

# EMERGENCY RULES

Emergency Rules include new rules, amendments to existing rules, and the repeals of existing rules. A state agency may adopt an emergency rule without prior notice or hearing if the agency finds that an imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires adoption of a rule on fewer than 30 days' notice. An emergency rule may be effective for not longer than 120 days and may be renewed once for not longer than 60 days (Government Code, §2001.034).

## TITLE 25. HEALTH SERVICES

### PART 1. DEPARTMENT OF STATE HEALTH SERVICES

#### CHAPTER 448. STANDARD OF CARE

##### SUBCHAPTER F. PERSONNEL PRACTICES AND DEVELOPMENT

###### 25 TAC §448.603

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) adopts on an emergency basis in Title 25 Texas Administrative Code, Chapter 448 Standard of Care, an amendment to §448.603, concerning an emergency rule in response to COVID-19 in order to expand a licensed Chemical Dependency Treatment Facility's (CDTF) ability to provide abuse, neglect, and exploitation training and Nonviolent Crisis Intervention training to staff through live, interactive, instructor-led, electronic means, performed using synchronous audiovisual interaction, to reduce the risk of COVID-19 transmission.

As authorized by Texas Government Code §2001.034, the Commission may adopt an emergency rule without prior notice or hearing upon finding that an imminent peril to the public health, safety, or welfare requires adoption on fewer than 30 days' notice. Emergency rules adopted under Government Code §2001.034 may be effective for not longer than 120 days and may be renewed for not longer than 60 days.

#### BACKGROUND AND PURPOSE

The purpose of the emergency rulemaking is to support the Governor's March 13, 2020, proclamation certifying that the COVID-19 virus poses an imminent threat of disaster in the state and declaring a state of disaster for all counties in Texas. In this proclamation, the Governor authorized the use of all available resources of state government and of political subdivisions that are reasonably necessary to cope with this disaster and directed that government entities and businesses would continue providing essential services. The Commission accordingly finds that an imminent peril to the public health, safety, and welfare of the state requires immediate adoption of this amendment to §448.603, Training.

To protect patients and the public health, safety, and welfare of the state during the COVID-19 pandemic, HHSC is adopting an emergency rule amendment to §448.603(d)(1) to temporarily permit a licensed CDTF to provide abuse, neglect, and exploitation training to staff through live, interactive, instructor-led, electronic means, performed using a synchronous audiovisual interaction, to reduce the risk of COVID-19 transmission. HHSC is also adopting an emergency rule amendment to §448.603(d)(4)

to temporarily permit a licensed CDTF to provide Nonviolent Crisis Intervention training to staff through live, interactive, instructor-led, electronic means, performed using a synchronous audiovisual interaction, to reduce the risk of COVID-19 transmission. There are no other changes to §448.603.

#### STATUTORY AUTHORITY

The emergency rulemaking is adopted under Government Code §2001.034 and §531.0055 and Health and Safety Code §464.009. Texas Government Code §2001.034 authorizes the adoption of emergency rules without prior notice and hearing, if an agency finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule on fewer than 30 days' notice. Texas Government Code §531.0055 authorizes the Executive Commissioner of HHSC to adopt rules and policies necessary for the operation and provision of health and human services by the health and human services system. Health and Safety Code §464.009, authorizes the Executive Commissioner of HHSC to adopt rules governing organization and structure, policies and procedures, staffing requirements, services, client rights, records, physical plant requirements, and standards for licensed CDTFs.

This emergency rule amendment implements Government Code §531.0055 and Health and Safety Code §464.009.

#### §448.603. Training.

(a) - (c) (No change.)

(d) The following initial training(s) must be received within the first 90 days of employment and must be completed before the employee can perform a function to which the specific training is applicable. Subsequent training must be completed as specified.

(1) Abuse, Neglect, and Exploitation. All residential program personnel with any direct client contact shall receive eight hours of live, interactive, instructor-led, electronic or face-to-face abuse, neglect, and exploitation training [as described in Figure: 40 TAC §148.603(d)(1) which is attached hereto and incorporated herein as if set forth at length]. All outpatient program personnel with any direct client contact shall receive ~~received~~ two hours of live, interactive, instructor-led, electronic or face-to-face abuse, neglect, and exploitation training.

Figure: 25 TAC §448.603(d)(1) (No change.)

(2) - (3) (No change.)

(4) Nonviolent Crisis Intervention. All direct care staff in residential programs and outpatient programs shall receive this training. The live, interactive, instructor-led, electronic or face-to-face training shall teach staff how to use verbal and other non-physical methods for prevention, early intervention, and crisis management. The instructor shall have documented successful completion of a course for crisis intervention instructors or have equivalent documented training and experience.

(A) The initial training shall be four hours in length.

(B) Staff shall complete two hours of annual training thereafter.

(5) - (7) (No change.)

The agency certifies that legal counsel has reviewed the emergency adoption 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 31, 2020.

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