

# Oklahoma Employment Security Commission



Richard McPherson, Executive Director

Mary Fallin, Governor


Representing Employers  
Shannon Davies, Commissioner  
David Adams, Commissioner

Representing the Public  
Rachel Hutchings, Chair

Representing Employees  
Christopher Tytanic, Commissioner  
Max Dubroff, Commissioner

12/16/15



OESC Account No: 01-

This letter constitutes an assessment against your account by the Oklahoma Employment Security Commission as provided for in Title 40 O.S. Section 3-305(A). This assessment covers the period 01/01/14 – 12/31/14. The amount of taxes due is \$630.40 which includes penalties and interest computed through 12/31/15. Statute used and other information concerning this assessment follow.

Individuals misclassified as independent contractors

Title 40, O.S., Chapter 1 Section 1-210(14) states:


Notwithstanding any other provision of this subsection, services performed by an individual for wages or under any contract of hire shall be deemed to be employment subject to the Employment Security Act of 1980 unless and until it is shown to the satisfaction of the Commission that: (a) such individual has been and will continue to be free from control or direction over the performance of such services, both under the contract of hire and in fact; **AND** (b) such individual is customarily engaged in an independently established business; **OR** (c) such service is outside the usual course of the business for which such service is performed and that such service is performed outside of all places of business of the enterprise for which such service is performed.

A listing of the individuals covered in this assessment is attached. See accompanying OES3(s)/OES-3B(s).

If you disagree with this determination, a written request for a review and redetermination must be submitted within twenty (20) days from the date of this document to:

Rena Tidwell  
Oklahoma Employment Security Commission  
P O Box 52003  
Oklahoma City, OK 73152-2003

Facts leading to the determination:

 is employed as a Registered Dental Hygienist. Dental hygienists fail to meet the requirement of independent contractor Section 1-210(14) (a) and (b) because they are required to work under the supervision of a dentist and cannot operate independently as indicated in Chapter 7 of Title 59 of the Oklahoma Statutes. Specific Sections leading to the determination:

59-328.29 Unlawful practices for dental hygienists.

A. It shall be unlawful for any dental hygienist to:

12. Attempt to conduct a practice of dental hygiene in any place or in any manner other than as authorized by Section 328.34 of this title;

59-328.34 Practice of dental hygiene under supervision of dentist – Delegation of duties to dental hygienist – Authorization of advanced procedures.

A. A dental hygienist may practice dental hygiene under the supervision of a dentist in a dental office or treatment facility.

F. A dental hygienist shall not own or operate an independent practice of dental hygiene.

If no appeal is made, this determination will be final in twenty (20) days from the date of this document. Untimely requests for review and redetermination and written protests for appeals filed pursuant to Title 40, Section 3-115(B)(2) and 3-115(B)(3) may be allowed for good cause shown.

Whitney Marshall, Compliance Enforcement Officer  
3105 E. Skelly Drive, Suite 412  
Tulsa, OK 74105

Telephone 918-743-1364 x 114; Fax 918-743-9902