

Oklahoma Health Care Authority

The Oklahoma Health Care Authority (OHCA) values your feedback and input. It is very important that you provide your comments regarding the proposed rule change by the comment due date. Comments can be submitted on the OHCA's [Proposed Changes Blog](#).

OHCA COMMENT DUE DATE: November 8, 2024

The proposed policy is an Emergency Rule. The proposed policy will be presented at the November 5, 2024 Tribal Consultation. Additionally, this proposal is scheduled to be presented to the Medical Advisory Committee on November 7, 2024 and the OHCA Board of Directors on December 11, 2024.

SUMMARY:

Programs of All-Inclusive Care for the Elderly (PACE) Licensure Revisions — The proposed revisions remove the requirement that PACE providers be licensed as an adult day care and clarify Oklahoma Health Care Authority (OHCA) regulatory requirements of PACE providers. House bill (HB) 3238 of the 2024 legislative session amends the Adult Day Care Act and the Home Care Act to exempt PACE organizations from the licensure requirements of adult day cares and home health organizations. The bill also assigns new regulatory authority to the OHCA to enforce federal PACE regulations (42 CFR Part 460) and create administrative rules necessary to do so. These rule changes will reduce the administrative burden on PACE providers and ensure OHCA expectations and requirements are clear.

LEGAL AUTHORITY

The Oklahoma Health Care Authority Act, Section 5007 of Title 63 of Oklahoma Statutes; the Oklahoma Health Care Authority Board; 56 OS 1017.7; 63 OS 1-872; 63 OS 1-1961

RULE IMPACT STATEMENT:

STATE OF OKLAHOMA OKLAHOMA HEALTH CARE AUTHORITY

SUBJECT: Rule Impact Statement
APA WF # 24-13

A. Brief description of the purpose of the rule:

The proposed rule revisions remove the requirement that PACE providers be licensed as an adult day care and clarify Oklahoma Health Care Authority (OHCA) regulatory requirements of PACE providers to comply with house bill (HB) 3238 of the 2024 legislative session. The bill assigns new regulatory authority to the OHCA to enforce federal PACE regulations (42 CFR Part 460) and create administrative rules necessary to do so. These rule changes will reduce the administrative burden on PACE providers and ensure OHCA expectations and requirements are clear.

- B. A description of the classes of persons who most likely will be affected by the proposed rule, including classes that will bear the cost of the proposed rule, and any information on cost impacts received by the agency from any private or public entities:

PACE organizations are most likely to be affected by the proposed rule.

- C. A description of the classes of persons who will benefit from the proposed rule:

PACE organizations will benefit from the reduced administrative burden resulting from the removal of licensure requirements and the improved clarity in OHCA oversight expectations.

- D. A description of the probable economic impact of the proposed rule upon the affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change:

There is no probable impact of the proposed rule upon any classes of persons or political subdivisions.

- E. The probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule, and any anticipated effect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the agency:

The proposed changes are budget neutral.

- F. A determination of whether implementation of the proposed rule will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule:

There is no economic impact on political subdivisions.

- G. A determination of whether implementation of the proposed rule will have an adverse effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act:

The proposed rule is not expected to have an adverse effect on small business.

- H. An explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or non-regulatory methods or less intrusive methods for achieving the purpose of the proposed rule:

The agency has taken measures to determine that there is no less costly or non-regulatory method or less intrusive method for achieving the purpose of the proposed rule.

- I. A determination of the effect of the proposed rule on the public health, safety and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk:

The proposed rule should have no adverse effect on the public health, safety, and environment.

- J. A determination of any detrimental effect on the public health, safety and environment if the proposed rule is not implemented:

OHCA does not believe there is a detrimental effect on the public health and safety if the rule is not passed.

- K. The date the rule impact statement was prepared and if modified, the date modified:

Prepared: October 23, 2024

RULE TEXT:

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-
ELIGIBILITY**

**SUBCHAPTER 18. PROGRAMS FOR THE ALL-INCLUSIVE CARE FOR THE
ELDERLY (PACE)**

317:35-18-4. Provider regulations

(a) ~~The provider must comply with provisions of this Subchapter, and the regulations in 42 CFR, Part 460-, and all applicable local, state, and federal regulations. The provider must comply with all evaluation, monitoring, oversight, and other activities of the State Administering Agency (OHCA) as described in 42 CFR, Part 460.~~

~~(b) The provider agency must be licensed by the State of Oklahoma as an adult day care center.~~

~~(c) The provider must meet all applicable local, state, and federal regulations.~~

~~(d)~~(b) The provider must maintain an inquiry log of all individuals requesting Programs of All-Inclusive Care for the Elderly (PACE) services. This log will be available to the OHCA at all times. The log must include:

- (1) type of contact;
- (2) date of contact;
- (3) name and phone number of the individual requesting services;
- (4) name and address of the potential participant; and
- (5) date of enrollment, or reason for denial if the individual is not enrolled.

~~(c) Pursuant to 42 CFR 460.70, any entity contracted by the provider to render PACE benefits must comply with the provisions of this Subchapter, the regulations in 42 CFR Part 460, and any other local, state, and federal regulations applicable to the provider.~~

~~(d) OHCA reserves the right to deny a provider's application for a new or renewed contract or terminate a contract with a provider as described in OAC 317:30-3-19.3 and OAC 317:30-3-19.5.~~

~~(e) PACE programs are license-exempt only when they provide services to PACE participants exclusively.~~