

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 406. LICENSED GENETIC COUNSELORS**

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Subchapter 1. General Provisions

310:406-1-2. Definitions [AMENDED]

Subchapter 5. Rules of Professional Conduct

310:406-5-1. Responsibility [AMENDED]

310:406-5-2. Competence [AMENDED]

310:406-5-3. Patient welfare [AMENDED]

310:406-5-4. Professional standards [AMENDED]

Subchapter 7. Application for Licensure

310:406-7-2. Application materials and forms [AMENDED]

310:406-7-3. Denial of license. [AMENDED]

Subchapter 13. Supervision Requirements

310:406-13-1. Purpose [REVOKED]

310:406-13-2. General supervision [REVOKED]

310:406-13-3. Frequency of supervision contact [REVOKED]

310:406-13-4. Supervisor qualification [REVOKED]

310:406-13-5. Documentation of supervision [REVOKED]

Subchapter 15. Fees

310:406-15-1. Schedule of fees [AMENDED]

310:406-15-2. Method of payment [REVOKED]

310:406-15-4. Review of fees [AMENDED]

Subchapter 17. Continuing Education Requirements

310:406-17-4. Submission of continuing education roster [AMENDED]

310:406-17-6. Submission of fraudulent continuing education [AMENDED]

Subchapter 19. Issuance of License

310:406-19-1. License [AMENDED]

310:406-19-2. Property of the Department. [AMENDED]

310:406-19-3. Notification [AMENDED]

310:406-19-4. Replacement [REVOKED]

310:406-19-5. Temporary license [REVOKED]

310:406-19-6. Temporary licensure [REVOKED]

Subchapter 21. License Renewal and Expiration

310:406-21-2. Initial licensing period [REVOKED]

310:406-21-3. Renewal of license [AMENDED]

310:406-21-6. Inactive status [REVOKED]

310:406-21-7. Renewal notification [AMENDED]

310:406-21-8. Failure to renew [AMENDED]

310:406-21-9. Return of license [AMENDED]

Subchapter 23. Enforcement

310:406-23-2. Complaints [AMENDED]

310:406-23-4. Filing of an action [AMENDED]

310:406-23-5. Hearing. [AMENDED]

310:406-23-7. Unauthorized practice [AMENDED]

310:406-23-8. Administrative penalties [AMENDED]

SUMMARY:

These rule changes are in response to the Governor's Executive Order 2020-03 on rule reduction. Items are removed and/or modified due to already being listed in statute, outdated, unused, or to clarify meaning.

AUTHORITY:

Commissioner of Health, Title 63 O.S. § 1-104, 63 O.S. § 1-569

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 16th, 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 406. LICENSED GENETIC COUNSELORS

1. DESCRIPTION:

310:406-1-2 Definitions. [AMENDED] Language modification for clarity.

310:406-5-1. Responsibility. [AMENDED] Language modification for clarity.

310:406-5-2 Competence [AMENDED] Change in language for consistency.

310:406-5-3 Patient welfare [AMENDED] Change in language for consistency and clarity.

310:406-5-4. Professional Standards [AMENDED] Language modification for clarity.

310:406-7-2. Application materials and forms [AMENDED] Removal of fingerprint requirements. Gives agency more flexibility in types of background checks.

310:406-7-3. Denial of license. [AMENDED] Language modification for clarity.

310:406-13-1 Purpose [REVOKED] Removing temporary licenses due to lack of use and requirements being almost exactly the same as full licensure. Subchapter 13 is supervision requirements for temporary licenses.

310:406-13-2 General supervision [REVOKED] Removing temporary licenses due to lack of use and requirements being almost exactly the same as full licensure. Subchapter 13 is supervision requirements for temporary licenses.

310:406-13-3 Frequency of supervision contact [REVOKED] Removing temporary licenses due to lack of use and requirements being almost exactly the same as full licensure. Subchapter 13 is supervision requirements for temporary licenses.

310:406-13-4 Supervisor Qualification [REVOKED] Removing temporary licenses due to lack of use and requirements being almost exactly the same as full licensure. Subchapter 13 is supervision requirements for temporary licenses.

310:406-13-5 Documentation of supervision [REVOKED] Removing temporary licenses due to lack of use and requirements being almost exactly the same as full licensure. Subchapter 13 is supervision requirements for temporary licenses.

310:406-15-1 Schedule of fees [AMENDED] Removing unnecessary fees for replacements and inactive licenses. Both are rarely, if ever, used. Cost to agency is minimal to replace. Language modification for clarity.

310:406-15-2 Method of payment [REVOKED] Payment method not needed in code. Methods may change over time. Payment methods can be listed via process and procedure.

310:406-15-4. [AMENDED] Review of fees. Modification of language for clarity.

310:406-17-4 Submission of continuing education roster [AMENDED] Correction of language for consistency.

310:406-17-6. Submission of fraudulent continuing education [AMENDED] Modification in language for clarity.

310:406-19-1. License. [AMENDED] Modification of language for clarity.

310:406-19-2. Property of the Department. [AMENDED] Modification of language for clarity.

310:406-19-3 Notification [AMENDED] Removal of mail requirement. This allows for other forms of notification including electronic. Modernizes rule.

310:406-19-4 Replacement [REVOKED] Not needed to be listed in code. Replacements will be generated in process and procedure. Removes written request and fee payment from code.

310:406-19-5 Temporary license [REVOKED] Removing temporary licenses due to lack of use and requirements being almost exactly the same as full licensure.

310:406-19-6 Temporary Licensure [REVOKED] Removing temporary licenses due to lack of use and requirements being almost exactly the same as full licensure.

310:406-21-2 Initial licensing period [REVOKED] Removing this part of code since it is basically repeated in 21-3.

310:406-21-3 Renewal of License [AMENDED] Change in language for consistency.

310:406-21-6 Inactive Status [REVOKED] Removed unnecessary rule on inactive status. Unneeded and never used in practice. Basically, covered in other sections dealing with license renewals and expirations.

310:406-21-7 Renewal notification [AMENDED] Remove mailing requirement, which would allow for electronic notification. Modernizes rule.

310:406-21-8. Failure to renew. [AMENDED] Modification to language for clarity.

310:406-21-9. Return of license. [AMENDED] Modification to language for clarity.

310:406-23-2 Complaints [AMENDED] Removal of types of notification allows for more notification options, including electronic. Modernizes code. Change in language for consistency.

310:406-23-4. Filing of an action. [AMENDED] Modification of language for clarity.

310:406-23-5. Hearing. [AMENDED] Modification of language for clarity.

310:406-23-7 Unauthorized practice [AMENDED] Removing language related to temporary licensing. Temporary licensing to be removed as it is rarely used and requirements are basically the same as full licensure. Modifying language for clarity.

310:406-23-8 Administrative Penalties. [AMENDED] Modify language for clarity.

2. DESCRIPTION OF PERSONS AFFECTED AND COST IMPACT RESPONSE:

310:406-1-2 Definitions. [AMENDED] none

310:406-5-1. Responsibility. [AMENDED] none

310:406-5-2 Competence [AMENDED] none

310:406-5-3 Patient welfare [AMENDED] none

310:406-5-4. Professional Standards [AMENDED] none

310:406-7-2 Application materials and forms [AMENDED] none.

310:406-7-3. Denial of license. [AMENDED] none

310:406-13-1 Purpose [REVOKED] Persons that would apply for temporary licensure would be affected. This rarely occurs and they would meet all provisions of being fully licensed, with the exception of having taken the certification exam. Applicants would need to complete exam before operating under this rule change. No additional costs.

310:406-13-2 General supervision [REVOKED] Persons that would apply for temporary licensure would be affected. This rarely occurs and they would meet all provisions of being fully licensed, with the exception of having taken the certification exam. Applicants would need to complete exam before operating under this rule change. No additional costs.

310:406-13-3 Frequency of supervision contact [REVOKED] Persons that would apply for temporary licensure would be affected. This rarely occurs and they would meet all provisions of being fully licensed, with the exception of having taken the certification exam. Applicants would need to complete exam before operating under this rule change. No additional costs.

310:406-13-4 Supervisor Qualification [REVOKED] Persons that would apply for temporary licensure would be affected. This rarely occurs and they would meet all provisions of being fully licensed, with the exception of having taken the certification exam. Applicants would need to complete exam before operating under this rule change. No additional costs.

310:406-13-5 Documentation of supervision [REVOKED] Persons that would apply for temporary licensure would be affected. This rarely occurs and they would meet all provisions of being fully licensed, with the exception of having taken the certification exam. Applicants would need to complete exam before operating under this rule change. No additional costs.

310:406-15-1 Schedule of fees [AMENDED] Persons affected are those seeking replacement licenses and persons wanting to inactivate licenses. Both rarely, if ever, used. Cost removal for consumer, minimal cost impact to OSDH.

310:406-15-2 Method of payment [REVOKED] none

310:406-15-4. [AMENDED] none

310:406-17-4 Submission of continuing education roster [AMENDED] none

310:406-17-6. Submission of fraudulent continuing education [AMENDED] none

310:406-19-1. License. [AMENDED] none

310:406-19-2. Property of the Department. [AMENDED] none

310:406-19-3 Notification [AMENDED] Licensees awaiting notification of qualification affected. Cost benefit to the Department in possible reduction in mailing costs.

310:406-19-4 Replacement [REVOKED] none

310:406-19-5 Temporary license [REVOKED] Persons that would apply for temporary licensure would be affected. This rarely occurs and they would meet all provisions of being fully licensed, with the exception of having taken the certification exam. Applicants would need to complete exam before operating under this rule change. No additional costs.

310:406-19-6 Temporary Licensure [REVOKED] Persons that would apply for temporary licensure would be affected. This rarely occurs and they would meet all provisions of being fully licensed, with the exception of having taken the certification exam. Applicants would need to complete exam before operating under this rule change. No additional costs.

310:406-21-2 Initial licensing period [REVOKED] none

310:406-21-3 Renewal of License [AMENDED] none

310:406-21-6 Inactive Status [REVOKED] Persons affected are persons wanting to inactivate licenses. It is rarely, if ever, used

310:406-21-7 Renewal notification [AMENDED] Licensees needed licenses renewed are affected. Cost benefit to the Department in possible reduction in mailing costs.

310:406-21-8. Failure to renew. [AMENDED] none

310:406-21-9. Return of license. [AMENDED] none

310:406-23-2 Complaints [AMENDED] none

310:406-23-4. Filing of an action. [AMENDED] none

310:406-23-5. Hearing. [AMENDED] none

310:406-23-7 Unauthorized practice [AMENDED] Persons that would apply for temporary licensure would be affected. This rarely occurs and they would meet all provisions of being fully licensed, with the exception of having taken the certification exam. Applicants would need to complete exam before operating under this rule change. No additional costs.

310:406-23-8 Administrative Penalties. [AMENDED] none

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

310:406-1-2 Definitions. [AMENDED] none. Language change

310:406-5-1. Responsibility. [AMENDED] none. Language change

310:406-5-2 Competence [AMENDED] none. Language change

310:406-5-3 Patient welfare [AMENDED] none. Language change

310:406-5-4. Professional Standards [AMENDED] none. Language change

310:406-7-2 Application materials and forms [AMENDED] Less requirements for applicant, additional options for OSDH. No change in health outcomes.

310:406-7-3. Denial of license. [AMENDED] none. Language change

310:406-13-1 Purpose [REVOKED] General public benefits. All practitioners will be fully licensed and passed exam. Increased credibility of licensees. Minimal health outcome impact due to the very few temporary licenses ever issued.

310:406-13-2 General supervision [REVOKED] General public benefits. All practitioners will be fully licensed and passed exam. Increased credibility of licensees. Minimal health outcome impact due to the very few temporary licenses ever issued.

310:406-13-3 Frequency of supervision contact [REVOKED] General public benefits. All practitioners will be fully licensed and passed exam. Increased credibility of licensees. Minimal health outcome impact due to the very few temporary licenses ever issued.

310:406-13-4 Supervisor Qualification [REVOKED] General public benefits. All practitioners will be fully licensed and passed exam. Increased credibility of licensees. Minimal health outcome impact due to the very few temporary licenses ever issued. General public benefits. All practitioners will be fully licensed and passed exam. Increased credibility of licensees. Minimal health outcome impact due to the very few temporary licenses ever issued.

310:406-13-5 Documentation of supervision [REVOKED] General public benefits. All practitioners will be fully licensed and passed exam. Increased credibility of licensees. Minimal health outcome impact due to the very few temporary licenses ever issued.

310:406-15-1 Schedule of fees [AMENDED] Licensee benefiting from a reduction in fees. Value would be cost of replacement and inactive licenses (\$25 each). Health outcomes minimal, but better if licensees have more money to devote to their practice.

310:406-15-2 Method of payment [REVOKED] OSDH, Licensees benefit by not being held to strict payment language in code. No health outcome change.

310:406-15-4. [AMENDED] none. Language change

310:406-17-4 Submission of continuing education roster [AMENDED] none. Language change

310:406-17-6. Submission of fraudulent continuing education [AMENDED] none. Language change

310:406-19-1. License. [AMENDED] none. Language change

310:406-19-2. Property of the Department. [AMENDED] none. Language change

310:406-19-3 Notification [AMENDED] OSDH benefit, more options for notification. Value would be costs associated with mailings. No change in health outcomes.

310:406-19-4 Replacement [REVOKED] None. Removal of unnecessary language.

310:406-19-5 Temporary license [REVOKED] General public benefits. All practitioners will be fully licensed and passed exam. Increased credibility of licensees. Minimal health outcome impact due to the very few temporary licenses ever issued.

310:406-19-6 Temporary Licensure [REVOKED] General public benefits. All practitioners will be fully licensed and passed exam. Increased credibility of licensees. Minimal health outcome impact due to the very few temporary licenses ever issued.

310:406-21-2 Initial licensing period [REVOKED] none. Duplicative language.

310:406-21-3 Renewal of License [AMENDED] none. Language change.

310:406-21-6 Inactive Status [REVOKED] Code reduction benefit to OSDH. No expected change in health outcomes.

310:406-21-7 Renewal notification [AMENDED] Benefit to OSDH with more options to notify. Value in costs associated with mailing. No change in health outcome.

310:406-21-8. Failure to renew. [AMENDED] none. Language change.

310:406-21-9. Return of license. [AMENDED] none. Language change.

310:406-23-2 Complaints [AMENDED] Benefit general public making complaints as change allows for more options. Change in language.

310:406-23-4. Filing of an action. [AMENDED] none. Language change.

310:406-23-5. Hearing. [AMENDED] none. Language change.

310:406-23-7 Unauthorized practice [AMENDED] General public benefits. All practitioners will be fully licensed and passed exam. Increased credibility of licensees. Minimal health outcome impact due to the very few temporary licenses ever issued.

310:406-23-8 Administrative Penalties. [AMENDED] none. Language change.

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

310:406-1-2 Definitions. [AMENDED] none. Change in language.

310:406-5-1. Responsibility. [AMENDED] none. Change in language.

310:406-5-2 Competence [AMENDED] None. Change in language.

310:406-5-3 Patient welfare [AMENDED] None. Change in language.

310:406-5-4. Professional Standards [AMENDED] None. Change in language.

310:406-7-2 Application materials and forms [AMENDED] Minimal. Ability to do a name-based background check vs fingerprint based. \$15 vs \$21 for department.

310:406-7-3. Denial of license. [AMENDED] None. Change in language.

310:406-13-1 Purpose [REVOKED] Low due to minimal temporary licenses ever issued. No cost of compliance.

310:406-13-2 General supervision [REVOKED] Low due to minimal temporary licenses ever issued. No cost of compliance.

310:406-13-3 Frequency of supervision contact [REVOKED] Low due to minimal temporary licenses ever issued. No cost of compliance.

310:406-13-4 Supervisor Qualification [REVOKED] Low due to minimal temporary licenses ever issued. No cost of compliance.

310:406-13-5 Documentation of supervision [REVOKED] Low due to minimal temporary licenses ever issued. No cost of compliance.

310:406-15-1 Schedule of fees [AMENDED] Removal of replacement and inactive fee to licensee. Rarely used and minimal cost to department to replace a license.

310:406-15-2 Method of payment [REVOKED] none.

310:406-15-4. [AMENDED] none. Language change.

310:406-17-4 Submission of continuing education roster [AMENDED] none, language change.

310:406-17-6. Submission of fraudulent continuing education [AMENDED] none, language change.

310:406-19-1. License. [AMENDED] none, language change.

310:406-19-2. Property of the Department. [AMENDED] none, language change.

310:406-19-3 Notification [AMENDED] Less money spent on mailings for department.

310:406-19-4 Replacement [REVOKED] none. Minimal cost for department to reprint.

310:406-19-5 Temporary license [REVOKED] Low due to minimal temporary licenses ever issued. No cost of compliance.

310:406-19-6 Temporary Licensure [REVOKED] Low due to minimal temporary licenses ever issued. No cost of compliance.

310:406-21-2 Initial licensing period [REVOKED] none. Duplicative language.

310:406-21-3 Renewal of License [AMENDED] none. Language change

310:406-21-6 Inactive Status [REVOKED] None as this has not ever been requested. Removal of fee from licensee.

310:406-21-7 Renewal notification [AMENDED] Less money spent on mailings for department.

310:406-21-8. Failure to renew. [AMENDED] none. Language change.

310:406-21-9. Return of license. [AMENDED] none. Language change.

310:406-23-2 Complaints [AMENDED] none. Language change.

310:406-23-4. Filing of an action. [AMENDED] none. Language change.

310:406-23-5. Hearing. [AMENDED] none. Language change.

310:406-23-7 Unauthorized practice [AMENDED] Low due to minimal temporary licenses ever issued. No cost of compliance.

310:406-23-8 Administrative Penalties. [AMENDED] none. Language change.

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:**

310:406-1-2 Definitions. [AMENDED] none. Language change.

310:406-5-1. Responsibility. [AMENDED] none. Language change.

310:406-5-2 Competence [AMENDED] None. Language change.

310:406-5-3 Patient welfare [AMENDED] None. Language change.

310:406-5-4. Professional Standards [AMENDED] None. Language change.

310:406-7-2 Application materials and forms [AMENDED] None.

310:406-7-3. Denial of license. [AMENDED] None. Language change.

310:406-13-1 Purpose [REVOKED] Temporary license removal will ensure all practicing Licensed Genetic Counselors have passed exam and met all requirements to operate in OK. This subchapter deals with supervision requirements for temporary licenses.

310:406-13-2 General supervision [REVOKED] Temporary license removal will ensure all practicing Licensed Genetic Counselors have passed exam and met all requirements to operate in OK. This subchapter deals with supervision requirements for temporary licenses.

310:406-13-3 Frequency of supervision contact [REVOKED] Temporary license removal will ensure all practicing Licensed Genetic Counselors have passed exam and met all requirements to operate in OK. This subchapter deals with supervision requirements for temporary licenses.

310:406-13-4 Supervisor Qualification [REVOKED] Temporary license removal will ensure all practicing Licensed Genetic Counselors have passed exam and met all requirements to operate in OK. This subchapter deals with supervision requirements for temporary licenses.

310:406-13-5 Documentation of supervision [REVOKED] Temporary license removal will ensure all practicing Licensed Genetic Counselors have passed exam and met all requirements to operate in OK. This subchapter deals with supervision requirements for temporary licenses.

310:406-15-1 Schedule of fees [AMENDED] Less fees paid by licensees can be put into their practice.

310:406-15-2 Method of payment [REVOKED] none.

310:406-15-4. [AMENDED] none. Change in language.

310:406-17-4 Submission of continuing education roster [AMENDED] none. Change in language.

310:406-17-6. Submission of fraudulent continuing education [AMENDED] none. Change in language.

310:406-19-1. License. [AMENDED] none. Change in language.

310:406-19-2. Property of the Department. [AMENDED] none. Change in language.

310:406-19-3 Notification [AMENDED] Minimal, cost savings to department.

310:406-19-4 Replacement [REVOKED] none.

310:406-19-5 Temporary license [REVOKED] Temporary license removal will ensure all practicing Licensed Genetic Counselors have passed exam and met all requirements to operate in OK.

310:406-19-6 Temporary Licensure [REVOKED] Temporary license removal will ensure all practicing Licensed Genetic Counselors have passed exam and met all requirements to operate in OK.

310:406-21-2 Initial licensing period [REVOKED] none. Duplicative language.

310:406-21-3 Renewal of License [AMENDED] none. Language change.

310:406-21-6 Inactive Status [REVOKED] none. Unused section.

310:406-21-7 Renewal notification [AMENDED] Minimal, cost savings to department.

310:406-21-8. Failure to renew. [AMENDED] none. Language change.

310:406-21-9. Return of license. [AMENDED] none. Language change.

310:406-23-2 Complaints [AMENDED] none. Language change.

310:406-23-4. Filing of an action. [AMENDED] none. Language change.

310:406-23-5. Hearing. [AMENDED] none. Language change.

310:406-23-7 Unauthorized practice [AMENDED] Temporary license removal will ensure all practicing Licensed Genetic Counselors have passed exam and met all requirements to operate in OK. This section deals with supervision requirements for temporary licenses.

310:406-23-8 Administrative Penalties. [AMENDED] none. Language change.

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

Minimal detrimental effects without adoption due to the limited amount of temporary licenses. However those temporary licensees are able to practice without passing exam to be nationally certified.

11. PREPARATION AND MODIFICATION DATES:

This rule impact statement was prepared on September 23, 2020.

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 406. LICENSED GENETIC COUNSELORS**

SUBCHAPTER 1. GENERAL PROVISIONS

310:406-1-2. Definitions

When used in this Chapter, the following words or terms ~~shall~~ have the following meaning unless the context of the sentence requires another meaning:

"**ABGC**" means the American Board of Genetic Counseling [63:1-562(1)].

"**ABMG**" means the American Board of Medical Genetics [63:1-562(2)].

"**Act**" means Title 63, Sections 1-561 et seq., of the Oklahoma Statutes.

"**Active candidate status**" means an individual who has been approved by the American Board of Genetic Counseling (ABGC) to sit for the certification exam in genetic counseling.

"**Board**" means the State Board of Health.

"**Patient**" means a person receiving genetic counseling from a genetic counselor.

"**Commissioner**" means the State Commissioner of Health.

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

"**Dual relationships**" means a familial, social, financial, business, professional, close personal, sexual or other non-counseling relationship with a patient, or engaging in any activity with another person that interferes or conflicts with the LGC's professional obligation to a patient.

"**Licensed genetic counselor**" or "**LGC**" means any person who is licensed pursuant to the provisions of the Genetic Counseling Licensure Act or offers to or engages in genetic counseling. The term ~~shall~~ does not include those professions exempted by Section 1-566 of the Act.

SUBCHAPTER 5. RULES OF PROFESSIONAL CONDUCT

310:406-5-1. Responsibility

(a) LGCs shall accept responsibility for the consequences of their work and ensure that their services are used appropriately.

(b) LGCs shall not:

(1) participate in, condone, or be associated with dishonesty, fraud, deceit or misrepresentation; or

(2) LGCs ~~shall not~~ use their relationships with patients for personal advantage, profit, satisfaction, or interest.

310:406-5-2. Competence

(a) **Genetic counseling.** LGCs shall practice only within the boundaries of their competence and within professional standards, based on their education, training, and appropriate professional experience.

(b) **Impairment.** LGCs shall not offer or render professional services when such services may be impaired by a personal physical, mental or emotional condition(s). LGCs shall seek assistance for any such personal problem(s) with their physical, mental or emotional condition, and, if necessary, limit, suspend, or terminate their professional activities. If an LGC possesses a bias, disposition, attitude, moral persuasion or other similar condition that limits his or her ability to recommend a course of treatment or decision-making that is indicated, and under such circumstances where all other treatment and decision options are contra-indicated, then in that event the LGC shall not undertake to provide genetic counseling and ~~will~~shall terminate the genetic counseling relationship in accordance with these rules.

(c) **Opinion Testimony.** LGCs shall not offer or accept an offer to engage in rendering opinion testimony relating to work performed for their patient and shall limit their role to fact witness in any matter involving that patient, unless otherwise required by law or court order.

310:406-5-3. Patient welfare

- (a) **Discrimination.** LGCs shall not, in the rendering of professional services, participate in, condone, or promote discrimination on the basis of race, color, age, gender, religion or national origin.
- (b) **Confidentiality.** LGCs shall maintain the confidentiality of any information received from any person or source about a patient, unless authorized in writing by the patient or otherwise authorized or required by law or court order.
- (c) **Confidentiality of records.** LGCs ~~shall be~~ are responsible for complying with the applicable state and federal regulations in regard to the security, safety and confidentiality of any genetic counseling record they create, maintain, transfer, or destroy whether the record is written, taped, computerized, or stored in any other medium.
- (d) **Requirement of records.** LGCs shall maintain verifiable records necessary for rendering professional services to their patients for at least 3 (three) years beyond discontinuation of services. LGCs employed at an institution or facility that has a published records retention policy that is equal to the retention required by this subsection ~~will be deemed~~ is considered to be in compliance with this subsection.
- (e) **Patient access to records.** LGCs shall provide the patient with a copy of the patient's record in accordance with state law. In situations involving multiple patients, access to records is limited to those parts of records that do not include confidential information related to another patient.
- (f) **Dual relationships.** LGCs shall not knowingly enter into a dual relationship(s) and shall take any necessary precautions to prevent a dual relationship from occurring. When the LGC reasonably suspects that he or she has inadvertently entered into a dual relationship the LGC shall record that fact in the records of the affected patient(s) and take reasonable steps to eliminate the source or agent creating or causing the dual relationship. If the dual relationship cannot be prevented or eliminated and the LGC cannot readily refer the patient to another genetic counselor or other professional, the LGC shall complete one or more of the following measures as necessary to prevent the exploitation of the patient and/or the impairment of the LGC's professional judgment:
- (1) Fully disclose the circumstances of the dual relationship to the patient and secure the patient's written consent to continue providing genetic counseling; or
 - (2) Consult with other professional(s) to understand the potential impairment to the LGC's professional judgment and the risk of harm to the patient of continuing the dual relationship;
- (g) **Invasion of privacy.** LGCs ~~shall~~ are not to make inquiry into persons or situations not directly associated with the patient's situation.
- (h) **Referral.**
- (1) LGCs shall not abandon or neglect current patients without making reasonable arrangements for the continuation of necessary counseling services by another professional; and
 - (2) When an LGC becomes cognizant of a disability or other condition that may impede, undermine or otherwise interfere with the LGC's competence or duty of responsibility to current patients, including a suspension of the LGC's license or any other situation or condition described in this Subchapter, the LGC shall promptly notify the patient in writing of the presence or existence of the disability or condition and take reasonable steps to timely terminate the genetic counseling relationship.
- (i) **Providing counseling to persons of prior association.** LGCs ~~shall not undertake to~~ cannot provide genetic counseling to any person with whom the LGC has had any prior sexual contact or close personal relationship within the previous five (5) years.
- (j) **Interaction with former patients.** LGCs shall not:
- (1) knowingly enter into a close personal relationship, or engage in any business or financial dealings with a former patient for two (2) years after the termination of the genetic counseling relationship; and
 - (2) ~~LGCs shall not~~ engage in any activity that is or may be sexual in nature with a former patient for at least five (5) years after the termination of the genetic counseling relationship; and
 - (3) ~~LGCs shall not~~ exploit or obtain an advantage over a former patient by the use of information or trust gained during the genetic counseling relationship.

310:406-5-4. Professional standards

- (a) **Violations of other laws.** It shall be ~~is~~ unprofessional conduct for an LGC to violate a state or federal statute if the violation directly relates to the duties and responsibilities of the genetic counselor or if the violation involves moral turpitude.
- (b) **Drug and alcohol use.** LGCs shall not render professional services while under the influence of alcohol or other mind or mood altering drugs.
- (c) **Updating.** LGCs shall notify the Department of any change in address, telephone number or employment within thirty (30) days of such change.
- (d) **Candor to the Department.** An LGC or an LGC candidate, in connection with a license application or an investigation conducted by the Department pursuant to OAC 310:406-23-3, shall not:
 - (1) knowingly make a false statement of material fact;
 - (2) fail to disclose a fact necessary to correct a misapprehension known by the LGC or LGC candidate to have arisen in the application or the matter under investigation; or,
 - (3) fail to respond to a demand for information made by the Department or any designated representative thereof within twenty (20) days of the demand, unless a request for a protective order has been first made pursuant to Chapter 2 of this Title, in which case the LGC or LGC candidate may await the decision concerning the issuance or denial of a protective order before making any response.

SUBCHAPTER 7. APPLICATION FOR LICENSURE

310:406-7-2. Application materials and forms

- (a) Each application shall include the following documents:
 - (1) Application form;₂
 - (2) Official transcript, mailed from a genetic counseling training program accredited by the ABGC or ABMG;₂
 - (3) Verification of certification by the ABGC or ABMG, or verification of active candidate status conferred by the ABGC, ABMG, or an equivalent acceptable entity;₂
 - ~~(4) Two (2) classifiable sets of fingerprints, and~~
 - ~~(5) (4) Fees.~~
- (b) The application form requires the following:
 - (1) Identifying information;
 - (2) Possession of other credentials;
 - (3) Previous misconduct (if applicable);
 - (4) Education;
 - (5) References; and
 - (6) Proposed professional practice.

310:406-7-3. Denial of license

If the Department denies any application or request for licensure the applicant or requestor shall be notified of the Department's decision within thirty (30) days thereof and the applicant ~~shall have~~ has fifteen (15) days to request a hearing to review the Department's decision. The notice shall advise the applicant or requestor of his or her right to a hearing and the time within which a request to review the Department's decision must be submitted.

SUBCHAPTER 13. SUPERVISION REQUIREMENTS [REVOKED]

310:406-13-1. Purpose [REVOKED]

~~This Subchapter establishes the supervision requirements for individuals practicing under the authority of a temporary license.~~

310:406-13-2. General supervision [REVOKED]

All individuals practicing under the authority of a temporary license shall receive general supervision as required by the Act. Supervision shall at a minimum include a review of applicable genetic counseling services provided by the supervisee that have not been previously reviewed.

310:406-13-3. Frequency of supervision contact [REVOKED]

Supervision contact shall occur at least every two weeks provided patient contacts have taken place in person, in writing or electronically.

310:406-13-4. Supervisor qualification [REVOKED]

Any person serving as a supervisor to a person holding a temporary license must be a licensed genetic counselor or a licensed physician.

310:406-13-5. Documentation of supervision [REVOKED]

- (a) ~~A supervision agreement form between the supervisor and supervisee shall be received and approved by the Department prior to beginning the accrual of supervision.~~
- (b) ~~A supervision agreement form between the supervisor and supervisee shall be submitted annually.~~
- (c) The supervisor and supervisee shall sign and submit a documentation of supervision form annually.
- (d) ~~The supervision agreement may be renewed annually by the Department with the submission of a new supervision agreement and the documentation of supervision provided in the previous year.~~

SUBCHAPTER 15. FEES

310:406-15-1. Schedule of fees

- (a) **Application fee.** ~~Three hundred dollars (\$300.00) shall be submitted with the application form. The application fee of three hundred dollars (\$300) is due with the submission of the application form.~~
- (b) **License renewal fee.** ~~After the initial two year period of licensure, this fee is two hundred dollars (\$200) and shall be submitted on or before two (2) years from the last day of the month in which the license was originally issued. The renewal fee is two hundred dollars (\$200). It is due no later than every 2 years from the last day of the month the original license was issued.~~
- (c) **Late renewal fee.** ~~An additional twenty five dollars (\$25.00) shall be submitted for the late renewal of a license. A twenty-five dollar (\$25) late fee is added to the renewal fee if it is not submitted within the time frame provided in (b) of this section.~~
- (d) **Replacement fee.** ~~Twenty five dollars (\$25.00) shall be submitted for the issuance of a license to replace a license, which has been lost, damaged, or is in need of revision.~~
- (e) **Inactive license fee.** ~~Twenty five dollars (\$25.00) shall be submitted with a request to place the license on inactive status.~~
- (f) **Reactivation fee.** When an inactive license is reactivated, the biennial renewal fee must be paid in accordance with OAC 310:406-21-6 and shall be submitted at the time of reactivation.

310:406-15-2. Method of payment [REVOKED]

Payment of all fees shall be by personal check, cashier's check, money order or cash. Payment of fees may be made by credit card or other electronic means, if acceptable by the Department. Any check returned to the Department for non-payment may result in expiration or suspension of license.

310:406-15-4. Review of fees

The Department ~~shall~~ will periodically review the fee schedule and recommend any adjustments necessary to provide funds to meet its expenses without creating an unnecessary surplus.

SUBCHAPTER 17. CONTINUING EDUCATION REQUIREMENTS

310:406-17-4. Submission of continuing education roster

LGCs shall submit a continuing education roster with the license renewal fee. Rosters must include the identity and license number of the LGC receiving continuing education, the date name, and location of the conference, the number of hours awarded, and the entity or organization sponsoring the conference. Only continuing education accrued in the preceding license renewal period ~~can~~may be used to satisfy the continuing education requirement for renewal.

310:406-17-6. Submission of fraudulent continuing education

The submission of fraudulent continuing education hours ~~shall~~will result in disciplinary action against any person who knowingly participates in the submission.

SUBCHAPTER 19. ISSUANCE OF LICENSE

310:406-19-1. License

~~The Commissioner shall issue a~~ A license certificate ~~issued by the Commissioner, which~~ contains the following information: the licensee's name, license number, ~~and~~ highest accredited genetic counseling academic degree, and date of issue.

310:406-19-2. Property of the Department

All licenses issued by the Commissioner ~~shall remain~~ are the property of the Department and shall be surrendered on demand.

310:406-19-3. Notification

After the applicant fulfills all requirements for licensure the Department shall ~~mail notification~~notify of qualification for licensure to the licensee of qualification.~~at his or her last known address.~~

310:406-19-4. Replacement [REVOKED]

~~The Department shall replace a license that is lost, damaged, or is in need of revision upon written request and payment of the license replacement fee. Requests must include the LGC's original license or be accompanied by the damaged license, if available.~~

310:406-19-5. Temporary license [REVOKED]

~~The Department may issue a temporary license to an applicant who meets the licensure requirements.~~

310:406-19-6. Temporary licensure [REVOKED]

~~(a) Requirements. An applicant for temporary licensure must meet the following requirements:~~

~~(1) Satisfy all of the qualifications for licensure established in the Genetic Counseling Licensure Act with the exception of certification by the ABGC, and have active candidate status conferred by the ABGC;~~

~~(2) Obtain a supervisor who is a licensed genetic counselor, or a physician licensed to practice in Oklahoma, with current ABMG certification in clinical genetics.~~

~~(b) Examination. A person granted a temporary license shall apply for and take the next examination that is available to the person as determined by ABGC. If an applicant fails the first sitting of the ABGC certification examination, the applicant may reapply for a second temporary license. A temporary license shall not be issued to an applicant who has failed the ABGC certification examination more than once.~~

~~(c) Expiration. A temporary license shall expire upon the earliest of the following:~~

~~(1) Issuance of full licensure;~~

~~(2) Thirty (30) days after failing the certification examination; or,~~

~~(3) The date printed on the temporary license.~~

SUBCHAPTER 21. LICENSE RENEWAL AND EXPIRATION

310:406-21-2. Initial licensing period [REVOKED]

The renewal date of the original license shall be two (2) years from the last day of the month in which the license was originally issued.

310:406-21-3. Renewal of license

The initial license ~~will expire~~ expires in two (2) years from the date of issuance unless renewed. License renewals shall expire every two years. Prior to submitting a request for license renewal the licensee must complete at least thirty (30) hours of continuing education.

310:406-21-6. Inactive status [REVOKED]

- (a) ~~An active license may be placed on inactive status by written request and payment of a one-time twenty-five dollar (\$25.00) fee. An inactive license forfeits all rights and privileges granted by the license.~~
- (b) ~~When a license is placed on inactive status, the license and active verification cards shall be returned to the Department.~~
- (c) ~~When a license is placed on inactive status, it remains inactive for at least one (1) year from the date of inactivation.~~
- (d) ~~Active status may be reestablished upon payment of the biennial renewal fee and proof of five (5) hours of continuing education in genetics professional education per year during the time of inactive status.~~
- (e) ~~Thirty (30) hours of continuing education shall be submitted at the end of the two-year renewal period of a reactivated license.~~

310:406-21-7. Renewal notification

The Department shall notify ~~mail to~~ licensee's last known address, at least forty-five (45) days prior to the expiration date of the LGC's license, a notice of expiration.

310:406-21-8. Failure to renew

If the licensee fails to renew the license by the expiration date, the Department shall mail ~~a notification~~ to the licensee's last known address a notification which shall include that includes the following:

- (1) Suspension of the license and forfeiture of rights and any privilege granted pursuant to the license; and,
- (2) The LGC has the right to reinstate the license by payment of the renewal fee and the late renewal fee and fulfillment of all other renewal requirements for up to one (1) year following the suspension of the license.

310:406-21-9. Return of license

Licenses not renewed within the one (1) year re-instatement period ~~shall not~~ cannot be reinstated and the license shall be returned to the Department.

SUBCHAPTER 23. ENFORCEMENT

310:406-23-2. Complaints

- (a) Any person may file a complaint against a LGC or a person practicing genetic counseling who is not otherwise exempt from the LGC Act. A person wishing to report a complaint or alleged violation against a licensee or person practicing genetic counseling may notify the Department ~~in writing, by telephone, or by a personal visit.~~ The Department ~~will~~ shall determine whether the complaint alleges a possible violation of the Act or this Chapter.
- (b) The complaint and the identity of the complainant ~~shall be~~ is confidential and ~~shall not~~ cannot be available for public inspection.

310:406-23-4. Filing of an action

(a) The Department may begin a disciplinary action against an LGC or a person practicing genetic counseling who is not exempt from licensure by following the procedures in Chapter 2 of this Title. The Department shall specifically state ~~the each violation(s)violation~~ and ~~shall state the~~ remedy sought by the Department. ~~Remedies~~ A remedy may include any or all of the following: revocation of a license, suspension of a license, probation of a licensee ~~and/or~~ administrative penalty.

(b) If in the course of an investigation the Department determines that a licensee or 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, the Commissioner may order a summary suspension of the genetic counselor's license or authorization to conduct genetic counseling. A presumption of imminent harm to the public shall exist if the Department determines that probable cause exists that a licensee or candidate has violated 310:406-5-3(f) or 310:406-5-4(a, b, c or e).

310:406-23-5. Hearing

Hearings shall be conducted by the Commissioner or the Commissioner's designee as specified in Chapter 2 of this Title. At the conclusion of the evidence, ~~The the~~ Department ~~shall recommend~~ recommends the most appropriate penalty~~at the conclusion of the evidence.~~

310:406-23-7. Unauthorized practice

Any person found to be practicing genetic counseling without being either properly licensed; or exempt ~~or under approved supervision as part of the licensure process~~ shall will be ordered to cease practicing and may be subject to an administrative penalty. The Department may seek the assistance of the courts if the unauthorized practice of genetic counseling continues.

310:406-23-8. Administrative penalties

(a) The Department may assess an administrative penalty against an individual if the order includes a finding that the individual violated any of the following:

- (1) Any provision of the Act, including practicing counseling without licensure or exemption; or
- (2) Any rule within this Chapter; or
- (3) Any order issued pursuant to this Chapter.

(b) The total amount of the administrative penalty assessed ~~shall not~~ cannot exceed ten thousand dollars (\$10,000.00) for any related series of violations.