

PROPOSED RULES

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

Symbols in proposed rule text. Proposed new language is indicated by underlined text. ~~[Square brackets and strikethrough]~~ indicate existing rule text that is proposed for deletion. "(No change)" indicates that existing rule text at this level will not be amended.

TITLE 22. EXAMINING BOARDS

PART 22. TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY

CHAPTER 511. ELIGIBILITY

SUBCHAPTER B. CERTIFICATION BY EXAMINATION

22 TAC §511.22

The Texas State Board of Public Accountancy (Board) proposes an amendment to §511.22, concerning Initial Filing of the Application of Intent.

Background, Justification and Summary

The Public Accountancy Act is changing effective September 1, 2023. The Act, as amended, will permit CPA candidates to take the CPA exam with 120 semester hours of college course work. The Act currently requires 150 semester hours. There may be candidates with applications pending with the Board that may choose to withdraw their current application so that they would be eligible to take the exam on or after September 1, 2023 once the 120 semester hours is in effect. For those candidates that choose to do so, the \$20.00 application fee will be waived since they have already included the fee in their current application.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule amendment will reduce the application fee to a one-time event.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses be-

cause the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on August 28, 2023.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, §901.655 and

§901.307(b) which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§511.22. *Initial Filing of the Application of Intent.*

(a) The initial filing of the application of intent shall be made on forms prescribed by the board and shall also be in compliance with board rules and with all applicable laws. The application of intent may be submitted at any time and will be used to determine compliance and eligibility for an applicant to take the UCPAE. The application of intent will remain active until:

(1) an applicant takes at least one section of the UCPAE within two years from the date of submission of the application; or

(2) the second anniversary of the submission of the application has lapsed.

(b) Each applicant who submits an application of intent to determine eligibility for the UCPAE must pay a nonrefundable filing fee in accordance with §521.12 of this title (relating to Filing Fee). The filing fee shall be applied towards a reapplication of intent to determine eligibility for the UCPAE for those applicants applying prior to September 1, 2023 and reapplying following that date in order to qualify to take the UCPAE with 120 hours of acceptable coursework. An application of intent not accompanied by the proper fee or required documents shall not be considered complete. The withholding of information, a misrepresentation, or any untrue statement on the application or supplemental documents will be cause for rejection of the application.

(c) Each applicant must provide official educational documents to be used in determining compliance with the applicable education requirements of the Act.

(d) Each applicant must comply with the board's fingerprinting process that accesses the Federal Bureau of Investigation (FBI) database and the Texas Department of Public Safety-Crime Records division files. This is necessary to ensure an applicant to take the uniform CPA examination or to receive a certificate lacks a history of dishonest or felonious acts and the board is aware of any criminal activity that might be relevant to the applicant's qualifications to take the UCPAE.

(e) Each applicant will be notified when all requirements have been met to apply to take the UCPAE, and with the notification, an examination application will be made available to the applicant.

(f) Each applicant must provide a copy of the following documents:

(1) Unexpired driver's license issued by a state of the United States provided it contains a photograph and information such as name, date of birth, sex, height, eye color, and address; or an unexpired United States passport; and

(2) social security card. Such information shall be considered confidential and can only be disclosed under the provisions of the Act.

(g) Applicants who are citizens of a foreign country and who cannot meet the requirements of subsection (f) of this section shall comply by providing evidence of a non-expired F-1 Visa issued to students attending a university or college. The board may consider an F-1 Visa with a Certificate of Eligibility for Nonimmigrant Student Status. Form I-20 shall be approved by the designated school official at the educational institution where the applicant is currently attending.

(h) Applicants who cannot meet the requirements of subsection (f) or (g) of this section may be eligible to take the UCPAE by

providing evidence of both identity and employment authorization by submitting a copy of one of the following unexpired documents:

(1) An Alien Registration Receipt Card or Permanent Resident Card (Form I-551); or

(2) A foreign passport that contains a temporary I-551 stamp, or temporary I-551 printed notation on a machine-readable immigrant visa; or

(3) An Employment Authorization Document which contains a photograph (Form I-766).

(i) Applicants who do not have or do not submit a social security card will be required to pay an additional fee to NASBA each time they make application for the UCPAE to verify their legal entry into the U.S.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on July 14, 2023.

TRD-202302530

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: August 27, 2023

For further information, please call: (512) 305-7866



SUBCHAPTER C. EDUCATIONAL REQUIREMENTS

22 TAC §511.52

The Texas State Board of Public Accountancy (Board) proposes an amendment to §511.52 concerning Recognized Institutions of Higher Education.

Background, Justification and Summary

Some semester hour course work may not be accepted by the Board to support an application to take the CPA exam. The Board is the authority in making that decision with advice from the University of Texas at Austin. The rule identifies four organizations and assessment methods that the Board will not accept as support to constitute the education necessary for a candidate to sit for the CPA exam.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule amendment will clarify the Board's method of evaluating course work and what specific organizations and assessment methods it will not accept.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is

not required because the proposed amendment will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on August 28, 2023.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, §901.655 and §901.307(b) which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§511.52. *Recognized Institutions of Higher Education.*

(a) The board recognizes institutions of higher education that offer a baccalaureate or higher degree, that either:

(1) are accredited by one of the following organizations:

(A) Middle States Commission on Higher Education (MSCHE);

(B) Northwest Commission on Colleges and Universities (NWCCU);

(C) Higher Learning Commission (HLC);

(D) New England Commission of Higher Education (NECHE);

(E) Southern Association of Colleges and Schools, Commission on Colleges (SACS); and

(F) WASC Senior College and University Commission; or

(2) provide evidence of meeting equivalent accreditation requirements of SACS.

(b) The board is the final authority regarding the evaluation of an applicant's education and has received assistance from the reporting institution in the State of Texas, the University of Texas at Austin, in evaluating:

(1) an institution of higher education;

(2) organizations that award credits for coursework taken outside of a traditional academic environment and shown on a transcript from an institution of higher education;

(3) assessment methods such as credit by examination, challenge exams, and portfolio assessment; and

(4) non-college education and training.

(c) The following organizations and assessment methods may not be used to meet the requirements of this chapter:

(1) American Council on Education (ACE);

(2) Prior Learning Assessment (PLA);

(3) Defense Activity for Non-Traditional Education Support (DANTES); and

(4) Defense Subject Standardized Test (DSST).

~~[(b) The board may receive assistance from the reporting institution in the State of Texas in evaluating an institution of higher education.]~~

~~(d) [(e)] The board may accept courses completed through an extension school, a correspondence school or continuing education program provided that the courses are offered and accepted by the board approved educational institution for a business baccalaureate or higher degree conferred by that educational institution.~~

~~(e) [(d)] Except as provided in subsection (d) [(e)] of this section, extension and correspondence schools or programs and continuing education courses do not meet the criteria for recognized institutions of higher education.~~

~~(f) [(e)] The requirements related to recognized community colleges are provided in §511.54 of this chapter (relating to Recognized Texas Community Colleges).~~

~~(g) [(f)] The board may recognize a community college that offers a baccalaureate degree in accounting or business, provided that the applicant is admitted to a graduate program in accounting or busi-~~

ness offered at a recognized institution of higher education that offers a graduate or higher degree.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on July 14, 2023.

TRD-202302531

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: August 27, 2023

For further information, please call: (512) 305-7842



22 TAC §511.53

The Texas State Board of Public Accountancy (Board) proposes an amendment to §511.53 concerning Evaluation of International Education Documents.

Background, Justification and Summary

The proposed rule addresses a revision to the Public Accountancy Act that lowers the number of college level courses needed to be eligible to take the CPA exam. The Board is attempting to get the rule adopted in time for the effective date of the Act's revision.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule amendment is to let the public know of the change to the Public Accountancy Act effective September 1, 2023.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or

decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on August 28, 2023.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, §901.655 and §901.307(b) which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§511.53. *Evaluation of International Education Documents.*

(a) It is the responsibility of the board to confirm that education obtained at colleges and universities outside of the United States (international education) is equivalent to education earned at board-recognized institutions of higher education in the U.S.

(b) The board shall use, at the expense of the applicant, the services of the University of Texas at Austin, Graduate and International Admissions Center, to validate, review, and evaluate international education documents submitted by an applicant to determine if the courses taken and degrees earned are substantially equivalent to those offered by the board-recognized institutions of higher education located in the U.S. The evaluation shall provide the following information to the board:

(1) Degrees earned by the applicant that are substantially equivalent to those conferred by a board-recognized institution of higher education in the U.S. that meets §511.52 of this chapter (relating to Recognized Institutions of Higher Education);

(2) The total number of semester hours or quarter hour equivalents earned that are substantially equivalent to those earned at U.S. institutions of higher education and that meet §511.59 of this chapter (relating to Definition of 120 [150] Semester Hours to take the UCPAE);

(3) The total number of semester hours or quarter hour equivalents earned in accounting coursework that meets §511.57 of this chapter (relating to Qualified Accounting Courses to take the UCPAE) or §511.60 of this chapter (relating to Qualified Accounting Courses Prior to January 1, 2024 to take the UCPAE);

(4) An analysis of the title and content of courses taken that are substantially equivalent to courses listed in §511.57 or §511.60 of this chapter; and

(5) The total number of semester hours or quarter hour equivalents earned in business coursework that meets §511.58 of this chapter (relating to Definitions of Related Business Subjects to take the UCPAE [and Ethics Courses]).

(c) The University of Texas at Austin, Graduate and International Admissions Center, may use the American Association of Collegiate Registrars and Admissions Officers (AACRAO) material, including the Electronic Database for Global Education (EDGE), in evaluating international education documents.

(d) Other evaluation or credentialing services of international education are not accepted by the board.

(e) Credits awarded for coursework taken through the following organizations and shown on a transcript from an institution of higher education may not be used to meet the requirements of this chapter:

(1) American College Education (ACE);

(2) Prior Learning Assessment (PLA);

(3) Defense Activity for Non-Traditional Education Support (DANTES); and

(4) Defense Subject Standardized Test (DSST).

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on July 14, 2023.

TRD-202302532

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: August 27, 2023

For further information, please call: (512) 305-7842



22 TAC §511.54

The Texas State Board of Public Accountancy (Board) proposes an amendment to §511.54 concerning Recognized Texas Community Colleges.

Background, Justification and Summary

The Public Accountancy is being revised to permit CPA candidates to take the CPA exam with 120 semesters hours of college course work. This rule is being revised to effect the statutory change so that the number of upper level accounting courses re-

quired to take the exam will be reduced from 30 semester hours to 21 semester hours effective September 1, 2023.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule amendment helps to implement the statutory revision to permit CPA candidates to take the exam with 120 semester hours of college.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on August 28, 2023.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the pro-

posed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, §901.655 and §901.307(b) which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§511.54. *Recognized Texas Community Colleges.*

(a) An applicant who has completed a baccalaureate or higher degree from a board recognized institution of higher education based on the requirements of §511.52 of this chapter (relating to Recognized Institutions of Higher Education), may enter into a course of study at a board recognized Texas community college to complete the educational requirements of §§511.57, 511.58, and 511.60 of this chapter (relating to Qualified Accounting Courses to take the UCPAE, Definitions of Related Business Subjects to take the UCPAE [and Ethics Courses], and Qualified Accounting Courses Prior to January 1, 2024 to take the UCPAE).

(b) The board recognizes and accepts Texas community colleges that meet board standards for a comprehensive academic program based on the educational requirements of §§511.57, 511.58, and 511.60 of this chapter.

(c) Effective August 1, 2015, the standards include at a minimum all, but are not limited to, the following:

(1) The Texas community college must be accredited by SACS.

(2) Academic accounting and business courses recognized as meeting §§511.57, 511.58, and 511.60 of this chapter are deemed by the board as equivalent to upper level coursework at an institution of higher education and must contain a rigorous curriculum that is similar to courses offered in a baccalaureate degree program at a university. Accounting, business, and ethics courses must be developed by a group of full time accounting faculty members and approved by the board prior to offering to students. Modifications to an approved course must be reconsidered by the board prior to offering to students.

(3) Academic courses meeting §§511.57, 511.58, and 511.60 of this chapter must be taken after completing a baccalaureate degree.

(4) The Texas community college must offer no fewer than:

(A) 27 [30] semester hours of academic accounting courses meeting §511.57 or §511.60 of this chapter;

(B) 24 semester hours of academic business courses meeting §511.58 of this chapter; and

(C) a board-approved three semester hour ethics course meeting §511.164 [§511.58] of this chapter (relating to Definition of 150 Semester Hours to Qualify for Issuance of a Certificate).

(5) The Texas community college designates an accounting faculty member(s) who is responsible for:

(A) managing the comprehensive academic program at all campuses;

(B) selecting and training qualified faculty members to teach the program courses and regularly evaluating their effectiveness in the classroom;

(C) establishing and maintaining a rigorous program curriculum;

(D) establishing and maintaining a process for advising and guiding students through the program; and

(E) providing annual updates to the board on the status of the academic program.

(6) Faculty members at a community college recognized and accepted by the board must have the following credentials to teach academic courses meeting §§511.57, 511.58, and 511.60 of this chapter:

(A) Doctorate or master's degree in the teaching discipline; or

(B) Master's degree with a concentration in the teaching discipline (a minimum of 18 graduate semester hours in the teaching discipline).

(7) At least three-fourths of the faculty members who are responsible to teach academic courses meeting §511.57 or §511.60 of this chapter must hold a current CPA license.

(8) Faculty members will comply with the established educational definitions in §511.51 of this chapter (relating to Educational Definitions).

(9) The Texas community college will provide ongoing professional development for its faculty as teachers, scholars, and CPA practitioners.

(10) The Texas community college will make available to students a resource library containing current online authoritative literature to support the academic courses meeting §§511.57, 511.58, and 511.60 of this chapter, and will incorporate the online authoritative literature in accounting courses.

(d) A community college recognized and accepted by the board under this provision must be reconsidered by the board on the fifth-year anniversary of the approval. Information brought to the attention of the board by a student or faculty member of the Texas community college that indicates non-compliance with the standards may cause the board to accelerate reconsideration.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on July 14, 2023.

TRD-202302533

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: August 27, 2023

For further information, please call: (512) 305-7842



22 TAC §511.56

The Texas State Board of Public Accountancy (Board) proposes an amendment to §511.56 concerning Educational Qualifications under the Act.

Background, Justification and Summary

One major effect of this rule revision is to allow candidates to take the CPA exam with 21 upper level accounting semester hours. The three semester hour ethics course is being eliminated from eligibility to take the exam. This allows candidates to take the exam earlier than the current law allows. The three semester hour ethics course will be required prior to certification.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule amendment will help implement the revision to the Public Accountancy Act to permit a CPA candidate to take the exam with 120 semester hours of college course work.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on August 28, 2023.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, §901.655 and §901.307(b) which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§511.56. Educational Qualifications under the Act to take the UC-PAE.

(a) An applicant for the UCPAE under the current Act shall meet the following educational requirements at the time of filing the initial application to take the examination and in order to qualify to take the examination:

(1) hold a baccalaureate or graduate degree conferred by an institution of higher education as defined by §511.52 of this chapter (relating to Recognized Institutions of Higher Education) recognized by the board; and

(2) complete no fewer than 120 [150] semester hours or quarter-hour equivalents of courses, as defined by §511.59 of this chapter (relating to Definition of 120 [150] Semester Hours to take the UC-PAE) and consisting of:

(A) no fewer than 21 [30] semester hours or quarter-hour equivalents of upper level accounting courses as defined by §511.57 of this chapter (relating to Qualified Accounting Courses to take the UCPAE) or §511.60 of this chapter (relating to Qualified Accounting Courses Prior to January 1, 2024 to take the UCPAE); and

(B) no fewer than 24 semester hours or quarter-hour equivalents of upper level related business courses, as defined by §511.58 of this chapter (relating to Definitions of Related Business Subjects to take the UCPAE). [and Ethics Courses]; and

~~[(C) a 3-semester-hour board-approved ethics course as defined by §511.58 of this chapter.]~~

(b) An applicant for the UCPAE who met the educational requirements of the Act that were in effect at the time of taking the initial examination shall continue to be examined under those requirements unless the applicant chooses to meet the current education requirements of the Act.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on July 14, 2023.

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J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

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For further information, please call: (512) 305-7842



22 TAC §511.57

The Texas State Board of Public Accountancy (Board) proposes an amendment to §511.57 concerning Qualified Accounting Courses.

Background, Justification and Summary

With the proposed revision to the Public Accountancy Act permitting a candidate to sit for the exam at 120 semester hours, the number of upper level accounting courses is being reduced to 21 semester hours of course work. With the reduction of upper level accounting course work, the number of hours in the separate disciplines is correspondingly being reduced to implement the revisions to the Act.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule amendment will permit CPA candidates to test at 120 hours of course work and make them aware of the number of hours required in the different disciplines.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not

increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on August 28, 2023.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, §901.655 and §901.307(b) which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§511.57. *Qualified Accounting Courses to take the UCPAE.*

(a) An applicant shall meet the board's accounting course requirements in one of the following ways:

(1) Hold a baccalaureate or higher degree from a board-recognized institution of higher education as defined by §511.52 of this chapter (relating to Recognized Institutions of Higher Education) and present official transcript(s) from board-recognized institution(s) that show degree credit for no fewer than 21 [30] semester credit hours of upper division accounting courses as defined in subsections (e), (f) and (g) of this section; or

(2) Hold a baccalaureate or higher degree from a board-recognized institution of higher education as defined by §511.52 of this chapter, and after obtaining the degree, complete the requisite 21 [30] semester credit hours of upper division accounting courses, as defined in subsections (e), (f) and (g) of this section, from four-year degree granting institutions, or accredited community colleges, provided that all such institutions are recognized by the board as defined by §511.52

or §511.54 of this chapter (relating to Recognized Texas Community Colleges).

(b) Credit for hours taken at board-recognized institutions of higher education using the quarter system shall be counted as 2/3 of a semester credit hour for each hour of credit received under the quarter system.

(c) The board will accept no fewer than 21 [30] semester credit hours of accounting courses from the courses listed in subsections (e), (f) and (g) of this section. The hours from a course that has been repeated will be counted only once toward the required 21 [30] semester hours. The courses must meet the board's standards by containing sufficient accounting knowledge and application to be useful to candidates taking the UCPAE. A board-recognized institution of higher education must have accepted the courses for purposes of obtaining a baccalaureate or higher degree or its equivalent, and they must be shown on an official transcript.

(d) Upper level accounting coursework recognized by the board and in effect prior to January 1, 2024, may be found in §511.60 of this chapter (relating to Qualified Accounting Courses Prior to January 1, 2024 to take the UCPAE).

(e) Effective January 1, 2024, the subject-matter content should be derived from the UCPAE Blueprint. A minimum of 12 [15] semester hours with at least three semester hours in each of the following accounting course content area is required:

(1) financial accounting and reporting for business organizations that may include:

- (A) intermediate accounting;
- (B) advanced accounting; and
- (C) accounting theory;

- (2) financial statement auditing;
- (3) taxation; and
- (4) accounting information systems.

(f) Effective January 1, 2024, a minimum of 9 [15] hours in any of the following accounting course content area is required:

(1) managerial or cost accounting (excluding introductory level courses);

- (2) auditing and attestation services;
- (3) internal accounting control and risk assessment;
- (4) financial statement analysis;
- (5) accounting research and analysis;

(6) up to 9 semester credit hours of taxation (including tax research and analysis);

(7) financial accounting and reporting for governmental and/or other nonprofit entities;

(8) up to 9 semester credit hours of accounting information systems, including management information systems ("MIS"), provided the MIS courses are listed or cross-listed as accounting courses, and the institution of higher education accepts these courses as satisfying the accounting course requirements for graduation with a degree in accounting;

(9) up to 9 [12] semester credit hours of accounting data analytics, provided the institution of higher education accepts these courses as satisfying the accounting course requirements for graduation with a degree in accounting; business data analytics may be con-

sidered provided the courses are listed or cross-listed as accounting courses, and the institution of higher education accepts these courses as satisfying the accounting course requirements for graduation with a degree in accounting; (while data analytics tools may be taught in the courses, application of the tools should be the primary objective of the courses);

- (10) fraud examination;
- (11) international accounting and financial reporting;
- (12) mergers and acquisitions;
- (13) financial planning;

[(14) an accounting internship program (not to exceed 3 semester credit hours) which meets the following requirements:]

[(A) the accounting knowledge gained is equal to or greater than the knowledge gained in a traditional accounting classroom setting;]

[(B) the employing firm provides the faculty coordinator and the student with the objectives to be met during the internship;]

[(C) the internship plan is approved in advance by the faculty coordinator;]

[(D) the employing firm provides significant accounting work experience with adequate training and supervision of the work performed by the student;]

[(E) the employing firm provides the student with training, supervision, periodic feedback and a final evaluation at the conclusion of the internship, provides a letter describing the duties performed and the supervision to the student, and provides a copy of the documentation to the faculty coordinator and the student;]

[(F) the student keeps a diary comprising a chronological list of all work experience gained in the internship;]

[(G) the student writes a paper demonstrating the knowledge gained in the internship;]

[(H) the student and/or faculty coordinator provides evidence of all items upon request by the board; and]

[(I) the internship course shall not be taken until a minimum of 12 semester credit hours of upper division accounting course work has been completed;]

(14) [(15)] at its discretion, the board may accept up to three semester hours of credit of accounting course work with substantial merit in the context of a career in public accounting, provided the course work is predominantly accounting or auditing in nature but not included in paragraphs (1) - (13) of this subsection. For any course submitted under this provision, the Accounting Faculty Head or Chair must affirm to the board in writing the course's merit and content; and

(15) [(16)] at its discretion, the board may accept up to three semester credit hours of independent study in accounting selected or designed by the student under faculty supervision. The curriculum for the course shall not repeat the curriculum of another accounting course that the student has completed.

(g) The board requires that a minimum of two semester credit hours in research and analysis relevant to the course content described in subsection (f) of this section be completed. The semester credit hours may be obtained through a standalone course or offered through an integrated approach. If the course content is offered through integration, the institution of higher education must advise the board of the course(s) that contain the research and analysis content. The course

may be used toward the 9 [15] semester credit hours of upper level accounting courses identified in subsection (f)(5) of this section.

(h) The following types of introductory courses do not meet the accounting course definition in subsections (e) and (f) of this section:

- (1) elementary accounting;
- (2) principles of accounting;
- (3) financial and managerial accounting;
- (4) introductory accounting courses; and
- (5) accounting software courses.

(i) Any CPA review course offered by an institution of higher education or a proprietary organization shall not be used to meet the accounting course definition.

(j) CPE courses shall not be used to meet the accounting course definition.

(k) An ethics course required in §511.58(d) of this chapter (relating to Definitions of Related Business Subjects to take the UCPAE [and Ethics Courses]) shall not be used to meet the accounting course definition in subsections (e) and (f) of this section.

(l) Accounting courses completed through an extension school of a board recognized educational institution may be accepted by the board provided that the courses are accepted for a business baccalaureate or higher degree conferred by that educational institution.

(m) The board may review the content of accounting courses and determine if they meet the requirements of this section.

(n) Credits awarded for coursework taken through the following organizations and shown on a transcript from an institution of higher education may not be used to meet the requirements of this chapter:

- (1) American College Education (ACE);
- (2) Prior Learning Assessment (PLA);
- (3) Defense Activity for Non-Traditional Education Support (DANTES); and
- (4) Defense Subject Standardized Test (DSST).

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on July 14, 2023.

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J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

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For further information, please call: (512) 305-7842



22 TAC §511.58

The Texas State Board of Public Accountancy (Board) proposes an amendment to §511.58 concerning Definitions of Related Business Subjects and Ethics Courses.

Background, Justification and Summary

As a result of the proposed revisions to the Public Accountancy Act, an ethics course is no longer being required prior to taking the exam at 120 hours and is being relocated to Board Rule 511.161. The proposed revision also identifies certain organizations and assessment methods that will not be accepted by the Board to qualify a candidate to sit for the exam.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule amendment permits the implementation of the sitting for the CPA exam at 120 hours.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on August 28, 2023.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, §901.655 and §901.307(b) which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§511.58. Definitions of Related Business Subjects to take the UCPAE [and Ethics Courses].

(a) Related business courses are those business courses that a board recognized institution of higher education accepts for a business baccalaureate or higher degree by that educational institution.

(b) An individual who holds a baccalaureate or higher degree from a recognized educational institution as defined by §511.52 of this chapter (relating to Recognized Institutions of Higher Education) may take related business courses from four-year degree granting institutions, or recognized community colleges, provided that all such institutions are recognized by the board as defined by §511.52 or §511.54 of this chapter (relating to Recognized Texas Community Colleges). Related business courses taken at a recognized community college are only the courses that the board has reviewed and approved to meet this section.

(c) The board will accept no fewer than 24 semester credit hours of upper level courses (for the purposes of this subsection, economics and statistics at any college level will count as upper division courses) as related business subjects (without repeat), taken at a recognized educational institution shown on official transcripts or accepted by a recognized educational institution for purposes of obtaining a baccalaureate degree or its equivalent, in the following areas.

(1) No more than 6 credit semester hours taken in any of the following subject areas may be used to meet the minimum hour requirement:

- (A) business law, including study of the Uniform Commercial Code;
- (B) economics;
- (C) management;
- (D) marketing;
- (E) business communications;
- (F) statistics and quantitative methods;
- (G) information systems or technology; and
- (H) other areas related to accounting.

(2) No more than 9 credit semester hours taken in any of the following subject areas may be used to meet the minimum hour requirement:

- (A) finance and financial planning; and
- (B) data analytics, data interrogation techniques, cyber security and/or digital acumen in the accounting context, whether taken in the business school or in another college or university program, such as the engineering, computer science, information systems, or math programs (while data analytic tools may be used in the course, application of the tools should be the primary objective of the course.

~~[(d) In addition to the 24 hours required in subsection (c) of this section, the board requires that 3 passing semester hours be earned as a result of taking a standalone course in accounting or business ethics. The course must be taken at a recognized educational institution and should provide students with a framework of ethical reasoning, professional values, and attitudes for exercising professional skepticism and other behavior in the best interest of the public and profession. The ethics course shall:]~~

~~[(1) include the ethics rules of the AICPA, the SEC, and the board;]~~

~~[(2) provide a foundation for ethical reasoning, including the core values of integrity, objectivity, and independence; and]~~

~~[(3) be taught by an instructor who has not been disciplined by the board for a violation of the board's rules of professional conduct, unless that violation has been waived by the board.]~~

~~(d) [(e)] The board requires that a minimum of 2 upper level semester credit hours in accounting communications or business communications with an intensive writing curriculum be completed. The semester hours may be obtained through a standalone course or offered through an integrated approach. If the course content is offered through integration, the university must advise the board of the course(s) that contain the accounting communications or business communications content. The course may be used toward the 24 semester credit hours of upper level business courses listed in subsection (c)(1) of this section.~~

~~(e) [(f)] Credit for hours taken at recognized institutions of higher education using the quarter system shall be counted as 2/3 of a semester hour for each hour of credit received under the quarter system.~~

~~(f) [(g)] Related business courses completed through and offered by an extension school, correspondence school, or continuing education program of a board recognized educational institution may be accepted by the board, provided that the courses are accepted for a business baccalaureate or higher degree conferred by that educational institution.~~

~~(g) [(h)] The board may review the content of business and ethics courses and determine if they meet the requirements of this section.~~

~~(h) Credits awarded for coursework taken through the following organizations and shown on a transcript from an institution of higher education may not be used to meet the requirements of this chapter:~~

- ~~(1) American College Education (ACE);~~
- ~~(2) Prior Learning Assessment (PLA);~~
- ~~(3) Defense Activity for Non-Traditional Education Support (DANTES); and~~
- ~~(4) Defense Subject Standardized Test (DSST).~~

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

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For further information, please call: (512) 305-7842



22 TAC §511.59

The Texas State Board of Public Accountancy (Board) proposes an amendment to §511.59 concerning Definition of 150 Semester Hours.

Background, Justification and Summary

The proposed rules implement the proposed revisions to the Public Accountancy Act to permit the CPA candidate to sit for the exam with 120 semester hours of college course work. The number of upper level accounting courses is reduced to 21, the 3 hours of ethics is relocated to Board Rule 511.161, the credit hours of undergraduate or graduate independent study and/or internship courses is relocated to Board Rule 511.164, and the proposed revision also identifies certain organizations and assessment methods that will not be accepted by the Board to qualify a candidate to sit for the exam.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule amendment will implement the proposed revision to the Act to permit a CPA candidate to sit for the exam with 120 semester hours of course work.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed

rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on August 28, 2023.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, §901.655 and §901.307(b) which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§511.59. Definition of 120 [450] Semester Hours to take the UCPAE.

(a) To be eligible to take the UCPAE, an applicant must hold at a minimum a baccalaureate degree, conferred by a board-recognized institution of higher education as defined by §511.52 of this chapter (relating to Recognized Institutions of Higher Education), and have completed the board-recognized coursework identified in this section:

(1) no fewer than 21 [30] semester hours or quarter-hour equivalents of upper level accounting courses as defined by §511.57 of this chapter (relating to Qualified Accounting Courses) or §511.60 of this chapter (relating to Qualified Accounting Courses Prior to January 1, 2024 to take the UCPAE);

(2) no fewer than 24 semester hours or quarter-hour equivalents of upper level related business courses, as defined by §511.58 of this chapter (relating to Definitions of Related Business Subjects to take the UCPAE [and Ethics Courses]); and

~~{(3) a 3-semester-hour board-approved ethics course as defined by §511.58 of this chapter; and}~~

~~(3) [(4)] academic coursework at an institution of higher education as defined by §511.52 of this chapter, when combined with paragraphs (1) and (2) [- (3)] of this subsection meets or exceeds 120 [150] semester hours. [A maximum of 9 total semester credit hours of undergraduate or graduate independent study courses and/or internships, as defined in §511.51(b)(4) or §511.51(b)(5) of this chapter (relating to Educational Definitions) respectively, may be considered as academic coursework to meet this paragraph. Of the 9 total semester credit hours of undergraduate or graduate independent study and/or internships courses, a maximum of 3 semester credit hours may apply to accounting content subject to paragraph (1) of this subsection and a maximum of 3 semester credit hours may apply to business courses subject to paragraph (2) of this subsection. Semester credit hours may not be applied to both accounting content as found in paragraph (1) of this subsection and business courses as found in paragraph (2) of this subsection concurrently.]~~

(b) An individual holding a baccalaureate degree conferred by a board-recognized institution of higher education, as defined by §511.52 of this chapter, and who has not completed the requirements of this section shall meet the requirements by taking coursework in one of the following ways:

(1) complete upper level or graduate courses at a board recognized institution of higher education as defined in §511.52 of this chapter that meets the requirements of subsection (a)(1) and (2) [- (3)] of this section; or

(2) enroll in a board recognized community college as defined in §511.54 of this chapter (relating to Recognized Texas Community Colleges) and complete board approved accounting or business courses that meet the requirements of subsection (a)(1) and (2) [- (3)] of this section. Only specified accounting and business courses that are approved by the board will be accepted as not all courses offered at a community college are accepted.

(c) The following courses, courses of study, certificates, and programs may not be used to meet the 120-semester [150-semester] hour requirement:

(1) any CPA review course offered by an institution of higher education or a proprietary organization; ~~and~~

(2) remedial or developmental courses offered at an educational institution; ~~and~~[-]

(3) credits awarded for coursework taken through the following organizations and shown on a transcript from an institution of higher education may not be used to meet the requirements of this chapter:

(A) American College Education (ACE);

(B) Prior Learning Assessment (PLA);

(C) Defense Activity for Non-Traditional Education Support (DANTES); and

(D) Defense Subject Standardized Test (DSST).

(d) The hours from a course that has been repeated will be counted only once toward the required 120 [150] semester hours.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

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For further information, please call: (512) 305-7842



22 TAC §511.60

The Texas State Board of Public Accountancy (Board) proposes an amendment to §511.60 concerning Qualified Accounting Courses Prior to January 1, 2024.

Background, Justification and Summary

The proposed rules implement the proposed revisions to the Public Accountancy Act to permit the CPA candidate to sit for the exam with 120 semester hours of college course work. The number of upper level accounting courses is reduced to 21, the 3 hours of ethics is relocated to Board Rule 511.161 and the proposed revision also identifies certain organizations and assessment methods that will not be accepted by the Board to qualify a candidate to sit for the exam.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule amendment will implement the proposed revision to the Act to permit a CPA candidate to sit for the exam with 120 semester hours of course work.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed

rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on August 28, 2023.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, §901.655 and §901.307(b) which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§511.60. Qualified Accounting Courses Prior to January 1, 2024 to take the UCPAE.

(a) An applicant shall meet the board's accounting course requirements in one of the following ways:

(1) Hold a baccalaureate or higher degree from a board-recognized institution of higher education as defined by §511.52 of this chapter (relating to Recognized Institutions of Higher Education) and present valid transcript(s) from board-recognized institution(s) that show degree credit for no fewer than 21 [30] semester credit hours of upper division accounting courses as defined in subsection (e) of this section; or

(2) Hold a baccalaureate or higher degree from a board-recognized institution of higher education as defined by §511.52 of this chapter, and after obtaining the degree, complete the requisite 21 [30] semester credit hours of upper division accounting courses, as defined in subsection (e) of this section, from four-year degree granting institutions, or accredited community colleges, provided that all such institutions are recognized by the board as defined by §511.52 of this chapter, and that the accounting programs offered at the community colleges are reviewed and accepted by the board.

(b) Credit for hours taken at board-recognized institutions of higher education using the quarter system shall be counted as 2/3 of a semester credit hour for each hour of credit received under the quarter system.

(c) The board will accept no fewer than 21 [30] semester credit hours of accounting courses from the courses listed in subsection (e)(1) - ~~(14)~~ [~~15~~] of this section. The hours from a course that has been repeated will be counted only once toward the required 21 [30] semester hours. The courses must meet the board's standards by containing sufficient business knowledge and application to be useful to candidates taking the UCPAE. A board-recognized institution of higher education must have accepted the courses for purposes of obtaining a baccalaureate degree or its equivalent, and they must be shown on an official transcript.

(d) A non-traditionally-delivered course meeting the requirements of this section must have been reviewed and approved through a formal, institutional faculty review process that evaluates the course and its learning outcomes and determines that the course does, in fact, have equivalent learning outcomes to an equivalent, traditionally delivered course.

(e) The subject-matter content should be derived from the UCPAE Blueprints and cover some or all of the following:

(1) financial accounting and reporting for business organizations that may include:

(A) up to nine semester credit hours of intermediate accounting;

(B) advanced accounting; or

(C) accounting theory;

(2) managerial or cost accounting (excluding introductory level courses);

(3) auditing and attestation services;

(4) internal accounting control and risk assessment;

(5) financial statement analysis;

(6) accounting research and analysis;

(7) up to 12 semester credit hours of taxation (including tax research and analysis);

(8) financial accounting and reporting for governmental and/or other nonprofit entities;

(9) up to 12 semester credit hours of accounting information systems, including management information systems ("MIS"), provided the MIS courses are listed or cross-listed as accounting courses, and the institution of higher education accepts these courses as satisfying the accounting course requirements for graduation with a degree in accounting;

(10) up to 12 semester credit hours of accounting data analytics, provided the institution of higher education accepts these courses as satisfying the accounting course requirements for graduation with a degree in accounting (while data analytics tools may be taught in the courses, application of the tools should be the primary objective of the courses);

(11) fraud examination;

(12) international accounting and financial reporting;

~~[(13) an accounting internship program (not to exceed three semester credit hours) which meets the following requirements:]~~

~~[(A) the accounting knowledge gained is equal to or greater than the knowledge gained in a traditional accounting classroom setting;]~~

~~[(B) the employing firm provides the faculty coordinator and the student with the objectives to be met during the internship;]~~

~~[(C) the internship plan is approved in advance by the faculty coordinator;]~~

~~[(D) the employing firm provides significant accounting work experience with adequate training and supervision of the work performed by the student;]~~

~~[(E) the employing firm provides an evaluation of the student at the conclusion of the internship, provides a letter describing the duties performed and the supervision to the student, and provides a copy of the documentation to the faculty coordinator and the student;]~~

~~[(F) the student keeps a diary comprising a chronological list of all work experience gained in the internship;]~~

~~[(G) the student writes a paper demonstrating the knowledge gained in the internship;]~~

~~[(H) the student and/or faculty coordinator provides evidence of all items upon request by the board;]~~

~~[(I) the internship course shall not be taken until a minimum of 12 semester credit hours of upper division accounting course work has been completed; and]~~

~~[(J) the internship course shall be the equivalent of a traditional course;]~~

~~(13) [(14)] at its discretion, the board may accept up to three semester credit hours of accounting course work with substantial merit in the context of a career in public accounting, provided the course work is predominantly accounting or auditing in nature but not included in paragraphs (1) - (12) of this subsection (for any course submitted under this provision, the Accounting Faculty Head or Chair must affirm to the board in writing the course's merit and content); and~~

~~(14) [(15)] at its discretion, the board may accept up to three semester credit hours of independent study in accounting selected or designed by the student under faculty supervision (the curriculum for the course shall not repeat the curriculum of another accounting course that the student has completed).~~

(f) The board requires that a minimum of two semester credit hours in research and analysis relevant to the course content described in subsection (e)(6) or (7) of this section be completed. The semester credit hours may be obtained through a discrete course or offered through an integrated approach. If the course content is offered through integration, the institution of higher education must advise the board of the course(s) that contain the research and analysis content.

(g) The following types of introductory courses do not meet the accounting course definition in subsection (e) of this section:

- (1) elementary accounting;
- (2) principles of accounting;
- (3) financial and managerial accounting;
- (4) introductory accounting courses; and
- (5) accounting software courses.

(h) Any CPA review course offered by an institution of higher education or a proprietary organization shall not be used to meet the accounting course definition.

(i) CPE courses shall not be used to meet the accounting course definition.

~~[(j) An ethics course required in §511.58(d) of this chapter (relating to Definitions of Related Business Subjects and Ethics Courses) shall not be used to meet the accounting course definition in subsection (e) of this section.]~~

(j) ~~[(k)]~~ Accounting courses completed through an extension school of a board recognized educational institution may be accepted by the board provided that the courses are accepted for a business baccalaureate or higher degree conferred by that educational institution.

(k) Credits awarded for coursework taken through the following organizations and shown on a transcript from an institution of higher education may not be used to meet the requirements of this chapter:

- (1) American College Education (ACE);
- (2) Prior Learning Assessment (PLA);
- (3) Defense Activity for Non-Traditional Education Support (DANTES); and
- (4) Defense Subject Standardized Test (DSST).

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on July 14, 2023.

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J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

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For further information, please call: (512) 305-7842



SUBCHAPTER D. CPA EXAMINATION

22 TAC §511.73

The Texas State Board of Public Accountancy (Board) proposes an amendment to §511.73 concerning Notice to Applicant to Schedule Taking a CPA Exam Section.

Background, Justification and Summary

The AICPA, the entity administering the UCPAE (Uniform Certified Public Accountancy Act Exam), has substantially revised the exam and anticipates delays in fully implementing it. In anticipation of expected delays this agency is proposing to extend the eligibility time to take the UCPAE and pay the filing fees from 90 days to 180 days.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule amendment will provide a fair time frame for applicants to take each part of the exam.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on August 28, 2023.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, §901.655 and

§901.307(b) which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§511.73. Notice to Applicant to Schedule Taking a CPA Exam Section.

(a) Effective January 1, 2024, and upon [Upon] approval of the eligibility application, the board shall inform an examination applicant that they have 180 [90] days from the date of approval in which to take a section of the UCPAE.

(b) An applicant is required to pay an examination fee to NASBA for the examination section for which the applicant has applied.

(c) After payment of the examination fee, an applicant is required to schedule with the test vendor to take the section at a board-approved location.

(d) An applicant who fails to pay the required examination fee to NASBA or fails to take a section of the UCPAE within the 180-day [90-day] eligibility period must reapply to the board and pay the required fees to establish a new eligibility period.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

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For further information, please call: (512) 305-7842



22 TAC §511.80

The Texas State Board of Public Accountancy (Board) proposes an amendment to §511.80 concerning Granting of Credit.

Background, Justification and Summary

The AICPA, the entity administering the UCPAE (Uniform Certified Public Accounts Exam), has substantially revised the exam and anticipates delays in fully implementing it. In anticipation of expected delays this agency is proposing to extend the validity of a credit earned for passing a part of the exam from 18 months to 30 months.

In addition, the Public Accountancy Act has been amended to permit CPA candidates to take the UCPAE with 120 semester hours of coursework. In order to avoid candidates unnecessarily delaying completion of their application for certification, the rule amendment proposes to set a time limit of 36 months from the time all sections of the exam have been passed. Also, one point of grammar and one word were replaced for clarity.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule amendment will put candidates on notice of a time limitation to become certified with the intent to motivate candidates to complete their application and offer the public more CPAs to provide accounting services.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on August 28, 2023.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, §901.655 and §901.307(b) which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§511.80. Granting of Credit.

(a) The board shall grant credit to an applicant for the satisfactory completion of a section of the UCPAE provided the applicant earns a passing score on the section as determined by board rule. The credit shall be valid for 30 [~~18~~] months from the actual date of notification of passing score results. The 30 [~~18~~] months may be temporarily extended by the executive director, in accordance with §901.307(b) of the Act (relating to Grading Examination), in order to provide for uniformity with other state regulatory authorities or for reasonably unforeseeable or uncontrollable events.

(b) An applicant must pass the remaining sections within the next 30 [~~18~~] months. Should an applicant's exam credit be invalidated due to the expiration of 30 [~~18~~] months without earning credit on the remaining sections, the applicant remains qualified to take the examination.

(c) An applicant receiving and retaining credit for every section on the UCPAE, within a 30-month [~~an 18-month~~] period, shall be considered by the board to have completed the examination and may make application for certification as a CPA.

(d) Effective January 1, 2024, an applicant under this section shall have 36 months from the time all test sections are passed to meet the education requirements of §511.164 of this chapter (relating to Definition of 150 Semester Hours to Qualify for Issuance of a Certificate) or the credit for all test sections will expire.

(e) [~~(d)~~] Effective January 1, 2024, an applicant who has an active credit on a section of the UCPAE shall have earned credit on the newly structured UCPAE as follows:

(1) credit on auditing and attestation (AUD) shall transition to auditing and attestation (AUD);

(2) credit on financial accounting and reporting (FAR) shall transition to financial accounting and reporting (FAR);

(3) credit on regulation (REG) shall transition to taxation and regulation (REG); and

(4) credit on business environment and concepts (BEC) shall not transition to a specific discipline as there is not an equivalent section, however, credit will be retained in lieu of a discipline.

(f) [~~(e)~~] Effective January 1, 2024, the Board shall grant credit to an applicant for the satisfactory completion of the following sections of the UCPAE provided the applicant earns a passing score on the section as determined by board rule. The credit shall be valid for 30 [~~18~~] months from the actual date of notification of passing score results:

(1) auditing and attestation (AUD);

(2) financial accounting and reporting (FAR);

(3) taxation and regulation (REG); and

(4) one of the following discipline sections:

(A) business analysis and reporting (BAR);

(B) information systems and controls (ISC); or

(C) tax compliance and planning (TCP).

(g) [(f)] An applicant who has received and retained credit for any or all sections on the UCPAE may transfer such credits to another licensing jurisdiction if the applicant pays in advance a transfer fee set by board rule as identified in §521.7 of this title (relating to Fee for Transfer of Credits).

(h) [(g)] If the UCPAE is restructured by the AICPA, the board shall determine the manner in which active credit earned prior to the restructure for a subject is integrated into the new UCPAE.

(i) [(h)] Interpretive Comment: For the purpose of this section unforeseeable and uncontrollable events include, but [by] are not limited to, the health of the applicant, accidents limiting the applicant, military service, natural disasters, or acts of God.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on July 14, 2023.

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J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: August 27, 2023

For further information, please call: (512) 305-7842



22 TAC §511.83

The Texas State Board of Public Accountancy (Board) proposes an amendment to §511.83 concerning Granting of Credit by Transfer of Credit.

Background, Justification and Summary

An applicant receiving credit for having passed one of the parts of the exam will have 30 months to pass the remaining sections of the exam. This time frame is proposed to be extended from 18 months to 30 months in anticipation of likely delays in the recently revised exam.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule amendment is to provide a fair time frame to pass all parts of the exam in anticipation of delays in the availability of testing opportunities.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on

small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on August 28, 2023.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, §901.655 and §901.307(b) which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§511.83. Granting of Credit by Transfer of Credit.

(a) In order for the board to grant credit to an applicant for partial completion of the UCPAE given by the licensing authority of another jurisdiction the applicant must have met the following requirements:

(1) earned a score of 75 or higher on any section of the examination;

(2) was awarded credit by the licensing authority of another jurisdiction for the section(s) taken while an applicant of that board; and

(3) the credit awarded by the licensing authority of another jurisdiction has not expired.

(b) If the board accepts transfers of credit, it will also accept transfers of credit for sections passed at subsequent examinations.

(c) The grades made by an applicant on sections under consideration must be the ones reported to the licensing authority of another jurisdiction by the AICPA through NASBA.

(d) An applicant allowed credit for each section passed must pass the remaining section(s) within the next 30 [18] months from the date credit was awarded or forfeit credit received for that section.

(e) Effective January 1, 2024, an applicant under this section shall have 36 months from the time all test sections are passed to meet the education requirements of §511.164 of this chapter (relating to Definition of 150 Semester Hours to Qualify for Issuance of a Certificate) or the credit for all test sections will expire. [An applicant who has earned the right to partial reexamination and who fails to pass the remaining section(s) of the examination within the applicable time limits shall lose the right to partial reexamination and must take the entire examination upon later application.]

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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J. Randel (Jerry) Hill

General Counsel

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SUBCHAPTER F. EXPERIENCE REQUIREMENTS

22 TAC §511.122

The Texas State Board of Public Accountancy (Board) proposes an amendment to §511.122 concerning Acceptable Work Experience.

Background, Justification and Summary

The credit received for the internship programs will apply to satisfy the requirement for work experience.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule amendment will put candidates and the public on notice that the credit hours earned during

the internship program will be counted toward the work experience required for licensure.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on August 28, 2023.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, §901.655 and §901.307(b) which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§511.122. *Acceptable Work Experience.*

(a) Work experience shall be gained under the supervision of CPAs who are currently licensed and in good standing with this board or with another state board of accountancy as defined in §511.124 of this chapter (relating to Acceptable Supervision), and who is experienced in the non-routine accounting area assigned to the applicant.

(b) Non-routine accounting involves attest services as defined in §501.52(4) of this title (relating to Definitions), or professional accounting services or professional accounting work as defined in §501.52(22) of this title, and the use of independent judgment, applying professional accounting knowledge and skills to select, correct, organize, interpret, and present real-world data as accounting entries, reports, statements, and analyses extending over a diverse range of tax, accounting, assurance, and control situations.

(c) Acceptable work experience shall be gained in the following categories or in any combination of these:

(1) Client practice of public accountancy. All client practice of public accountancy experience shall be of a non-routine accounting nature which continually requires independent thought and judgment on important accounting matters and the applicant is supervised, evaluated and reviewed by a CPA who is currently licensed and in good standing in a properly licensed CPA firm that is in good standing with the firm's licensing board.

(2) Unlicensed business entity. Work experience gained in an unlicensed business entity shall be of a non-routine accounting nature which continually requires independent thought and judgment on important accounting matters and the applicant is supervised, evaluated and reviewed by a CPA who is currently licensed and in good standing. Unlicensed business entity experience may include, but is not limited to:

- (A) providing management or financial advisory or consulting services;
- (B) preparing tax returns;
- (C) providing advice in tax matters;
- (D) providing forensic accounting services;
- (E) providing internal auditing services; and
- (F) business valuation services.

(3) Industry practice. All work experience gained in industry shall be internal to the organization and of a non-routine accounting nature which continually requires independent thought and judgment on important accounting matters and may include: providing management or financial advisory internal services; preparing tax returns; providing advice in tax matters; providing forensic accounting services; and providing internal auditing services.

(A) Examples of industries may include, but are not limited to:

- (i) commercial business enterprise;
- (ii) non-profit/charitable organization;
- (iii) financial institution; and

(iv) health care entity.

(B) Acceptable industry work experience positions may include, but are not limited to:

(i) internal auditor;

(ii) staff, senior, fund or tax accountant;

(iii) accounting, financial or accounting systems analyst; and

(iv) controller.

(4) Government practice. All work experience gained in government shall be of a non-routine accounting nature which continually requires independent thought and judgment on important accounting matters and which meets the criteria in subparagraphs (A) - (E) of this paragraph. The board will review on a case-by-case basis experience which does not clearly meet the criteria identified in subparagraphs (A) - (E) of this paragraph. Acceptable government work experience includes, but is not limited to:

(A) employment in state government as an accountant or auditor at Salary Classification B14 or above, or a comparable rating;

(B) employment in federal government as an accountant, auditor or IRS revenue agent;

(C) employment as a special agent accountant with the Federal Bureau of Investigation or equivalent position at a governmental entity;

(D) military service, as an accountant or auditor as a Second Lieutenant or above; and

(E) employment with other governmental entities as an accountant or auditor.

(5) Law firm practice. All work experience gained in a law firm shall be of a non-routine accounting nature which continually requires independent thought and judgment on important accounting matters comparable to the experience ordinarily found in a CPA firm, shall be under the supervision of a CPA or an attorney, and shall be in one or more of the following areas:

(A) tax-planning, compliance and litigation; and

(B) estate planning.

(6) Education.

(A) Internal work experience gained at an educational institution shall be of a non-routine accounting nature which continually requires independent thought and judgment on important accounting matters and may include: providing management or financial advisory internal services; preparing tax returns; providing advice in tax matters; providing forensic accounting services; and providing internal auditing services without an opinion.

(B) Work experience gained as an instructor at an educational institution may qualify if evidence is presented showing independent thought and judgment was used on non-routine accounting matters. Only the teaching of upper division courses on a full-time basis may be considered. All experience shall be supervised by the department chair or a faculty member who is a CPA.

(7) Internship. The board will consider, on a case-by-case basis, experience acquired through an approved accounting internship program, provided that the experience was non-routine accounting as defined by subsection (b) of this section. [If an accounting internship course is counted toward fulfilling the education requirement to take the

UCPAE, the internship may not be used to fulfill the work experience requirement.]

(8) Other. Work experience gained in other positions may be approved by the board as experience comparable to that gained in the practice of public accountancy under the supervision of a CPA upon certification by the person or persons supervising the applicant that the experience was of a non-routine accounting nature which continually required independent thought and judgment on important accounting matters.

(9) Self-employment may not be used to satisfy the work experience requirement unless approved by the board.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

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For further information, please call: (512) 305-7842



SUBCHAPTER H. CERTIFICATION

22 TAC §511.161

The Texas State Board of Public Accountancy (Board) proposes an amendment to §511.161 concerning Qualifications for Issuance of a Certificate.

Background, Justification and Summary

The Board has removed the 3 semester hours of an ethics course in order to take the UCPAE with 120 hours. The proposed rule revision makes it clear that the 3 hours of ethics course work is required in order to become licensed and certified.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule amendment will clarify that the 3 hours of ethics course work remains a requirement to be licensed.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on August 28, 2023.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, §901.655 and §901.307(b) which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§511.161. *Qualifications for Issuance of a Certificate.*

The certificate of a CPA shall be granted by the board to an applicant who qualifies under the current Act and has met the following qualifications:

- (1) successfully completed the UCPAE;

(2) met the education requirements in §511.164 of this chapter (relating to Definition of 150 Semester Hours to Qualify for Issuance of a Certificate);

(3) successfully completed a 3-semester hour board-approved ethics course as defined by §511.164 of this chapter;

(4) [(3)] submitted an application prescribed by the board;

(5) [(4)] submitted the requisite fee, set by the board, for issuance of the certificate;

(6) [(5)] provided evidence of a lack of a history of dishonest or felonious acts or any criminal activity that might be relevant to the applicant's qualifications;

(7) [(6)] completed the fingerprint process that accesses the Federal Bureau of Investigation (FBI) and the Texas Department of Public Safety - Crime records division files;

(8) [(7)] submitted, on a form prescribed by the board, evidence of completion of the work experience requirements commensurate with the education requirements;

(9) [(8)] executed an oath of office stating support of the Constitution of the United States and of this state and the laws thereof, and compliance with the board's Rules of Professional Conduct;

(10) [(9)] an applicant who has completed a board-approved ethics course more than two years prior to the date of submitting an application for issuance of a CPA certificate must complete a board-approved four-hour ethics course of comprehensive study on the board's Rules of Professional Conduct;

(11) [(10)] successfully completed the examination on the board's Rules of Professional Conduct; and

(12) [(11)] provided any other information requested by the board.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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J. Randel (Jerry) Hill

General Counsel

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22 TAC §511.164

The Texas State Board of Public Accountancy (Board) proposes new rule §511.164 concerning Definition of 150 Semester Hours to Qualify for Issuance of a Certificate.

Background, Justification and Summary

This proposed new rule establishes the criteria for obtaining a license and certificate to become a CPA in Texas. It establishes the number of upper level accounting courses required at 27 plus a three-hour ethics course, maintains the advanced business course hours at 24 semester hours, maintains the minimum number of semester hours at 150, maintains the 3 semester hours of accounting or business ethics course work and identifies course work that does not qualify a candidate to become licensed and certified.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed new rule is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the new rule.

Public Benefit

The adoption of the proposed new rule identifies for candidates and the public the standards to become licensed and certified in Texas.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the new rule and a Local Employment Impact Statement is not required because the proposed new rule will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed new rule will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the new rule does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the new rule is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed new rule.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on August 28, 2023.

The Board specifically invites comments from the public on the issues of whether or not the proposed new rule will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule

on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The new rule is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, §901.655 and §901.307(b) which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed new rule.

§511.164. Definition of 150 Semester Hours to Qualify for Issuance of a Certificate.

(a) To qualify for the issuance of a CPA certificate, an applicant must hold at a minimum a baccalaureate degree, conferred by a board-recognized institution of higher education as defined by §511.52 of this chapter (relating to Recognized Institutions of Higher Education), and have completed the board-recognized coursework identified in this section:

(1) no fewer than 27 semester hours or quarter-hour equivalents of upper level accounting courses as defined by §511.57 of this chapter (relating to Qualified Accounting Courses to take the UCPAE) or §511.60 of this chapter (relating to Qualified Accounting Courses Prior to January 1, 2024 to take the UCPAE);

(2) no fewer than 24 semester hours or quarter-hour equivalents of upper level related business courses, as defined by §511.58 of this chapter (relating to Definitions of Related Business Subjects to take the UCPAE);

(3) a three-semester-hour board-approved standalone course in accounting or business ethics. The course must be taken at a recognized educational institution and should provide students with a framework of ethical reasoning, professional values, and attitudes for exercising professional skepticism and other behavior in the best interest of the public and profession. The ethics course shall:

(A) include the ethics rules of the AICPA, the SEC, and the board;

(B) provide a foundation for ethical reasoning, including the core values of integrity, objectivity, and independence; and

(C) be taught by an instructor who has not been disciplined by the board for a violation of the board's rules of professional conduct, unless that violation has been waived by the board; and

(4) academic coursework at an institution of higher education as defined by §511.52 of this chapter, when combined with paragraphs (1) - (3) of this subsection meets or exceeds 150 semester hours, of which 120 semester hours meets the education requirements defined by §511.59 of this chapter (relating to Definition of 120 Semester Hours to take the UCPAE). An applicant who has met paragraphs (1) - (3) of this subsection may use a maximum of 9 total semester credit hours of undergraduate or graduate independent study and/or internships as defined in §511.51(b)(4) or §511.51(b)(5) of this chapter (relating to Educational Definitions) to meet this paragraph. The courses shall consist of:

(A) a maximum of three semester credit hours of independent study courses; and

(B) maximum of six semester credit hours of accounting/business course internships.

(b) The following courses, courses of study, certificates, and programs may not be used to meet the 150-semester hour requirement:

(1) any CPA review course offered by an institution of higher education or a proprietary organization;

(2) remedial or developmental courses offered at an educational institution; and

(3) credits awarded for coursework taken through the following organizations and shown on a transcript from an institution of higher education may not be used to meet the requirement of this chapter:

(A) American College Education (ACE);

(B) Prior Learning Assessment (PLA);

(C) Defense Activity for Non-Traditional Education Support (DANTES); and

(D) Defense Subject Standardized Test (DSST).

(c) The hours from a course that has been repeated will be counted only once toward the required semester hours.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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J. Randel (Jerry) Hill

General Counsel

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CHAPTER 520. PROVISIONS FOR THE FIFTH-YEAR ACCOUNTING STUDENTS SCHOLARSHIP PROGRAM

22 TAC §520.1

The Texas State Board of Public Accountancy (Board) proposes an amendment to §520.1 concerning Authority and Purpose.

Background, Justification and Summary

H.B. 2217, 88th Legislative Session eliminated the restriction that the scholarship fund would only be available to fifth year accounting students. The rule is proposed to be amended to delete any reference to "fifth year" students.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule amendment will clarify that the scholarship fund will be available to more than just fifth year accounting students.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on August 28, 2023.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, §901.655 and §901.307(b) which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§520.1. Authority and Purpose.

(a) Authority for this chapter is provided in Subchapter D, §901.155 of the Act, which is titled Scholarship Trust Fund for [Fifth-Year] Accounting Students. This chapter establishes procedures to administer the [fifth-year] accounting students scholarship program.

(b) The purpose of the [fifth-year] accounting students scholarship program is to provide financial assistance to students intending to take the UCPAE conducted for the purpose of obtaining a CPA certificate and thus increase the number of highly trained and educated CPAs available to serve the residents of this state.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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General Counsel

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22 TAC §520.3

The Texas State Board of Public Accountancy (Board) proposes an amendment to §520.3 concerning Institutions.

Background, Justification and Summary

Recently adopted legislation revises the Fifth Year Accounting Student Scholarship Fund, as provided in the Public Accountancy Act, to open up the scholarship fund to accounting students with 15 hours of upper level accounting courses. Currently an accounting student must be in their fifth year of accounting.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule amendment will make the scholarship trust fund available to more college students and potentially make available to the public more CPAs with accounting expertise.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on August 28, 2023.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, §901.655 and §901.307(b) which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§520.3. Institutions.

- (a) Eligibility.

(1) Any college or university defined as a public, private or independent institution of higher education by Texas Education Code, §61.003 that offers the courses required by §§511.57, 511.58 and 511.60 of this title (relating to Qualified Accounting Courses to take the UCPAE, Definitions of Related Business Subjects to take the UCPAE [and Ethics Courses] and Qualified Accounting Courses Prior to January 1, 2024 to take the UCPAE), is eligible to participate in the [fifth-year] accounting students scholarship program.

(2) No institution may, on the grounds of race, color, national origin, gender, religion, age or disability exclude a student from participation in or deny the benefits of the program described in this chapter.

(3) Each participating institution must follow the Civil Rights Act of 1964, Title VI (Public Law 88-353) in avoiding discrimination in admissions.

(b) Approval.

(1) Each approved institution must enter into an agreement with the board, the terms of which shall be prescribed by the executive director.

(2) An institution must be approved by April 1 in order for qualified students enrolled in that institution to be eligible to receive scholarships in the following fiscal year beginning September 1st.

(c) Responsibilities.

(1) Probation Notice. If the institution is placed on public probation by its accrediting agency, it must immediately advise scholarship recipients of this condition and maintain evidence in each student's file to demonstrate that the student was so informed.

(2) Disbursements to Students.

(A) The institution must maintain records to prove the disbursement of program funds to the student or the crediting of such funds to the student's school account.

(B) If the executive director has reason to believe that an institution has disbursed funds for unauthorized purposes, the institution will be notified and offered an opportunity for a hearing pursuant to the applicable procedures outlined in Chapter 519 of this title (relating to Practice and Procedure) and the rules of procedure of SOAH. Thereafter, if the board determines that funds have been improperly disbursed, the institution shall become responsible for restoring the funds to the board. No further disbursements of scholarship funds shall be permitted to students at that institution until the funds have been repaid.

(d) Reporting.

(1) All institutions must meet board reporting requirements. Such reporting requirements shall include reports specific to allocation of scholarship funds as well as progress and year-end reports.

(2) Penalties for Late Reports.

(A) The executive director may penalize an institution by reducing its allocation of funds in the following year by up to 10 percent for each progress report that is postmarked or submitted electronically more than a week (seven (7) calendar days) late.

(B) The executive director may assess more severe penalties against an institution if any report is received by the board more than one month (thirty (30) calendar days) after its due date. The maximum penalty for a single year is 30 percent of the school's allocation. If penalties are invoked two consecutive years, the institution may be penalized an additional 20 percent.

(3) If the executive director determines that a penalty is appropriate, the institution will be notified by certified mail, addressed to the program officer. Within 21 days from the date that the program officer receives the written notice, the institution must submit a written response appealing the board's decision, or the penalty shall become final and no longer subject to an appeal. An appeal under this section will be conducted in accordance with the rules provided in the applicable sections of Chapter 519 of this title and the procedural rules of SOAH.

(e) Program Reviews. If selected for such by the board, participating institutions must submit to program reviews of activities related to the [fifth-year] accounting students scholarship program.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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J. Randel (Jerry) Hill

General Counsel

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22 TAC §520.4

The Texas State Board of Public Accountancy (Board) proposes an amendment to §520.4 concerning Eligible Students.

Background, Justification and Summary

Recently adopted legislation increases the availability of the scholarship fund to more accounting students. To be eligible, the student may be an undergraduate student. The proposed rule makes it clear that a student is not eligible if they already have sufficient hours to be certified.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule amendment makes accounting students and the public aware of the expanded availability of the scholarship trust fund.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obliga-

tions upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on August 28, 2023.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, §901.655 and §901.307(b) which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§520.4. Eligible Students.

(a) To receive funds [; a student must]:

(1) an undergraduate student majoring in accounting must be enrolled at least half-time at an approved institution in Texas that is participating in the scholarship program, and attending consecutive semesters or in the final semester of the degree; or

(2) [(+) a graduate student majoring in accounting must be enrolled [en] at least [a] half-time [basis] or in the final semester of the

degree at an approved institution in Texas that is participating in the scholarship program.

{(2) maintain satisfactory academic progress in the program of study as defined by the institution;}

{(3) have completed at least 120 credit hours of college work, including at least 15 hours of accounting;}

{(4) sign a written statement confirming the intent to take the examination conducted by or pursuant to the authority of the board for the purpose of obtaining a certificate of "certified public accountant" in Texas;}

{(5) agree to pay on demand all scholarship funds received if the student does not sit for at least one part of the exam within three years of submitting the application of intent, unless the executive director grants an extension of the three-year requirement upon a showing of good cause;}

{(6) agree that failure to comply with paragraph (5) of this subsection may cause the board to take measures necessary to enforce the repayment of the scholarship including bringing a civil suit in state district court;}

{(7) confirm that the Application of Intent has not been approved or that the applicant has not been approved to take the CPA examination in Texas or another jurisdiction;}

{(8) maintain a cumulative grade point average, as determined by the institution, that is equal to or greater than the grade point average required by the institution for graduation;}

{(9) be a resident of Texas; and}

{(10) have a statement on file with the institution of higher education indicating the student is registered with the Selective Service System as required by federal law or is exempt from Selective Service registration under federal law.}

(b) To receive funds, a student must:

(1) maintain satisfactory academic progress in the program of study as defined by the institution;

(2) have completed at least 15 semester hours of upper-level accounting coursework;

(3) sign a written statement confirming the intent to take the examination conducted by or pursuant to the authority of the board for the purpose of obtaining a certificate of "certified public accountant" in Texas;

(4) agree to pay on demand all scholarship funds received if the student does not take at least one part of the exam within three years of submitting the application of intent, unless the executive director grants an extension of the three-year requirement upon a showing of good cause;

(5) agree that failure to comply with paragraph (4) of this subsection may cause the board to take measures necessary to enforce the repayment of the scholarship including bringing a civil suit in state district court;

(6) confirm that the applicant submitted an Application of Intent and has not met the educational requirements for certification in Texas ;

(7) maintain a cumulative grade point average, as determined by the institution, that is equal to or greater than the grade point average required by the institution for graduation;

(8) be a resident of Texas; and

(9) have a statement on file with the institution of higher education indicating the student is registered with the Selective Service System as required by federal law or is exempt from Selective Service registration under federal law.

(c) [(b)] In selecting recipients the Program Officer shall consider at a minimum the following factors relating to each applicant:

(1) the applicant's financial need, which may be based on but not limited to the cost of the applicant attending school less family contribution and any gift aid (an award may not exceed the applicant's need nor be less than the amount calculated in accordance with the formula provided institutions in the application instructions);

(2) scholastic ability and performance as measured by the student's cumulative college grade point average as determined by the institution in which the student is enrolled; and

(3) ethnic or racial minority status.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on July 14, 2023.

TRD-202302547

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: August 27, 2023

For further information, please call: (512) 305-7842



22 TAC §520.5

The Texas State Board of Public Accountancy (Board) proposes an amendment to §520.5 concerning Award Amounts and Uses.

Background, Justification and Summary

The proposed rule establishes the period of a scholarship to be no more than three years.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule amendment is to assure that the scholarship fund monies are fully utilized by students intending to become certified.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on

small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on August 28, 2023.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, §901.655 and §901.307(b) which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§520.5. Award Amounts and Uses.

(a) Funds awarded through this program may include any gifts, grants and donations of real or personal property from any entity, subject to limitations or conditions set by law, for the purposes of this chapter.

(b) Award Amount and Disbursements.

(1) The minimum and maximum annual award for a student through this program shall be an amount established by the board and announced to institutions in the allocation announcement sent out for the relevant year.

(2) An individual student's scholarship shall be paid out in the form of at least one disbursement per semester.

(c) No scholarship disbursed to a student shall be used for any purpose other than for meeting the cost of attending an approved institution.

(d) The duration of the scholarship shall be a maximum of three years awarded by semester or term.

(e) [(d)] At the time an award is made to a student, it shall not exceed the student's need.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

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For further information, please call: (512) 305-7842



CHAPTER 521. FEE SCHEDULE

22 TAC §521.14

The Texas State Board of Public Accountancy (Board) proposes an amendment to §521.14 concerning Eligibility Fee.

Background, Justification and Summary

The AICPA has substantially revised the UCPAE. This rule identifies the effective date of the revisions as January 1, 2024 and identifies the six disciplines that will be on the exam.

Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

Public Benefit

The adoption of the proposed rule amendment will identify the effective date of the new UCPAE and the disciplines that exam candidates can expect.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on August 28, 2023.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, §901.655 and §901.307(b) which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§521.14. Eligibility Fee.

(a) The board shall determine the UCPAE eligibility fee for each section for which an applicant is eligible and applies.

- (1) Auditing and Attestation

- (2) Financial Accounting and Reporting
- (3) Regulation
- (4) Business Environment and Concepts

(b) Effective January 1, 2024, the board shall utilize the UCPAE available from the AICPA covering the following sections:

- (1) auditing and attestation (AUD);
- (2) business analysis and reporting (BAR);
- (3) financial accounting and reporting (FAR);
- (4) information systems and controls (ISC);
- (5) taxation and regulation (REG); and
- (6) tax compliance and planning (TCP).

(c) [(b)] The eligibility fee shall be paid to the Texas State Board of Public Accountancy. This is a non-refundable fee.

(d) An applicant taking a section of the UCPAE shall pay an examination fee to NASBA, when required by NASBA.

(e) [(e)] The eligibility fee may be paid electronically through the Texas Online system and applicable processing fees for the use of this service will be added to the total fee paid.

(f) [(f)] Upon receipt by the board of an incomplete application, an applicant has 180 days to complete the application. If the application is not completed within that time, the application is terminated, the eligibility fee is forfeited and the applicant must file a new application and pay a new eligibility fee to continue with the examination process.

(g) [(g)] The fee paid shall be valid for 180 [90] days after the board determines that an applicant is eligible for a section of the UCPAE. The board may extend the 180-day [90-day] eligibility to accommodate the psychometric evaluation and performance of test questions by the test provider.

(h) [(h)] A military service member or military veteran who is eligible to take the UCPAE is exempt from the eligibility fee.

(i) [(i)] The exemption from the eligibility fee must be evidenced by an active ID, state-issued driver's license with a veteran designation or DD214.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: August 27, 2023

For further information, please call: (512) 305-7842



TITLE 25. HEALTH SERVICES

PART 7. TEXAS MEDICAL DISCLOSURE PANEL

CHAPTER 601. INFORMED CONSENT

The Texas Medical Disclosure Panel (Panel) is proposing a repeal of §§601.1 - 601.9, concerning Informed Consent, in the Texas Administrative Code, Title 25, Part 7, Chapter 601 and replacement with new §601.1 and §601.2, concerning General.

BACKGROUND AND PURPOSE

The repeals and new rules are proposed in accordance with Texas Civil Practice and Remedies Code §74.102, which created the Panel to determine which risks and hazards related to medical care and surgical procedures must be disclosed by health care providers or physicians to their patients or persons authorized to consent for their patients and to establish the general form and substance of such disclosure.

The purpose of this project is to repeal current 25 TAC Chapter 601, Informed Consent, and replace it in a nonsubstantive manner with multiple chapters in order to make the Panel's determinations regarding risks and hazards related to medical care and surgical procedures more accessible to the public and more user-friendly.

The proposed new Chapter 601 will contain the purpose and history of the rules at 25 TAC Part 7, Texas Medical Disclosure Panel.

The proposed new Chapter 602 will list each type of treatment and procedure that the Panel has determined requires full disclosure of the risks and hazards associated with it in a separate section, instead of in a single section at the repealed §601.2. These new rules are published elsewhere in this issue of the *Texas Register*.

The proposed new Chapter 603 will list each type of treatment and procedure that the Panel has determined requires no disclosure of the risks and hazards associated with it in a separate section, instead of in a single section at the repealed §601.3. These new rules are published elsewhere in this issue of the *Texas Register*.

The proposed new Chapter 604 will contain general, radiation therapy, electroconvulsive therapy, hysterectomy, and anesthesia and/or perioperative pain management disclosure and consent forms. These new rules are published elsewhere in this issue of the *Texas Register*.

SECTION-BY-SECTION SUMMARY

The proposed repeal of §§601.1 - 601.9 removes the rules from Chapter 601, concerning Informed Consent, and places in new Chapters 601 - 604.

The proposed new §601.1 outlines the purpose of the chapter, where the list of treatments and procedures requiring full disclosure by a physician or health care provider will be found, where the list of treatments and procedures requiring no disclosure by a physician or a health care provider will be found, and where the disclosure and consent forms adopted by the Panel will be found.

The proposed new §601.2 provides an overview of the history of the procedures requiring full disclosure--List A and the procedures requiring no disclosure--List B prior to this rule project.

FISCAL NOTE

Dr. Noah Appel, Panel Chairman, has determined that for each year of the first five years that the rules will be in effect, enforcing or administering the rules do not have foreseeable implications relating to costs or revenues of state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

The Panel has determined that during the first five years that the rules will be in effect:

- (1) the proposed rules will not create or eliminate a government program;
- (2) implementation of the proposed rules will not affect the number of HHSC employee positions;
- (3) implementation of the proposed rules will result in no assumed change in future legislative appropriations;
- (4) the proposed rules will not affect fees paid to HHSC;
- (5) the proposed rules will create new rules;
- (6) the proposed rules will repeal existing rules;
- (7) the proposed rules will not change the number of individuals subject to the rules; and
- (8) the Panel has insufficient information to determine the proposed rules' effect on the state's economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Dr. Appel has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities.

The rules do not impose any additional costs on small businesses, micro-businesses, or rural communities that are required to comply with the rules.

The Panel is unable to provide an estimate of the number of small businesses and micro businesses affected.

LOCAL EMPLOYMENT IMPACT

The proposed rules will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to these rules because the rules are necessary to protect the health, safety, and welfare of the residents of Texas and does not impose a cost on regulated persons.

PUBLIC BENEFIT AND COSTS

Dr. Noah Appel, Panel Chairman, has determined that for each year of the first five years the rules are in effect, the public benefit will be improved consistency and clarity in this section of the Texas Administrative Code.

AND:

Dr. Appel has also determined that for the first five years the rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules.

TAKINGS IMPACT ASSESSMENT

The Panel has determined that the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code §2007.043.

PUBLIC COMMENT

Comments on the proposal may be submitted to Kayla Cates-Brown, Program Manager II, Advisory Committee Coordination Office, Chief Policy and Rules, Health and Human

Services Commission, 701 West 51st Street, Suite 216A, Austin, Texas 78751; Mail Code 0223, P.O. Box 13247, Austin, Texas 78711; fax (512) 206-3984; office (512) 438-2889, or by email to HHSC_TMDDP@hhsc.state.tx.us.

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be: (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) faxed or emailed before midnight on the last day of the comment period. If last day to submit comments falls on a holiday, comments must be post-marked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule" in the subject line.

25 TAC §§601.1 - 601.9

STATUTORY AUTHORITY

The repeals are authorized under Texas Civil Practice and Remedies Code §74.102, which created the Panel to determine which risks and hazards related to medical care and surgical procedures must be disclosed by health care providers or physicians to their patients or persons authorized to consent for their patients and to establish the general form and substance of such disclosure, and §74.103, which requires the Panel to prepare lists of medical treatments and surgical procedures that do and do not require disclosure by physicians and health care providers of the possible risks and hazards, and to prepare the forms for the treatments and procedures which do require disclosure.

The repeals implement Texas Civil Practice and Remedies Code Chapter 74, Subchapter C.

§601.1. *General.*

§601.2. *Procedures Requiring Full Disclosure of Specific Risks and Hazards--List A.*

§601.3. *Procedures Requiring No Disclosure of Specific Risks and Hazards--List B.*

§601.4. *Disclosure and Consent Form.*

§601.5. *Disclosure and Consent Form for Radiation Therapy.*

§601.6. *History.*

§601.7. *Informed Consent for Electroconvulsive Therapy.*

§601.8. *Disclosure and Consent Form for Hysterectomy.*

§601.9. *Disclosure and Consent Form for Anesthesia and/or Perioperative Pain Management (Analgesia).*

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on July 17, 2023.

TRD-202302558

Dr. Noah Appel

Panel Chairman

Texas Medical Disclosure Panel

Earliest possible date of adoption: August 27, 2023

For further information, please call: (512) 438-2889



CHAPTER 601. GENERAL

25 TAC §601.1, §601.2

STATUTORY AUTHORITY

The new rules are authorized under Texas Civil Practice and Remedies Code §74.102, which created the Panel to determine which risks and hazards related to medical care and surgical procedures must be disclosed by health care providers or physicians to their patients or persons authorized to consent for their patients and to establish the general form and substance of such disclosure, and §74.103, which requires the Panel to prepare lists of medical treatments and surgical procedures that do and do not require disclosure by physicians and health care providers of the possible risks and hazards, and to prepare the forms for the treatments and procedures which do require disclosure.

The new rules implement Texas Civil Practice and Remedies Code Chapter 74, Subchapter C.

§601.1. *Purpose.*

(a) The purpose of Chapters 601 - 604 of this title is to implement the duties of the Texas Medical Disclosure Panel under Texas Civil Practice and Remedies Code, Chapter 74 (relating to Medical Liability), Subchapter C (relating to Informed Consent), §§74.101-74.107.

(b) The treatments and procedures requiring full disclosure of related risks and hazards by a physician or health care provider to a patient or person authorized to consent for the patient are found in Chapter 602 of this title (relating to Procedures Requiring Full Disclosure of Specific Risks and Hazards--List A).

(c) The treatments and procedures requiring no disclosure of related risks and hazards by a physician or health care provider to a patient or person authorized to consent for the patient are found in Chapter 603 of this title (relating to Procedures Requiring No Disclosure of Specific Risks and Hazards--List B).

(d) The disclosure and consent forms adopted by the Panel are found in Chapter 604 of this title (relating to Disclosure Forms).

§601.2. *History.*

(a) The procedures requiring full disclosure--List A, the procedures requiring no disclosure--List B and the disclosure and consent form were first published in the December 15, 1981, issue of the *Texas Register* as §601.1 of this title (relating to Procedures Requiring Full Disclosure (List A)), §601.2 of this title (relating to Procedures Requiring No Disclosure (List B)), and §601.3 of this title (relating to Disclosure and Consent Form) and initially became effective on June 1, 1982.

(b) The first amendments to §601.1 of this title and §601.2 of this title were published in the December 3, 1982, issue of the *Texas Register* and became effective on January 1, 1983.

(c) The second amendments to §601.1 of this title and §601.2 of this title were published in the November 23, 1984, issue of the *Texas Register* and became effective on January 1, 1985.

(d) The third amendments to §601.1 of this title and §601.2 of this title were published in the April 19, 1988, issue of the *Texas Register* and became effective on May 2, 1988.

(e) The fourth amendment to §601.1 of this title was published in the July 21, 1989, issue of the *Texas Register* and became effective on August 3, 1989.

(f) Further amendments to §601.1 of this title and §602.2 of this title and new §601.4 of this title (relating to Radiation Therapy

Disclosure and Consent Form) were published in the February 2, 1990, issue of the *Texas Register* and became effective on May 3, 1990.

(g) Effective October 3, 1995, §§601.1 - 601.4 of this title were repealed and replaced with new §601.1 of this title (relating to General), §601.2 of this title (relating to Procedures Requiring Full Disclosure (List A)), §601.3 of this title (relating to Procedures Requiring No Disclosure (List B)), and §601.4 of this title (relating to Disclosure and Consent Form), §601.5 of this title (relating to Radiation Therapy Disclosure and Consent Form), this section, and §601.7 of this title (relating to Informed Consent for Electroconvulsive Therapy). The sections were repealed to incorporate List A and List B into *Texas Register* format. In addition, sections were added to include general provisions; to provide a history of the rules of the panel; and to adopt a section which addresses informed consent for electroconvulsive therapy.

(h) Effective October 23, 1997, §601.2 of this title was amended to update risks and hazards requiring full disclosure prior to performing abdominal endoscopic/laparoscopy procedures and endoscopic surgery of the thorax.

(i) Effective February 18, 1998, §601.4 of this title and this section were amended and new §601.8 of this title (relating to Hysterectomy Disclosure and Consent Form) were added to address legislative requirements relating to informed consent for hysterectomies. Section 601.8 of this title adopts a form to be used in providing informed consent prior to performing a hysterectomy and applies to hysterectomies performed at least 90 days after the date of publication of adopted §601.8 of this title in the *Texas Register*.

(j) Effective September 1, 2003, by Acts 2003, 78th Texas Legislature, Regular Session, Chapter 204, §10.01, Texas Civil Statutes, Article 4590i, Subchapter F, relating to informed consent was recodified to the Texas Civil Practice and Remedies Code, Chapter 74, Medical Liability, Subchapter C, §74.102 (relating to Texas Medical Disclosure Panel).

(k) Effective March 18, 2004, §601.2 of this title (relating to Procedures Requiring Full Disclosure--List A) was amended to include the addition of clarifying and new language to subsection (g) concerning female genital system treatments and procedures. Risks were identified for dilation and curettage of uterus (diagnostic/therapeutic); surgical abortion/dilation and curettage/dilation and curettage/dilation and evacuation; and medical abortion/non-surgical procedures.

(l) Effective October 16, 2005, §601.2 of this title (relating to Procedures Requiring Full Disclosure of Specific Risks and Hazards--List A) was amended to include the addition of clarifying and new language concerning the cardiovascular system and nervous system treatments and procedures. Section 601.3 of this title (relating to Procedures Requiring No Disclosure of Specific Risks and Hazards--List B) was amended to remove procedures relating to the nervous system and radiology. Sections 601.4 and 601.5 were amended to include a Spanish language version of the disclosure and consent form for medical and surgical procedures, and the disclosure and consent form for radiation therapy. Section 601.8 was amended to make editorial corrections to the disclosure and consent for hysterectomy form and correct a difference between the English and Spanish language versions of the form.

(m) Effective March 4, 2007, §601.2 of this title (relating to Procedures Requiring Full Disclosure of Specific Risks and Hazards--List A) was amended to include procedures and risks and hazards for anesthesia, the digestive system treatments and procedures, the endocrine system treatments and procedures, and the hematic and lymphatic system. Section 601.3 of this title (relating to Procedures Requiring No Disclosure of Specific Risks and Hazards--List B) was amended to add and rename procedures relating to the digestive system.

(n) Effective January 16, 2012, §601.2 of this title (relating to Procedures Requiring Full Disclosure of Specific Risks and Hazards--List A) was amended to revise and include procedures and risks and hazards for the cardiovascular system, digestive system treatments and procedures, eye treatments and procedures, female genital system treatments and procedures, male genital system, maternity and related cases, musculoskeletal system treatments and procedures, radiology, respiratory system treatments and procedures, urinary system and pain management procedures. Section 601.3 of this title (relating to Procedures Requiring No Disclosure of Specific Risks and Hazards--List B) was amended to revise and include procedures relating to maternity and related cases, musculoskeletal system, respiratory system, urinary system, and pain management procedures. Section 601.9 of this title (relating to Disclosure and Consent Form for Anesthesia and/or Perioperative Pain Management (Analgesia)) was added to include a disclosure and consent form for anesthesia and/or perioperative pain management (analgesia).

(o) Effective December 5, 2012, §601.2 of this title (relating to Procedures Requiring Full Disclosure of Specific Risks and Hazards--List A) was amended to revise and include procedures and risks and hazards for the following systems: anesthesia, cardiovascular, musculoskeletal, and radiology. Section 601.3 of this title (relating to Procedures Requiring No Disclosure of Specific Risks and Hazards--List B) was amended to revise and include procedures for the following systems: cardiovascular, musculoskeletal, and radiology. A Spanish language version of the Disclosure and Consent Form for Anesthesia and/or Perioperative Pain Management (Analgesia) was added to §601.9 of this title (relating to Disclosure and Consent Form for Anesthesia and/or Perioperative Pain Management (Analgesia)).

(p) Effective January 15, 2015, §601.2 of this title (relating to Procedures Requiring Full Disclosure of Specific Risks and Hazards--List A) was amended to revise procedures and risks and hazards for the Hematic and Lymphatic System. Additionally, a new subsection (u) was added for Dental Surgery Procedures. Section 601.3 of this title (relating to Procedures Requiring No Disclosure of Specific Risks and Hazards--List B) was amended to revise procedures for anesthesia. Section 601.9 of this title (relating to Disclosure and Consent Form for Anesthesia and/or Perioperative Pain Management (Analgesia)) was amended to add Deep Sedation and Moderate Sedation to the anesthesia consent form. Both the English and Spanish language versions of the forms were amended.

(q) Effective January 7, 2016, §601.2 of this title (relating to Procedures Requiring Full Disclosure of Specific Risks and Hazards--List A) was amended to revise procedures and risks and hazards for female genital system treatments and procedures and laparoscopic/thoracoscopic surgery, and adds a new subsection (v) plastic surgery. Section 601.4 of this title (relating to Disclosure and Consent Form) for medical and surgical procedures, and §601.8 of this title (relating to Disclosure and Consent Form for Hysterectomy) were amended to add risks and hazards related to the use of blood and blood products, risks and hazards related to the use of a power morcellator in laparoscopic surgery, and deletion of references to anesthesia.

(r) Effective December 24, 2017, §601.2 of this title was amended to revise procedures and risks and hazards for Anesthesia. Section 601.9 of this title (relating to Disclosure and Consent Form for Anesthesia and/or Perioperative Pain Management (Analgesia)) was amended to remove "Monitored Anesthesia Care" and to add risks and hazards related to potential long-term negative effects with the use of prolonged (greater than 3 hours) or repeated exposure to anesthesia on the fetus of a woman in her 3rd trimester of pregnancy and on a child up to 3 years of age.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Dr. Noah Appel

Panel Chairman

Texas Medical Disclosure Panel

Earliest possible date of adoption: August 27, 2023

For further information, please call: (512) 438-2889



CHAPTER 602. PROCEDURE REQUIRING FULL DISCLOSURE OF SPECIFIC RISKS AND HAZARDS--LIST A

25 TAC §§602.1 - 602.22

The Texas Medical Disclosure Panel (Panel) is proposing new §§602.1 - 602.22, concerning Procedures Requiring Full Disclosure of Specific Risks and Hazards--List A, in the Texas Administrative Code, Title 25, Part 7, Chapter 602.

BACKGROUND AND PURPOSE

These rule repeals and new rules are proposed in accordance with Texas Civil Practice and Remedies Code §74.102, which created the Panel to determine which risks and hazards related to medical care and surgical procedures must be disclosed by health care providers or physicians to their patients or persons authorized to consent for their patients and to establish the general form and substance of such disclosure.

The purpose of this project is to repeal current 25 TAC Chapter 601, Informed Consent, and replace it in a nonsubstantive manner with multiple chapters in order to make the Panel's determinations regarding risks and hazards related to medical care and surgical procedures more accessible to the public and more user-friendly.

The proposed new Chapter 601 will contain the purpose and history of the rules at 25 TAC Part 7, Texas Medical Disclosure Panel. These new rules are published elsewhere in this issue of the *Texas Register*.

The proposed new Chapter 602 will list each type of treatment and procedure that the Panel has determined requires full disclosure of the risks and hazards associated with it in a separate section, instead of in a single section at the repealed §601.2.

The proposed new Chapter 603 will list each type of treatment and procedure that the Panel has determined requires no disclosure of the risks and hazards associated with it in a separate section, instead of in a single section at the repealed §601.3. These new rules are published elsewhere in this issue of the *Texas Register*.

The proposed new Chapter 604 will contain general, radiation therapy, electroconvulsive therapy, hysterectomy, and anesthesia and/or perioperative pain management disclosure and consent forms. These new rules are published elsewhere in this issue of the *Texas Register*.

SECTION-BY-SECTION SUMMARY

Proposed new §602.1, Anesthesia treatments and procedures, lists the anesthesia treatments and procedures that the Panel has determined require full disclosure of the risks and hazards associated with them.

Proposed new §602.2, Cardiovascular system treatments and procedures, lists the cardiovascular system treatments and procedures that the Panel has determined require full disclosure of the risks and hazards associated with them.

Proposed new §602.3, Digestive system treatments and procedures, lists the digestive system treatments and procedures that the Panel has determined require full disclosure of the risks and hazards associated with them.

Proposed new §602.4, Ear treatments and procedures, lists the ear treatments and procedures that the Panel has determined require full disclosure of the risks and hazards associated with them.

Proposed new §602.5, Endocrine system treatments and procedures, lists the endocrine system treatments and procedures that the Panel has determined require full disclosure of the risks and hazards associated with them.

Proposed new §602.6, Eye treatments and procedures, lists the eye treatments and procedures that the Panel has determined require full disclosure of the risks and hazards associated with them.

Proposed new §602.7, Female genital system treatments and procedures, lists the female genital system treatments and procedures that the Panel has determined require full disclosure of the risks and hazards associated with them.

Proposed new §602.8, Hematic and lymphatic system treatments and procedures, lists the hematic and lymphatic system treatments and procedures that the Panel has determined require full disclosure of the risks and hazards associated with them.

Proposed new §602.9, Breast surgery (non-cosmetic) treatments and procedures, lists the breast surgery (non-cosmetic) treatments and procedures that the Panel has determined require full disclosure of the risks and hazards associated with them.

Proposed new §602.10, Male genital system treatments and procedures, lists the male genital system treatments and procedures that the Panel has determined require full disclosure of the risks and hazards associated with them.

Proposed new §602.11, Maternity and related cases treatments and procedures, lists the maternity and related cases treatments and procedures that the Panel has determined require full disclosure of the risks and hazards associated with them.

Proposed new §602.12, Musculoskeletal system treatments and procedures, lists the musculoskeletal system treatments and procedures that the Panel has determined require full disclosure of the risks and hazards associated with them.

Proposed new §602.13, Nervous system treatments and procedures, lists the nervous system treatments and procedures that the Panel has determined require full disclosure of the risks and hazards associated with them.

Proposed new §602.14, Radiology treatments and procedures, lists the radiology treatments and procedures that the Panel has determined require full disclosure of the risks and hazards associated with them.

Proposed new §602.15, Respiratory system treatments and procedures, lists the respiratory system treatments and procedures that the Panel has determined require full disclosure of the risks and hazards associated with them.

Proposed new §602.16, Urinary system treatments and procedures, lists the urinary system treatments and procedures that the Panel has determined require full disclosure of the risks and hazards associated with them.

Proposed new §602.17, Psychiatric treatments and procedures, lists the psychiatric treatments and procedures that the Panel has determined require full disclosure of the risks and hazards associated with them.

Proposed new §602.18, Radiation therapy treatments and procedures, lists the radiation therapy treatments and procedures that the Panel has determined require full disclosure of the risks and hazards associated with them.

Proposed new §601.19, Laparoscopic, thoracoscopic and robotic surgery treatments and procedures, lists the laparoscopic, thoracoscopic and robotic surgery treatments and procedures that the Panel has determined require full disclosure of the risks and hazards associated with them.

Proposed new §602.20, Pain management treatments and procedures, lists the pain management treatments and procedures that the Panel has determined require full disclosure of the risks and hazards associated with them.

Proposed new §602.21, Dental surgery treatments and procedures, lists the dental surgery treatments and procedures that the Panel has determined require full disclosure of the risks and hazards associated with them.

Proposed new §602.22, Plastic surgery and surgery of the integumentary system treatments and procedures, lists the plastic surgery and surgery of the integumentary system treatments and procedures that the Panel has determined require full disclosure of the risks and hazards associated with them.

FISCAL NOTE

Dr. Noah Appel, Panel Chairman, has determined that for each year of the first five years that the rules will be in effect, enforcing or administering the rules do not have foreseeable implications relating to costs or revenues of state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

The Panel has determined that during the first five years that the rules will be in effect:

- (1) the proposed rules will not create or eliminate a government program;
- (2) implementation of the proposed rules will not affect the number of HHSC employee positions;
- (3) implementation of the proposed rules will result in no assumed change in future legislative appropriations;
- (4) the proposed rules will not affect fees paid to HHSC;
- (5) the proposed rules will create new rules;
- (6) the proposed rules will not expand, limit, or repeal existing rules;
- (7) the proposed rules will not change the number of individuals subject to the rules; and

(8) the Panel has insufficient information to determine the proposed rules' effect on the state's economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Dr. Appel has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities.

The rules do not impose any additional costs on small businesses, micro-businesses, or rural communities that are required to comply with the rules.

HHSC is unable to provide an estimate of the number of small businesses and micro businesses affected.

LOCAL EMPLOYMENT IMPACT

The proposed rules will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to these rules because the rules are necessary to protect the health, safety, and welfare of the residents of Texas and does not impose a cost on regulated persons.

PUBLIC BENEFIT AND COSTS

Dr. Noah Appel, Panel Chairman, has determined that for each year of the first five years the rules are in effect, the public benefit will be improved consistency and clarity in this section of the Texas Administrative Code.

AND:

Dr. Appel has also determined that for the first five years the rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules.

TAKINGS IMPACT ASSESSMENT

The Panel has determined that the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code §2007.043.

PUBLIC COMMENT

Comments on the proposal may be submitted to Kelli Weldon, TMDP Liaison, Health and Human Services Commission, 701 West 51st Street, Suite 216A, Austin, Texas 78751; Mail Code 0223, P.O. Box 13247, Austin, Texas 78711; fax (512) 206-3984; office (512) 438-2889, or by email to HHSC_TMDP@hhsc.state.tx.us.

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be: (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) faxed or emailed before midnight on the last day of the comment period. If last day to submit comments falls on a holiday, comments must be post-marked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule" in the subject line.

STATUTORY AUTHORITY

The new sections are authorized under Texas Civil Practice and Remedies Code §74.102, which created the Panel to determine which risks and hazards related to medical care and surgical pro-

cedures must be disclosed by health care providers or physicians to their patients or persons authorized to consent for their patients and to establish the general form and substance of such disclosure, and §74.103, which requires the Panel to prepare lists of medical treatments and surgical procedures that do and do not require disclosure by physicians and health care providers of the possible risks and hazards, and to prepare the forms for the treatments and procedures which do require disclosure.

The new sections implement Texas Civil Practice and Remedies Code Chapter 74, Subchapter C.

§602.1. Anesthesia Treatments and Procedures.

(a) Epidural.

- (1) Nerve damage.
- (2) Persistent back pain.
- (3) Headache.
- (4) Bleeding/epidural hematoma.
- (5) Infection.
- (6) Medical necessity to convert to general anesthesia.
- (7) Brain damage.
- (8) Chronic pain.

(b) General.

- (1) Permanent organ damage.
- (2) Memory dysfunction/memory loss.
- (3) Injury to vocal cords, teeth, lips, eyes.
- (4) Awareness during the procedure.
- (5) Brain damage.

(c) Spinal.

- (1) Nerve damage.
- (2) Persistent back pain.
- (3) Bleeding/epidural hematoma.
- (4) Infection.
- (5) Medical necessity to convert to general anesthesia.
- (6) Brain damage.
- (7) Headache.
- (8) Chronic pain.

(d) Regional block.

- (1) Nerve damage.
- (2) Persistent pain.
- (3) Bleeding/hematoma.
- (4) Infection.
- (5) Medical necessity to convert to general anesthesia.
- (6) Brain damage.

(e) Deep sedation.

- (1) Memory dysfunction/memory loss.
- (2) Medical necessity to convert to general anesthesia.
- (3) Permanent organ damage.

(4) Brain damage.

(f) Moderate sedation.

- (1) Memory dysfunction/memory loss.
- (2) Medical necessity to convert to general anesthesia.
- (3) Permanent organ damage.
- (4) Brain damage.

(g) Prenatal/Early Childhood Anesthesia. Potential long-term negative effects on memory, behavior, and learning with prolonged or repeated exposure to general anesthesia/moderate sedation/deep sedation during pregnancy and in early childhood.

§602.2. Cardiovascular System Treatments and Procedures.

(a) Cardiac.

(1) Coronary artery bypass.

- (A) Acute myocardial infarction (heart attack).
- (B) Hemorrhage (severe bleeding).
- (C) Kidney failure.
- (D) Stroke.
- (E) Sudden death.
- (F) Infection of chest wall/chest cavity.

(2) Heart valve replacement by open surgery, structural heart surgery.

- (A) Acute myocardial infarction (heart attack).
- (B) Hemorrhage (severe bleeding).
- (C) Kidney failure.
- (D) Stroke.
- (E) Sudden death.
- (F) Infection of chest wall/chest cavity.
- (G) Valve related delayed onset infection.
- (H) Malfunction of new valve.

(I) Persistence of problem for which surgery was performed, including need for repeat surgery.

(3) Heart transplant.

- (A) Infection.
- (B) Rejection.
- (C) Death.

(4) Coronary angiography (Injection of contrast material into arteries of the heart), coronary angioplasty (opening narrowing in heart vessel), and coronary stent insertion (placement of permanent tube into heart blood vessel to open it).

(A) Injury to or occlusion (blocking) of blood vessel which may require immediate surgery or other intervention including emergency open heart surgery.

(B) Arrhythmia (abnormal heart rhythm), possibly life threatening.

- (C) Hemorrhage (severe bleeding).
- (D) Myocardial infarction (heart attack).

(E) Worsening of the condition for which the procedure is being done.

(F) Sudden death.

(G) Stroke.

(H) Contrast nephropathy (kidney damage due to the contrast agent used during the procedure).

(I) Thrombosis (blood clot forming at or blocking the blood vessel) at access site or elsewhere.

(5) Percutaneous (through the skin) or minimally invasive heart valve insertion/replacement.

(A) Injury to or occlusion (blocking) of blood vessel which may require immediate surgery or other intervention including emergency open heart surgery.

(B) Arrhythmia (abnormal heart rhythm), possibly life threatening.

(C) Hemorrhage (severe bleeding).

(D) Myocardial infarction (heart attack).

(E) Worsening of the condition for which the procedure is being done.

(F) Sudden death.

(G) Stroke.

(H) Contrast nephropathy (kidney damage due to the contrast agent used during the procedure).

(I) Thrombosis (blood clot forming at or blocking the blood vessel) at access site or elsewhere.

(J) Malfunction of new valve.

(K) Need for permanent pacemaker implantation.

(6) Left atrial appendage closure (closing of small pouch on left side of heart) - percutaneous (through the skin) or minimally invasive.

(A) Injury to or occlusion (blocking) of blood vessel which may require immediate surgery or other intervention including emergency open heart surgery.

(B) Arrhythmia (abnormal heart rhythm), possibly life threatening.

(C) Hemorrhage (severe bleeding).

(D) Myocardial infarction (heart attack).

(E) Worsening of the condition for which the procedure is being done.

(F) Sudden death.

(G) Stroke.

(H) Contrast nephropathy (kidney damage due to the contrast agent used during the procedure).

(I) Thrombosis (blood clot forming at or blocking the blood vessel) at access site or elsewhere.

(J) Device embolization (device moves from intended location).

(K) Pericardial effusion (development of fluid in the sack around the heart) and cardiac tamponade (fluid around heart causing too much pressure for heart to pump properly).

(7) Patent foramen ovale/atrial septal defect/ventricular septal defect closure by percutaneous (through the skin) or minimally invasive procedure (closing of abnormal hole between the chambers of the heart).

(A) Injury to or occlusion (blocking) of blood vessel which may require immediate surgery or other intervention including emergency open heart surgery.

(B) Arrhythmia (abnormal heart rhythm), possibly life threatening.

(C) Hemorrhage (severe bleeding).

(D) Myocardial infarction (heart attack).

(E) Worsening of the condition for which the procedure is being done.

(F) Sudden death.

(G) Stroke.

(H) Contrast nephropathy (kidney damage due to the contrast agent used during the procedure).

(I) Thrombosis (blood clot forming at or blocking the blood vessel) at access site or elsewhere.

(J) Atrial fibrillation (irregular heart rhythm).

(K) Pulmonary embolus (development of blood clot that travels to blood vessels in lungs).

(L) Device embolization (device moves from where it is placed).

(M) Cardiac perforation (creation of hole in wall of heart).

(8) Electrophysiology studies (exams of heart rhythm), arrhythmia ablation (procedure to control or stop abnormal heart rhythms).

(A) Injury to or occlusion (blocking) of blood vessel which may require immediate surgery or other intervention including emergency open heart surgery.

(B) Arrhythmia (abnormal heart rhythm), possibly life threatening.

(C) Hemorrhage (severe bleeding).

(D) Myocardial infarction (heart attack).

(E) Worsening of the condition for which the procedure is being done.

(F) Sudden death.

(G) Stroke.

(H) Contrast nephropathy (kidney damage due to the contrast agent used during the procedure).

(I) Thrombosis (blood clot forming at or blocking the blood vessel) at access site or elsewhere.

(J) Rupture of myocardium/cardiac perforation (hole in wall of heart).

(K) Cause or worsening of arrhythmia (damage to heart electrical system causing abnormal heart rhythm), possibly requiring permanent pacemaker implantation, possibly life threatening.

(L) Pulmonary vein stenosis (narrowing of blood vessel going from lung to heart).

(9) Pacemaker insertion, AICD insertion (implanted device to shock the heart out of an abnormal rhythm).

(A) Injury to or occlusion (blocking) of blood vessel which may require immediate surgery or other intervention including emergency open heart surgery.

(B) Arrhythmia (abnormal heart rhythm), possibly life threatening.

(C) Hemorrhage (severe bleeding).

(D) Myocardial infarction (heart attack).

(E) Worsening of the condition for which the procedure is being done.

(F) Sudden death.

(G) Stroke.

(H) Contrast nephropathy (kidney damage due to the contrast agent used during the procedure).

(I) Thrombosis (blood clot forming at or blocking the blood vessel) at access site or elsewhere.

(J) Rupture of myocardium/cardiac perforation (hole in wall of heart).

(K) Cause or worsening of arrhythmia (damage to heart electrical system causing abnormal heart rhythm), possibly requiring permanent pacemaker implantation, possibly life threatening.

(L) Device related delayed onset infection (infection related to the device that happens at some time after surgery).

(10) Electrical cardioversion (shocking the heart out of an abnormal rhythm).

(A) Heart arrhythmias (abnormal heart rhythm), possibly life threatening.

(B) Skin burns on chest.

(11) Stress testing.

(A) Acute myocardial infarction (heart attack).

(B) Heart arrhythmias (abnormal heart rhythm), possibly life threatening.

(12) Transesophageal echocardiography (ultrasound exam of the heart from inside the throat).

(A) Sore throat.

(B) Vocal cord damage.

(C) Esophageal perforation (hole or tear in tube from mouth to stomach).

(13) Circulatory assist devices (devices to help heart pump blood).

(A) Injury to or occlusion (blocking) of blood vessel which may require immediate surgery or other intervention including emergency open heart surgery.

(B) Arrhythmia (abnormal heart rhythm), possibly life threatening.

(C) Hemorrhage (severe bleeding).

(D) Myocardial infarction (heart attack).

(E) Worsening of the condition for which the procedure is being done.

(F) Sudden death.

(G) Stroke.

(H) Contrast nephropathy or other kidney injury (kidney damage due to the contrast agent used during the procedure or procedure itself).

(I) Thrombosis (blood clot forming at or blocking the blood vessel) at access site or elsewhere.

(J) Hemorrhage (severe bleeding) possibly leading to sudden death.

(K) Hemolysis (blood cells get broken apart).

(L) Right heart failure (poor functioning of the side of heart not assisted by device).

(M) Acquired von Willebrand syndrome (platelets do not work).

(N) Arrhythmia (irregular or abnormal heart rhythm).

(O) Cardiac or vascular injury or perforation (hole in heart or blood vessel).

(P) Limb ischemia (lack of blood flow or oxygen to limb that device placed through).

(Q) Device migration or malfunction.

(R) Exposure of device/wound break down with need for surgery to cover/reimplant.

(14) Extracorporeal Membrane Oxygenation (ECMO).

(A) Injury to or occlusion (blocking) of blood vessel which may require immediate surgery or other intervention including emergency open heart surgery.

(B) Arrhythmia (abnormal heart rhythm), possibly life threatening.

(C) Hemorrhage (severe bleeding).

(D) Myocardial infarction (heart attack).

(E) Worsening of the condition for which the procedure is being done.

(F) Sudden death.

(G) Stroke.

(H) Contrast nephropathy or other kidney injury (kidney damage due to the contrast agent used during the procedure or procedure itself).

(I) Thrombosis (blood clot forming at or blocking the blood vessel) at access site or elsewhere.

(J) Thrombocytopenia (low platelets) or other coagulopathy (blood thinning).

(K) Vascular or cardiac perforation (hole in blood vessel or heart).

(L) Seizure.

(M) Device migration or malfunction.

(N) Ischemia to limb (lack of blood flow or oxygen to limb that device placed through).

(O) Thromboembolism (blood clots in blood vessels or heart and possibly traveling to blood vessels in lungs).

(b) Vascular.

(1) Open surgical repair of aortic, subclavian, iliac, or other artery aneurysms or occlusions, arterial or venous bypass or other vascular surgery.

(A) Hemorrhage (severe bleeding).

(B) Paraplegia (unable to move limbs) (for surgery involving the aorta or other blood vessels to the spine).

(C) Damage to parts of the body supplied or drained by the vessel with resulting loss of use or amputation (removal of body part).

(D) Worsening of the condition for which the procedure is being done.

(E) Stroke (for surgery involving blood vessels supplying the neck or head).

(F) Kidney damage.

(G) Myocardial infarction (heart attack).

(H) Infection of graft (material used to repair blood vessel).

(2) Angiography (inclusive of aortography, arteriography, venography) - Injection of contrast material into blood vessels.

(A) Injury to or occlusion (blocking) of artery which may require immediate surgery or other intervention.

(B) Hemorrhage (severe bleeding).

(C) Damage to parts of the body supplied by the artery or drained by the vessel with resulting loss of use or amputation (removal of body part).

(D) Worsening of the condition for which the procedure is being done.

(E) Stroke and/or seizure (for procedures involving blood vessels supplying the spine, arms, neck or head).

(F) Contrast-related, temporary blindness or memory loss (for studies of the blood vessels of the brain).

(G) Paralysis (inability to move) and inflammation of nerves (for procedures involving blood vessels supplying the spine).

(H) Contrast nephropathy (kidney damage due to the contrast agent used during procedure).

(I) Thrombosis (blood clot forming at or blocking the blood vessel) at access site or elsewhere.

(3) Angioplasty (intravascular dilatation technique).

(A) Injury to or occlusion (blocking) of blood vessel which may require immediate surgery or other intervention.

(B) Hemorrhage (severe bleeding).

(C) Damage to parts of the body supplied by the artery or drained by the vessel with resulting loss of use or amputation (removal of body part).

(D) Worsening of the condition for which the procedure is being done.

(E) Stroke and/or seizure (for procedures involving blood vessels supplying the spine, arms, neck or head).

(F) Contrast-related, temporary blindness or memory loss (for studies of the blood vessels of the brain).

(G) Paralysis (inability to move) and inflammation of nerves (for procedures involving blood vessels supplying the spine).

(H) Contrast nephropathy (kidney damage due to the contrast agent used during procedure).

(I) Thrombosis (blood clot forming at or blocking the blood vessel) at access site or elsewhere.

(J) Failure of procedure or injury to blood vessel requiring stent (small, permanent tube placed in blood vessel to keep it open) placement or open surgery.

(4) Endovascular stenting (placement of permanent tube into blood vessel to open it) of any portion of the aorta, iliac or carotid artery or other (peripheral) arteries or veins.

(A) Injury to or occlusion (blocking) of blood vessel which may require immediate surgery or other intervention.

(B) Hemorrhage (severe bleeding).

(C) Damage to parts of the body supplied by the artery or drained by the vessel with resulting loss of use or amputation (removal of body part).

(D) Worsening of the condition for which the procedure is being done.

(E) Stroke and/or seizure (for procedures involving blood vessels supplying the spine, arms, neck or head).

(F) Contrast-related, temporary blindness or memory loss (for studies of the blood vessels of the brain).

(G) Paralysis (inability to move) and inflammation of nerves (for procedures involving blood vessels supplying the spine).

(H) Contrast nephropathy (kidney damage due to the contrast agent used during procedure).

(I) Thrombosis (blood clot forming at or blocking the blood vessel) at access site or elsewhere.

(J) Failure of procedure or injury to blood vessel requiring stent (small, permanent tube placed in blood vessel to keep it open) placement or open surgery.

(K) Change in procedure to open surgical procedure.

(L) Failure to place stent/endoluminal graft (stent with fabric covering it).

(M) Stent migration (stent moves from location in which it was placed).

(N) Impotence (difficulty with or inability to obtain penile erection) (for abdominal aorta and iliac artery procedures).

(5) Vascular thrombolysis (removal or dissolving of blood clots) - percutaneous (through the skin) (mechanical or chemical).

(A) Injury to or occlusion (blocking) of blood vessel which may require immediate surgery or other intervention.

(B) Hemorrhage (severe bleeding).

(C) Damage to parts of the body supplied by the artery or drained by the vessel with resulting loss of use or amputation (removal of body part).

(D) Worsening of the condition for which the procedure is being done.

(E) Stroke and/or seizure (for procedures involving blood vessels supplying the spine, arms, neck or head).

(F) Contrast-related, temporary blindness or memory loss (for studies of the blood vessels of the brain).

(G) Paralysis (inability to move) and inflammation of nerves (for procedures involving blood vessels supplying the spine).

(H) Contrast nephropathy (kidney damage due to the contrast agent used during procedure).

(I) Kidney injury or failure which may be temporary or permanent (for procedures using certain mechanical thrombectomy devices).

(J) Thrombosis (blood clot forming at or blocking the blood vessel) at access site or elsewhere.

(K) Increased risk of bleeding at or away from site of treatment (when using medications to dissolve clots).

(L) For arterial procedures: distal embolus (fragments of blood clot may travel and block other blood vessels with possible injury to the supplied tissue).

(M) For venous procedures: pulmonary embolus (fragments of blood clot may travel to the blood vessels in the lungs and cause breathing problems or if severe could be life threatening).

(N) Need for emergency surgery.

(6) Angiography with occlusion techniques (including embolization and sclerosis) - therapeutic.

(A) For all embolizations/sclerosis:

(i) Injury to or occlusion (blocking) of blood vessel other than the one intended which may require immediate surgery or other intervention.

(ii) Hemorrhage (severe bleeding).

(iii) Damage to parts of the body supplied or drained by the vessel with resulting loss of use or amputation (removal of body part).

(iv) Worsening of the condition for which the procedure is being done.

(v) Contrast nephropathy (kidney damage due to the contrast agent used during procedure).

(vi) Unintended thrombosis (blood clot forming at or blocking the blood vessel) at access site or elsewhere.

(vii) Loss or injury to body parts with potential need for surgery, including death of overlying skin for sclerotherapy/treatment of superficial lesions/vessels and nerve injury with associated pain, numbness or tingling or paralysis (inability to move).

(viii) Infection in the form of abscess (infected fluid collection) or septicemia (infection of blood stream).

(ix) Nontarget embolization (blocking of blood vessels other than those intended) which can result in injury to tissues supplied by those vessels.

(B) For procedures involving the thoracic aorta and/or vessels supplying the brain, spinal cord, head, neck or arms, these risks in addition to those under subparagraph (A) of this paragraph:

(i) Stroke.

(ii) Seizure.

(iii) Paralysis (inability to move).

(iv) Inflammation or other injury of nerves (for procedures involving blood vessels supplying the spine).

(v) For studies of the blood vessels of the brain: contrast-related, temporary blindness or memory loss.

(C) For female pelvic arterial embolizations including uterine fibroid embolization, these risks in addition to those under subparagraph(A) of this paragraph:

(i) Premature menopause with resulting sterility.

(ii) Injury to or infection involving the uterus which might necessitate hysterectomy (removal of the uterus) with resulting sterility.

(iii) After fibroid embolization: prolonged vaginal discharge.

(iv) After fibroid embolization: expulsion/delayed expulsion of fibroid tissue possibly requiring a procedure to deliver/remove the tissue.

(D) For male pelvic arterial embolizations, in addition to the risks under subparagraph (A) of this paragraph: impotence (difficulty with or inability to obtain penile erection).

(E) For embolizations of pulmonary arteriovenous fistulae/malformations, these risks in addition to those under clause (A) of this subparagraph:

(i) New or worsening pulmonary hypertension (high blood pressure in the lung blood vessels).

(ii) Paradoxical embolization (passage of air or an occluding device beyond the fistula/malformation and into the arterial circulation) causing blockage of blood flow to tissues supplied by the receiving artery and damage to tissues served (for example the blood vessels supplying the heart (which could cause chest pain and/or heart attack) or brain (which could cause stroke, paralysis (inability to move) or other neurological injury)).

(F) For varicocele embolization, these risks in addition to those under subparagraph (A) of this paragraph:

(i) Phlebitis/inflammation of veins draining the testicles leading to decreased size and possibly decreased function of affected testis and sterility (if both sides performed).

(ii) Nerve injury (thigh numbness or tingling).

(G) For ovarian vein embolization/pelvic congestion syndrome embolization: general angiography and embolization risks as listed in subparagraph (A) of this paragraph.

(H) For cases utilizing ethanol (alcohol) injection, in addition to the risks under subparagraph (A) of this paragraph: shock or severe lowering of blood pressure (when more than small volumes are utilized).

(I) For varicose vein treatments (with angiography) see paragraph (12) of this subsection.

(7) Mesenteric angiography with infusional therapy (Vasopressin) for gastrointestinal bleeding.

(A) Injury to or occlusion (blocking) of blood vessel which may require immediate surgery or other intervention.

(B) Hemorrhage (severe bleeding).

(C) Damage to parts of the body supplied or drained by the vessel with resulting loss of use or amputation (removal of body part).

(D) Worsening of the condition for which the procedure is being done.

(E) Contrast nephropathy (kidney damage due to the contrast agent used during procedure).

(F) Thrombosis (blood clot forming at or blocking the blood vessel) at access site or elsewhere.

(G) Ischemia/infarction of supplied or distant vascular beds (reduction in blood flow causing lack of oxygen with injury or death of tissues supplied by the treated vessel or tissues supplied by blood vessels away from the treated site including heart, brain, bowel, extremities).

(H) Antidiuretic hormone side effects of vasopressin (reduced urine output with disturbance of fluid balance in the body, rarely leading to swelling of the brain).

(8) Inferior vena caval filter insertion and removal.

(A) Injury to or occlusion (blocking) of blood vessel which may require immediate surgery or other intervention.

(B) Hemorrhage (severe bleeding).

(C) Worsening of the condition for which the procedure is being done.

(D) Contrast nephropathy (kidney damage due to the contrast agent used during procedure).

(E) Thrombosis (blood clot forming at or blocking the blood vessel) at access site or elsewhere including caval thrombosis (clotting of main vein in abdomen and episodes of swelling of legs).

(F) Injury to the inferior vena cava (main vein in abdomen).

(G) Filter migration or fracture (filter could break and/or move from where it was placed).

(H) Risk of recurrent pulmonary embolus (continued risk of blood clots going to blood vessels in lungs despite filter).

(I) Inability to remove filter (for "optional"/retrievable filters).

(9) Pulmonary angiography.

(A) Injury to or occlusion (blocking) of blood vessel which may require immediate surgery or other intervention.

(B) Hemorrhage (severe bleeding).

(C) Damage to parts of the body supplied or drained by the vessel with resulting loss of use or amputation (removal of body part).

(D) Worsening of the condition for which the procedure is being done.

(E) Contrast nephropathy (kidney damage due to the contrast agent used during procedure).

(F) Thrombosis (blood clot forming at or blocking the blood vessel) at access site or elsewhere.

(G) Cardiac arrhythmia (irregular heart rhythm) or cardiac arrest (heart stops beating).

(H) Cardiac injury/perforation (heart injury).

(I) Death.

(10) Percutaneous treatment of pseudoaneurysm (percutaneous thrombin injection through the skin versus compression).

(A) Thrombosis (clotting) of supplying vessel or branches in its territory.

(B) Allergic reaction to thrombin (agent used for direct injection).

(11) Vascular access - nontunneled catheters, tunneled catheters, implanted access.

(A) Pneumothorax (collapsed lung).

(B) Injury to blood vessel.

(C) Hemothorax/hemomediastinum (bleeding into the chest around the lungs or around the heart).

(D) Air embolism (passage of air into blood vessel and possibly to the heart and/or blood vessels entering the lungs).

(E) Vessel thrombosis (clotting of blood vessel).

(12) Varicose vein treatment (percutaneous (through the skin), via laser, radiofrequency ablation (RFA), chemical or other method) without angiography.

(A) Burns.

(B) Deep vein thrombosis (blood clots in deep veins).

(C) Hyperpigmentation (darkening of skin).

(D) Skin wound (ulcer).

(E) Telangiectatic matting (appearance of tiny blood vessels in treated area).

(F) Paresthesia and dysesthesia (numbness or tingling in the area or limb treated).

(G) Injury to blood vessel requiring additional procedure to treat.

§602.3. Digestive System Treatments and Procedures.

(a) Cholecystectomy with or without common bile duct exploration.

(1) Pancreatitis.

(2) Injury to the tube between the liver and the bowel.

(3) Retained stones in the tube between the liver and the bowel.

(4) Narrowing or obstruction of the tube between the liver and the bowel.

(5) Injury to the bowel and/or intestinal obstruction.

(b) Bariatric surgery.

(1) Failure of wound to heal or wound dehiscence (separation of wound).

(2) Injury to organs.

(3) Failure of device requiring additional surgical procedure.

(4) Obstructive symptoms requiring additional surgical procedure.

(5) Development of gallstones (Roux-En-Y).

(6) Development of metabolic and vitamin disorders (Roux-En-Y).

(c) Pancreatectomy (subtotal or total).

(1) Pancreatitis (subtotal).

- (2) Diabetes (total).
- (3) Lifelong requirement of enzyme and digestive medication.
- (4) Anastomotic leaks.
- (d) Total colectomy.
 - (1) Permanent ileostomy.
 - (2) Injury to organs.
 - (3) Infection.
- (e) Subtotal colectomy.
 - (1) Anastomotic leaks.
 - (2) Temporary colostomy.
 - (3) Infection.
 - (4) Second surgery.
 - (5) Injury to organs.
- (f) Hepatobiliary drainage/intervention including percutaneous transhepatic cholangiography, percutaneous biliary drainage, percutaneous cholecystostomy, biliary stent placement (temporary or permanent), biliary stone removal/therapy.
 - (1) Leakage of bile at the skin site or into the abdomen with possible peritonitis (inflammation of the abdominal lining and pain or if severe can be life threatening).
 - (2) Pancreatitis (inflammation of the pancreas).
 - (3) Hemobilia (bleeding into the bile ducts).
 - (4) Cholangitis, cholecystitis, sepsis (inflammation/infection of the bile ducts, gallbladder or blood).
 - (5) Pneumothorax (collapsed lung) or other pleural complications (complication involving chest cavity).
- (g) Gastrointestinal tract stenting.
 - (1) Stent migration (stent moves from location in which it was placed).
 - (2) Esophageal/bowel perforation (creation of a hole or tear in the tube from the throat to the stomach or in the intestines).
 - (3) Tumor ingrowth or other obstruction of stent.
 - (4) For stent placement in the esophagus (tube from the throat to the stomach).
 - (A) Tracheal compression (narrowing of windpipe) with resulting or worsening of shortness of breath.
 - (B) Reflux (stomach contents passing up into esophagus or higher).
 - (C) Aspiration pneumonia (pneumonia from fluid getting in lungs) (if stent in lower part of the esophagus).
 - (D) Foreign body sensation (feeling like there is something in throat) (for stent placement in the upper esophagus).

§602.4. Ear Treatments and Procedures.

- (a) Stapedectomy.
 - (1) Facial paralysis.
 - (2) Diminished or bad taste.
 - (3) Total or partial loss of hearing in the operated ear.

- (4) Brief or long-standing dizziness.
- (5) Eardrum hole requiring more surgery.
- (6) Ringing in the ear.
- (b) Reconstruction of auricle of ear for congenital deformity or trauma.
 - (1) Less satisfactory appearance compared to possible alternative artificial ear.
 - (2) Exposure of implanted material with possible need for removal of material.
- (c) Tympanoplasty with mastoidectomy.
 - (1) Facial paralysis.
 - (2) Altered or loss of taste.
 - (3) Recurrence of original disease process.
 - (4) Total loss of hearing in operated ear.
 - (5) Dizziness.
 - (6) Ringing in the ear.

§602.5. Endocrine System Treatments and Procedures.

- (a) Thyroidectomy.
 - (1) Acute airway obstruction requiring temporary tracheostomy.
 - (2) Injury to nerves resulting in hoarseness or impairment of speech.
 - (3) Injury to parathyroid glands resulting in low blood calcium levels that require extensive medication to avoid serious degenerative conditions, such as cataracts, brittle bones, muscle weakness and muscle irritability.
 - (4) Lifelong requirement of thyroid medication.
 - (b) Parathyroidectomy.
 - (1) Acute airway obstruction requiring temporary tracheostomy.
 - (2) Injury to nerves resulting in hoarseness or impairment of speech.
 - (3) Low blood calcium levels that require extensive medication to avoid serious degenerative conditions, such as cataracts, brittle bones, muscle weakness, and muscle irritability.
 - (c) Adrenalectomy.
 - (1) Loss of endocrine functions.
 - (2) Lifelong requirement for hormone replacement therapy and steroid medication.
 - (3) Damage to kidneys.
 - (d) Other procedures.
 - (e) See also Pancreatectomy under §602.3 of this chapter (relating to Digestive System Treatments and Procedures).
- §602.6. Eye Treatments and Procedures.
- (a) Eye muscle surgery.
 - (1) Additional treatment and/or surgery.
 - (2) Double vision.
 - (3) Partial or total blindness.

(b) Surgery for cataract with or without implantation of intraocular lens.

(1) Complications requiring additional treatment and/or surgery.

(2) Need for glasses or contact lenses.

(3) Complications requiring the removal of implanted lens.

(4) Partial or total blindness.

(c) Retinal or vitreous surgery.

(1) Complications requiring additional treatment and/or surgery.

(2) Recurrence or spread of disease.

(3) Partial or total blindness.

(d) Reconstructive and/or plastic surgical procedures of the eye and eye region, such as blepharoplasty, tumor, fracture, lacrimal surgery, foreign body, abscess, or trauma.

(1) Blindness.

(2) Nerve damage with loss of use and/or feeling to eye or other areas of face.

(3) Painful or unattractive scarring.

(4) Worsening or unsatisfactory appearance.

(5) Dry eye.

(e) Photocoagulation and/or cryotherapy.

(1) Complications requiring additional treatment and/or surgery.

(2) Pain.

(3) Partial or total blindness.

(f) Corneal surgery, such as corneal transplant, refractive surgery and pterygium.

(1) Complications requiring additional treatment and/or surgery.

(2) Pain.

(3) Need for glasses or contact lenses.

(4) Partial or total blindness.

(g) Glaucoma surgery by any method.

(1) Complications requiring additional treatment and/or surgery.

(2) Worsening of the glaucoma.

(3) Pain.

(4) Partial or total blindness.

(h) Removal of the eye or its contents (enucleation or evisceration).

(1) Complications requiring additional treatment and/or surgery.

(2) Worsening or unsatisfactory appearance.

(3) Recurrence or spread of disease.

(i) Surgery for penetrating ocular injury, including intraocular foreign body.

(1) Complications requiring additional treatment and/or surgery.

(2) Possible removal of eye.

(3) Pain.

(4) Partial or total blindness.

§602.7. Female Genital System Treatments and Procedures.

(a) Hysterectomy (abdominal and vaginal).

(1) Uncontrollable leakage of urine.

(2) Injury to bladder.

(3) Injury to the tube (ureter) between the kidney and the bladder.

(4) Injury to the bowel and/or intestinal obstruction.

(5) Need to convert to abdominal incision.

(6) If laparoscopic surgery is utilized, include the following risks:

(A) Damage during introduction of trocar to adjacent intra-abdominal structures and organs (e.g., bowel, bladder, blood vessels, or nerves) and potential need for additional surgery.

(B) Trocar site complications (e.g., hematoma, bleeding, leakage of fluid, or hernia formation).

(C) Air embolus (bubble causing heart failure or stroke).

(D) Change during the procedure to an open procedure.

(E) If cancer is present, may increase the risk of the spread of cancer.

(b) All fallopian tube and ovarian surgery with or without hysterectomy, including removal and lysis of adhesions.

(1) Injury to the bowel and/or bladder.

(2) Sterility.

(3) Failure to obtain fertility (if applicable).

(4) Failure to obtain sterility (if applicable).

(5) Loss of ovarian functions or hormone production from ovary(ies).

(6) If performed with hysterectomy, all associated risks under paragraph (a) of this subsection.

(7) For fallopian tube occlusion (for sterilization with or without hysterectomy), see subsection (n) of this section.

(c) Removing fibroids (uterine myomectomy).

(1) Injury to bladder.

(2) Sterility.

(3) Injury to the tube (ureter) between the kidney and the bladder.

(4) Injury to the bowel and/or intestinal obstruction.

(5) May need to convert to hysterectomy.

(6) If laparoscopic surgery is utilized, include the following risks:

(A) Damage during introduction of trocar to adjacent intra-abdominal structures and organs (e.g., bowel, bladder, blood vessels, or nerves) and potential need for additional surgery.

(B) Trocar site complications (e.g., hematoma, bleeding, leakage of fluid, or hernia formation).

(C) Air embolus (bubble causing heart failure or stroke).

(D) Change during the procedure to an open procedure.

(E) If cancer is present, may increase the risk of the spread of cancer.

(d) Uterine suspension.

(1) Uncontrollable leakage of urine.

(2) Injury to bladder.

(3) Injury to the tube (ureter) between the kidney and the bladder.

(4) Injury to the bowel and/or intestinal obstruction.

(e) Removal of the nerves to the uterus (presacral neurectomy).

(1) Uncontrollable leakage of urine.

(2) Injury to bladder.

(3) Injury to the tube (ureter) between the kidney and the bladder.

(4) Injury to the bowel and/or intestinal obstruction.

(5) Hemorrhage (severe bleeding).

(f) Removal of the cervix.

(1) Uncontrollable leakage of urine.

(2) Injury to bladder.

(3) Sterility.

(4) Injury to the tube (ureter) between the kidney and the bladder.

(5) Injury to the bowel and/or intestinal obstruction.

(6) Need to convert to abdominal incision.

(g) Repair of vaginal hernia (anterior and/or posterior colporrhaphy and/or enterocele repair).

(1) Uncontrollable leakage of urine.

(2) Injury to bladder.

(3) Sterility.

(4) Injury to the tube (ureter) between the kidney and the bladder.

(5) Injury to the bowel and/or intestinal obstruction.

(6) Mesh erosion (with damage to vagina and adjacent tissue).

(h) Abdominal suspension of the bladder (retropubic urethropexy).

(1) Uncontrollable leakage of urine.

(2) Injury to bladder.

(3) Injury to the tube (ureter) between the kidney and the bladder.

(4) Injury to the bowel and/or intestinal obstruction.

(i) Conization of cervix.

(1) Hemorrhage (severe bleeding) which may result in hysterectomy.

(2) Sterility.

(3) Injury to bladder.

(4) Injury to rectum.

(j) Dilation and curettage of uterus (diagnostic/therapeutic).

(1) Possible hysterectomy.

(2) Perforation (hole) created in the uterus.

(3) Sterility.

(4) Injury to bowel and/or bladder.

(5) Abdominal incision and operation to correct injury.

(k) Surgical abortion/dilation and curettage/dilation and evacuation.

(1) Possible hysterectomy.

(2) Perforation (hole) created in the uterus.

(3) Sterility.

(4) Injury to the bowel and/or bladder.

(5) Abdominal incision and operation to correct injury.

(6) Failure to remove all products of conception.

(l) Medical abortion/non-surgical.

(1) Hemorrhage with possible need for surgical intervention.

(2) Failure to remove all products of conception.

(3) Sterility.

(m) Selective salpingography and tubal reconstruction.

(1) Perforation (hole) created in the uterus or Fallopian tube.

(2) Future ectopic pregnancy (pregnancy outside of the uterus).

(3) Pelvic infection.

(n) Fallopian tube occlusion (for sterilization with or without hysterectomy).

(1) Perforation (hole) created in the uterus or Fallopian tube.

(2) Future ectopic pregnancy (pregnancy outside of the uterus).

(3) Pelvic infection.

(4) Failure to obtain sterility.

(o) Hysteroscopy.

(1) Perforation (hole) created in the uterus.

(2) Fluid overload/electrolyte imbalance.

(3) Possible hysterectomy.

(4) Abdominal incision to correct injury.

§602.8. Hematic and Lymphatic System Treatments and Procedures.

(a) Transfusion of blood and blood components.

(1) Serious infection including but not limited to Hepatitis and HIV which can lead to organ damage and permanent impairment.

(2) Transfusion related injury resulting in impairment of lungs, heart, liver, kidneys, and immune system.

(3) Severe allergic reaction, potentially fatal.

(b) Splenectomy.

(1) Susceptibility to infections and increased severity of infections.

(2) Increased immunization requirements.

§602.9. Breast Surgery (non-cosmetic) Treatments and Procedures.

(a) Radical or modified radical mastectomy.

(1) Limitation of movement of shoulder and arm.

(2) Permanent swelling of the arm.

(3) Loss of the skin of the chest requiring skin graft.

(4) Recurrence of malignancy, if present.

(5) Decreased sensation or numbness of the inner aspect of the arm and chest wall.

(b) Simple mastectomy.

(1) Loss of skin of the chest requiring skin graft.

(2) Recurrence of malignancy, if present.

(3) Decreased sensation or numbness of the nipple.

(c) Lumpectomy.

(1) Loss of skin of the chest requiring skin graft.

(2) Recurrence of malignancy, if present.

(3) Decreased sensation or numbness of the nipple.

(d) Open biopsy.

(1) Loss of skin of the chest requiring skin graft.

(2) Recurrence of malignancy, if present.

(3) Decreased sensation or numbness of the nipple.

§602.10. Male Genital System Treatments and Procedures.

(a) Orchidopexy (reposition of testis(es)).

(1) Removal of testicle.

(2) Atrophy (shriveling) of the testicle with loss of function.

(b) Orchiectomy (removal of the testis(es)).

(1) Decreased sexual desire.

(2) Difficulties with penile erection.

(3) Permanent sterility (inability to father children) if both testes are removed.

(c) Vasectomy.

(1) Loss of testicle.

(2) Failure to produce permanent sterility (inability to father children).

(d) Circumcision.

(1) Injury to penis.

(2) Need for further surgery.

§602.11. Maternity and Related Cases Treatments and Procedures.

(a) Delivery (vaginal).

(1) Injury to bladder and/or rectum, including a fistula (hole) between bladder and vagina and/or rectum and vagina.

(2) Hemorrhage (severe bleeding) possibly requiring blood administration and/or hysterectomy (removal of uterus) and/or artery ligation (tying off) to control.

(3) Sterility (inability to get pregnant).

(4) Brain damage, injury or even death occurring to the fetus before or during labor and/or vaginal delivery whether or not the cause is known.

(b) Delivery (cesarean section).

(1) Injury to bowel and/or bladder.

(2) Sterility (inability to get pregnant).

(3) Injury to ureter (tube between kidney and bladder).

(4) Brain damage, injury or even death occurring to the fetus before or during labor and/or cesarean delivery whether or not the cause is known.

(5) Uterine disease or injury requiring hysterectomy (removal of uterus).

(c) Cerclage.

(1) Premature labor.

(2) Injury to bowel and/or bladder.

(3) Rupture to membranes and possible infection.

§602.12. Musculoskeletal System Treatments and Procedures.

(a) Arthroplasty of any joints with mechanical device.

(1) Impaired function such as stiffness, limp, or change in limb length.

(2) Blood vessel or nerve injury.

(3) Pain.

(4) Blood clot in limb or lung.

(5) Failure of bone to heal.

(6) Infection.

(7) Removal or replacement of any implanted device or material.

(8) Dislocation or loosening requiring additional surgery.

(9) If performed on a child age 12 or under, include the following additional risks: problems with appearance, use, or growth requiring additional surgery.

(b) Arthroscopy of any joint.

(1) Blood vessel or nerve injury.

(2) Continued pain.

(3) Stiffness of joint.

(4) Blood clot in limb or lung.

(5) Joint infection.

(6) If performed on a child age 12 or under, include the following additional risks: problems with appearance, use, or growth requiring additional surgery.

(c) Open reduction with internal fixation.

(1) Impaired function such as stiffness, limp, or change in limb length.

(2) Blood vessel or nerve injury.

(3) Pain.

(4) Blood clot in limb or lung.

(5) Failure of bone to heal.

(6) Infection.

(7) Removal or replacement of any implanted device or material.

(8) If performed on a child age 12 or under, include the following additional risks: problems with appearance, use, or growth requiring additional surgery.

(d) Osteotomy.

(1) Impaired function such as stiffness, limp, or change in limb length.

(2) Blood vessel or nerve injury.

(3) Pain.

(4) Blood clot in limb or lung.

(5) Failure of bone to heal.

(6) Infection.

(7) Removal or replacement of any implanted device or material.

(8) If performed on a child age 12 or under, include the following additional risks: problems with appearance, use, or growth requiring additional surgery.

(e) Ligamentous reconstruction of joints.

(1) Continued instability of the joint.

(2) Arthritis.

(3) Continued pain.

(4) Stiffness of joint.

(5) Blood vessel or nerve injury.

(6) Impaired function and/or scarring.

(7) Blood clot in limb or lung.

(8) If performed on a child age 12 or under, include the following additional risks: problems with appearance, use, or growth requiring additional surgery.

(f) Vertebroplasty/kyphoplasty.

(1) Nerve/spinal cord injury.

(2) Need for emergency surgery.

(3) Embolization of cement (cement passes into blood vessels and possibly all the way to the lungs).

(4) Collapse of adjacent vertebrae (bones in spine).

(5) Leak of cerebrospinal fluid (fluid around the brain and spinal cord).

(6) Pneumothorax (collapsed lung).

(7) Failure to relieve pain.

(8) Rib fracture.

(g) If the following procedures are performed on a child age 12 or under, problems with appearance, use, or growth requiring additional surgery should be disclosed.

(1) Arthrotomy (opening of joint).

(2) Closed reduction with or without pin or external fixation.

(3) Surgical management of open wound.

(4) Partial excision or removal of bone.

(5) Removal of external fixation device.

(6) Traction or casting with or without manipulation for reduction.

(h) Amputation of limb.

(1) Pain and/or phantom sensation in removed limb.

(2) Need for further surgery.

(3) Infection.

(4) Hemorrhage (severe bleeding).

(5) Difficulty with prosthesis fitting.

§602.13. Nervous System Treatments and Procedures.

(a) Craniotomy, craniectomy or cranioplasty.

(1) Loss of brain function such as memory and/or ability to speak.

(2) Recurrence, continuation or worsening of the condition that required this operation (no improvement or symptoms made worse).

(3) Stroke (damage to brain resulting in loss of one or more functions).

(4) Loss of senses (blindness, double vision, deafness, smell, numbness, taste).

(5) Weakness, paralysis, loss of coordination.

(6) Cerebrospinal fluid leak with potential for severe headaches.

(7) Meningitis (infection of coverings of brain and spinal cord).

(8) Brain abscess.

(9) Persistent vegetative state (not able to communicate or interact with others).

(10) Hydrocephalus (abnormal fluid buildup causing pressure in the brain).

(11) Seizures (uncontrolled nerve activity).

(12) Need for permanent breathing tube and/or permanent feeding tube.

(b) Cranial nerve operations.

(1) Weakness, numbness, impaired muscle function or paralysis.

(2) Recurrence, continuation or worsening of the condition that required this operation (no improvement or symptoms made worse).

(3) Seizures (uncontrolled nerve activity).

- (4) New or different pain.
- (5) Stroke (damage to brain resulting in loss of one or more functions).
- (6) Persistent vegetative state (not able to communicate or interact with others).
- (7) Loss of senses (blindness, double vision, deafness, smell, numbness, taste).
- (8) Cerebrospinal fluid leak with potential for severe headaches.
- (9) Meningitis (infection of coverings of brain and spinal cord).
- (10) Need for prolonged nursing care.
- (11) Need for permanent breathing tube and/or permanent feeding tube.

(c) Spine operation, including laminectomy, decompression, fusion, internal fixation or procedures for nerve root or spinal cord compression; diagnosis; pain; deformity; mechanical instability; injury; removal of tumor, abscess or hematoma (excluding coccygeal operations).

- (1) Weakness, pain, numbness or clumsiness.
- (2) Impaired muscle function or paralysis.
- (3) Incontinence, impotence or impaired bowel function (loss of bowel/bladder control and/or sexual function).
- (4) Migration of implants (movement of implanted devices).
- (5) Failure of implants (breaking of implanted devices).
- (6) Adjacent level degeneration (breakdown of spine above and/or below the level treated).
- (7) Cerebrospinal fluid leak with potential for severe headaches.
- (8) Meningitis (infection of coverings of brain and spinal cord).
- (9) Recurrence, continuation or worsening of the condition that required this operation (no improvement or symptoms made worse).
- (10) Unstable spine (abnormal movement between bones and/or soft tissues of the spine).

(d) Peripheral nerve operation; nerve grafts, decompression, transposition or tumor removal; neuroorrhaphy, neurectomy or neurolysis.

- (1) Numbness.
- (2) Impaired muscle function.
- (3) Recurrence, continuation or worsening of the condition that required this operation (no improvement or symptoms made worse).
- (4) Continued, increased or different pain.
- (5) Weakness.

(e) Transphenoidal hypophysectomy or other pituitary gland operation.

- (1) Cerebrospinal fluid leak with potential for severe headaches.

- (2) Necessity for hormone replacement.

(3) Recurrence or continuation of the condition that required this operation.

(4) Deformity or perforation of nasal septum (hole in wall between the right and left halves of the nose).

(5) Facial nerve injury resulting in disfigurement (loss of nerve function controlling muscles in face).

(6) Loss of senses (blindness, double vision, deafness, smell, numbness, taste).

(7) Stroke (damage to brain resulting in loss of one or more functions).

(8) Persistent vegetative state (not able to communicate or interact with others).

- (9) Headaches.

(f) Cerebrospinal fluid shunting procedure or revision.

(1) Shunt obstruction (blockage of shunt/tubing causing it to stop draining adequately).

(2) Malposition or migration of shunt/tubing (improper positioning or later movement of shunt/tubing causing it to stop draining adequately).

- (3) Seizures (uncontrolled nerve activity).

(4) Recurrence or continuation of brain dysfunction.

(5) Injury to internal organs of the chest or abdomen.

(6) Brain injury.

(7) Stroke (damage to brain resulting in loss of one or more functions).

(8) Persistent vegetative state (not able to communicate or interact with others).

(9) Loss of senses (blindness, double vision, deafness, smell, numbness, taste).

(10) Cerebrospinal fluid leak with potential for severe headaches.

(11) Meningitis (infection of coverings of brain and spinal cord).

(12) Need for prolonged nursing care.

(13) Need for permanent breathing tube and/or permanent feeding tube.

(g) Elevation of depressed skull fracture.

(1) Loss of brain function such as memory and/or ability to speak.

(2) Recurrence, continuation or worsening of the condition that required this operation (no improvement or symptoms made worse).

(3) Loss of senses (blindness, double vision, deafness, smell, numbness, taste).

(4) Weakness, paralysis, loss of coordination.

(5) Cerebrospinal fluid leak with potential for severe headaches.

(6) Meningitis (infection of coverings of brain and spinal cord).

- (7) Brain abscess.
- (8) Persistent vegetative state (not able to communicate or interact with others).
- (9) Seizures (uncontrolled nerve activity).
- (10) Need for permanent breathing tube and/or permanent feeding tube.

§602.14. Radiology Treatments and Procedures.

(a) Splenoportography (needle injection of contrast media into the spleen).

(1) All associated risks as listed under §602.2(b)(2) of this chapter (relating to Cardiovascular System Treatments and Procedures).

(2) Injury to the spleen requiring blood transfusion and/or removal of the spleen.

(b) Chemoembolization.

(1) All associated risks as listed under §602.2(b)(2) of this chapter.

(2) Tumor lysis syndrome (rapid death of tumor cells, releasing their contents which can be harmful).

(3) Injury to or failure of liver (or other organ in which tumor is located).

(4) Risks of the chemotherapeutic agent(s) utilized.

(5) Cholecystitis (inflammation of the gallbladder) (for liver or other upper GI embolizations).

(6) Abscess (infected fluid collection) in the liver or other embolized organ requiring further intervention.

(7) Biloma (collection of bile in or near the liver requiring drainage) (for liver embolizations).

(c) Radioembolization.

(1) All associated risks as listed under §602.2(b)(2) of this chapter.

(2) Tumor lysis syndrome (rapid death of tumor cells, releasing their contents which can be harmful).

(3) Injury to or failure of liver (or other organ in which tumor is located).

(4) Radiation complications: pneumonitis (inflammation of lung) which is potentially fatal; inflammation of stomach, intestines, gallbladder, pancreas; stomach or intestinal ulcer; scarring of liver.

(d) Thermal and other ablative techniques for treatment of tumors (for curative intent or palliation) including radiofrequency ablation, microwave ablation, cryoablation, and high intensity focused ultrasound (HIFU).

(1) Injury to tumor-containing organ or adjacent organs/structures.

(2) Injury to nearby nerves potentially resulting in temporary or chronic (continuing) pain and/or loss of use and/or feeling.

(3) Failure to completely treat tumor.

(e) TIPS (Transjugular Intrahepatic Portosystemic Shunt) and its variants such as DIPS (Direct Intrahepatic Portocaval Shunt).

(1) All associated risks as listed under §602.2(b)(2)-(4) of this chapter.

(2) Hepatic encephalopathy (confusion/decreased ability to think).

(3) Liver failure or injury.

(4) Gallbladder injury.

(5) Hemorrhage (severe bleeding).

(6) Recurrent ascites (fluid building up in abdomen) and/or bleeding.

(7) Kidney failure.

(8) Heart failure.

(9) Death.

(f) Myelography.

(1) Chronic (continuing) pain.

(2) Nerve injury with loss of use and/or feeling.

(3) Transient (temporary) headache, nausea, and/or vomiting.

(4) Numbness.

(5) Seizure.

(g) Percutaneous abscess/fluid collection drainage (percutaneous abscess/seroma/lymphocele drainage and/or sclerosis (inclusive of percutaneous, transgluteal, transrectal and transvaginal routes)).

(1) Sepsis (infection in the blood stream), possibly resulting in shock (severe decrease in blood pressure).

(2) Injury to nearby organs.

(3) Hemorrhage (severe bleeding).

(4) Infection of collection which was not previously infected, or additional infection of abscess.

(h) Procedures utilizing prolonged fluoroscopy.

(1) Skin injury (such as epilation (hair loss), burns, or ulcers).

(2) Cataracts (for procedures in the region of the head).

§602.15. Respiratory System Treatments and Procedures.

(a) Biopsy and/or excision (removal) of lesion of larynx, vocal cords, trachea.

(1) Loss or change of voice.

(2) Swallowing or breathing difficulties.

(3) Perforation (hole) or fistula (connection) in esophagus (tube from throat to stomach).

(b) Rhinoplasty (surgery to change the shape of the nose) or nasal reconstruction with or without nasal septoplasty (surgical procedure to remove blockage in or straighten the bone and cartilage dividing the space between the two nostrils).

(1) Deformity of skin, bone or cartilage.

(2) Creation of new problems, such as perforation of the nasal septum (hole in wall between the right and left halves of the nose) or breathing difficulty.

(c) Submucous resection of nasal septum or nasal septoplasty (surgery to remove blockage in or straighten the bone and cartilage dividing the space between the two nostrils).

(1) Persistence, recurrence or worsening of the obstruction.

(2) Perforation of nasal septum (hole in the bone and/or cartilage dividing the space between the right and left halves of the nose) with dryness and crusting.

(3) External deformity of the nose.

(d) Sinus surgery/endoscopic sinus surgery.

(1) Spinal fluid leak.

(2) Visual loss or other eye injury.

(3) Numbness in front teeth and palate (top of mouth).

(4) Loss or reduction in sense of taste or smell.

(5) Recurrence of disease.

(6) Empty Nose Syndrome (sensation of nasal congestion, sensation of not being able to take in adequate air through nose).

(7) Injury to tear duct causing drainage of tears down the cheek.

(8) Brain injury and/or infection.

(9) Injury to nasal septum (the bone and cartilage dividing the space between the two nostrils).

(10) Nasal obstruction.

(e) Lung biopsy (removal of small piece of tissue from inside of lung).

(1) Air leak with pneumothorax (leak of air from lung to inside of chest causing the lung to collapse) with need for insertion of chest tube or repeat surgery.

(2) Hemothorax (blood in the chest around the lung) possibly requiring additional procedures.

(3) Hemoptysis (coughing up blood which can result in trouble breathing and the need to be placed on a ventilator or breathing machine and oxygen).

(f) Segmental resection of lung (removal of a portion of a lung).

(1) Hemothorax (blood in the chest around the lung).

(2) Abscess (infected fluid collection) in chest.

(3) Air leak with pneumothorax (leak of air from lung inside of chest causing the lung to collapse) with need for insertion of chest drainage tube into space between lung and chest wall or repeat surgery.

(4) Need for additional surgery.

(g) Thorotomy (surgery to reach the inside of the chest).

(1) Hemothorax (blood in the chest around the lung).

(2) Abscess (infected fluid collection) in chest.

(3) Air leak with pneumothorax (leak of air from lung inside of chest causing the lung to collapse) with need for insertion of chest drainage tube into space between lung and chest wall or repeat surgery.

(4) Need for additional surgery.

(h) VATS - video-assisted thoracoscopic surgery (camera-assisted surgery to reach the inside of the chest through small incisions).

(1) Hemothorax (blood in the chest around the lung).

(2) Abscess (infected fluid collection) in chest.

(3) Air leak with pneumothorax (leak of air from lung inside of chest causing the lung to collapse) with need for insertion of chest drainage tube into space between lung and chest wall or repeat surgery.

(4) Need for additional surgery.

(5) Need to convert to open surgery.

(i) Percutaneous (puncture through the skin instead of incision) or Open (surgical incision) tracheostomy.

(1) Loss of voice.

(2) Breathing difficulties.

(3) Pneumothorax (collapsed lung) with e need for insertion of chest tube.

(4) Hemothorax (blood in the chest around the lung).

(5) Scarring in trachea (windpipe).

(6) Fistula (connection) between trachea into esophagus (tube from throat to stomach) or great vessels.

(7) Bronchospasm (constriction of the airways leading to trouble breathing).

(8) Hemoptysis (coughing up blood which can result in trouble breathing and the need to be placed on a ventilator or breathing machine and oxygen).

(j) Bronchoscopy (insertion of a camera into the airways of the neck and chest).

(1) Mucosal injury (damage to lining of airways) including perforation (hole in the airway).

(2) Pneumothorax (collapsed lung) with need for insertion of chest tube.

(3) Pneumomediastinum (air enters the space around the airways including the space around the heart).

(4) Injury to vocal cords, laryngospasm (irritation/spasm of the vocal cords) or laryngeal edema (swelling of the vocal cords).

(5) Bronchospasm (constriction of the airways leading to trouble breathing).

(6) Hemoptysis (coughing up blood which can result in trouble breathing and the need to be placed on a ventilator or breathing machine and oxygen).

(k) Endobronchial valve placement (device inserted into airways in the lung that controls air movement into and out of abnormal portions of a lung).

(1) Mucosal injury (damage to lining of airways) including perforation (hole in the airway).

(2) Pneumothorax (collapsed lung) with need for insertion of chest tube.

(3) Pneumomediastinum (air enters the space around the airways including the space around the heart).

(4) Injury to vocal cords, laryngospasm (irritation/spasm of the vocal cords) or laryngeal edema (swelling of the vocal cords).

(5) Migration (movement) of the stent from its original position.

(6) Airway blockage, potentially life threatening.

(7) Stent blockage.

(8) Worsening of chronic obstructive pulmonary disease (worsening of emphysema).

(9) Respiratory failure (need for breathing tube placement with ventilator support).

(10) Bronchospasm (constriction of the airways leading to trouble breathing).

(11) Hemoptysis (coughing up blood which can result in trouble breathing and the need to be placed on a ventilator or breathing machine and oxygen).

(12) Recurrent infections.

(l) Endobronchial balloon dilatation with or without stent placement (placement of tube to keep airway open).

(1) Bronchial rupture (tearing of the airway) with need for additional surgery.

(2) Pneumothorax (collapsed lung) with need for insertion of chest tube.

(3) Pneumomediastinum (air enters the space around the airways including the space around the heart).

(4) Injury to vocal cords, laryngospasm (irritation/spasm of the vocal cords) or laryngeal edema (swelling of the vocal cords).

(5) Migration (movement) of the stent from its original position.

(6) Airway blockage, potentially life threatening.

(7) Stent blockage.

(8) Stent fracture (broken stent).

(9) Recurrent infections.

(10) Stent erosion into adjacent structures (stent wears a hole through the airway and injures nearby tissues).

(11) Hemoptysis (coughing up blood which can result in respiratory distress and the need to be placed on a ventilator or breathing machine and oxygen).

(m) Mediastinoscopy (insertion of a camera into the space behind the breastbone and between the lungs) with or without biopsy (removal of tissue).

(1) Hemorrhage (severe bleeding) requiring open surgery.

(2) Nerve injury causing vocal cord paralysis or poor function.

(3) Pneumothorax (collapsed lung).

(4) Tracheal injury (damage to the airway/windpipe).

(n) Pleurodesis (procedure to prevent fluid build-up in space between the lung and chest wall).

(1) Respiratory failure (need for breathing tube placement).

(2) Empyema (infection/pus in the space around the lung).

§602.16. Urinary System Treatments and Procedures.

(a) Partial nephrectomy (removal of part of the kidney).

(1) Incomplete removal of stone(s) or tumor, if present.

(2) Blockage of urine.

(3) Leakage of urine at surgical site.

(4) Injury to or loss of the kidney.

(5) Damage to organs next to kidney.

(b) Radical nephrectomy (removal of kidney and adrenal gland for cancer).

(1) Loss of the adrenal gland (gland on top of kidney that makes certain hormones/chemicals the body needs).

(2) Incomplete removal of tumor.

(3) Damage to organs next to kidney.

(c) Nephrectomy (removal of kidney).

(1) Incomplete removal of tumor if present.

(2) Damage to organs next to kidney.

(3) Injury to or loss of the kidney.

(d) Nephrolithotomy and pyelolithotomy (removal of kidney stone(s)).

(1) Incomplete removal of stone(s).

(2) Blockage of urine.

(3) Leakage of urine at surgical site.

(4) Injury or loss of the kidney.

(5) Damage to organs next to kidney.

(e) Pyeloureteroplasty (pyeloplasty or reconstruction of the kidney drainage system).

(1) Blockage of urine.

(2) Leakage of urine at surgical site.

(3) Injury to or loss of the kidney.

(4) Damage to organs next to kidney.

(f) Exploration of kidney or perinephric mass.

(1) Incomplete removal of stone(s) or tumor, if present.

(2) Leakage of urine at surgical site.

(3) Injury to or loss of the kidney.

(4) Damage to organs next to kidney.

(g) Ureteroplasty (reconstruction of ureter (tube between kidney and bladder)).

(1) Leakage of urine at surgical site.

(2) Incomplete removal of the stone or tumor (when applicable).

(3) Blockage of urine.

(4) Damage to organs next to ureter.

(5) Damage to or loss of the ureter.

(h) Ureterolithotomy (surgical removal of stone(s) from ureter (tube between kidney and bladder)).

(1) Leakage of urine at surgical site.

(2) Incomplete removal of stone.

(3) Blockage of urine.

(4) Damage to organs next to ureter.

(5) Damage to or loss of ureter.

(i) Ureterectomy (partial/complete removal of ureter (tube between kidney and bladder)).

- (1) Leakage of urine at surgical site.
- (2) Incomplete removal of stone.
- (3) Blockage of urine.
- (4) Damage to organs next to ureter.
- (j) Ureterolysis (partial/complete removal of ureter (tube between kidney and bladder from adjacent tissue)).
 - (1) Leakage of urine at surgical site.
 - (2) Blockage of urine.
 - (3) Damage to organs next to ureter.
 - (4) Damage to or loss of ureter.
- (k) Ureteral reimplantation (reinserting ureter (tube between kidney and bladder) into the bladder).
 - (1) Leakage of urine at surgical site.
 - (2) Blockage of urine.
 - (3) Damage to or loss of ureter.
 - (4) Backward flow of urine from bladder into ureter.
 - (5) Damage to organs next to ureter.
- (l) Prostatectomy (partial or total removal of prostate).
 - (1) Leakage of urine at surgical site.
 - (2) Blockage of urine.
 - (3) Incontinence (difficulty with control of urine flow).
 - (4) Semen passing backward into bladder.
 - (5) Difficulty with penile erection (possible with partial and probable with total prostatectomy).
- (m) Total cystectomy (removal of bladder).
 - (1) Probable loss of penile erection and ejaculation in the male.
 - (2) Damage to organs next to bladder.
 - (3) This procedure will require an alternate method of urinary drainage.
- (n) Radical cystectomy.
 - (1) Probable loss of penile erection and ejaculation in the male.
 - (2) Damage to organs next to bladder.
 - (3) This procedure will require an alternate method of urinary drainage.
 - (4) Chronic (continuing) swelling of thighs, legs and feet.
 - (5) Recurrence or spread of cancer if present.
- (o) Partial cystectomy (partial removal of bladder).
 - (1) Leakage of urine at surgical site.
 - (2) Incontinence (difficulty with control of urine flow).
 - (3) Backward flow of urine from bladder into ureter (tube between kidney and bladder).
 - (4) Blockage of urine.
 - (5) Damage to organs next to bladder.
- (p) Urinary diversion (ileal conduit, colon conduit).
 - (1) Blood chemistry abnormalities requiring medication.
 - (2) Development of stones, strictures or infection in the kidneys, ureter or bowel (intestine).
 - (3) Leakage of urine at surgical site.
 - (4) This procedure will require an alternate method of urinary drainage.
- (q) Ureterosigmoidostomy (placement of kidney drainage tubes into the large bowel (intestine)).
 - (1) Blood chemistry abnormalities requiring medication.
 - (2) Development of stones, strictures or infection in the kidneys, ureter or bowel (intestine).
 - (3) Leakage of urine at surgical site.
 - (4) Difficulty in holding urine in the rectum.
- (r) Urethroplasty (construction/reconstruction of drainage tube from bladder).
 - (1) Leakage of urine at surgical site.
 - (2) Stricture formation (narrowing of urethra (tube from bladder to outside)).
 - (3) Need for additional surgery.
- (s) Percutaneous nephrostomy/stenting/stone removal.
 - (1) Pneumothorax or other pleural complications (collapsed lung or filling of the chest cavity on the same side with fluid).
 - (2) Septic shock/bacteremia (infection of the blood stream with possible shock/severe lowering of blood pressure) when pyonephrosis (infected urine in the kidney) present.
 - (3) Bowel (intestinal) injury.
 - (4) Blood vessel injury with or without significant bleeding.
- (t) Dialysis (technique to replace functions of kidney and clean blood of toxins).
 - (1) Hemodialysis.
 - (A) Hypotension (low blood pressure).
 - (B) Hypertension (high blood pressure).
 - (C) Air embolism (air bubble in blood vessel) resulting in possible death or paralysis.
 - (D) Cardiac arrhythmias (irregular heart rhythms).
 - (E) Infections of blood stream, access site, or blood borne (for example: Hepatitis B, C, or HIV).
 - (F) Hemorrhage (severe bleeding as a result of clotting problems or due to disconnection of the bloodline).
 - (G) Nausea, vomiting, cramps, headaches, and mild confusion during and/or temporarily after dialysis.
 - (H) Allergic reactions.
 - (I) Chemical imbalances and metabolic disorders (unintended change in blood minerals).
 - (J) Pyrogenic reactions (fever).
 - (K) Hemolysis (rupture of red blood cells).
 - (L) Graft/fistula damage including bleeding, aneurysm, formation (ballooning of vessel), clotting (closure) of graft/fistula.

(2) Peritoneal dialysis.

(A) Infections, including peritonitis (inflammation or irritation of the tissue lining the inside wall of abdomen and covering organs), catheter infection and catheter exit site infection.

(B) Development of hernias of umbilicus (weakening of abdominal wall or muscle).

(C) Hypertension (high blood pressure).

(D) Hypotension (low blood pressure).

(E) Hydrothorax (fluid in chest cavity).

(F) Arrhythmia (irregular heart rhythm).

(G) Perforation of the bowel.

(H) Sclerosis or scarring of the peritoneum.

(I) Weight gain leading to obesity.

(J) Abdominal discomfort/distension.

(K) Heartburn or reflux.

(L) Increase in need for anti-diabetic medication.

(M) Muscle weakness.

(N) Dehydration (extreme loss of body fluid).

(O) Chemical imbalances and metabolic disorders (unintended change in blood minerals).

(P) Allergic reactions.

(Q) Nausea, vomiting, cramps, headaches, and mild confusion during and/or temporarily after dialysis.

§602.17. Psychiatric Treatments and Procedures.

(a) Electroconvulsive therapy with modification by intravenous muscle relaxants and sedatives.

(1) Memory changes of events prior to, during, and immediately following the treatment.

(2) Fractures or dislocations of bones.

(3) Significant temporary confusion requiring special care.

(b) Other Procedures. No other procedures are assigned at this time.

§602.18. Radiation Therapy Treatments and Procedures.

(a) A child is defined for the purpose of this section as an individual who is not physiologically mature as determined by the physician using the appropriate medical parameters.

(b) Head and neck.

(1) Early reactions.

(A) Reduced and sticky saliva, loss of taste and appetite, altered sense of smell, nausea.

(B) Sore throat, difficulty swallowing, weight loss, fatigue.

(C) Skin changes: redness, irritation, scaliness, blistering or ulceration, color change, thickening, hair loss.

(D) Hoarseness, cough, loss of voice, and swelling of airway.

(E) Blockage and crusting of nasal passages.

(F) Inflammation of ear canal, feeling of "stopped up" ear, hearing loss, dizziness.

(G) Dry and irritable eye(s).

(H) In children, these reactions are likely to be intensified by chemotherapy before, during or after radiation therapy.

(I) In children, depression of blood count leading to increased risk of infection and/or bleeding is more common.

(2) Late reactions.

(A) Dry mouth and altered sense, or loss, of taste.

(B) Tooth decay and gum changes.

(C) Bone damage, especially in jaws.

(D) Stiffness and limitation of jaw movement.

(E) Changes in skin texture and/or coloration, permanent hair loss, and scarring of skin.

(F) Swelling of tissues, particularly under the chin.

(G) Throat damage causing hoarseness, pain or difficulty breathing or swallowing.

(H) Eye damage causing dry eye(s), cataract, loss of vision, or loss of eye(s).

(I) Ear damage causing dryness of ear canal, fluid collection in middle ear, hearing loss.

(J) Brain, spinal cord or nerve damage causing alteration of thinking ability or memory, and/or loss of strength, feeling or coordination in any part of the body.

(K) Pituitary or thyroid gland damage requiring long-term hormone replacement therapy.

(L) In children, there may be additional late reactions.

(i) Disturbance of bone and tissue growth.

(ii) Bone damage to face causing abnormal development.

(iii) Brain damage causing a loss of intellectual ability, learning capacity, and reduced intelligence quotient (IQ).

(iv) Second cancers developing in the irradiated area.

(c) Central nervous system.

(1) Early reactions.

(A) Skin and scalp reaction with redness, irritation, scaliness, blistering, ulceration, change in color, thickening, hair loss.

(B) Nausea, vomiting, headaches.

(C) Fatigue, drowsiness.

(D) Altered sense of taste or smell.

(E) Inflammation of ear canal, feeling of "stopped-up" ear, hearing loss, dizziness.

(F) Depression of blood count leading to increased risk of infection and/or bleeding.

(G) In children, these reactions are likely to be intensified by chemotherapy before, during or after radiation therapy.

(H) In children, depression of blood count leading to increased risk of infection and/or bleeding is more common.

(2) Late reactions.

(A) Permanent hair loss of variable degrees, altered growth, texture and color of hair.

(B) Persistent drowsiness and tiredness.

(C) Brain damage causing a loss of some degree of thinking ability or memory, or personality changes.

(D) Scarring of skin.

(E) Spinal cord or nerve damage causing loss of strength, feeling or coordination in any part of the body.

(F) Damage to eye(s), or optic nerve(s) causing loss of vision.

(G) Ear damage causing dryness of ear canal, fluid collection in middle ear, hearing loss.

(H) Pituitary gland damage requiring long-term hormone replacement therapy.

(I) In children, there may be additional late reactions.

(i) Disturbances of bone and tissue growth.

(ii) Bone damage to spine, causing stunting of growth, curvature and/or reduction in height.

(iii) Bone damage to face, or pelvis causing stunting of bone growth and/or abnormal development.

(iv) Brain damage causing a loss of intellectual ability, learning capacity, and reduced intelligence quotient (IQ).

(v) Second cancers developing in the irradiated area.

(d) Thorax.

(1) Early reactions.

(A) Skin changes: redness, irritation, scaliness, ulceration, change in color, thickening, hair loss.

(B) Inflammation of esophagus causing pain on swallowing, heartburn, or sense of obstruction.

(C) Loss of appetite, nausea, vomiting.

(D) Weight loss, weakness, vomiting.

(E) Inflammation of the lung with pain, fever and cough.

(F) Inflammation of the heart sac with chest pain and palpitations.

(G) Bleeding or creation of a fistula resulting from tumor destruction.

(H) Depression of blood count leading to increased risk of infection and/or bleeding.

(I) Intermittent electric shock-like feelings in the lower spine or legs on bending the neck.

(J) In children, these reactions are likely to be intensified by chemotherapy before, during or after radiation therapy.

(K) In children, depression of blood count leading to increased risk of infection and/or bleeding is more common.

(2) Late reactions.

(A) Changes in skin texture and/or coloration, permanent hair loss and scarring of skin.

(B) Lung scarring or shrinkage causing shortness of breath.

(C) Narrowing of esophagus causing swallowing problems.

(D) Constriction of heart sac which may require surgical correction.

(E) Damage to heart muscle or arteries leading to heart failure.

(F) Fracture of ribs.

(G) Nerve damage causing pain, loss of strength or feeling in arms.

(H) Spinal cord damage causing loss of strength or feeling in arms and legs, and/or loss of control of bladder and rectum.

(I) In children, there may be additional late reactions.

(i) Disturbances of bone and tissue growth.

(ii) Bone damage to spine, causing stunting of growth, curvature and/or reduction in height.

(iii) Underdevelopment or absence of development of female breast.

(iv) Second cancers developing in the irradiated area.

(e) Breast.

(1) Early reactions.

(A) Skin changes: redness, irritation, scaliness, blistering, ulceration, coloration, thickening, and hair loss.

(B) Breast changes including swelling, tightness, or tenderness.

(C) Inflammation of the esophagus causing pain or swallowing, heartburn, or sense of obstruction.

(D) Lung inflammation with cough.

(E) Inflammation of heart sac with chest pain and palpitations.

(2) Late reactions.

(A) Changes in skin texture and/or coloration, permanent hair loss, scarring of skin.

(B) Breast changes including thickening, firmness, tenderness, shrinkage.

(C) Swelling of arm.

(D) Stiffness and discomfort in shoulder joint.

(E) Rib or lung damage causing pain, fracture, cough, shortness of breath.

(F) Nerve damage causing pain, loss of strength or feeling in arm.

(G) Damage to heart muscle or arteries or heart sac leading to heart failure.

(f) Abdomen.

(1) Early reactions.

(A) Skin changes: redness, irritation, scaliness, ulceration, coloration, thickening, hair loss.

(B) Loss of appetite, nausea, vomiting.

(C) Weight loss, weakness, fatigue.

(D) Inflammation of stomach causing indigestion, heartburn, and ulcers.

(E) Inflammation of bowel causing cramping and diarrhea.

(F) Depression of blood count leading to increased risk of infections and/or bleeding.

(G) In children, these reactions are likely to be intensified by chemotherapy before, during and after radiation therapy.

(H) In children, depression of blood count leading to increased risk of infection and/or bleeding is more common.

(2) Late reactions.

(A) Changes in skin texture and/or coloration, permanent hair loss, scarring of skin.

(B) Stomach damage causing persistent indigestion, pain, and bleeding.

(C) Bowel damage causing narrowing or adhesions of bowel with obstruction, ulceration, or bleeding which may require surgical correction, chronic diarrhea, or poor absorption of food elements.

(D) Kidney damage leading to kidney failure and/or high blood pressure.

(E) Liver damage leading to liver failure.

(F) Spinal cord or nerve damage causing loss of strength or feeling in legs and/or loss of control of bladder and/or rectum.

(G) In children, there may be additional late reactions.

(i) Disturbances of bone and tissue growth.

(ii) Bone damage to spine causing stunting of growth, curvature and/or reduction in height.

(iii) Bone damage to pelvis causing stunting of bone growth and/or abnormal development.

(iv) Second cancers developing in the irradiated area.

(g) Female pelvis.

(1) Early reactions.

(A) Inflammation of bowel causing cramping and diarrhea.

(B) Inflammation of rectum and anus causing pain, spasm, discharge, bleeding.

(C) Bladder inflammation causing burning, frequency, spasm, pain, bleeding.

(D) Skin changes: redness, irritation, scaliness, blistering or ulceration, coloration, thickening, hair loss.

(E) Disturbance of menstrual cycle.

(F) Vaginal discharge, pain, irritation, bleeding.

(G) Depression of blood count leading to increased risk of infection and/or bleeding.

(H) In children, these reactions are likely to be intensified by chemotherapy before, during, or after radiation therapy.

(I) In children, depression of blood count leading to increased risk of infection and/or bleeding is more common.

(2) Late reactions.

(A) Bowel damage causing narrowing or adhesions of the bowel with obstruction, ulceration, bleeding, chronic diarrhea, or poor absorption of food elements and may require surgical correction or colostomy.

(B) Bladder damage with loss of capacity, frequency of urination, blood in urine, recurrent urinary infections, pain, or spasm which may require urinary diversion and/or removal of bladder.

(C) Changes in skin texture and/or coloration, permanent hair loss, scarring of skin.

(D) Bone damage leading to fractures.

(E) Ovarian damage causing infertility, sterility, or premature menopause.

(F) Vaginal damage leading to dryness, shrinkage, pain, bleeding, or sexual dysfunction.

(G) Swelling of the genitalia or legs.

(H) Nerve damage causing pain, loss of strength or feeling in legs, and/or loss of control of bladder or rectum.

(I) Fistula between the bladder and/or bowel and/or vagina.

(J) In children, there may be additional late reactions.

(i) Disturbances of bone and tissue growth.

(ii) Bone damage to pelvis and hips causing stunting of bone growth and/or abnormal development.

(iii) Second cancers developing in the irradiated area.

(h) Male pelvis.

(1) Early reactions.

(A) Inflammation of bowel causing cramping and diarrhea.

(B) Inflammation of rectum and anus causing pain, spasm, discharge, bleeding.

(C) Bladder inflammation causing burning, frequency, spasm, pain, and/or bleeding.

(D) Skin changes: redness, irritation, scaliness, blistering or ulceration, coloration, thickening, hair loss.

(E) Depression of blood count leading to increased risk of infection and/or bleeding.

(F) In children, these reactions are likely to be intensified by chemotherapy before, during or after radiation therapy.

(G) In children, depression of blood count leading to increased risk of infection and/or bleeding is more common.

(2) Late reactions.

(A) Bowel damage causing narrowing or adhesions of the bowel with obstruction, ulceration, bleeding, chronic diarrhea, or poor absorption of food elements and may require surgical correction or colostomy.

(B) Bladder damage with loss of capacity, frequency of urination, blood in urine, recurrent urinary infections, pain, or spasm which may require urinary diversion and/or removal of bladder.

(C) Changes in skin texture and/or coloration, permanent hair loss, scarring of skin.

(D) Bone damage leading to fractures.

(E) Testicular damage causing reduced sperm counts, infertility, sterility, or risk of birth defects.

(F) Impotence (loss of erection) or sexual dysfunction.

(G) Swelling of the genitalia or legs.

(H) Nerve damage causing pain, loss of strength or feeling in legs, and/or loss of control of bladder or rectum.

(I) Fistula between the bowel and other organs.

(J) In children, there may be additional late reactions.

(i) Disturbances of bone and tissue growth.

(ii) Bone damage to pelvis and hips causing stunting of bone growth and/or abnormal development.

(iii) Second cancers developing in the irradiated area.

(i) Skin.

(1) Early reactions.

(A) Redness, irritation, or soreness.

(B) Scaliness, ulceration, crusting, oozing, discharge.

(C) Hair loss.

(D) These reactions are likely to be intensified by chemotherapy.

(2) Late reactions.

(A) Changes in skin texture causing scaly or shiny smooth skin, thickening with contracture, puckering, scarring of skin.

(B) Changes in skin color.

(C) Prominent dilated small blood vessels.

(D) Permanent hair loss.

(E) Chronic or recurrent ulcerations.

(F) Damage to adjacent tissues including underlying bone or cartilage.

(G) In children, second cancers may develop in the irradiated area.

(j) Extremities.

(1) Early reactions.

(A) Skin changes: redness, irritation, scaliness, ulceration, coloration, thickening, hair loss.

(B) Inflammation of soft tissues causing tenderness, swelling, and interference with movement.

(C) Inflammation of joints causing pain, swelling and limitation of joint motion.

(D) In children, these reactions are likely to be intensified by chemotherapy before, during or after radiation therapy.

(E) In children, depression of blood count leading to increased risk of infection and/or bleeding is more common.

(2) Late reactions.

(A) Changes in skin reaction and/or coloration, permanent hair loss and scarring of the skin.

(B) Scarring or shrinkage of soft tissues and muscle causing loss of flexibility and movement, swelling of the limb.

(C) Nerve damage causing loss of strength, feeling or coordination.

(D) Bone damage causing fracture.

(E) Joint damage causing permanent stiffness, pains and arthritis.

(F) Swelling of limb below the area treated.

(G) In children, there may be additional late reactions.

(i) Disturbances of bone and tissue growth.

(ii) Bone damage to limbs causing stunting of bone growth and/or abnormal development.

(iii) Second cancers developing in the irradiated area.

(k) Total body irradiation.

(1) Early reactions.

(A) Loss of appetite, nausea, vomiting.

(B) Diarrhea.

(C) Reduced and sticky saliva, swelling of the salivary gland(s), loss of taste.

(D) Hair loss.

(E) Sore mouth and throat, difficulty swallowing.

(F) Permanent destruction of bone marrow leading to infection, bleeding, and possible death.

(G) Inflammation of the lung with fever, dry cough and difficulty breathing with possible fatal lung failure.

(H) Damage to liver with possible fatal liver failure.

(I) In children, these reactions are likely to be intensified by chemotherapy before, during or after radiation therapy.

(J) In children, depression of blood count leading to increased risk of infection and/or bleeding is more common.

(2) Late reactions.

(A) Lung scarring causing shortness of breath, infection, and fatal lung failure.

(B) Cataract formation in the eyes, possible loss of vision.

(C) Testicular damage in males causing sterility.

(D) Ovarian damage in females causing premature menopause and sterility.

(E) Increased risk of second cancer.

§602.19. Laparoscopic, Thoracoscopic and Robotic Surgery Treatments and Procedures.

The following shall be in addition to risks and hazards of the same surgery when done as an open procedure.

(1) Damage during introduction of trocar to adjacent intra-abdominal structures (e.g., organs, blood vessels, or other vital tissues) and potential need for additional surgery.

(2) Trocar site complications (e.g., hematoma/bleeding, leakage of fluid, or hernia formation).

(3) Air embolus (bubble causing heart failure or stroke).

(4) Postoperative pneumothorax (collapsed lung).

(5) Subcutaneous emphysema (air in between skin layers).

(6) Change during the procedure to an open procedure.

(7) If cancer is present, may increase the risk of the spread of cancer.

§602.20. Pain Management Treatments and Procedures.

(a) Neuroaxial procedures (injections into or around spine).

(1) Failure to reduce pain or worsening of pain.

(2) Nerve damage including paralysis (inability to move).

(3) Epidural hematoma (bleeding in or around spinal canal).

(4) Infection.

(5) Seizure.

(6) Persistent leak of spinal fluid which may require surgery.

(7) Breathing and/or heart problems including cardiac arrest (heart stops beating).

(8) Loss of vision.

(9) Stroke.

(b) Peripheral and visceral nerve blocks and/or ablations.

(1) Failure to reduce pain or worsening of pain.

(2) Bleeding.

(3) Nerve damage including paralysis (inability to move).

(4) Infection.

(5) Damage to nearby organ or structure.

(6) Seizure.

(c) Implantation of pain control devices.

(1) Failure to reduce pain or worsening of pain.

(2) Nerve damage including paralysis (inability to move).

(3) Epidural hematoma (bleeding in or around spinal canal).

(4) Infection.

(5) Persistent leak of spinal fluid which may require surgery.

§602.21. Dental Surgery Treatments and Procedures.

(a) Oral surgery.

(1) Extraction (removing teeth).

(A) Dry socket (inflammation in the socket of a tooth).

(B) Permanent or temporary numbness or altered sensation.

(C) Sinus communication (opening from tooth socket into the sinus cavity).

(D) Fracture of alveolus and/or mandible (upper and/or lower jaw).

(2) Surgical exposure of tooth in order to facilitate orthodontics.

(A) Injury to tooth or to adjacent teeth and structures.

(B) Failure to get proper attachment to tooth requiring additional procedure.

(b) Endodontics (deals with diseases of the dental pulp).

(1) Apicoectomy (surgical removal of root tip or end of the tooth, with or without sealing it).

(A) Shrinkage of the gums and crown margin exposure.

(B) Sinus communication (opening from tooth socket into the sinus cavity).

(C) Displacement of teeth or foreign bodies into nearby tissues, spaces, and cavities.

(2) Root amputation (surgical removal of portion of one root of a multi-rooted tooth).

(A) Shrinkage of the gums and crown margin exposure.

(B) Sinus communication (opening from tooth socket into the sinus cavity).

(C) Displacement of teeth or foreign bodies into nearby tissues, spaces, and cavities.

(3) Root canal therapy (from an occlusal access in order to clean and fill the canal system).

(A) Instrument separation (tiny files which break within the tooth canal system).

(B) Fenestration (penetration of walls of tooth into adjacent tissue).

(C) Failure to find and/or adequately fill all canals.

(D) Expression of irrigants or filling material past the apex of the tooth (chemicals used to clean or materials used to fill a root may go out the end of the root and cause pain or swelling).

(E) Damage to adjacent tissues from irrigants or clamps.

(F) Fracture or loss of tooth.

(c) Periodontal surgery (surgery of the gums).

(1) Gingivectomy and gingivoplasty (involves the removal of soft tissue).

(A) Tooth sensitivity to hot, cold, sweet, or acid foods.

(B) Shrinkage of the gums upon healing resulting in teeth appearing longer and greater spaces between some teeth.

(2) Anatomical crown exposure (removal of enlarged gingival tissue and supporting bone to provide an anatomically correct gingival relationship).

(A) Tooth sensitivity to hot, cold, sweet, or acid foods.

(B) Shrinkage of the gums upon healing resulting in teeth appearing longer and greater spaces between some teeth.

(3) Gingival flap procedure, including root planing (soft tissue flap is laid back or removed to allow debridement (cleaning) of the root surface and the removal of granulation tissue (unhealthy soft tissue)).

(A) Permanent or temporary numbness or altered sensation.

(B) Tooth sensitivity to hot, cold, sweet, or acid foods.

(C) Shrinkage of the gums upon healing resulting in teeth appearing longer and greater spaces between some teeth.

(4) Apically positioned flap (used to preserve keratinized gingival (attached gum tissue) in conjunction with osseous resection (removal) and second stage implant procedure).

(A) Permanent or temporary numbness or altered sensation.

(B) Shrinkage of the gums upon healing resulting in teeth appearing longer and greater spaces between some teeth.

(5) Clinical crown lengthening (removal of gum tissue and/or bone from around tooth).

(A) Permanent or temporary numbness or altered sensation.

(B) Shrinkage of the gums upon healing resulting in teeth appearing longer and greater spaces between some teeth.

(6) Osseous surgery-including flap entry and closure (modification of the bony support of the teeth).

(A) Permanent or temporary numbness or altered sensation.

(B) Tooth sensitivity to hot, cold, sweet, or acid foods.

(C) Loss of tooth.

(D) Shrinkage of the gums upon healing resulting in teeth appearing longer and greater spaces between some teeth.

(7) Guided tissue regeneration-resorbable barrier.

(A) Permanent or temporary numbness or altered sensation.

(B) Accidental aspiration (into the lungs) of foreign matter.

(C) Rejection of donor materials.

(8) Guided tissue regeneration-nonresorbable barrier (includes membrane removal).

(A) Permanent or temporary numbness or altered sensation.

(B) Shrinkage of the gums upon healing resulting in teeth appearing longer and greater spaces between some teeth.

(C) Accidental aspiration (into the lungs) of foreign matter.

(D) Rejection of donor materials.

(9) Pedicle soft tissue graft procedure.

(A) Permanent or temporary numbness or altered sensation.

(B) Shrinkage of the gums upon healing resulting in teeth appearing longer and greater spaces between some teeth.

(C) Rejection of donor materials.

(10) Free soft tissue graft protection-including donor site surgery.

(A) Permanent or temporary numbness or altered sensation.

(B) Shrinkage of the gums upon healing resulting in teeth appearing longer and greater spaces between some teeth.

(C) Rejection of graft.

(11) Sub epithelial connective tissue graft procedures.

(A) Permanent or temporary numbness or altered sensation.

(B) Shrinkage of the gums upon healing resulting in teeth appearing longer and greater spaces between some teeth.

(C) Rejection of graft.

(12) Distal or proximal wedge procedure (taking off gum tissue from the very back of the last tooth or between teeth). Shrinkage of the gums upon healing resulting in teeth appearing longer and greater spaces between some teeth.

(13) Soft tissue allograft and connective tissue double pedicle graft from below (creates or augments gum tissue).

(A) Permanent or temporary numbness or altered sensation.

(B) Tooth sensitivity to hot, cold, sweet, or acid foods.

(C) Shrinkage of the gums upon healing resulting in teeth appearing longer and greater spaces between some teeth.

(d) Implant procedures.

(1) Bone grafting (replacing missing bone).

(A) Permanent or temporary numbness or altered sensation.

(B) Rejection of bone particles or graft from donor or recipient sites.

(C) Damage to adjacent teeth or bone.

(2) Surgical placement of implant body.

(A) Blood vessel or nerve injury.

(B) Damage to adjacent teeth or bone fracture.

(C) Sinus communication (opening from tooth socket into the sinus cavity).

(D) Failure of implant requiring corrective surgery.

(E) Cyst formation, bone loss, or gum disease around the implant.

§602.22. *Plastic Surgery and Surgery of the Integumentary System Treatments and Procedures.*

(a) Augmentation mammoplasty (breast enlargement with implant).

(1) Bleeding around implant.

(2) Sensory changes or loss of nipple sensitivity.

(3) Failure, deflation, or leaking of implant requiring re-placement.

(4) Worsening or unsatisfactory appearance including asymmetry (unequal size or shape).

(5) Problems with or the inability to breastfeed.

(6) Capsular contracture (hardening of breast).

(b) Bilateral breast reduction.

(1) Skin flap or fat necrosis (injury or death of skin and fat).

- (2) Loss of nipple or areola.
- (3) Sensory changes or loss of nipple sensitivity.
- (4) Problems with or the inability to breastfeed.
- (5) Worsening or unsatisfactory appearance including asymmetry (unequal size or shape or not desired size).

(c) Rhinoplasty or nasal reconstruction with or without septoplasty (repairing the middle wall of the nose).

(1) Development of new problems, such as perforation of the nasal septum (hole in wall between the right and left halves of the nose) or breathing difficulty.

- (2) Spinal fluid leak.
- (3) Worsening or unsatisfactory appearance.

(d) Reconstruction and/or plastic surgery operations of the face and neck.

(1) Impairment of regional organs, such as eye or lip function.

- (2) Recurrence of the original condition.
- (3) Worsening or unsatisfactory appearance.

(e) Liposuction (removal of fat by suction).

(1) Shock.

(2) Pulmonary fat embolism (fat escaping with possible damage to vital organs).

- (3) Damage to skin with possible skin loss.
- (4) Loose skin.
- (5) Worsening or unsatisfactory appearance.

(f) Breast reconstruction with other flaps and/or implants.

(1) Bleeding around implant.

(2) Sensory changes or loss of nipple sensitivity.

(3) Failure, deflation, or leaking of implant requiring replacement.

- (4) Damage to internal organs.
- (5) Worsening or unsatisfactory appearance including asymmetry (unequal size or shape).

(g) Nipple Areolar Reconstruction.

- (1) Loss of graft.
- (2) Unsatisfactory appearance.

(h) Panniclecotomy (removal of skin and fat).

- (1) Persistent swelling in the legs.
- (2) Nerve damage.
- (3) Worsening or unsatisfactory appearance.

(i) Tendonitis, tendon release, and trigger releases.

- (1) Recurrence of symptoms.
- (2) Damage to blood vessels, nerves, tendons, or muscles.
- (3) Worsening function.

(j) Breast reconstruction with flaps.

- (1) Damage to blood vessels, nerves, or muscles.

(2) Loss of flap possibly requiring additional surgery.

(3) Damage to internal organs.

(4) Increased risk of abdominal wall complications with pregnancy.

(5) Abdominal hernias with abdominal flaps.

(6) Chronic abdominal pain with abdominal flaps.

(7) Worsening or unsatisfactory appearance including asymmetry (unequal size or shape).

(k) Flap or graft surgery.

(1) Damage to blood vessels, nerves, or muscles.

(2) Deep vein thrombosis (blood clot in legs or arms).

(3) Loss of flap possibly requiring additional surgery.

(4) Worsening or unsatisfactory appearance.

(l) Tendons, nerves, or blood vessel repair.

(1) Damage to nerves.

(2) Deep vein thrombosis (blood clot in legs or arms).

(3) Rupture of repair.

(4) Worsening of function.

(m) Reconstructive and/or plastic surgical procedures of the eye and eye region, such as blepharoplasty, tumor, fracture, lacrimal surgery, foreign body, abscess, or trauma. See §602.6(d) of this chapter (relating to Eye Treatments and Procedures).

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Dr. Noah Appel

Panel Chairman

Texas Medical Disclosure Panel

Earliest possible date of adoption: August 27, 2023

For further information, please call: (512) 438-2889



CHAPTER 603. PROCEDURES REQUIRING NO DISCLOSURE OF SPECIFIC RISKS AND HAZARDS--LIST B

25 TAC §§603.1 - 603.21

The Texas Medical Disclosure Panel (Panel) is proposing new §§603.1 - 603.21, concerning Procedures Requiring No Disclosure of Specific Risks and Hazards--List B in the Texas Administrative Code, Title 25, Part 7, Chapter 603.

BACKGROUND AND PURPOSE

These rule repeals and new rules are proposed in accordance with Texas Civil Practice and Remedies Code §74.102, which created the Panel to determine which risks and hazards related to medical care and surgical procedures must be disclosed by health care providers or physicians to their patients or persons authorized to consent for their patients and to establish the general form and substance of such disclosure.

The purpose of this project is to repeal current 25 TAC Chapter 601, Informed Consent, and replace it in a nonsubstantive manner with multiple chapters in order to make the Panel's determinations regarding risks and hazards related to medical care and surgical procedures more accessible to the public and more user-friendly.

The proposed new Chapter 601 will contain the purpose and history of the rules at 25 TAC Part 7, Texas Medical Disclosure Panel. These new rules are published elsewhere in this issue of the *Texas Register*.

The proposed new Chapter 602 will list each type of treatment and procedure that the Panel has determined requires full disclosure of the risks and hazards associated with it in a separate section, instead of in a single section at the repealed §601.2. These new rules are published elsewhere in this issue of the *Texas Register*.

The proposed new Chapter 603 will list each type of treatment and procedure that the Panel has determined requires no disclosure of the risks and hazards associated with it in a separate chapter, instead of in a single section at the repealed §601.3.

The proposed new Chapter 604 will contain general, radiation therapy, electroconvulsive therapy, hysterectomy, and anesthesia and/or perioperative pain management disclosure and consent forms. These new rules are published elsewhere in this issue of the *Texas Register*.

SECTION-BY-SECTION SUMMARY

Proposed new §603.1, Anesthesia treatments and procedures, lists the anesthesia treatments and procedures that the Panel has determined require no disclosure of the risks and hazards associated with them.

Proposed new §603.2, Cardiovascular system treatments and procedures, lists the cardiovascular system treatments and procedures that the Panel has determined require no disclosure of the risks and hazards associated with them.

Proposed new §603.3, Digestive system treatments and procedures, lists the digestive system treatments and procedures that the Panel has determined require no disclosure of the risks and hazards associated with them.

Proposed new §603.4, Ear treatments and procedures, lists the ear treatments and procedures that the Panel has determined require no disclosure of the risks and hazards associated with them.

Proposed new §603.5, Endocrine system treatments and procedures, lists the endocrine system treatments and procedures that the Panel has determined require no disclosure of the risks and hazards associated with them.

Proposed new §603.6, Eye treatments and procedures, lists the eye treatments and procedures that the Panel has determined require no disclosure of the risks and hazards associated with them.

Proposed new §603.7, Female genital system treatments and procedures, lists the female genital system treatments and procedures that the Panel has determined require no disclosure of the risks and hazards associated with them.

Proposed new §603.8, Hematic and lymphatic system treatments and procedures, lists the hematic and lymphatic system treatments and procedures that the Panel has determined

require no disclosure of the risks and hazards associated with them.

Proposed new §603.9, Breast surgery (non-cosmetic) treatments and procedures, lists the breast surgery (non-cosmetic) treatments and procedures that the Panel has determined require no disclosure of the risks and hazards associated with them.

Proposed new §603.10, Male genital system treatments and procedures, lists the male genital system treatments and procedures that the Panel has determined require no disclosure of the risks and hazards associated with them.

Proposed new §603.11, Maternity and related cases treatments and procedures, lists the maternity and related cases treatments and procedures that the Panel has determined require no disclosure of the risks and hazards associated with them.

Proposed new §603.12, Musculoskeletal system treatments and procedures, lists the musculoskeletal system treatments and procedures that the Panel has determined require no disclosure of the risks and hazards associated with them.

Proposed new §603.13, Nervous system treatments and procedures, lists the nervous system treatments and procedures that the Panel has determined require no disclosure of the risks and hazards associated with them.

Proposed new §603.14, Radiology treatments and procedures, lists the radiology treatments and procedures that the Panel has determined require no disclosure of the risks and hazards associated with them.

Proposed new §603.15, Respiratory system treatments and procedures, lists the respiratory system treatments and procedures that the Panel has determined require no disclosure of the risks and hazards associated with them.

Proposed new §603.16, Urinary system treatments and procedures, lists the urinary system treatments and procedures that the Panel has determined require no disclosure of the risks and hazards associated with them.

Proposed new §603.17, Psychiatric treatments and procedures, lists the psychiatric treatments and procedures that the Panel has determined require no disclosure of the risks and hazards associated with them.

Proposed new §603.18, Radiation treatments and procedures, lists the radiation treatments and procedures that the Panel has determined require no disclosure of the risks and hazards associated with them.

Proposed new §603.19, Laparoscopic/Thoracoscopic surgery treatments and procedures, lists the laparoscopic/thoracoscopic surgery treatments and procedures that the Panel has determined require no disclosure of the risks and hazards associated with them.

Proposed new §603.20, Pain management treatments and procedures, lists the pain management treatments and procedures that the Panel has determined require no disclosure of the risks and hazards associated with them.

Proposed new §603.21, Plastic surgery and surgery of the integumentary system treatments and procedures, lists the plastic surgery and surgery of the integumentary system treatments and procedures that the Panel has determined require no disclosure of the risks and hazards associated with them.

FISCAL NOTE

Dr. Noah Appel, Panel Chairman, has determined that for each year of the first five years that the rules will be in effect, enforcing or administering the rules do not have foreseeable implications relating to costs or revenues of state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

The Panel has determined that during the first five years that the rules will be in effect:

- (1) the proposed rules will not create or eliminate a government program;
- (2) implementation of the proposed rules will not affect the number of HHSC employee positions;
- (3) implementation of the proposed rules will result in no assumed change in future legislative appropriations;
- (4) the proposed rules will not affect fees paid to HHSC;
- (5) the proposed rules will create new rules;
- (6) the proposed rules will not expand, limit, or repeal existing rules;
- (7) the proposed rules will not change the number of individuals subject to the rules; and
- (8) the Panel has insufficient information to determine the proposed rules' effect on the state's economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Dr. Appel has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities.

The rules do not impose any additional costs on small businesses, micro-businesses, or rural communities that are required to comply with the rules.

HHSC is unable to provide an estimate of the number of small businesses and micro businesses affected.

LOCAL EMPLOYMENT IMPACT

The proposed rules will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to these rules because the rules are necessary to protect the health, safety, and welfare of the residents of Texas and does not impose a cost on regulated persons.

PUBLIC BENEFIT AND COSTS

Dr. Noah Appel, Panel Chairman, has determined that for each year of the first five years the rules are in effect, the public benefit will be improved consistency and clarity in this chapter of the Texas Administrative Code.

AND:

Dr. Appel has also determined that for the first five years the rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules.

TAKINGS IMPACT ASSESSMENT

The Panel has determined that the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code §2007.043.

PUBLIC COMMENT

Comments on the proposal may be submitted to Kelli Weldon, TMDP Liaison, Health and Human Services Commission, 701 West 51st Street, Suite 216A, Austin, Texas 78751; Mail Code 0223, P.O. Box 13247, Austin, Texas 78711; fax (512) 206-3984; office (512) 438-2889, or by email to HHSC_TMDP@hhsc.state.tx.us.

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be: (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) faxed or emailed before midnight on the last day of the comment period. If last day to submit comments falls on a holiday, comments must be post-marked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule" in the subject line.

STATUTORY AUTHORITY

The new sections are authorized under Texas Civil Practice and Remedies Code §74.102, which created the Panel to determine which risks and hazards related to medical care and surgical procedures must be disclosed by health care providers or physicians to their patients or persons authorized to consent for their patients and to establish the general form and substance of such disclosure, and §74.103, which requires the Panel to prepare lists of medical treatments and surgical procedures that do and do not require disclosure by physicians and health care providers of the possible risks and hazards, and to prepare the forms for the treatments and procedures which do require disclosure.

The new sections implement Texas Civil Practice and Remedies Code Chapter 74, Subchapter C.

§603.1. Anesthesia Treatments and Procedures.

Local.

§603.2. Cardiovascular System Treatments and Procedures.

- (a) Excision and ligation of varicose veins of the leg.
- (b) Arterial line for monitoring purposes.

§603.3. Digestive System Treatments and Procedures.

- (a) Appendectomy.
- (b) Hemorrhoidectomy with fistulectomy or fissurectomy.
- (c) Hemorrhoidectomy.
- (d) Incision or excision of perirectal tissue.
- (e) Local excision and destruction of lesion, anus and rectum.
- (f) Operations for correction of cleft palate.
- (g) Repair of inguinal or ventral hernia.
- (h) Repair and plastic operations on anus and rectum.
- (i) Colonoscopy.
- (j) Tonsillectomy with adenoidectomy.
- (k) Tonsillectomy without adenoidectomy.

§603.4. Ear Treatments and Procedures.

- (a) Myringotomy.
- (b) Reconstruction of auricle of ear for skin cancer.
- (c) Tympanoplasty without mastoidectomy.

§603.5. Endocrine System Treatments and Procedures.

No procedures assigned at this time.

§603.6. Eye Treatments and Procedures.

- (a) Administration of topical, parenteral (such as IV), or oral drugs or pharmaceuticals, including, but not limited to, fluorescein angiography, orbital injection or periocular injections.
- (b) Removal of extraocular foreign bodies.
- (c) Chalazion excision.

§603.7. Female Genital System Treatments and Procedures.

No procedures assigned at this time.

§603.8. Hematic and Lymphatic System Treatments and Procedures.

- (a) Biopsy of lymph nodes.
- (b) Other procedures. No other procedures are assigned at this time.

§603.9. Breast Surgery (non-cosmetic) Treatments and Procedures.

- (a) Needle biopsy.
- (b) Incision and drainage of skin lesion.

§603.10. Male Genital System Treatments and Procedures.

- (a) Biopsy of testicle.
- (b) Placement of testicular prosthesis.
- (c) Hydrocelectomy (removal/drainage of cyst in scrotum).
- (d) Cystoscopy.

§603.11. Maternity and Related Cases Treatments and Procedures.

Intrauterine Devices (IUD).

§603.12. Musculoskeletal System Treatments and Procedures.

- (a) Arthrotomy, arthrocentesis, or joint injection (unless performed on a child age 12 or under, see §602.12(g) of this title (relating to Musculoskeletal System Treatments and Procedures)).
- (b) Closed reduction without internal fixation (unless performed on a child age 12 or under, see §602.12(g) of this title).
- (c) Wound debridement (unless performed on a child age 12 or under, see §602.12(g) of this title).
- (d) Needle biopsy or aspiration, bone marrow (unless performed on a child age 12 or under, see §602.12(g) of this title).
- (e) Partial excision of bone (unless performed on a child age 12 or under, see §602.12(g) of this title).
- (f) Removal of external fixation device (unless performed on a child age 12 or under, see §602.12(g) of this title).
- (g) Traction or fixation without manipulation for reduction (unless performed on a child age 12 or under, see §602.12(g) of this title).

§603.13. Nervous System Treatments and Procedures.

- (a) Lumbar puncture.
- (b) Closure of meningomyelocele.
- (c) Ventriculostomy with or without air ventriculogram.

- (d) Cisternal puncture (diagnostic).
- (e) Stereotactic surgery for dystonia.
- (f) Insertion of skeletal tongs.
- (g) Intravenous cut-down.
- (h) Cervical 1-2 puncture (diagnostic).

§603.14. Radiology Treatments and Procedures.

- (a) Lymphangiography.
- (b) Discography.
- (c) Lumbar puncture with/without injection of medication.
- (d) Nerve root injection, epidural injection, nerve blocks, and radiofrequency treatments for pain control.
- (e) Venography (Venogram) with contrast media by peripheral IV.
- (f) Cholangiography with contrast media through existing drain; T-tube cholangiography.
- (g) Urography (IVP) with contrast media.
- (h) Radionuclide scans and/or blood flow studies.
- (i) Gastrointestinal (GI) tract radiography and fluoroscopy.
- (j) Nasogastric/nasojejunal tube placement with fluoroscopy.
- (k) Percutaneous gastrostomy/gastrojejunostomy.
- (l) Fistula or sinus tract injection.
- (m) Sialography.
- (n) Dacryocystography, stenting.
- (o) Cystography, cystourethrography.
- (p) Retrograde and antegrade urography.
- (q) Larynogography, bronchography.
- (r) Hysterosalpingography.
- (s) ERCP (Endoscopic retrograde cholangio pancreatography).
- (t) Galactography.
- (u) Skeletal radiography and/or fluoroscopy (skull, mastoids, sinuses and facial bones; spine, ribs, pelvis; extremities).
- (v) Foreign body radiography and/or fluoroscopy and foreign body retrieval.
- (w) Chest and abdomen radiography and fluoroscopy.
- (x) Portable radiography/fluoroscopy.
- (y) Pelvimetry, fetogram.
- (z) Magnetic Resonance Imaging/Magnetic Resonance Angiography without and with contrast.
- (aa) Computed tomography scan/computed tomography angiogram without and with contrast media.
- (bb) Ultrasound and Doppler studies.
- (cc) Laminography, polytomography.
- (dd) Soft-tissue radiography including xeroradiography and xeromammography.
- (ee) Arthrography, arthrocentesis, tenography.

- (ff) Ureteral or urethral balloon dilatation/stent.
- (gg) Percutaneous suprapubic cystostomy.
- (hh) Cyst aspiration/drainage/sclerosis.
- (ii) Percutaneous or transvascular biopsy.
- (jj) Paracentesis.
- (kk) Thoracentesis.

§603.15. Respiratory System Treatments and Procedures.

- (a) Aspiration of bronchus.
- (b) Reduction of nasal fracture.

§603.16. Urinary System Treatments and Procedures.

- (a) Nephrotomy (placement of drainage tubes).
- (b) Biopsy of prostrate, bladder or urethra.
- (c) Cystolithotomy (surgical removal of stone(s) from the bladder).
- (d) Cystolitholapaxy (cystoscopic crushing and removal of bladder stone(s)).
- (e) Cystostomy (placement of tube into the bladder).
- (f) Urethrotomy (incision of the urethra).
- (g) Diverticulectomy of the bladder (removal of outpouching of the bladder).
- (h) Diverticulectomy or diverticulotomy of the urethra (repair or drainage of outpouching of the urethra).
- (i) Lithotripsy (sound wave removal of stones from kidney and ureter).

§603.17. Psychiatric Treatments and Procedures.

No procedures assigned at this time.

§603.18. Radiation Therapy Treatments and Procedures.

No procedures assigned at this time.

§603.19. Laparoscopic/Thoracoscopic Surgery (including robotic surgery) Treatments and Procedures.

No procedures assigned at this time.

§603.20. Pain Management Treatments and Procedures.

- (a) Trigger point injection (injection into tendon or muscle).
- (b) Scar injection.

§603.21. Plastic Surgery and Surgery of the Integumentary System Treatments and Procedures.

- (a) Cutting and preparation of skin grafts or small pedicle flaps.
- (b) Removal or treatment of local skin or subcutaneous lesion.
- (c) Excision of pilonidal sinus or cyst.
- (d) Suture of skin.
- (e) Wide or radical excision of skin lesion with or without graft.
- (f) Z plasty with or without excision.
- (g) Biopsy of skin or mucus membrane.
- (h) Debridement of ulceration of the skin.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Dr. Noah Appel

Panel Chairman

Texas Medical Disclosure Panel

Earliest possible date of adoption: August 27, 2023

For further information, please call: (512) 438-2889



CHAPTER 604. DISCLOSURE FORMS

25 TAC §§604.1 - 604.5

The Texas Medical Disclosure Panel (Panel) is proposing new §§604.1 - 604.5, concerning Disclosure Forms, in the Texas Administrative Code, Title 25, Part 7, Chapter 604.

BACKGROUND AND PURPOSE

These rule repeals and new rules are proposed in accordance with Texas Civil Practice and Remedies Code §74.102, which created the Panel to determine which risks and hazards related to medical care and surgical procedures must be disclosed by health care providers or physicians to their patients or persons authorized to consent for their patients and to establish the general form and substance of such disclosure.

The purpose of this project is to repeal current 25 TAC Chapter 601, Informed Consent, and replace it in a nonsubstantive manner with multiple chapters in order to make the Panel's determinations regarding risks and hazards related to medical care and surgical procedures more accessible to the public and more user-friendly.

The proposed new Chapter 601 will contain the purpose and history of the rules at 25 TAC Part 7, Texas Medical Disclosure Panel. These new rules are published elsewhere in this issue of the *Texas Register*.

The proposed new Chapter 602 will list each type of treatment and procedure that the Panel has determined requires full disclosure of the risks and hazards associated with it in a separate section, instead of in a single section at the repealed §601.2. These new rules are published elsewhere in this issue of the *Texas Register*.

The proposed new Chapter 603 will list each type of treatment and procedure that the Panel has determined requires no disclosure of the risks and hazards associated with it in a separate section, instead of in a single section at the repealed §601.3. These new rules are published elsewhere in this issue of the *Texas Register*.

The proposed new Chapter 604 will contain general, radiation therapy, electroconvulsive therapy, hysterectomy, and anesthesia and/or perioperative pain management disclosure and consent forms.

SECTION-BY-SECTION SUMMARY

Proposed new §604.1, Disclosure and Consent Form, lists the disclosure and consent forms that the Panel has determined are required to disclose risks and hazards associated with the procedures listed in Chapters 602 and 603.

Proposed new §604.2, Disclosure and Consent Form for Radiation Therapy, lists the disclosure and/or consent forms that the Panel has determined are required to disclose risks and hazards associated with radiation therapy procedures.

Proposed new §604.3, Informed Consent for Electroconvulsive Therapy, sets out disclosure requirements and options for electroconvulsive therapy.

Proposed new §604.4, Disclosure and Consent Form for Hysterectomy, lists the disclosure and/or consent forms that the Panel has determined are required to disclose risks and hazards associated with hysterectomy procedures.

Proposed new §604.5, Disclosure and Consent Form for Anesthesia and/or Perioperative Pain Management (Analgesia), lists the disclosure and/or consent forms that the Panel has determined are required to disclose risks and hazards associated with anesthesia and/or perioperative pain management (analgesia) procedures.

FISCAL NOTE

Dr. Noah Appel, Panel Chairman, has determined that for each year of the first five years that the rules will be in effect, enforcing or administering the rules do not have foreseeable implications relating to costs or revenues of state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

The Panel has determined that during the first five years that the rules will be in effect:

- (1) the proposed rules will not create or eliminate a government program;
- (2) implementation of the proposed rules will not affect the number of HHSC employee positions;
- (3) implementation of the proposed rules will result in no assumed change in future legislative appropriations;
- (4) the proposed rules will not affect fees paid to HHSC;
- (5) the proposed rules will create new rules;
- (6) the proposed rules will not expand, limit, or repeal existing rules;
- (7) the proposed rules will not change the number of individuals subject to the rules; and
- (8) the Panel has insufficient information to determine the proposed rules' effect on the state's economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Dr. Appel has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities.

The rules do not impose any additional costs on small businesses, micro-businesses, or rural communities that are required to comply with the rules.

HHSC is unable to provide an estimate of the number of small businesses and micro businesses affected.

LOCAL EMPLOYMENT IMPACT

The proposed rules will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to this rule because the rule is necessary to protect the health, safety, and welfare of the residents of Texas and does not impose a cost on regulated persons.

PUBLIC BENEFIT AND COSTS

Dr. Noah Appel, Panel Chairman, has determined that for each year of the first five years the rules are in effect, the public benefit will be improved consistency and clarity in this section of the Texas Administrative Code.

AND:

Dr. Appel has also determined that for the first five years the rule is in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rule.

TAKINGS IMPACT ASSESSMENT

The Panel has determined that the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code §2007.043.

PUBLIC COMMENT

Comments on the proposal may be submitted to Kelli Weldon, TMDP Liaison, Health and Human Services Commission, 701 West 51st Street, Suite 216A, Austin, Texas 78751; Mail Code 0223, P.O. Box 13247, Austin, Texas 78711; fax (512) 206-3984; office (512) 438-2889, or by email to HHSC_TMDP@hhsc.state.tx.us.

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be: (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) faxed or emailed before midnight on the last day of the comment period. If last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule" in the subject line.

STATUTORY AUTHORITY

The new sections are authorized under Texas Civil Practice and Remedies Code §74.102, which created the Panel to determine which risks and hazards related to medical care and surgical procedures must be disclosed by health care providers or physicians to their patients or persons authorized to consent for their patients and to establish the general form and substance of such disclosure, and §74.103, which requires the Panel to prepare lists of medical treatments and surgical procedures that do and do not require disclosure by physicians and health care providers of the possible risks and hazards, and to prepare the forms for the treatments and procedures which do require disclosure.

The new sections implement Texas Civil Practice and Remedies Code Chapter 74, Subchapter C.

§604.1. Disclosure and Consent Form.

(a) The Texas Medical Disclosure Panel adopts the following form which shall be used by a physician or health care provider to inform a patient or person authorized to consent for the patient of the possible risks and hazards involved in the medical treatments and surgical procedures named in the form. Except for the procedures shown in subsection (b) of this section, the following form shall be used for the medical treatments and surgical procedures described in Chapter 602 of this title (relating to Procedures Requiring Full Disclosure of Specific Risks and Hazards--List A). Providers shall have the form available in both English and Spanish language versions. Both versions are available from the Health and Human Services Commission.

- (1) English form.

Figure: 25 TAC §604.1(a)(1)

(2) Spanish form.

Figure: 25 TAC §604.1(a)(2)

(b) Informed consent for:

(1) radiation therapy shall be provided in accordance with §604.2 of this chapter (relating to Disclosure and Consent Form for Radiation Therapy);

(2) electroconvulsive therapy shall be provided in accordance with §604.3 of this chapter (relating to Informed Consent for Electroconvulsive Therapy);

(3) hysterectomy procedures shall be provided in accordance with §604.4 of this chapter (relating to Disclosure and Consent Form for Hysterectomy); and

(4) anesthesia and/or perioperative pain management (analgesia) procedures shall be in accordance with §604.5 of this chapter (relating to Disclosure and Consent Form for Anesthesia and/or Perioperative Pain Management (Analgesia)).

§604.2. Disclosure and Consent Form for Radiation Therapy.

The Texas Medical Disclosure Panel adopts the following form to be used by a physician or health care provider to inform a patient or person authorized to consent for a patient of the possible risks and hazards involved in the radiation therapy named in the form. This form is to be used in lieu of the general disclosure and consent form adopted in §604.1(a) of this chapter (relating to Disclosure and Consent Form) for disclosure and consent relating to only radiation therapy procedures. If a surgical or anesthetic procedure is required in combination with a radiation therapy procedure, the general disclosure and consent form as adopted in §604.1(a) of this chapter and the form adopted in this section shall be used. The general disclosure and consent form shall be used for the surgical or anesthetic procedure and the radiation therapy disclosure and consent form shall be used for the radiation therapy procedure. Providers shall have the form available in both English and Spanish language versions. Both versions are available from the Health and Human Services Commission.

(1) English form.

Figure: 25 TAC §604.2(1)

(2) Spanish form.

Figure: 25 TAC §604.2(2)

§604.3. Informed Consent for Electroconvulsive Therapy.

(a) Health and Safety Code (HSC) §578.003, relating to Consent to Therapy, requires the Texas Department of State Health Services (DSHS) to adopt a standard written consent form to be used when electroconvulsive therapy is considered. HSC §578.003 requires that the form include the minimum information which is also required by the Texas Medical Disclosure Panel (panel) for electroconvulsive therapy. HSC §578.003 states that use of the consent form prescribed by DSHS in the manner described by HSC §578.003 creates a rebuttable presumption that the disclosure requirements of Texas Civil Practice and Remedies Code §74.102 have been met.

(b) The panel recognizes that DSHS has adopted a written consent form for electroconvulsive therapy in §405.108 of this title (relating to Informed Consent to ECT).

(c) If the DSHS consent form is in compliance with HSC §578.003, and contains the minimum information required by the panel for electroconvulsive therapy, specifically the risks and hazards identified by the panel, a physician or health care provider using the DSHS consent form for electroconvulsive therapy is not required to

use both the DSHS form and the panel's Disclosure and Consent - Medical Care and Surgical Procedures form to document consent for the electroconvulsive therapy. This section does not constitute approval of DSHS's current consent form or of DSHS's assessment of the risks and hazards associated with electroconvulsive therapy.

(d) If the physician or healthcare provider will be administering List A anesthesia or analgesia in conjunction with electroconvulsive therapy, the panel recommends utilization of the panel's Disclosure and Consent - Anesthesia and/or Perioperative Pain Management (Analgesia) form set out at §604.5(1) or (2) of this chapter (relating to Disclosure and Consent Form for Anesthesia and/or Perioperative Pain Management (Analgesia)) to document disclosure and consent for the anesthesia and analgesia. The panel's form includes the risks and hazards identified by the panel for List A anesthesia and analgesia.

§604.4. Disclosure and Consent Form for Hysterectomy.

The Texas Medical Disclosure Panel adopts the following form which shall be used to provide informed consent to a patient or person authorized to consent for the patient of the possible risks and hazards involved in the hysterectomy surgical procedure named in the form. This form is to be used in lieu of the general disclosure and consent form adopted in §604.1(a) of this chapter (relating to Disclosure and Consent Form) for disclosure and consent relating to only hysterectomy procedures. Providers shall have the form available in both English and Spanish language versions. Both versions are available from the Health and Human Services Commission.

(1) English form.

Figure: 25 TAC §604.4(1)

(2) Spanish form.

Figure: 25 TAC §604.4(2)

§604.5. Disclosure and Consent Form for Anesthesia and/or Perioperative Pain Management (Analgesia).

The Texas Medical Disclosure Panel adopts the following form which shall be used to provide informed consent to a patient or person authorized to consent for the patient of the possible risks and hazards involved in anesthesia and/or perioperative pain management (analgesia). Providers shall have the form available in both English and Spanish language versions. Both versions are available from the Health and Human Services Commission.

(1) English form.

Figure: 25 TAC §604.5(1)

(2) Spanish form.

Figure: 25 TAC §604.5(2)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on July 17, 2023.

TRD-202302563

Dr. Noah Appel

Panel Chairman

Texas Medical Disclosure Panel

Earliest possible date of adoption: August 27, 2023

For further information, please call: (512) 438-2889



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 15. TEXAS VETERANS COMMISSION

CHAPTER 460. FUND FOR VETERANS' ASSISTANCE PROGRAM SUBCHAPTER A. GENERAL PROVISIONS REGARDING THE FUND FOR VETERANS' ASSISTANCE PROGRAM

40 TAC §460.18

The Texas Veterans Commission (Commission) proposes a new rule, Chapter 460, Subchapter A, concerning the General Provisions Regarding the Fund for Veterans' Assistance Program, located in Title 40, Part 15, of the Texas Administrative Code.

PART I. PURPOSE AND BACKGROUND

Effective September 1, 2023, HB 2951 amended Chapter 434, Government Code by adding §434.029 to allow the commission to establish a pilot program for veterans to assist in mitigating the symptoms of military service-related post-traumatic stress disorder, traumatic brain injury, or military sexual trauma through the provision of a service dog. The pilot program concludes, and this section expires September 1, 2027.

PART II. EXPLANATION OF SECTION

SUBCHAPTER A. GENERAL PROVISIONS REGARDING THE FUND FOR VETERANS' ASSISTANCE PROGRAM

§460.18. Service Dog Pilot Program.

Section 460.18 sets out the requirements of the agency to establish a pilot program for veterans to assist in mitigating the symptoms of military service-related post-traumatic disorders, traumatic brain injury, military sexual trauma through the provision of a trained service dog.

PART III. IMPACT STATEMENTS

FISCAL NOTE

Coretta Briscoe, Chief Financial Officer of the Texas Veterans Commission, has determined for each year of the first five years the proposed rule amendment will be in effect, there will not be an increase in expenditures or revenue for state and local government as a result of administering the proposed rule.

COSTS TO REGULATED PERSONS

Ms. Briscoe has also determined there will not be anticipated economic costs to persons required to comply with the proposed rule.

LOCAL EMPLOYMENT IMPACT

Anna Baker, Director, Veterans Employment Services of the Texas Veterans Commission, has determined that there will not be a significant impact upon employment conditions in the state from the proposed rule.

SMALL BUSINESS, MICRO BUSINESS AND RURAL COMMUNITIES IMPACT

Megan Tamez, Veterans Entrepreneur Program of the Texas Veterans Commission, has determined that the proposed rule will not have an adverse economic effect on small businesses, micro businesses or rural communities as defined in Texas Govern-

ment Code §2006.001. As a result, an Economic Impact Statement and Regulatory Flexibility Analysis is not required.

PUBLIC BENEFIT

Shawn Deabay, Deputy Executive Director of the Texas Veterans Commission, has determined that for each year of the first five years the proposed rule is in effect, the public benefit anticipated as a result of administering the amended rule will increase participation within each of the agency's three remaining advisory committees.

GOVERNMENT GROWTH IMPACT STATEMENTS

Mr. Deabay has also determined that for each year of the first five years that the proposed rule amendment is in effect, the following statements will apply:

- (1) The proposed rule amendment will not create or eliminate a government program.
- (2) Implementation of the proposed rule amendment will not require creation of new employee positions, or elimination of existing employee positions.
- (3) Implementation of the proposed rule amendment will not require an increase or decrease in future legislative appropriations to the agency.
- (4) No fees will be created by the proposed rule amendment.
- (5) The proposed rule amendment will not require new regulations.
- (6) The proposed rule amendment has no effect on existing regulations.
- (7) The proposed rule amendment has no effect on the number of individuals subject to the rule's applicability.
- (8) The proposed rule amendment has no effect on this state's economy.

PART IV. COMMENTS

Comments on the proposed new rule may be submitted to Attention: General Counsel, Texas Veterans Commission, P.O. Box 12277, Austin, Texas 78711 or by fax to (512) 475-2395. Comments may also be submitted electronically to rulemaking@tvc.texas.gov. For comments submitted electronically, please include "Service Dog Pilot Program" in the subject line. The deadline for submission of comments is twenty days from the date of publication of the proposed new rule in the *Texas Register*. Comments should be organized in a manner consistent with the organization of the rule under consideration.

PART V. STATUTORY AUTHORITY

The new rule is proposed under Texas Government Code §434.010, granting the commission the authority to establish rules; and at the directive of H.B. 2951, 88th Legislature, Regular Session (2023), and Texas Government Code §434.017, granting the Commission the authority to establish rules governing the award of grants by the Commission.

No other statutes, articles, or codes are affected by this proposal.

§460.18. Service Dog Pilot Program.

It is the objective of the Service Dog Pilot Program to assist veterans in mitigating the symptoms of military service-related post-traumatic stress disorder, traumatic brain injury, or military sexual trauma through the provision of a service dog. Funds were appropriated for

this purpose by the 88th Legislature (General Appropriations Act, Article I, Rider 14, 88th Legislature, Regular Session).

(1) Texas Veterans Commission (TVC) will award grants to non-profit corporations under Texas Government Code §434.017 to provide trained service dogs, training, and services to veterans who participate in the pilot program.

(2) The commission will include the Service Dog Pilot Program grants in the Request for Applications (RFA) for the duration of the pilot program.

(3) Non-profit corporations will be selected for grants under the pilot program based on the criteria listed in Texas Government Code §434.029 and the RFA.

(4) Non-profit corporations selected for these grants are expected to track and provide data for TVC to evaluate the pilot program and prepare a report as required by Texas Government Code §434.029.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on July 14, 2023.

TRD-202302512

Kathleen Cordova

General Counsel

Texas Veterans Commission

Earliest possible date of adoption: August 27, 2023

For further information, please call: (737) 320-4167

