powers Act, the public health authority shall institute appropriate civil proceedings against the property to be destroyed in accordance with the existing laws and rules of the courts of this state or any such rules that may be developed by the courts for use during a state of catastrophic health emergency. Any property acquired by the public health authority through such proceedings shall, after entry of the decree, be disposed of by destruction as the court may direct.

Added by Laws 2003, c. 473, § 17.

§63-6601. Prevention of utilization of nuclear, biological or chemical agents – Proper control and treatment of transmissible diseases – Duty of public health authority.

During a state of catastrophic health emergency, the public health authority shall use every available means to prevent the utilization of nuclear, biological, or chemical agents, and to

otherwise ensure that all cases of transmissible disease are subject to proper control and treatment.
Added by Laws 2003, c. 473, § 18.

§63-6602. Repealed by Laws 2009, c. 78, § 14, eff. Nov. 1, 2009, and by Laws 2013, 1st Ex. Sess., c. 3, § 2, emerg. eff. Sept. 10, 2013.

§63-6701. Provision of information to general public.

A. The public health authority shall inform the people of the state when a state of catastrophic health emergency has been declared or terminated, how to protect themselves during a state of catastrophic health emergency, and what actions are being taken to control the catastrophic health emergency.

B. The public health authority shall provide information by all available and reasonable means calculated to bring the information promptly to the attention of the general public.

C. If the public health authority has reason to believe there are large numbers of people of the state who lack sufficient skills in English to understand the information, the public health authority shall make reasonable efforts to provide the information in the primary languages of those people as well as in English.

D. The provision of information shall be made in a manner accessible to individuals with disabilities.
Added by Laws 2003, c. 473, §20.

§63-6702. Provision of information about and referrals to mental health support personnel.

During and after the declaration of a state of catastrophic health emergency, the public health authority shall provide information about and referrals to mental health support personnel to address psychological responses to the catastrophic health emergency.
Added by Laws 2003, c. 473, § 21.

§63-6801. Enforcement of provisions of act – Rules – Fines and penalties – Orders and other remedies.

The public health authority and other affected agencies are authorized to promulgate and implement rules as are reasonable and necessary to implement and effectuate the provisions of the Catastrophic Health Emergency Powers Act. The public health authority and other affected agencies shall have the power to enforce the provisions of the Catastrophic Health Emergency Powers Act through the imposition of fines and penalties, the issuance of orders, and any other remedies as are provided by law, but nothing in this section shall be construed to limit specific enforcement powers enumerated in the Catastrophic Health Emergency Powers Act.

Added by Laws 2003, c. 473, § 22.

§63-6802. Transfer of monies from state funds – Conditions.

A. During a catastrophic health emergency, the Governor may transfer from any fund available to the Governor in the State Treasury sums of money as may be necessary during a state of catastrophic health emergency.

B. Monies so transferred shall be repaid to the fund from which they were transferred when monies become available for that purpose, by legislative appropriation or otherwise.

C. A transfer of funds by the Governor under the provisions of this section may be made only when one or more of the following conditions exist:

1. No appropriation or other authorization is available to meet the catastrophic health emergency;

2. An appropriation is insufficient to meet the catastrophic health emergency; or

3. Federal monies available for such a catastrophic health emergency require the use of state or other public monies.

D. All expenses incurred by the state during a state of catastrophic health emergency shall be subject to the following limitations:

1. No expense shall be incurred against the monies authorized under this section, without the general approval of the Governor;

2. The aggregate amount of all expenses incurred pursuant to this section shall not exceed Fifty Million Dollars ($50,000,000.00) for any fiscal year; and

3. Monies authorized for a state of catastrophic health emergency in prior fiscal years may be used in subsequent fiscal years only for the catastrophic health emergency for which they were authorized. Monies authorized for a catastrophic health emergency in prior fiscal years, and expended in subsequent fiscal years for the catastrophic health emergency for which they were authorized, apply toward the fifty-million-dollar expense limit for the fiscal year in which they were authorized.

Added by Laws 2003, c. 473, § 23.

§63-6803. Preemption.

The Catastrophic Health Emergency Powers Act does not explicitly preempt other laws or rules that preserve to a greater degree the powers of the Governor or public health authority, provided the laws or rules are consistent, and do not otherwise restrict or interfere, with the operation or enforcement of the provisions of the Catastrophic Health Emergency Powers Act.

Added by Laws 2003, c. 473, § 24.

§63-6804. Compliance with federal law and regulations – Conflict of laws – Predesignation of hospitals.

A. The Catastrophic Health Emergency Powers Act does not restrict any person from complying with federal law or regulations. Any disclosure by a health care provider or other covered entity of information or data which is protected health information under the provisions of the Health Insurance Portability and Accountability Act of 1996 ("HIPPA"), Public Law 104-191, and which disclosure is occasioned or otherwise caused by the exercise of any emergency powers pursuant to the Catastrophic Health Emergency Powers Act, shall be deemed a disclosure for "Uses and Disclosures Required by Law", as defined by 45 C.F.R., Section 164.512(a), and for "Uses and Disclosures for Public Health Activities", as defined by 45 C.F.R., Section 164.512(b).

B. During a catastrophic health emergency, in the event of a conflict between the Catastrophic Health Emergency Powers Act and other state or local laws or rules concerning public health powers, the provisions of the Catastrophic Health Emergency Powers Act apply.

C. Nothing in the Catastrophic Health Emergency Powers Act shall imply the predesignation of hospitals.

Added by Laws 2003, c. 473, § 25.

§63-6900. Grant programs for administration of National Hospital Preparedness Program.

A. The State Commissioner of Health shall develop grant programs for private, nonprofit and public entities for the purpose of administering the National Hospital Preparedness Program (HPP). For purposes of this section, the "National Hospital Preparedness Program" or "HPP" means the federal preparedness grant offered through the U.S. Department of Health and Human Services designed to improve surge capacity and enhance community and hospital preparedness for public health emergencies.

B. The selection and awarding of grants, whether in the form of professional service contracts or any other funding mechanism developed by the Commissioner, to programs developed pursuant to this section shall be exempt from the requirements of The Oklahoma Central Purchasing Act.

C. The Commissioner shall develop a process for awarding grants to programs developed pursuant to this section. Such process for selection shall not be required for contracts awarded for program support services, including, but not limited to, professional service contracts to evaluate, audit or provide budgeting, accounting, auditing or legal services for specific programs or program grantees, contractors or participants.

Added by Laws 2009, c. 141, § 1, eff. Nov. 1, 2009.

§63-7002. Sale, etc. of human or synthetic urine or of adulterants – Violation – Penalty.

A. It is unlawful for a person to:

1. Sell, give away, distribute, or market human or synthetic urine in this state or transport human or synthetic urine into this state with the intent of using the urine to defraud or cause deceitful results in a urine, drug, or alcohol screening test;

2. Attempt to foil or defeat a urine, drug, or alcohol screening test by the substitution or spiking of a urine sample;

3. Advertise for sale any product designed to foil or defeat a urine, drug, or alcohol screening test;

4. Adulterate a urine or other bodily fluid sample with the intent to defraud or cause deceitful results in a urine, drug, or alcohol screening test;

5. Possess adulterants which are intended to be used to adulterate a urine or other bodily fluid sample for the purpose of defrauding or causing deceitful results in a urine, drug, or alcohol screening test; or

6. Sell or market an adulterant with the intent by the seller or marketer that the product be used to adulterate a urine or other bodily fluid sample for the purpose of defrauding or causing deceitful results in a urine, drug, or alcohol screening test.

B. Intent to defraud or cause deceitful results in a urine, drug, or alcohol screening test is presumed if:

1. A heating element or any other device used to thwart a drug screening test accompanies the sale, giving, distribution, or marketing of urine; or

2. Instructions that provide a method for thwarting a drug screening test accompany the sale, giving, distribution, or marketing of urine.

C. As used in this section, "adulterant" means a substance that is not expected to be in human urine or a substance expected to be present in human urine but that is at a concentration so high that it is not consistent with human urine, including, but not limited to:

1. Bleach;
2. Chromium;
3. Creatinine;
4. Detergent;
5. Glutaraldehyde;
6. Glutaraldehyde/squalene;
7. Hydrochloric acid;
8. Hydroiodic acid;
9. Iodine;
10. Nitrite;
11. Peroxidase;
12. Potassium dichromate;

13. Potassium nitrite;
14. Pyridinium chlorochromate; and
15. Sodium nitrite.

D. Any person convicted of violating any of the provisions of subsection A of this section shall be guilty of a misdemeanor and shall be sentenced to a term of imprisonment in the county jail for a period of not more than one (1) year or a fine of not more than One Thousand Dollars ($1,000.00), or both such imprisonment and fine.

Added by Laws 2004, c. 59, § 6, emerg. eff. April 6, 2004.

§63-7100.1. Short title.

Sections 1 through 7 of this act shall be known and may be cited as the "Oklahoma Health Information Exchange Act".

Added by Laws 2008, c. 305, § 1, emerg. eff. June 2, 2008.

§63-7100.2. Legislative findings - Purpose.

A. The Legislature finds that the exchange of health information in Oklahoma has been impeded as a result of:

1. Confusion about the proper application of federal and state privacy and privilege law; and
2. Concern regarding potential liability for violations of such laws.

B. The purpose of this act is to:

1. Set forth a standard process for authorizing the exchange of health information in compliance with federal and state law; and
2. Ensure immunization from liability under state law for exchanges of health information in accordance with the standard process.

Added by Laws 2008, c. 305, § 2, emerg. eff. June 2, 2008.

§63-7100.3. Definitions.

As used in the Oklahoma Health Information Exchange Act:

1. "Board" means the State Board of Health;
2. "Health information" means information, regardless of source or form, that:
    a. includes demographic information collected from an individual,
    b. relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual, or
    c. identifies the individual or from which there is a reasonable basis to believe the information can be used to identify the individual; and
3. "Health care entity" means:

a. a health plan that, either as an individual or group, provides for, or pays the cost of, medical care,
b. a health care provider that offers or renders medical or health services, or
c. any further individual or association defined as a covered entity under 45 C.F.R., Section 160.103.

Added by Laws 2008, c. 305, § 3, emerg. eff. June 2, 2008.

§63-7100.4. Authorization form for exchange of health information - Instructions.

A. The State Board of Health shall adopt and distribute a standard authorization form and accompanying instructions for use in obtaining authorization for the exchange of health information.

B. The authorization form adopted and distributed by the Board shall comply with all applicable federal and state privacy and privilege laws.

Added by Laws 2008, c. 305, § 4, emerg. eff. June 2, 2008.

§63-7100.5. Acceptance and use of form.

A. A health care entity shall accept the authorization form adopted and distributed by the State Board of Health as a valid authorization for the exchange of health information.

B. A health care entity is not required under this act to use the authorization form adopted and distributed by the Board.

Added by Laws 2008, c. 305, § 5, emerg. eff. June 2, 2008.

§63-7100.6. Immunity from liability.

Persons exchanging health information under the authorization form adopted and distributed by the State Board of Health pursuant to Section 4 of this act, when used in accordance with the instructions of the Board, shall be immunized from liability in actions based upon state privacy or privilege law that may be claimed to arise from the exchange of such information.

Added by Laws 2008, c. 305, § 6, emerg. eff. June 2, 2008.

§63-7100.7. Information exchange not a violation or waiver of privilege protected by law.

The exchange of health information under the authorization form adopted and distributed by the State Board of Health shall not be deemed to have violated or waived any privilege protected under the statutory or common law of this state.

Added by Laws 2008, c. 305, § 7, emerg. eff. June 2, 2008.

§63-7200.1. Short title.

This act shall be known and may be cited as the "Oklahoma Sleep Diagnostic Testing Regulation Act".

Added by Laws 2009, c. 360, § 1.

§63-7200.2. Legislative findings.

The Oklahoma Legislature hereby finds that:

1. There is a growing need for sleep diagnostic testing in the diagnosis and treatment of sleep disorders;

2. Sleep diagnostic testing is being performed in Oklahoma; and

3. Oklahoma law does not provide sufficient regulation of sleep diagnostic testing to assure the protection of the public.

Therefore, there is a need to provide legislation to enable the appropriate entities to regulate persons performing sleep diagnostic testing on the citizens of this state.

Added by Laws 2009, c. 360, § 2.

§63-7200.3. Definitions.

As used in the Oklahoma Sleep Diagnostic Testing Regulation Act:

1. "Advanced practice nurse" means a person licensed to practice as an advanced practice nurse by the Oklahoma Board of Nursing pursuant to the Oklahoma Nursing Practice Act;

2. "Interpreting physician" means a physician who provides professional interpretation of data generated by sleep diagnostic tests. An interpreting physician shall be board-certified in sleep medicine by the American Board of Sleep Medicine (ABSM) or the American Board of Medical Specialties or must have completed a one-year sleep medicine fellowship accredited by the Accreditation Council for Graduate Medical Education (ACGME) or received a Certification of Special Qualifications (CSQ) or a Certification of Added Qualifications (CAQ) in Sleep Medicine issued by the American Osteopathic Association;

3. "Physician" means a person licensed to practice:

a. allopathic medicine and surgery by the State Board of Medical Licensure and Supervision pursuant to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, or

b. osteopathic medicine by the State Board of Osteopathic Examiners pursuant to the Oklahoma Osteopathic Medicine Act;

4. "Physician assistant" means a person licensed to practice as a physician assistant by the State Board of Medical Licensure and Supervision pursuant to the Physician Assistant Act;

5. "Sleep diagnostic test" means any technological recording procedure used for the diagnosis of sleep-related breathing disorders or other disorders of sleep;

6. "Sleep diagnostic testing facility" means a building or place situated in a fixed location or a mobile entity that is used to conduct sleep diagnostic tests and includes sleep disorder centers and laboratories for sleep-related breathing disorders, but does not include a hospital that conducts sleep diagnostic tests for

its patients, including sleep diagnostic tests performed under arrangements made by a hospital for its patients whereby the hospital exercises professional responsibility over the arranged services; and

7. "Supervising physician" means a physician responsible for the supervision of the sleep diagnostic testing performed, including, but not limited to, the quality of the testing performed, the proper operation and calibration of the equipment used to perform sleep diagnostic tests and the actions of nonphysician personnel engaged in the performance of the sleep diagnostic testing. A supervising physician shall be board-certified in sleep medicine by the American Board of Sleep Medicine (ABSM) or the American Board of Medical Specialties or shall have completed a one-year sleep medicine fellowship accredited by the Accreditation Council for Graduate Medical Education (ACGME), or received a Certification of Special Qualifications (CSQ) or a Certification of Added Qualifications (CAQ) in Sleep Medicine issued by the American Osteopathic Association.

Added by Laws 2009, c. 360, § 3. Amended by Laws 2010, c. 200, § 1, eff. Nov. 1, 2010.

§63-7200.4. Ordering and furnishing sleep diagnostic tests - Facility standards.

A. Sleep diagnostic tests shall be ordered by a physician, physician assistant or advance practice nurse.

B. Sleep diagnostic tests shall be furnished:

1. By a sleep diagnostic testing facility;

2. By, or under arrangements made by, a hospital for its patients whereby the hospital exercises professional responsibility over the arranged services; or

3. In the patient's home.

C. Sleep diagnostic testing facilities shall meet the following standards:

1. Sleep diagnostic testing facilities shall be supervised by a supervising physician as defined by this act;

2. On and after January 1, 2010, sleep diagnostic testing facilities shall be fully or provisionally certified or accredited by the American Academy of Sleep Medicine (AASM), the Joint Commission or the Accreditation Commission for Healthcare (ACHC), except that the full or provisional certification or accreditation by AASM, the Joint Commission, or ACHC shall not be required until June 30, 2010, for any sleep diagnostic testing facility that has submitted a complete application for certification or accreditation to AASM, the Joint Commission and/or ACHC on or before December 31, 2009;

3. An interpreting physician shall interpret the data generated by all sleep diagnostic tests conducted at a sleep diagnostic testing facility; and

4. Nonphysician personnel conducting sleep diagnostic tests shall perform their duties under the direction and supervision of the supervising physician.

D. Sleep diagnostic tests performed in the patient's home shall be conducted under the supervision of a supervising physician and interpreted by an interpreting physician.

Added by Laws 2009, c. 360, § 4.

§63-7200.5. Violations - Enforcement - Promulgation of rules.

A. It shall be unlawful for any facility or person to perform sleep diagnostic tests without having first complied with this act or as may otherwise be allowed by applicable law.

B. The State Department of Health is authorized to enforce the provisions of this act.

C. The State Board of Health shall promulgate rules and enforcement measures as necessary to implement the provisions of the Oklahoma Sleep Diagnostic Testing Regulation Act.

Added by Laws 2009, c. 360, § 5. Amended by Laws 2010, c. 200, § 2, eff. Nov. 1, 2010.

§63-7300. Interstate Health Care Compact.

WHEREAS, the separation of powers, both between the branches of the Federal government and between Federal and State authority, is essential to the preservation of individual liberty;

WHEREAS, the Constitution creates a Federal government of limited and enumerated powers, and reserves to the States or to the people those powers not granted to the Federal government;

WHEREAS, the Federal government has enacted many laws that have preempted State laws with respect to Health Care, and placed increasing strain on State budgets, impairing other responsibilities such as education, infrastructure, and public safety;

WHEREAS, the Member States seek to protect individual liberty and personal control over Health Care decisions, and believe the best method to achieve these ends is by vesting regulatory authority over Health Care in the States;

WHEREAS, by acting in concert, the Member States may express and inspire confidence in the ability of each Member State to govern Health Care effectively; and

WHEREAS, the Member States recognize that consent of Congress may be more easily secured if the Member States collectively seek consent through an interstate compact.

NOW THEREFORE, the Member States hereto resolve, and by the adoption into law under their respective State Constitutions of this Health Care Compact, agree, as follows:

Sec. 1. Definitions.

As used in this Compact, unless the context clearly indicates otherwise:

1. "Commission" means the Interstate Advisory Health Care Commission.

2. "Effective Date" means the date upon which this Compact shall become effective for purposes of the operation of State and Federal law in a Member State, which shall be the later of:

(a) the date upon which this Compact shall be adopted under the laws of the Member State, and

(b) the date upon which this Compact receives the consent of Congress pursuant to Article I, Section 10, of the United States Constitution, after at least two Member States adopt this Compact.

3. "Health Care" means care, services, supplies, or plans related to the health of an individual and includes but is not limited to:

(a) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care and counseling, service, assessment, or procedure with respect to the physical or mental condition or functional status of an individual or that affects the structure or function of the body, and

(b) sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription, and

(c) an individual or group plan that provides, or pays the cost of, care, services, or supplies related to the health of an individual, except any care, services, supplies, or plans provided by the United States Department of Defense and United States Department of Veterans Affairs, or provided to Native Americans.

4. "Member State" means a State that is signatory to this Compact and has adopted it under the laws of that State.

5. "Member State Base Funding Level" means a number equal to the total Federal spending on Health Care in the Member State during Federal fiscal year 2010. On or before the Effective Date, each Member State shall determine the Member State Base Funding Level for its State, and that number shall be binding upon that Member State. The preliminary estimate of Member State Base Funding Level for the State of Oklahoma is Ten Billion Three Hundred Forty-four Million.

6. "Member State Current Year Funding Level" means the Member State Base Funding Level multiplied by the Member State Current Year Population Adjustment Factor multiplied by the Current Year Inflation Adjustment Factor.

7. "Member State Current Year Population Adjustment Factor" means the average population of the Member State in the current year less the average population of the Member State in Federal fiscal year 2010, divided by the average population of the Member State in Federal fiscal year 2010, plus 1. Average population in a Member State shall be determined by the United States Census Bureau.

8. "Current Year Inflation Adjustment Factor" means the Total Gross Domestic Product Deflator in the current year divided by the Total Gross Domestic Product Deflator in Federal fiscal year 2010. Total Gross Domestic Product Deflator shall be determined by the Bureau of Economic Analysis of the United States Department of Commerce.

Sec. 2. Pledge.

The Member States shall take joint and separate action to secure the consent of the United States Congress to this Compact in order to return the authority to regulate Health Care to the Member States consistent with the goals and principles articulated in this Compact. The Member States shall improve Health Care policy within their respective jurisdictions and according to the judgment and discretion of each Member State.

Sec. 3. Legislative Power.

The legislatures of the Member States have the primary responsibility to regulate Health Care in their respective States.

Sec. 4. State Control.

Each Member State, within its State, may suspend by legislation the operation of all federal laws, rules, regulations, and orders regarding Health Care that are inconsistent with the laws and regulations adopted by the Member State pursuant to this Compact. Federal and State laws, rules, regulations, and orders regarding Health Care will remain in effect unless a Member State expressly suspends them pursuant to its authority under this Compact. For any federal law, rule, regulation, or order that remains in effect in a Member State after the Effective Date, that Member State shall be responsible for the associated funding obligations in its State.

Sec. 5. Funding.

(a) Each Federal fiscal year, each Member State shall have the right to Federal monies up to an amount equal to its Member State Current Year Funding Level for that Federal fiscal year, funded by Congress as mandatory spending and not subject to annual appropriation, to support the exercise of Member State authority under this Compact. This funding shall not be conditional on any action of or regulation, policy, law, or rule being adopted by the Member State.

(b) By the start of each Federal fiscal year, Congress shall establish an initial Member State Current Year Funding Level for each Member State, based upon reasonable estimates. The final Member State Current Year Funding Level shall be calculated, and funding shall be reconciled by the United States Congress based upon information provided by each Member State and audited by the United States Government Accountability Office.

Sec. 6. Interstate Advisory Health Care Commission.

(a) The Interstate Advisory Health Care Commission is established. The Commission consists of members appointed by each

Member State through a process to be determined by each Member State. A Member State may not appoint more than two members to the Commission and may withdraw membership from the Commission at any time. Each Commission member is entitled to one vote. The Commission shall not act unless a majority of the members are present, and no action shall be binding unless approved by a majority of the Commission's total membership.

(b) The Commission may elect from among its membership a Chairperson. The Commission may adopt and publish bylaws and policies that are not inconsistent with this Compact. The Commission shall meet at least once a year, and may meet more frequently.

(c) The Commission may study issues of Health Care regulation that are of particular concern to the Member States. The Commission may make nonbinding recommendations to the Member States. The legislatures of the Member States may consider these recommendations in determining the appropriate Health Care policies in their respective States.

(d) The Commission shall collect information and data to assist the Member States in their regulation of Health Care, including assessing the performance of various State Health Care programs and compiling information on the prices of Health Care. The Commission shall make this information and data available to the legislatures of the Member States. Notwithstanding any other provision in this Compact, no Member State shall disclose to the Commission the health information of any individual, nor shall the Commission disclose the health information of any individual.

(e) The Commission shall be funded by the Member States as agreed to by the Member States. The Commission shall have the responsibilities and duties as may be conferred upon it by subsequent action of the respective legislatures of the Member States in accordance with the terms of this Compact.

(f) The Commission shall not take any action within a Member State that contravenes any State law of that Member State.

Sec. 7. Congressional Consent.

This Compact shall be effective on its adoption by at least two Member States and consent of the United States Congress. This Compact shall be effective unless the United States Congress, in consenting to this Compact, alters the fundamental purposes of this Compact, which are:

(a) To secure the right of the Member States to regulate Health Care in their respective States pursuant to this Compact and to suspend the operation of any conflicting federal laws, rules, regulations, and orders within their States; and

(b) To secure Federal funding for Member States that choose to invoke their authority under this Compact, as prescribed by Section 5 above.

Sec. 8. Amendments.

The Member States, by unanimous agreement, may amend this Compact from time to time without the prior consent or approval of Congress and any amendment shall be effective unless, within one year, the Congress disapproves that amendment. Any State may join this Compact after the date on which Congress consents to the Compact by adoption into law under its State Constitution.

Sec. 9. Withdrawal; Dissolution.

Any Member State may withdraw from this Compact by adopting a law to that effect, but no such withdrawal shall take effect until six months after the Governor of the withdrawing Member State has given notice of the withdrawal to the other Member States. A withdrawing State shall be liable for any obligations that it may have incurred prior to the date on which its withdrawal becomes effective. This Compact shall be dissolved upon the withdrawal of all but one of the Member States.

Added by Laws 2011, c. 267, § 1.

§63-7301. Diabetes prevention reporting.

A. The Oklahoma Health Care Authority and the State Department of Health shall collaborate to identify benchmarks and develop goals to reduce the incidence rates of, improve health care services for, and control complications resulting from diabetes.

B. The Authority and the Department shall submit a report to the President Pro Tempore of the Senate and the Speaker of the House of Representatives by January 10th of odd-numbered years. Such report shall contain the following information:

1. The fiscal impact of all types of diabetes on the Authority, the Department, and county health departments including the number of persons with diabetes receiving services through the Authority, the Department, and county health departments;

2. The fiscal impact of diabetes on the Authority, the Department, and county health departments in comparison to other chronic diseases;

3. An assessment of the benefits of diabetes prevention programs including a summary of funding directed to the Authority and the Department from the Oklahoma State Legislature;

4. A description of coordination between the Authority and the Department including, but not limited to, programs relating to the treatment and prevention of all forms of diabetes;

5. Detailed action plans for battling diabetes with actionable items for consideration by the Legislature including, but not limited to, steps to reduce the impact of diabetes, pre-diabetes, and related diabetes complications;

6. Identification of expected outcomes of the action steps and benchmarks for controlling and preventing all forms of diabetes; and

7. The development of a detailed budget blueprint identifying needs, costs, and resources required to implement the plan provided for in this act. Such blueprint shall include a budget range for all options presented in the plan for consideration by the Legislature.

C. The provisions of this act shall be limited to diabetes information, data, initiatives, and programs within the Authority and the Department prior to the effective date of this act, unless there is available funding for diabetes in each agency that may be used for new research, data collection reporting or other requirements of this act.

Added by Laws 2015, c. 46, § 1, eff. Nov. 1, 2015.

§63-7302. Tanning facilities - Age requirement - Posting requirement.

A. As used in this act:

1. "Phototherapy device" means equipment that emits ultraviolet radiation and is used in the diagnosis or treatment of disease or injury;

2. "Tanning device" means equipment that emits electromagnetic radiation having wavelengths in the air between two hundred (200) and four hundred (400) nanometers and that is used for tanning of human skin and any equipment used with that equipment including, but not limited to, protective eyewear, timers and handrails. For the purposes of this paragraph, "tanning device" shall not include a phototherapy device used, or prescribed for use, by a physician;

3. "Tanning facility" means any location, place, area, structure or business that provides persons access to any tanning device, including tanning salons, health clubs, apartments and condominiums, regardless of whether a fee is charged for access to tanning equipment; and

4. "Operator" means a person designated by the owner of a tanning facility or tanning device lessee to operate or to assist and instruct in the operation and use of the tanning facility or tanning device.

B. It shall be unlawful for any person under eighteen (18) years of age to use any tanning device of any tanning facility in this state.

C. A person who is the owner, lessee or operator of a tanning facility in this state shall post in a conspicuous place in each tanning facility owned, leased or operated by that person a notice developed by the State Department of Health that states all of the following:

1. That it is unlawful for a tanning facility or operator to allow a person under eighteen (18) years of age to use any tanning device;

2. That a tanning facility or operator that violates the provisions of this act shall be subject to a civil penalty;

3. That an individual may report a violation of one or more provisions of this act to the local law enforcement agency; and

4. The health risks associated with tanning including, but not limited to, skin cancer, premature aging of skin, burns to the skin and adverse reactions to certain medications, foods and cosmetics.

D. The State Board of Health shall promulgate rules to implement the provisions of this act.

Added by Laws 2017, c. 189, § 1, eff. Nov. 1, 2017.