

TITLE 40. BOARD OF TESTS FOR ALCOHOL AND DRUG INFLUENCE

CHAPTER 10. PERSONNEL

40:10-1-1. Purpose

The rules in this Chapter pertain to persons involved in various aspects of the conduct of tests for alcohol ~~and other intoxicating substances~~ under the provisions of Title 47 O.S., Sections 751-761 and 3 O.S., Section 303 and 63 O.S., Section 4210A, Oklahoma Statutes. These rules address standards and qualifications of breath-alcohol test operators ~~and supervisors, forensic alcohol and drug analysts, specimen collectors and other personnel~~, and regulate initial issuance, renewal ~~and~~, reinstatement, and revocation of permits for such persons.

~~SUBCHAPTER 7. FORENSIC ALCOHOL AND DRUG ANALYSTS~~

~~40:10-7-1. Qualifications and requirements for forensic alcohol analysts~~

~~(a) Initial issuance of permits. Persons performing analysis for alcohol of specimens of blood, or delayed analysis for alcohol of retained specimens of breath or of the retained alcohol content of specimens of breath, hereafter termed "forensic alcohol analysis," under the provision of Title 47, Oklahoma Statutes, shall possess at least the following qualifications and shall meet the following requirements, and shall be eligible for initial issuance of a Permit to perform such forensic alcohol analysis upon satisfying such qualifications and requirements. Such persons shall continue to satisfy such qualifications and requirements as a condition of the continued validity of such Permit.~~

~~(1) Qualifications. Qualifications for forensic alcohol analysts (initial permits) are as follows:~~

~~(A) Residence within the State of Oklahoma.~~

~~(B) Minimum age of 21 years.~~

~~(C) Good moral character.~~

~~(D) At least the educational and experience requirements stipulated for clinical laboratory technologists, in the fields of clinical chemistry or toxicology, in the current implementing Federal regulations applicable to laboratories pursuant to the Clinical Laboratory Improvement Amendments of 1988 (P.L. No. 100-578), Title 42, Part 405 et al., Code of Federal Regulations, which are adopted in this Section by reference.~~

~~(E) At least six (6) months of the pertinent, full time laboratory experience and/or training shall have been in a laboratory or laboratories meeting nationally recognized standards for clinical or forensic laboratories, and shall have been in~~

~~(i) the field of blood alcohol analysis or forensic toxicology or forensic chemistry or criminalistics, or~~

~~(ii) other pertinent biomedical or forensic laboratory activities.~~

~~(F) Competence to perform forensic alcohol analysis.~~

~~(2) Requirements. Requirements for forensic alcohol analysts (initial permits) are as follows:~~

~~(A) Submission of a properly completed application form for initial issuance of Permits, obtainable from the Board, together with the supporting documentation specified therein.~~

~~(B) Adequate access to suitable laboratory facilities meeting nationally recognized standards for clinical or forensic laboratories.~~

~~(C) Establishment of the applicant's competence to perform forensic alcohol analysis. Such competence establishment shall be accomplished in accordance with generally recognized procedures in forensic toxicology.~~

(b) ~~Renewal of permits. Persons performing analysis for alcohol of specimens of blood, or delayed analysis for alcohol of retained specimens of breath or of the retained alcohol content of specimens of breath, under the provisions of Title 47, Oklahoma Statutes, who hold a current, valid Forensic Alcohol Analysis Permit issued by authority of the Board of Tests for Alcohol and Drug Influence shall be eligible for renewal of a Forensic Alcohol Analysis Permit upon satisfying the following qualifications and requirements. Such persons shall continue to satisfy such qualifications and requirements as a condition of the continued validity of such Permit.~~

~~(1) Qualifications. Qualifications for forensic alcohol analysts (renewal permits) are as follows:~~

~~(A) Possession of all qualifications stipulated in this Rule for initial issuance of a Forensic Alcohol Analysis Permit.~~

~~(B) Continued competence to perform forensic alcohol analysis as defined above.~~

~~(C) Possession of a valid Forensic Alcohol Analysis Permit issued by authority of the Board of Tests for Alcohol and Drug Influence within the preceding twelve (12) months upon compliance with the Qualifications and Requirements then in force for initial issuance or for renewal of such Permit.~~

~~(2) Requirements. Requirements for forensic alcohol analysts (renewal permits) are as follows:~~

~~(A) Submission of a properly completed application form for renewal of Permits, obtainable from the Board, together with the supporting documentation specified therein.~~

~~(B) Continued adequate access to suitable laboratory facilities meeting nationally-recognized standards for clinical or forensic laboratories.~~

~~(C) Establishment, within one (1) year prior to renewal of the Forensic Alcohol Analysis Permit, of the applicant's continued competence to perform forensic alcohol analysis. Such continued competence establishment shall be accomplished in accordance with generally recognized procedures in forensic toxicology.~~

~~(e) Period of validity. Forensic Alcohol Analysis Permits shall be valid for one (1) year from the date of issue, and shall be subject to earlier termination or revocation at the discretion of the Board.~~

40:10-7-2. Qualifications and requirements for forensic drug analysts

~~(a) Initial issuance of permits. Persons performing analysis for drugs and other intoxicating substances (as defined in 47 O.S., Section 751) of specimens of blood, saliva, or, urine, hereafter termed "forensic drug analysis," under the provision of Title 47, Oklahoma Statutes, shall possess at least the following qualifications and shall meet the following requirements, and shall be eligible for initial issuance of a Forensic Drug Analysis Permit to perform such forensic drug analysis upon satisfying such qualifications and requirements. Such persons shall continue to satisfy such qualifications and requirements as a condition of the continued validity of such Permit.~~

~~(1) Qualifications. Qualifications for forensic drug analysts (initial permits) are as follows:~~

~~(A) Residence within the State of Oklahoma.~~

~~(B) Minimum age of 21 years.~~

~~(C) Good moral character.~~

~~(D) At least the educational and experience requirements stipulated for clinical laboratory technologists, in the fields of clinical chemistry or toxicology, in the current implementing Federal regulations applicable to laboratories pursuant to the Clinical Laboratory Improvement Amendments of 1988 (P.L. No. 100-578), Title 42, Part 405 et al., Code of Federal Regulations, which are adopted in this Section by reference.~~

~~(E) At least six (6) month of the pertinent, full time laboratory experience and/or training shall have been in a laboratory or laboratories meeting nationally recognized standards for clinical or forensic laboratories, and shall have been in~~

- (i) the field of drug analysis or forensic toxicology or forensic chemistry or criminalistics, or
- (ii) other pertinent biomedical or forensic laboratory activities.

(F) Competence to perform forensic drug analysis.

(2) Requirements. Requirements for forensic drug analysts (initial permits) are as follows:

- (A) Submission of a properly completed application form for initial issuance of Permits, obtainable from the Board, together with the supporting documentation specified therein.
- (B) Adequate access to suitable laboratory facilities meeting nationally recognized standards for clinical or forensic laboratories.
- (C) Establishment of the applicant's competence to perform forensic drug analysis. Such competence establishment shall be accomplished in accordance with generally recognized procedures in forensic toxicology.

(b) Renewal of permits. Persons performing analysis for drugs and other intoxicating substances (as defined in 47 O.S., §751) of specimens of blood, saliva, or urine under the provisions of Title 47, Oklahoma Statutes, who hold a current, valid Forensic Drug Analysis Permit issued by authority of the Board of Tests for Alcohol and Drug Influence shall be eligible for renewal of a Forensic Drug Analysis Permit upon satisfying the following qualifications and requirements. Such persons shall continue to satisfy such qualifications and requirements as a condition of the continued validity of such Permit.

(1) Qualifications. Qualifications for forensic drug analysts (renewal permits) are as follows:

- (A) Possession of all qualifications stipulated in this Rule for initial issuance of a Forensic Drug Analysis Permit.
- (B) Continued competence to perform forensic drug analysis.
- (C) Possession of a valid Forensic Drug Analysis Permit issued by authority of the Board of Tests for Alcohol and Drug Influence within the preceding twelve (12) months upon compliance with the Qualifications and Requirements then in force for initial issuance or for renewal of such Permit.

(2) Requirements. Requirements for forensic drug analysts (renewal permits) are as follows:

- (A) Submission of a properly completed application form for renewal of Permits, obtainable from the Board, together with the supporting documentation specified therein.
- (B) Continued adequate access to suitable laboratory facilities meeting nationally recognized standards for clinical or forensic laboratories.
- (C) Establishment, within one (1) year prior to renewal of the Forensic Drug Analysis Permit, of the applicant's continued competence to perform forensic drug analysis. Such continued competence establishment shall be accomplished in accordance with generally recognized procedures in forensic toxicology.

(c) Period of validity. Forensic Drug Analysis Permits shall be valid for one (1) year from the date of issue, and shall be subject to earlier termination or revocation at the discretion of the Board.

SUBCHAPTER 9. BLOOD SPECIMEN COLLECTORS

40:10-9-1. Persons authorized to withdraw blood

(a) Authority to withdraw blood. Licensed medical doctors, licensed osteopathic physicians, registered nurses, licensed practical nurses, personnel licensed in accordance with 63 O.S. §1-2505 as Intermediate Emergency Medical Technician, Advanced Emergency Medical Technician, or Paramedic acting within the limits of protocols established by the applicable medical director and other persons designated by law (47 O.S., Section 752) or who otherwise hold a certification or designation as a phlebotomist and has been approved by the medical facility for which they are employed are authorized to withdraw blood for

~~the purpose of determining the concentration of alcohol or other intoxicating substance therein, when acting at the request of a law enforcement officer or of an arrested person under the provisions of Title 47 and 3 O.S., Section 303 and 63 O.S., Section 4210A, Oklahoma Statutes.~~

~~(b) Permits. The current and valid license, registration, practice certificate or other official document entitling its holder to engage in the practice of the respective profession or practice, issued by the respective healing arts licensing body to any qualified practitioner enumerated above is deemed by the Board of Tests for Alcohol and Drug Influence to be a valid Permit to Withdraw Blood under the provisions of Title 47 and 3 O.S., Section 303 and 63 O.S., Section 4210A, Oklahoma Statutes.~~

TITLE 40. BOARD OF TESTS FOR ALCOHOL AND DRUG INFLUENCE

CHAPTER 15. LABORATORIES AND FACILITIES

40:15-1-1. Purpose

The rules in this Chapter concern approval and regulation by the Board of forensic alcohol laboratories, forensic drug laboratories, and other facilities involved in tests for alcohol and other intoxicating substances under the provisions of Title 47 O.S., Sections 751-761 and 3 O.S., Section 303 and 63 O.S., Section 4210A, Oklahoma Statutes. They include qualifications and requirements for initial issuance and renewal of permits for such entities. All forensic laboratories and facilities that are ISO/IEC (International Organization of Standards/International Electrotechnical Commission) 17025 accredited, or as defined in 74 O.S. § 150.37 (Forensic Laboratory Accreditation Act) are exempt from these rules.

40:15-1-2. Forensic alcohol analysis laboratories

(a) Approval. Any laboratory in which analysis for alcohol of specimens of blood, hereafter termed "forensic alcohol analysis," is performed under the provisions of Title 47 or 3 O.S., Section 303 or 63 O.S., Section 4210A, Oklahoma Statutes, shall possess at least the following qualifications and shall meet the following requirements. Any laboratory complying with such qualifications and requirements shall be deemed by this Board to be a Forensic Alcohol Laboratory approved by the Board of Tests for Alcohol and Drug Influence, and shall be entitled to issuance of a Forensic Alcohol Laboratory Permit. Such laboratory shall continue to satisfy such qualifications and requirements as a condition of the continued validity of such Permit.

(1) Qualifications. Qualifications for forensic alcohol analysis laboratories (initial permits) are as follows:

(A) All forensic laboratories and facilities that are ISO/IEC (International Organization of Standards/International Electrotechnical Commission) 17025 accredited, or as defined in 74 O.S. § 150.37 (Forensic Laboratory Accreditation Act), or permitted by the Board of Tests, may perform testing regardless of location.

(B) Possession of all current and valid Federal, State, and local licenses and permits required to engage in the activities and operations carried out by or in the laboratory, and compliance with all current Federal, State, and local requirements for such activities and operations.

(C) The laboratory shall be at least one (1) of the following:

(i) A clinical laboratory located within and operated and controlled by an institution which is currently licensed by the Oklahoma State Department of Health as a general hospital, and which is currently accredited as a general hospital by the Joint Commission on Accreditation of Healthcare Organizations. Such clinical laboratory shall be directed by a qualified doctoral level director.

(ii) A clinical laboratory which is currently Federally licensed and/or approved under the implementing Federal regulations applicable to laboratories pursuant to the Federal Clinical Laboratory Improvement Amendments of 1988 (P.L. No. 100-578) for the performance of clinical chemistry and/or toxicology procedures, Title 42, Part 405 et al., Code of Federal Regulations, adopted in this Section by reference. Such clinical laboratory shall be directed by a qualified doctoral level director.

(iii) A central or branch forensic laboratory operated and controlled by the Oklahoma State Bureau of Investigation.

(iv) A forensic laboratory operated and controlled by a county or municipal law enforcement agency.

(v) The Toxicology/Forensic Science Laboratories of The University of Oklahoma Health Sciences Center.

(D) The laboratory shall regularly employ or have on its permanent staff at least one (1) person holding a currently valid Forensic Alcohol Analysis Permit issued by the Board of Tests for Alcohol and Drug Influence.

(E) The laboratory shall have space, facilities, equipment, and apparatus adequate and appropriate for the performance of forensic alcohol analysis.

(2) Requirements. Requirements for forensic alcohol analysis laboratories (initial permits) are as follows:

(A) Submission of a properly completed application form for Initial Approval, obtainable from the Board, together with all supporting documentation specified therein.

(B) Maintenance of an adequate and appropriate quality assurance program and activities in forensic alcohol analysis, meeting nationally recognized standards.

(C) Regular and satisfactory participation and performance in any program of proficiency testing in forensic alcohol analysis conducted by or on behalf of the Board of Tests for Alcohol and Drug Influence, or required by the Board.

(D) Regular and satisfactory participation and performance in any program of proficiency testing in clinical chemistry or toxicology in which the laboratory is voluntarily enrolled or required to be enrolled as a condition of Federal or state licensure or approval.

(b) Renewal of approval. Laboratories which have been approved by the Board of Tests for Alcohol and Drug Influence for performance of forensic alcohol analysis and which hold a current valid Forensic Alcohol Laboratory Permit shall be eligible for renewal of such Permit upon satisfying the following qualifications and requirements. Such laboratory shall continue to satisfy such qualifications and requirements as a condition of the continued validity of such Permit.

(1) Qualifications. Qualifications for forensic alcohol analysis laboratories (renewal permits) are as follows:

(A) Possession of all qualifications stipulated in this Rule for Initial Approval as a Forensic Alcohol Laboratory.

(B) Possession of a valid Forensic Alcohol Laboratory Permit issued by authority of the Board of Tests for Alcohol and Drug Influence within the preceding twelve (12) months upon compliance with the Qualifications and Requirements then in force for, Initial Approval or for Renewal of Approval as a Forensic Alcohol Laboratory.

(2) Requirements. Requirements for forensic alcohol laboratories (renewal permits) are as follows:

(A) Submission of a properly completed application form for Renewal of Approval, obtainable from this Board, together with all supporting documentation specified therein.

(B) Continued satisfactory participation and performance in the quality assurance and proficiency testing programs and activities stipulated in this Section as requirements for Initial Approval.

(c) General conditions of approval. The following general and continued conditions of Approval apply to every Forensic Alcohol Laboratory.

(1) Every such Laboratory may be inspected periodically, during its normal working hours, by the State Director of Tests for Alcohol and Drug Influence or by the State Director's duly authorized representative(s). Such inspection may include examination of the Laboratory's pertinent files and records, as well as its facilities.

(2) Every such Laboratory shall maintain a current file of all methods and procedures employed in such Laboratory for forensic alcohol analysis.

(3) Every such Laboratory shall maintain and retain at least the following records for a period of at least three (3) years from the date of origin of such records:

(A) An up-to-date record of persons in its employ or on its staff who are or were engaged in the performance of forensic alcohol analysis. Such records shall include, at least, the inclusive employment dates, qualifications of each such person, and any continuing education or training pertinent to forensic alcohol analysis received by each such person within or outside of the Laboratory.

(B) Records of specimens received by and subjected to forensic alcohol analysis within the Laboratory under the provisions of Title 47 or Title 3 or Title 63, Oklahoma Statutes, including all pertinent dates and times, identification of such specimens, results obtained and reported, and the identity of the person(s) who performed each such analysis.

(C) Records of the internal and external quality assurance programs and proficiency testing activities and results, in or pertinent to forensic alcohol analysis, in which the Laboratory participates or has participated.

(4) Every such Laboratory shall be operated and shall perform its forensic alcohol activities in substantial compliance with applicable nationally recognized standards of good laboratory practice.

(5) In every such Laboratory, forensic alcohol analysis shall be performed only by methods and procedures approved by the Board of Tests for Alcohol and Drug Influence, and only by persons holding valid Forensic Alcohol Analysis Permits.

(d) Period of validity. Forensic Alcohol Laboratory Approval and Forensic Alcohol Laboratory Permits shall be valid for one (1) year from the date of Approval or the date of Permit issuance, respectively, and shall be subject to earlier suspension, termination, or revocation at the discretion of the Board.

40:15-1-3. Forensic drug analysis laboratories

(a) Approval. Any laboratory in which analysis for drugs and other intoxicating substances in specimens of blood, hereafter termed "forensic drug analysis," is performed under the provisions of Title 47 or 3 O.S., Section 303 or 63 O.S., Section 4210A, Oklahoma Statutes, shall possess at least the following qualifications and shall meet the following requirements. Any laboratory complying with such qualifications and requirements shall be deemed by this Board to be a Forensic Drug Laboratory approved by the Board of Tests for Alcohol and Drug Influence and shall be entitled to issuance of a Forensic Drug Laboratory Permit. Such Laboratory shall continue to satisfy such qualifications and requirements as a condition of the continued validity of such Permit.

(1) Qualifications. Qualifications for forensic drug analysis laboratories (initial permits) are as follows:

(A) All forensic laboratories and facilities that are ISO/IEC (International Organization of Standards/International Electrotechnical Commission) 17025 accredited, or as defined in 74 O.S. § 150.37 (Forensic Laboratory Accreditation Act), or permitted by the Board of Tests, may perform testing regardless of location.

(B) Possession of all current and valid Federal, State, and local licenses and permits required to engage in the activities and operations carried out by or in the laboratory, and compliance with all current Federal, State, and local requirements for such activities and operations.

(C) The laboratory shall be at least one (1) of the following:

- (i) A clinical laboratory located within and operated and controlled by an institution which is currently licensed by the Oklahoma State Department of Health as a general hospital, and which is currently accredited as a general hospital by the Joint Commission on Accreditation of Healthcare Organizations. Such clinical laboratory shall be directed by a qualified doctoral level director.
- (ii) A clinical laboratory which is currently Federally licensed and/or approved under the implementing Federal regulations applicable to laboratories pursuant to the Federal Clinical Laboratory Improvement Amendments of 1988 (P.L. No. 100-578), for the performance of clinical chemistry and/or toxicology procedures, Title 42, Part 405 et al., Code of Federal Regulations, adopted in this Section by reference. Such clinical laboratory shall be directed by a qualified doctoral level director.
- (iii) A central or branch forensic laboratory operated and controlled by the Oklahoma State Bureau of Investigation.
- (iv) A forensic laboratory operated and controlled by a county or municipal law enforcement agency.
- (v) The Toxicology/Forensic Science Laboratories of The University of Oklahoma Health Sciences Center.

(D) The laboratory shall regularly employ or have on its permanent staff as least one (1) person holding a currently valid Forensic Drug Analysis Permit issued by the Board of Tests for Alcohol and Drug Influence.

(E) The laboratory shall have space, facilities, equipment, and apparatus adequate and appropriate for the performance of forensic drug analysis.

(2) Requirements. Requirements for forensic drug analysis laboratories (initial permits) are as follows:

- (A) Submission of a properly completed application form for Initial Approval, obtainable from the Board, together with all supporting documentation specified therein.
- (B) Maintenance of an adequate and appropriate quality assurance program and activities in forensic drug analysis, meeting nationally recognized standards.
- (C) Regular and satisfactory participation and performance in any program of proficiency testing in forensic drug analysis conducted by or on behalf of the Board of Tests for Alcohol and Drug Influence, or required by the Board.
- (D) Regular and satisfactory participation and performance in any program of proficiency testing in clinical chemistry or toxicology in which the laboratory is voluntarily enrolled or required to be enrolled as a condition of Federal or state licensure or approval.

(b) Renewal of approval. Laboratories which have been approved by the Board of Tests for Alcohol and Drug Influence for performance of forensic drug analysis and which hold a current valid Forensic Drug Laboratory Permit shall be eligible for renewal of such Permit upon satisfying the following qualifications and requirements as a condition of the continued validity of such Permit.

(1) Qualifications. Qualifications for forensic drug laboratories (renewal permits) are as follows:

- (A) Possession of all qualifications stipulated in this Rule for Initial Approval as a Forensic Drug Laboratory.
- (B) Possession of a valid Forensic Drug Laboratory Permit issued by authority of the Board of Tests for Alcohol and Drug Influence within the preceding twelve (12) months upon compliance with the Qualifications and Requirements then in force for Initial Approval or for Renewal of Approval as a Forensic Drug Laboratory.

(2) ~~Requirements. Requirements for forensic drug analysis laboratories (renewal permits) are as follows:~~

~~(A) Submission of a properly completed application form for Renewal of Approval, obtainable from the Board, together with all supporting documentation specified therein.~~

~~(B) Continued satisfactory participation and performance in the quality assurance and proficiency testing programs and activities stipulated in this Section as requirements for Initial Approval.~~

~~(c) General conditions of approval. The following general and continued conditions of Approval apply to every Forensic Drug Laboratory.~~

~~(1) Every such Laboratory may be inspected periodically, during its normal hours, by the State Director of Tests for Alcohol and Drug Influence or by the State Director's duly authorized representative(s). Such inspection may include examination of the Laboratory's pertinent files and records, as well as its facilities.~~

~~(2) Every such Laboratory shall maintain a current file of all methods and procedures employed in such Laboratory for forensic drug analysis.~~

~~(3) Every such Laboratory shall maintain and retain at least the following records for a period of at least three (3) years from the date of origin of such records:~~

~~(A) An up-to-date record of persons in its employ or on its staff who are or were engaged in the performance of forensic drug analysis. Such records shall include, at least, the inclusive employment dates, qualifications of each such person, and any continuing education or training pertinent to forensic drug analysis received by each such person within or outside of the Laboratory.~~

~~(B) Records of specimens received by and subjected to forensic drug analysis within the Laboratory under the provisions of Title 47 or Title 3 or Title 63, Oklahoma Statutes, including all pertinent dates and times, identification of such specimens, results obtained and reported, and the identity of the person(s) who performed each analysis.~~

~~(C) Records of the internal and external quality assurance programs and proficiency testing activities and results, in or pertinent to forensic drug analysis,~~

~~(4) Every such Laboratory shall be operated and shall perform its forensic drug activities in substantial compliance with applicable nationally recognized standards of good laboratory practice.~~

~~(5) In every such Laboratory, forensic drug analysis shall be performed only by methods and procedures approved by the Board of Tests for Alcohol and Drug Influence, and only by persons holding valid Forensic Drug Analysis Permits.~~

~~(d) Period of validity. Forensic Drug Laboratory Approval and Forensic Drug Laboratory Permits shall be valid for one (1) year from the date of Approval or the date of Permit issuance, respectively, and shall be subject to earlier suspension, termination, or revocation at the discretion of the Board.~~

TITLE 40. BOARD OF TESTS FOR ALCOHOL AND DRUG INFLUENCE
CHAPTER 25. DEVICES, EQUIPMENT, AND REFERENCE STANDARDS

40:25-1-1.1. Definitions

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

"Alcohol" means Ethyl Alcohol, also defined as ethanol.

"Breath alcohol test" means the collection and analysis of a person's expired alveolar breath to determine alcohol concentration.

"Director" means the position of the State Director of the Board as defined in O.A.C. 40:1-1-3.

"Device" means an object, machine, or piece of equipment made or adapted for a particular purpose, especially a piece of mechanical or electronic equipment that analyzes or measures, i.e. evidential breath alcohol analyzers such as the Intoxilyzer 8000 or other evidential toxicological measurement instrumentation.

"Equipment" means the technical equipment or machinery needed for a particular activity or purpose that does not analyze, i.e. breath alcohol simulator.

"Other intoxicating substances" means as defined in ~~O.A.C. 40:40-1-247~~ O.S. §1-140.1.

"Other items" means sanitary or other items that require no authorization or approval by the Board and are commonly used in the process of administering breath, oral fluid, or blood collections and do not impact the test analysis or results. Such item examples include but are not limited to hypodermic needles, iodine pads, mouthpieces, saliva traps, syringes, and other universal precaution items."

"Reference/uniform standard" means any external control or National Institute of Standards and Technology (NIST) traceable gas or solution/liquid.

TITLE 40. BOARD OF TESTS FOR ALCOHOL AND DRUG INFLUENCE

CHAPTER 35. ANALYSIS OF ALCOHOL IN BLOOD

40:35-1-1. Purpose

—The rules in this Chapter concern analysis of alcohol in specimens of blood under the provisions of Title 47 O.S., Sections 751-761 and 3 O.S., Section 303 and 63 O.S., Section 4210A, Oklahoma Statutes. They include designation by the Board of approved methods and procedures for blood-alcohol analysis, and apply to analysis of the State's blood specimens and to retained blood specimens. All forensic laboratories and facilities that are ISO/IEC (International Organization of Standards/International Electrotechnical Commission) 17025 accredited, or as defined in 74 O.S. § 150.37 (Forensic Laboratory Accreditation Act) are exempt from these rules.

40:35-1-2. Approved methods for blood-alcohol analysis

—The Board of Tests for Alcohol and Drug Influence hereby declares the following, identified by reference sources and successors thereto incorporated herein by reference, to be satisfactory techniques for performance of chemical tests for alcohol in specimens of blood.

(1) The Wallace and Dahl gas chromatographic method. Wallace, J. E. And Dahl, E. V., Rapid Vapor Phase Method for Determining Ethanol in Blood and Urine by Gas Chromatography, Am. J. Clin. Path. 46; 152-154 (1960).

(2) The Dubowski gas chromatographic method (automated). Dubowski, K. M.; MANUAL FOR ANALYSIS OF ETHANOL IN BIOLOGICAL LIQUIDS, Report No. DOT TSC NHTSA-76-4 (HS 802208), U.S. Department of Transportation, National Highway Traffic Safety Administration, Washington, D.C. 20590, January 1977. (Available from NTIS, Springfield, Virginia 22161.

(3) The Dubowski gas chromatographic method (manual). Dubowski, K. M.; Ethanol, in Methodology for Analytical Toxicology, I. Sunshine Ed., CRS Press, Cleveland 1979, pp. 149-154.

40:35-1-3. Analysis of blood specimens for alcohol

(a) Methods and procedures. Analysis of State's or retained blood specimens for alcohol may be carried out by any method or procedure approved by authority of the Board of Tests for Alcohol and Drug Influence.

(b) Laboratory and analyst. Analysis of a State's or retained blood specimen shall be carried out only and in its entirety in the Forensic Alcohol Laboratory, approved by the Board of Tests for Alcohol and Drug Influence, to which such retained blood specimen was originally sent or delivered by the law enforcement agency responsible for its collection. Such analysis shall be performed by a person holding a currently valid Forensic Alcohol Analysis Permit, issued by authority of the Board of Tests for Alcohol and Drug Influence.

(c) Reporting results. The results of analyses for alcohol of State's or retained blood specimens shall be reported in terms of the concentration of alcohol in the subject's blood, in grams per one hundred (100) milliliters of blood (g/100 mL), and shall be stated to the second or third decimal place (0.XX g/100 mL or 0.XXX g/100mL). Results of analyses of retained blood specimens which are within three hundredths (0.030) grams of alcohol per one hundred (100) milliliters of blood of the results of the corresponding analysis performed upon the State's blood specimen obtained from the same subject shall be deemed confirmatory and substantiative of such blood-alcohol analysis results on the State's blood specimen, as a scientifically acceptable tolerance.

TITLE 40. BOARD OF TESTS FOR ALCOHOL AND DRUG INFLUENCE

CHAPTER 40. ANALYSIS OF OTHER INTOXICATING SUBSTANCES

40:40-1-1. Purpose

The rules in this Chapter concern analysis of blood and other specimens for "other intoxicating substances" (i.e., substances and drugs, other than ethyl alcohol) under the provisions of Title 47 O.S., Section 751-761 and Title 3 O.S., Section 303 and Title 63 O.S., Section 4210A, Oklahoma Statutes. They include standards, requirements, and conditions for performance of such tests, and prescribe specimens, parameters for initial and confirmatory analyses, quality assurance practices, and reporting practices. All forensic laboratories and facilities that are ISO/IEC (International Organization of Standards/International Electrotechnical Commission) 17025 accredited, or as defined in 74 O.S. § 150.37 (Forensic Laboratory Accreditation Act) are exempt from these rules.

40:40-1-2. Analysis of other intoxicating substances in blood

(a) General conditions:

- (1) The term "other intoxicating substance" shall mean any controlled dangerous substance as defined in Title 63 of the Oklahoma Statutes, 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.
- (2) Analysis of blood specimens for identification and/or quantitation of other intoxicating substances contained therein shall be performed in substantial compliance with the provisions of this Section.
- (3) Forensic Drug Laboratories and Forensic Drug Analysts performing analysis of other intoxicating substances in specimens of blood shall comply substantially with applicable generally recognized standards of good laboratory practice.
- (4) In the analysis of other intoxicating substances in specimens of blood, the laboratory and analyst(s) shall comply with generally recognized procedures and safeguards for forensic analytical toxicology. Appropriate measures shall be taken to safeguard the identity, integrity, and composition of all specimens and to exclude tampering with and unauthorized access to or exchange or loss of specimens, and to provide the requisite security for evidentiary purposes.
- (5) Analysis of State's or retained blood specimens for other intoxicating substances may be carried out by any method or procedure approved by authority of the Board of Tests for Alcohol and Drug Influence.
- (6) Analysis of blood or blood components for other intoxicating substances shall be performed in compliance with applicable Analysis Protocol(s) and Procedure(s) generally recognized by competent authorities in forensic toxicology. Such Analysis Protocol(s) and Procedure(s) shall conform, to the extent applicable, to the criteria and specifications set forth hereinafter in this Section. Methods and tests for the analysis of other intoxicating substances set forth in such applicable Analysis Protocol(s) and Procedure(s) shall be deemed to be approved by the Board of Tests for Alcohol and Drug Influence.

(b) Facilities and analysts:

- (1) Analysis of a State's or retained blood specimen shall be carried out only and in its entirety in a Forensic Drug Laboratory approved by the Board of Tests for Alcohol and Drug Influence.
- (2) Such analysis shall be performed by qualified personnel employed by the laboratory.

(c) Specimens:

- ~~(1) Analysis of other intoxicating substances may be carried out upon specimens of whole blood or any of its components, including plasma and serum. A homogenized mixture of clotted blood and serum may also be used as a specimen.~~
- ~~(2) Blood specimens may contain adequate and appropriate anticoagulant(s) and preservative(s), but no other additives.~~
- ~~(d) Methods and procedures. Methods and procedures shall be carried out in compliance with ISO/IEC (International Organization of Standards/International Electrotechnical Commission) 17025 accreditation.~~
- ~~(e) Quality assurance. Quality assurance shall be carried out in compliance with ISO/IEC (International Organization of Standards/International Electrotechnical Commission) 17025 accreditation.~~
- ~~(f) Records and reports. Record keeping and reporting shall be carried out in compliance with ISO/IEC (International Organization of Standards/International Electrotechnical Commission) 17025 accreditation.~~

TITLE 40. BOARD OF TESTS FOR ALCOHOL AND DRUG INFLUENCE
CHAPTER 50. IGNITION INTERLOCK DEVICES
SUBCHAPTER 1

40:50-1-2.2. Annual recertification

- (a) All certifications expire June 30th of each year unless revoked by the Board.
- (b) The annual recertification of a certified device shall be the same as the device certification process stated in this title. The Board shall designate a renewal period within which the annual recertification process shall be allowed.
- (c) Any request(s) to renew a device certification may be denied if there is pending action against the manufacturer, manufacturer representative or vendor for any violation of these rules or outstanding invoices payable to the Board.
- (d) Any request(s) to renew a device certification may be denied if a manufacturer or their representative and/or vendor:
 - (1) fails to respond and resolve device compliance issues; or
 - (2) fails to provide training, equipment, devices, wiring harnesses, or any other materials required for interlock services such as, but not limited to, installation, maintenance, calibration, and removal at any licensed service center.

40:50-1-6.1. Removal requirements

The device shall be removed according to the following guidelines:

- (1) The only person(s) allowed to remove or observe the removal of the device are ignition interlock technicians licensed by the Board.
- (2) A designated waiting area that is separate from the removal area is to be provided for the participant.
- (3) Removal shall consist of removal of the device, harness, relay and all third-party materials used to initially install the device, thereby returning the vehicle and its wiring to normal manufacturer operation.
- ~~(3)~~(4) Adequate security measures shall be taken to ensure that unauthorized personnel cannot gain access to proprietary materials or files of other participants.
- ~~(4)~~(5) All data contained in the data storage system shall be retrieved in conjunction with removal of the device. Records may be maintained electronically.
- ~~(5)~~(6) Upon completion of the removal of the device, harness, relay and all third-party materials used to initially install the device, the licensed ignition interlock technician shall:
 - (A) Provide the participant a report showing the removal of the device, and
 - (B) Notify the Board in the form and/or format designated by the Board.
 - (C) Notify the installation and monitoring authority in the form and format designated by the Board.
- ~~(6)~~(7) Outside the State of Oklahoma, the technician or service center appropriately authorized pursuant to their jurisdictional authority, shall upon completion of the removal of the device, harness, relay and all third-party materials used to initially install the device:
 - (A) Provide the participant a report showing the removal of the device, and
 - (B) Notify the Board in the form and/or format designated by the Board.

40:50-1-7.2. Annual renewal

- (a) All service center licenses expire June 30th of each year unless inactivated, suspended or revoked by the Board.
- (b) The process of license renewal of a service center shall be the same as the service center licensure process stated in this title. The Board shall designate a renewal period within which the license renewal process shall be allowed.

(c) No license shall be renewed if there is pending action against the service center manager or service center for any violation of these rules or outstanding invoices payable to the Board.

(d) Any request(s) to renew a service center license may be denied if:

(1) the service center has any compliance violations notated on the Board of Tests inspection report(s); or

(2) the service center fails to receive training, equipment, devices, wiring harnesses, or any other materials required for interlock services such as, but not limited to, installation, maintenance, calibration, and removal.