

CHAPTER 1. ADMINISTRATIVE OPERATIONS

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[**Authority:** 70 O.S. Supp. 697.3 through 697.5(12); 75 O.S., Supp. 302(A)(1), 302(A)(2), 305, and 307]
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SUBCHAPTER 1. GENERAL PROVISIONS

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540:1-1-1. Purpose

The rules of this chapter are adopted for the purpose of simplifying procedure, avoiding unnecessary delays, saving expenses, and facilitating the administration of the programs of the Physician Manpower Training Commission.

540:1-1-2. Interpretation of rules

- (a) The rules of this chapter shall be given a fair and impartial construction. The rules of this chapter shall be cumulative to the Administrative Procedures Act, 75 O.S. 1981 SS 301 et. seq., as amended.
- (b) The rules of this chapter shall govern all formal proceedings of the Oklahoma Physician Manpower Training Commission. Informal proceedings may be held by agreement between the Commission or its agents and any party.
- (c) The effective date of the rules of this chapter shall be twenty days after they have been *published in the Register*.
[655:10-7-10(a)]
- (d) The provisions of this chapter herein contained are severable and the repeal, amendment, or invalidity of any provision hereof shall not serve to repeal or invalidate the remaining provisions of this chapter.

[Source: Amended at 15 OK Reg 1767, eff 5-11-98]

SUBCHAPTER 3. ORGANIZATION

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540:1-3-1. Membership

(a) **Governing Commission.**

(1) As stated in Section 697.3 of 70 O.S. Supp. 1983, the Commission *shall be composed of seven members appointed by the Governor with the advice and consent of the Senate. Three members shall be practicing allopathic physicians, two shall be practicing osteopathic physicians, and two shall not be physicians. The membership shall be appointed from diverse geographic areas of the state.* [70:697.3] Quorum shall consist of a majority of the appointed voting members present.

(2) Three members of the Commission shall be appointed for one year terms, two members shall be appointed for three year terms and two members shall be appointed for five year terms, and at the expiration of the initial terms, succeeding terms of office shall be five years in duration. [70:697.3]

(b) **Ex-officio members.** *There shall be also twelve additional non-voting ex-officio members of the Commission who shall serve in an advisory capacity only and include* [70:697.3] *the following:*

(1) *Dean of the University of Oklahoma College of Medicine or designee,*

(2) *Dean of the University of Oklahoma College of Medicine-Tulsa or designee,-*

(3) *Chair of the Department of Family Medicine of the University of Oklahoma Health Sciences Center, or designee,*

(4) *Chair of the Department of Family [70:697.3] Medicine of the University of Oklahoma College of Medicine-Tulsa or designee,*

(5) *President of the Oklahoma Academy of Family Physicians or designee,*

(6) *Chair of the Department of [70:697.3] Family Medicine of the Oklahoma [70:697.3] State University College of Osteopathic Medicine or designee,*

(7) *President of the Oklahoma State Medical Association or designee,*

- (8) *President of the Oklahoma Osteopathic Association or designee,*
 - (9) *President of the Oklahoma Hospital Association or designee,*
 - (10) *Provost of the University of Oklahoma Health Sciences Center or designee,*
 - (11) *Dean of the Oklahoma [70:697.3] State University College of Osteopathic Medicine or designee,*
 - (12) *Chair of the State Board of Health or designee.*
- [70:697.3]

540:1-3-2. Officers; Executive Directors; legal counsel

- (a) The Commission shall elect annually from the membership a Chairman and a Vice-Chairman. The Vice-Chairman shall serve as Chairman Elect.
- (b) Officers of the Commission shall be elected annually at the last regular meeting of each fiscal year. In the event an officer's position becomes vacant, a replacement shall be elected to complete the term at the following regular meeting of the Commission.
- (c) The Chairman shall preside over all Commission 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 Commission, and shall call a special meeting when requested by four members, in writing, to do so. The Chairman, in counsel with the Executive Director, shall determine the agenda of each meeting.
- (d) The Vice-Chairman shall assume the duties of the Chairman, during the Chairman's absence or incapacity.
- (e) The Executive Director shall be responsible for keeping the minutes of the Commission meetings.
- (f) The Attorney General shall serve as the legal counsel for the Oklahoma Physician Manpower Training Commission.

540:1-3-3. Powers, duties, and responsibilities of Commission

As defined in Section 697.5 of 70 O.S. 1981, *the Commission, in order to perform its official function in establishing and administering programs [70:697.5] to meet the physician and health manpower needs in Oklahoma, shall have the following specific powers, duties, and responsibilities:*

[70:697.5]

- (1) *To review all available data on physician manpower in Oklahoma in order to determine the current and projected distribution of physicians by geographic location and by type of practice. To accomplish this review, the Commission may obtain information from and work in*

conjunction with agencies which gather data and evaluate health manpower needs. [70:697.5(1)] The Commission shall fully utilize the resources of its Physician Manpower Databank.

(2) To serve as an agent to advise hospitals, clinics, and communities on setting up and planning internship and residency programs which emphasize provision of additional primary and medical care physicians to service the rural areas of Oklahoma with primary medical care specialties to be defined to include training in the area of internal medicine, obstetrics and gynecology, pediatrics, emergency trauma, and family practice or general practice.

[70:697.5(3)]

(3) To administer and determine the specific level of funding and the priorities used for granting state support to approved hospitals and clinical situations, in cooperation with the University of Oklahoma College of Medicine, the University of Oklahoma College of Medicine-Tulsa, and the College of Osteopathic Medicine of Oklahoma State University for approved hospital physician training programs for interns and residents and to recommend to the Governor and the Oklahoma Legislature the total funds needed to carry out the Internship and Residency Programs.

[70:697.5(8)]

(4) To administer and determine the level of funding to be requested for the following programs of the Physician Manpower Training Commission:

(A) the Oklahoma Community Physician Education Scholarship Fund, [70:625.11]

(B) the Community Match Rural Scholarship Incentive Program, [70:625.13]

(C) the program of physician and health manpower placement services, [70:697.5(12)] and

(D) the Nursing Student Assistance Program.

[70:697.17]

(5) To negotiate and enter into agreements or contracts with local, state, or federal agencies or institutions or other instrumentalities as may be authorized by statute or as necessary for performance of duties.

(6) To employ a director and any staff personnel required to administer the funding of all programs approved by the Physician Manpower Training Commission and to contract with other state agencies and institutions to conduct and to perform specified services, functions and aspects in administering state funds. [70:697.5(9)]

[Source: Amended at 15 Ok Reg 1767, eff 5-11-98]

540:1-3-4. Meetings

(a) The Commission shall hold such meetings as it deems necessary. Special meetings may be called by the Chairman at his discretion. Special meetings shall be called when four members of the commission request of the Chairman, in writing, that such a meeting be called.

(b) The Commission may convene at any location selected by the Executive Director and approved by the Chairman.

(c) All meetings of the commission shall be conducted in compliance with the applicable provisions of the Oklahoma Open Meeting Act, 25 O.S. 1981, SS 301 et. Seq., and laws amendatory thereto.

(d) The agenda of the Commission's regular meetings shall be determined by the Chairman, in counsel with its Executive Director, and a copy thereof sent to each Commission member and Ex-Officio member at least seven days before the meeting.

(e) The agenda of the Commission special meetings shall be determined by the chairman, in counsel with the Executive Director, and copies thereof mailed to each Commission member and Ex-Officio member no less than five days prior to the meeting. Only those items appearing on the agenda of such special meeting shall be considered by the Commission.

(f) All meetings of the Commission shall be conducted in accordance with Roberts Rules of Order except as modified by this section or by statute.

(g) A quorum shall consist of a simple majority of the total membership of the Commission. A quorum shall be necessary to conduct any official business.

540:1-3-5. Principal office; office hours; availability of records

(a) The principal office of the Physician Manpower Training Commission is 5500 North Western Avenue, Suite 201, Oklahoma City, Oklahoma 73118.

(b) Office hours shall be from 8:00 A.M. to 4:30 P.M., Monday through Friday, excepting legal holidays established by statute or proclamation of Governor.

(c) All rules and regulations and statements of policy adopted by the Commission shall be available for inspection at the principal office during regular business hours.

[Source: Amended at 15 Ok Reg 1767, eff 5-11-98]

SUBCHAPTER 5. RULEMAKING AND INDIVIDUAL PROCEEDINGS

Section

540:1-5-1. Individual proceedings

540:1-5-2. Procedures applicable to adoption, amendment, and repeal of rules

540:1-5-1. Individual proceedings

(a) In an individual proceeding, all parties shall be afforded an opportunity for hearing after reasonable notice.

(1) Notice of hearing shall be mailed to the last known address of all parties by registered mail at least fifteen days in advance of the hearing.

(2) The notice shall include the time, date, location and statement of the matters asserted.

(3) The notice shall also include a statement of the legal authority and jurisdiction under which the hearing is to be held and a reference to the particular sections of the status and rules involved.

(b) Hearings will be conducted by one of the following methods, as determined by the Commission:

(1) By the Commission; or

(2) By a hearing officer designated by the Commission.

(c) The hearing authority may require the furnishing of information; the attendance of witnesses; and the production of books, records, papers or other objects as may be necessary and proper for the purposes of the hearing.

(d) Any party to a proceeding may take depositions of witnesses in the same manner as provided by law in civil actions before courts of record and such depositions may be admitted into evidence subject to the right of objection at the time of the hearing in accordance with the law.

(e) The hearing shall be conducted in an orderly manner by the hearing examiner or Chairman of the Commission. The order of procedure will follow that which applies in civil proceedings of law. However, the rules of evidence shall be those specified by the Oklahoma Administrative Procedures Act.

(f) The Chairman of the Commission, or hearing examiner, shall rule upon the admissibility of evidence and objections thereto, and shall rule upon other motions or objections arising in the course of the hearing.

(g) A record of the hearing, by means of tape recording or shorthand notes, will be made of all hearings conducted, unless the hearing authority designates otherwise. A transcript of the proceeding shall not be transcribed except upon written application and a cash deposit provided by the requesting party sufficient to pay for having the record transcribed.

(h) The record of the hearing and the file containing the pleadings will be maintained in a place designated by the Executive Director in counsel with the Chairman of the Commission.

(i) At any individual hearing not heard by a majority of the members of the Commission, the decision, if adverse to a party to the proceeding, shall not be made until a proposed order is served upon the parties and an opportunity is afforded to each party adversely affected to file exceptions and present brief and oral argument to the Commission. The proposed order shall be accompanied by a statement of the reasons therefore and for each issue of fact or law necessary to the proposed order, prepared by the person who conducted the hearing, or by one who had read the record. Exceptions must be filed with the Executive Director of the Commission within ten days of mailing the proposed order to the complainant. If exceptions are filed, the Executive Director shall set the time and the place for the Commission to consider the proposed order and the exceptions to it, and cause notice of such time and place to be mailed to the complainant. Such time shall not be less than twenty days after such notice is mailed. Briefs in support of exceptions are filed, the Commission at least seven days before such hearing. The complainant may personally or through counsel, be present and present oral argument to the Commission in support of the exceptions. If no exceptions are filed, the Commission will consider the proposed order at its next regular or special meeting, or at such other time as is convenient to the Commission.

(j) A final order adverse to a party in an individual proceeding shall be in writing or stated in the record. A final order shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. A copy of the order shall be mailed forthwith to each party.

(k) All hearings before the Commission or its designated hearing officer shall be conducted in accordance with the Administrative Procedures Act, 75 O.S. 1981, SS 301 et.seq.

540:1-5-2. Procedures applicable to adoption, amendment, and repeal of rules

(a) The Commission may promulgate, amend, or repeal a rule of his own initiative, and may promulgate, amend, or repeal a rule at the request of the Chairman.

(b) Any interested person may petition the Commission, requesting the promulgation, amendment, or repeal of a rule. All such petitions shall be in writing, and be filed with the

Executive Director of the Commission 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.

(c) Petitions concerning rules will be considered by the Commission at its next regularly scheduled meeting or at a special meeting. The Commission 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 Commission will notify the petitioner within twenty days whether the Commission will consider rule making action.

(d) The Physician Manpower Training Commission may, of its own motion, conduct hearings on proposed rules, amendments to or repeal of rules, and shall conduct such hearings when so directed by the Commission.

(e) Unless otherwise specified, and stated in the notice of hearing, all hearings, shall be conducted in the offices of the Commission.

(f) 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.

(g) Prior to the adoption, amendment, or repeal of a rule the Commission 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 Commission 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 Commission 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 Commission may, in its discretion, refuse to hear oral argument and require such matters to be submitted in writing. The Commission, in the exercise of its sound discretion, shall determine whether the proposed action affects any such substantive rights.

[Source: Amended at 15 Ok Reg 1767, eff 5-11-98]