

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 1. PROCEDURES OF THE OKLAHOMA STATE BOARD OF HEALTH**

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Subchapter 1. Purpose and Organization

310:1-1-1. Purpose; fair and impartial construction [REVOKED]

310:1-1-2. Board membership [REVOKED]

310:1-1-3. Board officers; legal counsel [AMENDED]

310:1-1-4. Board powers and duties [REVOKED]

310:1-1-6. Severability [REVOKED]

310:1-1-7. Citation [REVOKED]

Subchapter 3. Meetings

310:1-3-3. Open Meeting Act [REVOKED]

310:1-3-6. Robert's Rules of Order [REVOKED]

Subchapter 5. General Course and Method of Operations

310:1-5-3. Exercise of powers [REVOKED]

Subchapter 7. Rulemaking Procedures

310:1-7-1. Upon Board's initiative or request of Commissioner [REVOKED]

310:1-7-2. Petitions for rulemaking [REVOKED]

310:1-7-3. Rulemaking hearings [REVOKED]

310:1-7-4. Opportunity to submit data, views and arguments [REVOKED]

310:1-7-5. Emergency rules [REVOKED]

SUMMARY:

This Chapter implements the procedures of the Oklahoma State Board of Health. Repeal of the majority of the designated Subchapters is in response to the Governor's Executive Order 2020-03 to streamline language through a word sweep to remove unnecessary or duplicative language. Certain provisions are repealed to align with statutory changes which now render the Board advisory in nature.

Subchapter 1-1-1 establishes the purpose of the Chapter. Subchapter 1-1-2 repeats statutory language establishing the Board's membership. Subchapter 1-1-6 describes the severability of the Chapter. Subchapter 1-1-7 describes how the rules are to be cited. Subchapter 1-3-3 states that meetings are in compliance with the Oklahoma Open Meeting Act. Subchapter 1-3-6 provides that meetings will be conducted in accordance with Robert's Rules of Order. Subchapter 1-5-3 provides that the Board may exercise its official power at any location in Oklahoma. The Subchapters are accurate statements but are either duplicative of language in statute or not necessary to be promulgated in administrative rules to be effective.

Subchapter 1-1-3 describes the Board's officers and legal counsel. Due to the statutory change in the Board's powers, the provision stating that the Attorney General serves as legal counsel for the Board is repealed. Subchapter 1-1-4 repeals the Board's powers and duties to align with statutory change.

Subchapter 7 governing rulemaking procedures is repealed to align with statutory change.

AUTHORITY:

Commissioner of Health, Title 63 O.S. § 1-104.

COMMENT PERIOD:

November 16, 2020, through December 16, 2020, interested persons may informally discuss the proposed rules with the contact person identified below; or may, through December 16, 2020, submit written comment to the contact person identified below, or may, at the hearing, ask to present written or oral views.

PUBLIC HEARING:

Pursuant to 75 O.S. § 303(A), the public hearing for the proposed rulemaking in this chapter shall be on December 16, 2020, via WebEx accessible from the site www.publichearings.health.ok.gov, from 9AM to noon. The alternate date and time in the event of extreme inclement weather is December 18, 2020, via WebEx accessible from the site www.publichearings.health.ok.gov, from 9AM to noon. Those wishing to present oral comments should be registered to speak by 9:15 a.m. Directions for comment registration will be provided on the website. The hearing will close at the conclusion of comments from those registered to speak. Interested persons may attend for the purpose of orally submitting data, views, or concerns about the rule proposal described and summarized in this Notice.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, on the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule. Business entities may submit this information in writing through December 16, 2020, to the contact person identified below.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from the contact person identified below or via the agency website at www.ok.gov/health.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303(D), a rule impact statement is available through the contact person identified below or via the agency website at www.ok.gov/health.

CONTACT PERSON:

Audrey C. Talley, Agency Rule Liaison, Oklahoma State Department of Health, 1000 N. E. 10th Street, Oklahoma City, OK 73117-1207, phone (405) 271-9444 ext.56535, e-mail AudreyT@health.ok.gov.

INITIAL RULE IMPACT STATEMENT

(This document may be revised based on comment received during the public comment period.)

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 1. PROCEDURES OF THE OKLAHOMA
STATE BOARD OF HEALTH**

1. DESCRIPTION:

This rule governs the procedures of the Oklahoma State Board of Health. Subchapters 1-1-1 (purpose of Chapter 1), 1-1-2 (Board membership), 1-1-6 (severability), 1-1-7 (citation), 1-3-3 (Open Meeting Act), 1-3-6 (Robert’s Rules of Order) and 1-5-3 (Exercise of powers) are to be repealed in response to the Governor’s Executive Order 2020-03 to streamline language through a word sweep to remove unnecessary or duplicative language. Subchapters 1-1-2, 1-1-6, 1-1-7, 1-3-6 and 1-5-3 are not necessary as they are not required to inform the public of the current practices of the agency or to comply with any specific provision of the law. Subchapter 1-1-2 is duplicative as it is a restatement of statutory language. Subchapter 1-3-3, stating that the agency complies with the Oklahoma Open Meeting Act, is not necessary as the agency is required by law to do so and an administrative rule is not required to make it so.

Subchapter 1-1-3(g) providing that the Attorney General is legal advisor to the Board is repealed to align with the statutory change rendering the Board advisory in nature. Subchapter 1-1-4 is repealed for this same reason. Subchapter 7 is repealed as the Board does not have rulemaking powers.

2. DESCRIPTION OF PERSONS AFFECTED AND COST IMPACT RESPONSE:

No person will be affected by this repeal as the Subchapters are either not necessary or are duplicative of statutory law. There is no change by the repeal of the Subchapters. There is no cost impact.

3. DESCRIPTION OF PERSONS BENEFITING, VALUE OF BENEFIT AND EXPECTED HEALTH OUTCOMES:

There is no change by the repeal of the Subchapters. The repeal is intended to comply with the Governor’s Executive Order 2020-03 to streamline rules.

4. ECONOMIC IMPACT, COST OF COMPLIANCE AND FEE CHANGES:

No economic impact is expected.

5. COST AND BENEFITS OF IMPLEMENTATION AND ENFORCEMENT TO THE AGENCY.

There are no costs associated with implementation.

6. IMPACT ON POLITICAL SUBDIVISIONS:

There will be no impact on political subdivisions and it will not require their cooperation in implementing or enforcing the proposed amendment.

7. **ADVERSE EFFECT ON SMALL BUSINESS:**

There is no known adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act.

8. **EFFORTS TO MINIMIZE COSTS OF RULE:**

There are no less costly means currently identified.

9. **EFFECT ON PUBLIC HEALTH AND SAFETY:**

No effect on public health is expected as a result of this rule change.

10. **DETRIMENTAL EFFECTS ON PUBLIC HEALTH AND SAFETY WITHOUT ADOPTION:**

There will be no detrimental effects on public health and safety by repeal of this rule.

11. **PREPARATION AND MODIFICATION DATES:**

This rule impact statement was prepared on October 1, 2020.

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 1. PROCEDURES OF THE OKLAHOMA STATE BOARD OF HEALTH**

SUBCHAPTER 1. PURPOSE AND ORGANIZATION

310:1-1-1. Purpose; fair and impartial construction [REVOKED]

~~The rules of this Chapter are adopted for the purpose of simplifying procedure, avoiding unnecessary delays, saving expenses, and facilitating the administration of the Public Health Code. To that end these rules shall be given a fair and impartial construction. These rules shall be cumulative to the Administrative Procedures Act, 75 O.S. 1991, § 301 et seq., as amended.~~

310:1-1-2. Board membership [REVOKED]

~~The State Board of Health shall consist of nine members, appointed by the Governor and confirmed by the Senate, possessing qualifications listed in 63 O.S. 1991, § 1-103.~~

310:1-1-3. Board officers; legal counsel

- (a) The Board of Health shall elect from its membership a President, a Vice-President, and a Secretary.
- (b) Officers of the Board shall be elected annually, at the last meeting of each fiscal year. In the event an officer's position becomes vacant, a replacement shall be elected to complete the unexpired term at the following meeting of the Board.
- (c) The President shall preside over all Board meetings and rule on all questions of procedure and order. He shall have the power, in the exercise of his discretion, to call special meetings of the Board, and shall call a special meeting when requested by four members, in writing, to do so. The President shall determine the agenda of each meeting.
- (d) The Vice-President shall assume the duties of the President during the President's absence or incapacity.
- (e) The Secretary shall be responsible for keeping the minutes of Board meetings, and have such other duties as the Board may, from time to time, designate. The Board may designate an employee of the Department to assist the Secretary in the performance of these functions.
- (f) The officers shall serve as the Executive Committee of the Board.
- ~~(g) The Attorney General shall serve as legal counsel for the State Board of Health.~~

310:1-1-4. Board powers and duties [REVOKED]

~~The State Board of Health shall exercise all powers expressly or impliedly granted to it by statute, including but not limited to the following:~~

- ~~(1) The Board shall appoint and fix the compensation of a State Commissioner of Health.~~
- ~~(2) The Board shall adopt such rules, regulations, and standards as it deems necessary to carry out the provisions of the Public Health Code, 63 O.S. 1991, § 1-101 et seq., as now or hereafter amended and other laws of the state and federal government as may be assigned to it.~~
- ~~(3) The Board shall accept and disburse grants, allotments, gifts, devises, bequests, funds, appropriations, and other property made or offered to it or the State Department of Health.~~
- ~~(4) The State Board of Health shall organize and divide the Department of Health into such agencies, divisions, sections, bureaus, offices, service and positions as it deems necessary to carry out the provisions of the Public Health Code and other state and federal laws assigned to it. Such organizational structure may be revised and amended from time to time by the Board of Health as the Board finds necessary or expedient.~~
- ~~(5) The Board shall have the power to negotiate and enter into agreements with local, state, and federal governments, agencies or instrumentalities as may be authorized by statute or necessary for the performance of its duties.~~

310:1-1-6. Severability [REVOKED]

The provisions of this Chapter are severable and the repeal, amendment, or invalidity of any provision hereof shall not serve to repeal or invalidate the remaining provisions of these rules.

310:1-1-7. Citation [REVOKED]

The rules of this Chapter may be known as the Oklahoma State Board of Health General Rules and may be cited as Chapter 001, OSDH.

SUBCHAPTER 3. MEETINGS

310:1-3-3. Open Meeting Act [REVOKED]

All meetings of the Board shall be conducted in compliance with the applicable provisions of the Oklahoma Open Meeting Act, 25 O.S. 1991, §§ 301 et seq., and laws amendatory thereto.

310:1-3-6. Robert's Rules of Order [REVOKED]

All meetings of the Board shall be conducted in accordance with Robert's Rules of Order except as modified herein or by statute.

SUBCHAPTER 5. GENERAL COURSE AND METHOD OF OPERATIONS

310:1-5-3. Exercise of powers [REVOKED]

The Board may exercise its official powers at any location in the State of Oklahoma.

SUBCHAPTER 7. RULEMAKING PROCEDURES [REVOKED]

310:1-7-1. Upon Board's initiative or request of Commissioner [REVOKED]

The Board may promulgate, amend, or repeal a rule of its own initiative, and may promulgate, amend, or repeal a rule at the request of the Commissioner of Health.

310:1-7-2. Petitions for rulemaking [REVOKED]

Any interested person may petition the Board, requesting the promulgation, amendment, or repeal of a rule.

(1) ~~**Form and content of petition.**~~ All such petitions shall be in writing, and be filed with the Secretary of the Board, at the principal office. The Petition shall state, clearly and concisely, all matters pertaining to the requested action and the reasons for the request. The request must also state whether there is someone known to the petitioner who is concerned with the subject of the request and should be notified of the hearing.

(2) ~~**Consideration of petitions.**~~ Petitions concerning rules will be considered by the Board at its next regularly scheduled meeting or at a special meeting. The Board may, in its discretion, postpone the discussion and ruling on the petition until the next regular or special meeting and shall notify all parties of such postponement. Upon hearing the petition, the Board will notify the petitioner within twenty (20) days whether the Board will consider rule making action.

310:1-7-3. Rulemaking hearings [REVOKED]

The Department of Health may, of its own motion, conduct hearings on proposed rules, amendments to or repeal of rule, and shall conduct such hearings when so directed by the Board.

(1) ~~**Location of hearings.**~~ Unless otherwise specified, and stated in the notice of hearing, all hearings shall be conducted in the offices of the Department of Health, 1000 N.E. Tenth Street, Oklahoma City, Oklahoma.

~~(2) **Interested persons.** Any person who is interested or affected by a proposed action may appear at the hearing. An appearance may be made individually, by an attorney, or by an authorized agent.~~

310:1-7-4. Opportunity to submit data, views and arguments [REVOKED]

~~Prior to the adoption, amendment, or repeal of a rule the Board shall afford any interested person a reasonable opportunity to submit data, views, and arguments, either oral or written, concerning such proposed action. If the rule under consideration is one which affects the substantive rights of any person, the Board shall grant any person or association a reasonable opportunity to submit data, views, and arguments, either oral or written, concerning such proposed action. If the rule under consideration is one which affects the substantive rights of any person, the Board shall grant any person or association a reasonable opportunity to participate in an oral hearing, when so requested in writing by the person or association. Oral argument on such a rule shall also be granted when requested by a subdivision or agency of government. If no substantive rights of the person, association, or governmental entity are affected by or involved in the rule to be considered, the Board may, in its discretion, refuse to hear oral argument and require exercise of its sound discretion, determine whether the proposed action affects any such substantive rights. The Board shall consider fully all written and oral submissions respecting the proposed rule.~~

310:1-7-5. Emergency rules [REVOKED]

~~The Board may adopt an emergency rule without adherence to the above rules concerning notice and hearing. All emergency rules, however, must be adopted pursuant to the Administrative Procedures Act, and shall be effective as specified in the Administrative Procedures Act.~~