

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 1. ADMINISTRATION

PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 353. MEDICAID MANAGED CARE

The executive commissioner of the Texas Health and Human Services Commission (HHSC) proposes amendments to §353.2, concerning Definitions; §353.1502 concerning Definitions; and §353.1503 concerning Use of Telecommunications in Assessments; and the repeal of §353.608, concerning Minimum Payment Amounts to Qualified Nursing Facilities.

BACKGROUND AND PURPOSE

This proposal is necessary to align Medicaid program rules with the fiscal rules that implemented House Bill (H.B.) 1, 88th Legislature, Regular Session, 2023 (Article II, Health and Human Services Commission (HHSC), Rider 25), which require HHSC to implement a Texas version of the Patient Driven Payment Model for Long-Term Care (PDPM LTC) methodology for the reimbursement of long-term stay nursing facility (NF) services in the Medicaid program.

Due to federal requirements in Title 42 Code of Federal Regulations §441.302(e) and (f), changing the NF reimbursement methodology from the Resource Utilization Group (RUG) to the PDPM LTC requires HHSC to incorporate the PDPM LTC methodology into the individual cost limit methodologies and related cost limit methodology. This proposal updates references to the former RUG reimbursement methodology with the term "reimbursement rate" in the Texas Administrative Code (TAC) for the state's two NF waiver programs, the STAR+PLUS Home and Community-Based Services Program and the Medically Dependent Children Program.

This proposal implements H.B. 4611, 88th Legislature, Regular Session, 2023, which made certain non-substantive revisions to Subtitle I, Title 4, Texas Government Code, which governs HHSC, Medicaid, and other social services as part of the legislature's ongoing statutory revision program. The proposed amendment to §353.2 updates Texas Government Code citations for this purpose.

This proposal also implements Senate Bill (S.B.) 457, 89th Legislature, Regular Session, 2025, which eliminated the NF enhancement rate program. The proposed amendment updates definitions to remove references to the NF enhancement rate program.

The proposed repeal of §353.608 removes outdated rules for the Minimum Payment Amount Program (MPAP) for Qualified Nursing Facilities. The MPAP was replaced by the Quality In-

centive Payment Program for NFs, which is covered in 1 TAC, §353.1301 and §353.1303.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §353.2 updates citations to reflect the current statute and TAC references; corrects outdated agency acronyms; moves the definition of HHSC so the section is correctly alphabetized and then renumbers the section accordingly; updates the definition of "Nursing facility unit rate" to remove a citation to the former NF rate enhancement program that no longer exists; and makes other minimal changes to grammar and rule structure for clarity.

The proposed repeal of §353.608 deleted the rule as no longer necessary, because it refers to use of the MPAP for Qualified Nursing Facilities, which no longer exists.

The proposed amendment to §353.1502 updates citations to reflect the current TAC references, corrects outdated agency acronyms, updates the HHSC definition, adds a definition for PDPM LTC, removes the RUG definition, renumbers the subsections, and makes other minimal changes to grammar and rule structure for clarity.

The proposed amendment to §353.1503 replaces RUG language with PDPM LTC language.

FISCAL NOTE

Victoria Grady, Deputy Chief, Finance, 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

HHSC 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 not create a new regulation;
- (6) the proposed rules will repeal existing regulations;
- (7) the proposed rules will not change the number of individuals subject to the rules; and
- (8) the proposed rules will not affect the state's economy.

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

Victoria Grady has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities because the rules are codifying current processes and MCO capitation rates were addressed in rule project 24R019.

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 do not impose a cost on regulated persons; are necessary to receive a source of federal funds or comply with federal law; and are necessary to implement legislation that does not specifically state that §2001.0045 applies to the rules.

PUBLIC BENEFIT AND COSTS

Emily Zalkovsky, Chief Medicaid and CHIP Services Officer, has determined that for each year of the first five years the rules are in effect, the public will benefit from having these rules use terminology consistent with the new PDPM LTC reimbursement methodology in 1 TAC Chapter 355 and removing the rules related to the discontinued MPAP.

Victoria Grady 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 because the proposed rules don't require affected persons to alter current business practices and MCO capitation rates were addressed in rule project 24R019.

TAKINGS IMPACT ASSESSMENT

HHSC has determined that the proposal does not restrict or limit an owner's right to the owner's 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

Written comments on the proposal, including information related to the cost, benefit, or effect of the proposed rule, as well as any applicable data, research, or analysis, may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 4601 West Guadalupe Street, Austin, Texas 78751; or emailed to HHSRulesCoordinationOffice@hhs.texas.gov.

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) emailed before midnight on the last day of the comment period. If the 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 24R074" in the subject line.

SUBCHAPTER A. GENERAL PROVISIONS

1 TAC §353.2

STATUTORY AUTHORITY

The amendment is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system; and Texas Human Resources Code §32.021, which provides HHSC with the authority to administer the federal medical assistance program in Texas and to adopt rules and standards for program administration.

The amendment affects Texas Government Code §524.0151 and Texas Human Resources Code §32.021.

§353.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise.

(1) Action--

(A) An action is defined as:

(i) the denial or limited authorization of a requested Medicaid service, including the type or level of service;

(ii) the reduction, suspension, or termination of a previously authorized service;

(iii) the failure to provide services in a timely manner;

(iv) the denial in whole or in part of payment for a service; or

(v) the failure of a managed care organization (MCO) to act within the timeframes set forth by the Texas Health and Human Services Commission (HHSC) and state and federal law.

(B) "Action" does not include expiration of a time-limited service.

(2) Acute care--Preventive care, primary care, and other medical or behavioral health care provided by the provider or under the direction of a provider for a condition having a relatively short duration.

(3) Acute care hospital--A hospital that provides acute care services.

(4) Adoption Assistance Program--The program administered by DFPS in accordance with 40 TAC Chapter 700, Subchapter H (relating to Adoption Assistance Program).

(5) Agreement or Contract--The formal, written, and legally enforceable contract and amendments thereto between HHSC and an MCO.

(6) Allowable revenue--All managed care revenue received by the MCO pursuant to the contract during the contract period, including retroactive adjustments made by HHSC. This would include any revenue earned on Medicaid managed care funds such as investment income, earned interest, or third party administrator earnings from services to delegated networks.

(7) Appeal--The formal process by which a member or his or her representative requests a review of the MCO's action.

(8) Applicant Provider--A physician or other health care provider applying for expedited credentialing [as defined in Texas Government Code §533.0064].

(9) Behavioral health service--A covered service for the treatment of mental, emotional, or substance use disorders.

(10) Capitated service--A benefit available to members under the Texas Medicaid program for which an MCO is responsible for payment.

(11) Capitation rate--A fixed predetermined fee paid by HHSC to the MCO each month, in accordance with the contract, for each enrolled member in exchange for which the MCO arranges for or provides a defined set of covered services to the member, regardless of the amount of covered services used by the enrolled member.

(12) CFR--Code of Federal Regulations.

(13) Children's Medicaid Dental Services--The dental services provided through a dental MCO to a client birth through age 20.

(14) Clean claim--A claim submitted by a physician or provider for health care services rendered to a member, with the data necessary for the MCO or subcontracted claims processor to adjudicate and accurately report the claim. A clean claim must meet all requirements for accurate and complete data as further defined under the terms of the contract executed between the MCO and HHSC.

(15) Client--Any Medicaid-eligible recipient.

(16) CMS--The Centers for Medicare & Medicaid Services, which is the federal agency responsible for administering Medicare and overseeing state administration of Medicaid.

(17) Complainant--A member, or a treating provider or other individual designated to act on behalf of the member, who files a complaint.

(18) Complaint--Any dissatisfaction expressed by a complainant, orally or in writing, to the MCO about any matter related to the MCO other than an action. Subjects for complaints may include:

(A) the quality of care of services provided;

(B) aspects of interpersonal relationships such as rudeness of a provider or employee; and

(C) failure to respect the member's rights.

(19) Consumer Directed Services (CDS) option--A service delivery option (also known as self-directed model with service budget) in which an individual or legally authorized representative employs and retains service providers and directs the delivery of certain program services.

(20) Covered services--Unless a service or item is specifically excluded under the terms of the state plan, a federal waiver, a managed care services contract, or an amendment to any of these, the phrase "covered services" means all health care, long term services and supports, or dental services or items that the MCO must arrange to provide and pay for on a member's behalf under the terms of the contract executed between the MCO and HHSC, including:

(A) all services or items considered [e~~om~~prising] "medical assistance" as defined in Texas Human Resources Code §32.003 [e~~f~~ the Human Resources Code]; and

(B) all value-added services under such contract.

(21) Credentialing--The process through which an MCO collects, assesses, and validates qualifications and other relevant information pertaining to a Medicaid enrolled health care provider to determine whether the provider may be contracted to deliver covered services as part of the network of the managed care organization.

(22) Cultural competency--The ability of individuals and systems to provide services effectively to people of various disabilities, cultures, races, ethnic backgrounds, and religions in a manner that

recognizes, values, affirms, and respects the worth of the individuals and protects and preserves their dignity.

(23) Day--A calendar day, unless specified otherwise.

(24) Default enrollment--The process established by HHSC to assign a Medicaid managed care enrollee to an MCO when the enrollee has not selected an MCO.

(25) Dental contractor--A dental MCO that is under contract with HHSC for the delivery of dental services.

(26) Dental home--A provider who has contracted with a dental MCO to serve as a dental home to a member and who is responsible for providing routine preventive, diagnostic, urgent, therapeutic, initial, and primary care to patients, maintaining the continuity of patient care, and initiating referral for care. Provider types that can serve as dental homes are federally qualified health centers and individuals who are general dentists or pediatric dentists.

(27) Dental managed care organization (dental MCO)--A dental indemnity insurance provider or dental health maintenance organization licensed or approved by the Texas Department of Insurance.

(28) Dental service--The routine preventive, diagnostic, urgent, therapeutic, initial, and primary care provided to a member and included within the scope of HHSC's agreement with a dental contractor. For purposes of this chapter, "dental service" does not include dental devices for craniofacial anomalies; treatment rendered in a hospital, urgent care center, or ambulatory surgical center setting for craniofacial anomalies; or emergency services provided in a hospital, urgent care center, or ambulatory surgical center setting involving dental trauma. These types of services are treated as health care services in this chapter.

(29) DFPS--The Texas Department of Family and Protective Services.

(30) Disability--A physical or mental impairment that substantially limits one or more of an individual's major life activities, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, socializing, or working.

(31) Disproportionate Share Hospital (DSH)--A hospital that serves a higher than average number of Medicaid and other low-income patients and receives additional reimbursement from the State.

(32) Dual eligible--A Medicaid recipient who is also eligible for Medicare.

(33) Elective enrollment--Selection of a primary care provider (PCP) and MCO by a client during the enrollment period established by HHSC.

(34) Emergency behavioral health condition--Any condition, without regard to the nature or cause of the condition, that in the opinion of a prudent layperson possessing an average knowledge of health and medicine:

(A) requires immediate intervention and/or medical attention without which the client would present an immediate danger to themselves or others; or

(B) renders the client incapable of controlling, knowing, or understanding the consequences of his or her actions.

(35) Emergency medical condition--A medical condition manifesting itself by acute symptoms of recent onset and sufficient severity (including severe pain), such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical care to result in:

- (A) placing the patient's health in serious jeopardy;
- (B) serious impairment to bodily functions;
- (C) serious dysfunction of any bodily organ or part;
- (D) serious disfigurement; or
- (E) serious jeopardy to the health of a pregnant woman or her unborn child.

(36) **Emergency service**--A covered inpatient and outpatient service, furnished by a network provider or out-of-network provider that is qualified to furnish such service, that is needed to evaluate or stabilize an emergency medical condition and/or an emergency behavioral health condition. For health care MCOs, the term "emergency service" includes post-stabilization care services.

(37) **Encounter**--A covered service or group of covered services delivered by a provider to a member during a visit between the member and provider. This also includes value-added services.

(38) **Enrollment**--The process by which an individual determined to be eligible for Medicaid is enrolled in a Medicaid MCO serving the service area in which the individual resides.

(39) **EPSDT**--The federally mandated Early and Periodic Screening, Diagnosis, and Treatment program defined in 25 TAC Chapter 33 (relating to Early and Periodic Screening, Diagnosis, and Treatment). The State of Texas has adopted the name Texas Health Steps (THSteps) for its EPSDT program.

(40) **EPSDT-CCP**--The Early and Periodic Screening, Diagnosis, and Treatment-Comprehensive Care Program described in Chapter 363 of this title (relating to Texas Health Steps Comprehensive Care Program).

(41) **Exclusive provider benefit plan (EPBP)**--An MCO that complies with 28 TAC §§3.9201 - 3.9212, relating to the Texas Department of Insurance's requirements for EPBPs, and contracts with HHSC to provide Medicaid coverage.

(42) **Expedited Credentialing**--The process under Texas Government Code §540.0656 [§533.0064] in which an MCO allows an applicant provider to provide Medicaid services to members on a provisional basis pending completion of the credentialing process.

(43) **Experience rebate**--The portion of the MCO's net income before taxes that is returned to the State in accordance with the MCO's contract with HHSC.

(44) **Fair hearing**--The process adopted and implemented by HHSC in Chapter 357, Subchapter A of this title (relating to Uniform Fair Hearing Rules) in compliance with federal regulations and state rules relating to Medicaid fair hearings.

(45) **Federal Poverty Level (FPL)**--The household income guidelines issued annually and published in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. §9902(2) and as in effect for the applicable budget period determined in accordance with 42 CFR [C.F.R.] §435.603(h). HHSC uses the FPL to determine an individual's eligibility for Medicaid.

(46) **Federal waiver**--Any waiver permitted under federal law and approved by CMS that allows states to implement Medicaid managed care.

(47) **Federally Qualified Health Center (FQHC)**--An entity that is certified by CMS to meet the requirements of 42 U.S.C. §1395x(aa)(3) as a Federally Qualified Health Center and is enrolled as a provider in the Texas Medicaid program.

(48) **Former Foster Care Children (FFCC) program**--The Medicaid program for young adults who aged out of the conservatorship of DFPS, administered in accordance with Chapter 366, Subchapter J of this title (relating to Former Foster Care Children's Program).

(49) **Functional necessity**--A member's need for services and supports with activities of daily living (ADLs) or instrumental activities of daily living (IADLs) to be healthy and safe in the most integrated setting possible. This [~~determination~~] is determined based on the results of a functional assessment.

(50) **Habilitation**--Acquisition, maintenance, and enhancement of skills necessary for the individual to accomplish ADLs, IADLs, and health-related tasks based on the individual's person-centered service plan.

~~[(51) **Health and Human Services Commission (HHSC)**--The single state agency charged with administration and oversight of the Texas Medicaid program or its designee.]~~

(51) [(52)] **Health care managed care organization (health care MCO)**--An entity that is licensed or approved by the Texas Department of Insurance to operate as a health maintenance organization or to issue an EPBP.

(52) [(53)] **Health care provider group**--A legal entity, such as a partnership, corporation, limited liability company, or professional association, enrolled in Medicaid, under which certified or licensed individual health care providers provide health care items or services.

(53) [(54)] **Health care services**--The acute care, behavioral health care, and health-related services that an enrolled population might reasonably require in order to be maintained in good health, including, at a minimum, emergency services and inpatient and outpatient services.

(54) [(55)] **Health maintenance organization (HMO)**--An organization that holds a certificate of authority from the Texas Department of Insurance to operate as an HMO under Chapter 843 of the Texas Insurance Code, or a certified Approved Non-Profit Health Corporation formed in compliance with Chapter 844 of the Texas Insurance Code.

(55) HHSC--The Texas Health and Human Services Commission.

(56) **Hospital**--A licensed public or private institution as defined in [the] Texas Health and Safety Code [at] Chapter 241, relating to Hospitals [hospitals], or Chapter 261, relating to Municipal Hospitals [municipal hospitals].

(57) **Intermediate care facility for individuals with an intellectual disability or related condition (ICF-IID)**--A facility providing care and services to individuals with intellectual disabilities or related conditions as defined in §1905(d) of the Social Security Act (42 U.S.C. 1396(d)).

(58) **Legally authorized representative (LAR)**--A person authorized by law to act on behalf of an individual with regard to a matter described in this chapter, and may, depending on the circumstances, include a parent, guardian, or managing conservator of a minor, or the guardian of an adult, or a representative designated pursuant to 42 CFR §435.923 [C.F.R. 435.923].

(59) **Long term services** [service] and supports [support] (LTSS)--Services [A service] provided to a qualified member in the member's [his or her] home or other community-based setting necessary to allow the member to remain in the most integrated setting possible. LTSS includes services provided under the Texas State Plan as well as services that are available to people [persons] who qualify

for the STAR+PLUS Home and Community-Based Services Program [services] or a Medicaid §1915(c) [1915(e)] waiver program [services]. LTSS is available through an MCO that participates in STAR+PLUS, STAR Health, and STAR Kids. LTSS services vary [varies] by program model.

(60) Main dentist--See definition of "dental home" in this section.

(61) Managed care--A health care delivery system or dental services delivery system in which the overall care of a patient is coordinated by or through a single provider or organization.

(62) Managed care organization (MCO)--A dental MCO or a health care MCO.

(63) Marketing--Any communication from an MCO to a client who is not enrolled with the MCO that can reasonably be interpreted as intended to influence the client's decision to enroll, not to enroll, or to disenroll from a particular MCO.

(64) Marketing materials--Materials that are produced in any medium by or on behalf of the MCO that can reasonably be interpreted as intending to market to potential members. Materials relating to the prevention, diagnosis, or treatment of a medical or dental condition are not marketing materials.

(65) MDCP--Medically Dependent Children Program. A Medicaid §1915(c) waiver program that provides community-based services to assist Medicaid beneficiaries under age 21 to live in the community and avoid living in a facility [institutionalization].

(66) Medicaid--The medical assistance program authorized and funded pursuant to Title XIX of the Social Security Act (42 U.S.C. §1396 et seq) and administered by HHSC.

(67) Medicaid for Transitioning Foster Care Youth (MTFCY) Program [transitioning foster care youth (MTFCY) program]--The Medicaid program for young adults who aged out of the conservatorship of DFPS. This program is[:] administered in accordance with Chapter 366, Subchapter F of this title (relating to Medicaid for Transitioning Foster Care Youth).

(68) Medical Assistance Only (MAO)--A person who qualifies financially and functionally for Medicaid assistance but does not receive Supplemental Security Income (SSI) benefits, as defined in Chapters 358, 360, and 361, of this title (relating to Medicaid Eligibility for the Elderly and People with Disabilities, Medicaid Buy-In Program, and Medicaid Buy-In for Children Program).

(69) Medical home--A PCP or specialty care provider who has accepted the responsibility for providing accessible, continuous, comprehensive, and coordinated care to members participating in an MCO contracted with HHSC.

(70) Medically necessary--

(A) For Medicaid members birth through age 20, this means the following Texas Health Steps services:

(i) screening, vision, dental, and hearing services; and

(ii) other health care services or dental services that are necessary to correct or ameliorate a defect, [or] physical or mental illness, or condition and must: [- A determination of whether a service is necessary to correct or ameliorate a defect or physical or mental illness or condition:]

(I) [must] comply with the requirements of a final court order that applies to the Texas Medicaid program or the Texas Medicaid managed care program as a whole; and

(II) if applicable, consider [may include consideration of] other relevant factors, such as the criteria described in subparagraphs (B)(ii) - (vii) and (C)(ii) - (vii) of this paragraph.

(B) For Medicaid members over age 20, non-behavioral health services that are:

(i) reasonable and necessary to prevent illnesses or medical conditions, or provide early screening, interventions, or treatments for conditions that cause suffering or pain, cause physical deformity or limitations in function, threaten to cause or worsen a disability, cause illness or infirmity of a member, or endanger life;

(ii) provided at appropriate facilities and at the appropriate levels of care for the treatment of a member's health conditions;

(iii) consistent with health care practice guidelines and standards that are endorsed by professionally recognized health care organizations or governmental agencies;

(iv) consistent with the member's medical need;

(v) no more intrusive or restrictive than necessary to provide a proper balance of safety, effectiveness, and efficiency;

(vi) not experimental or investigative; and

(vii) not primarily for the convenience of the member or provider.

(C) For Medicaid members over age 20, behavioral health services that:

(i) are reasonable and necessary for the diagnosis or treatment of a mental health or substance use disorder, or to improve, maintain, or prevent deterioration of functioning resulting from such a disorder;

(ii) are in accordance with professionally accepted clinical guidelines and standards of practice in behavioral health care;

(iii) are furnished in the most appropriate and least restrictive setting in which services can be safely provided;

(iv) are the most appropriate level or supply of service that can safely be provided;

(v) could not be omitted without adversely affecting the member's mental and/or physical health or the quality of care rendered;

(vi) are not experimental or investigative; and

(vii) are not primarily for the convenience of the member or provider.

(71) Member--A person who is eligible for benefits under Title XIX of the Social Security Act and Medicaid, is in a Medicaid eligibility category included in the Medicaid managed care program, and is enrolled in a Medicaid MCO.

(72) Member education program--A planned program of education:

(A) concerning access to health care services or dental services through the MCO and about specific health or dental topics;

(B) that is approved by HHSC; and

(C) that is provided to members through a variety of mechanisms that must include, at a minimum, written materials and face-to-face or audiovisual communications.

(73) Member materials--All written materials produced or authorized by the MCO and given out [~~distributed~~] to members or potential members that contain [~~containing~~] information about [~~concerning~~] the managed care program. Member materials include member identification [ID] cards, member handbooks, list of providers [~~provider directories~~], and marketing materials.

(74) Non-capitated service--A benefit available to members under the Texas Medicaid program for which an MCO is not responsible for payment.

(75) Nursing facility--As defined in §358.103 of this title (relating to Definitions) and 26 TAC §554.101 (relating to Definitions), an entity or institution, also called nursing home or skilled nursing facility, that provides organized and structured nursing care and services and is subject to licensure under Texas Health and Safety Code Chapter 242.

(76) Nursing facility add-on services--The types of services that are provided in a nursing facility setting by a nursing facility provider or another provider, but are not included in the nursing facility unit rate, including emergency dental services, physician-ordered rehabilitative services, customized power wheelchairs [~~wheel chairs~~], and augmentative communication devices[, ~~tracheostomy care for youth under age 22, and ventilator care~~].

(77) Nursing facility services--The services included in the nursing facility unit rate, nursing facility Medicare coinsurance, and nursing facility add-on services.

(78) Nursing facility unit rate--The daily rate that covers Medicaid fee-for-service (FFS) standard care and services for nursing facility providers [~~The rate for the type of services included in the Medicaid fee-for-service (FFS) daily rate for nursing facility providers~~] as defined in 26 TAC §554.2601 (relating to Vendor Payment (Items and Services Included)). This includes [, ~~including~~] room and board, medical supplies and equipment, personal needs items, social services, and ~~non-legend~~ [~~over-the-counter~~] drugs. The nursing facility unit rate also includes the [~~applicable nursing facility staff rate enhancements as described in §355.308 of this title (relating to Direct Care Staff Rate Component), and~~] professional and general liability insurance add-on payments as described in §355.312 of this title (relating to Reimbursement Setting Methodology--Liability Insurance Costs). The nursing facility unit rate excludes nursing facility add-on services.

(79) Outside regular business hours--As applied to FQHCs and rural health clinics (RHCs), means before 8 a.m. and after 5 p.m. Monday through Friday, weekends, and federal holidays.

(80) Participating MCO--An MCO that has a contract with HHSC to provide services to members.

(81) Permanency Care Assistance Program--The program administered by DFPS in accordance with 40 TAC Chapter 700, Subchapter J, Division 2 (relating to Permanency Care Assistance Program).

(82) Person-centered care--An approach to care that focuses on members as individuals and supports caregivers working most closely with them. It involves a continual process of listening, testing new approaches, and changing routines and organizational approaches in an effort to individualize and de-institutionalize the care environment.

(83) Person-centered planning--A documented service planning process that includes people chosen by the individual, is directed by the individual to the maximum extent possible, enables the individual to make choices and decisions, is timely and occurs at times and locations convenient to the individual, reflects cultural

considerations of the individual, includes strategies for solving conflict or disagreement within the process, offers choices to the individual regarding the services and supports they receive and from whom, includes a method for the individual to require updates to the plan, and records alternative settings that were considered by the individual.

(84) Post-stabilization care service--A covered service, related to an emergency medical condition, that is provided after a Medicaid member is stabilized in order to maintain the stabilized condition, or, under the circumstances described in 42 CFR [~~C.F.R.~~] §438.114(b) and (e) and 42 CFR [~~C.F.R.~~] §422.113(c)(iii) to improve or resolve the Medicaid member's condition.

(85) Primary care provider (PCP)--A physician or other provider who has agreed with the health care MCO to provide a medical home to members and who is responsible for providing initial and primary care to patients, maintaining the continuity of patient care, and initiating referral for care.

(86) Provider--A credentialed and licensed individual, facility, agency, institution, organization, or other entity, and its employees and subcontractors, that has a contract with the MCO for the delivery of covered services to the MCO's members.

(87) Provider education program--Program of education presented by the MCO to the MCO's providers about the Medicaid managed care program and [~~about~~] specific health or dental care issues. This program is presented [~~by the MCO to its providers~~] through written materials and training events.

(88) Provider network or Network--All providers that have contracted with the MCO for the applicable managed care program.

(89) Quality improvement--A system to continuously examine, monitor, and revise processes and systems that support and improve administrative and clinical functions.

(90) Rural Health Clinic (RHC)--An entity that meets all of the requirements for designation as a rural health clinic under §1861(aa)(1) of the Social Security Act (42 U.S.C. §1395x(aa)(1)) and is approved for participation in the Texas Medicaid program.

(91) Service area--The counties included in any HHSC-defined service area as applicable to each MCO.

(92) Significant traditional provider (STP)--A provider identified by HHSC as having provided a significant level of care to the target population, including a DSH.

(93) STAR--The State of Texas Access Reform (STAR) managed care program that operates under a federal waiver and primarily provides, arranges for, and coordinates preventive, primary, acute care, and pharmacy services for low-income families, children, and pregnant women.

(94) STAR Health--The managed care program that operates under the Medicaid state plan and primarily serves:

(A) children and youth in DFPS conservatorship;

(B) young adults who voluntarily agree to continue in a foster care placement (if the state as conservator elects to place the child in managed care); and

(C) young adults who are eligible for Medicaid as a result of their former foster care status through the month of their 21st birthday.

(95) STAR Kids--The program that operates under a federal waiver and primarily provides, arranges, and coordinates preventive, primary, acute care, and long-term services and supports to persons with disabilities under the age of 21 who qualify for Medicaid.

(96) STAR+PLUS--The managed care program that operates under a federal waiver and primarily provides, arranges, and coordinates preventive, primary, acute care, and long-term services and supports to persons with disabilities and [elderly] persons age 65 and over who qualify for Medicaid based on the person's [by virtue of their] SSI or MAO status.

(97) STAR+PLUS Home and Community-Based Services Program--The program that provides person-centered care services that are delivered in the home or in a community setting, as authorized through a federal waiver under §1115 of the Social Security Act, to qualified Medicaid-eligible clients who are age 21 or older, as cost-effective alternatives to institutional care in nursing facilities.

(98) State plan--The agreement between the CMS and HHSC regarding the operation of the Texas Medicaid program, in accordance with the requirements of Title XIX of the Social Security Act.

(99) Supplemental Security Income (SSI)--The federal cash assistance program of direct financial payments to people who are 65 years of age or older, are blind, or have a disability administered by the Social Security Administration (SSA) under Title XVI of the Social Security Act. All persons who are certified as eligible for SSI in Texas are eligible for Medicaid. Local SSA claims representatives make SSI eligibility determinations. The transactions are forwarded to the SSA in Baltimore, which then notifies the states through the State Data Exchange (SDX).

(100) Texas Health Steps (THSteps)--The name adopted by the State of Texas for the federally mandated Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) services, described at 42 U.S.C. §1396d(r), [and] 42 CFR §440.40, and 42 CFR Part 441 Subpart B [§§441.40 - 441.62].

(101) Value-added service--A service provided by an MCO that is not "medical assistance," as defined by Texas Human Resources Code §32.003 [of the Texas Human Resources Code].

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 August 3, 2026.

TRD-202603261

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Earliest possible date of adoption: September 13, 2026

For further information, please call: (512) 438-2910



SUBCHAPTER G. STAR+PLUS

1 TAC §353.608

STATUTORY AUTHORITY

The repeal is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system; and Texas Human Resources Code §32.021, which provides HHSC with the authority to administer the federal medical assistance program in Texas and to adopt rules and standards for program administration.

The repeal affects Texas Government Code §524.0151 and Texas Human Resources Code §32.021.

§353.608. *Minimum Payment Amounts to Qualified Nursing Facilities.*

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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Karen Ray

Chief Counsel

Texas Health and Human Services Commission

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For further information, please call: (512) 438-2910



SUBCHAPTER R. TELECOMMUNICATIONS IN MANAGED CARE SERVICE COORDINATION AND ASSESSMENTS

1 TAC §353.1502, §353.1053

STATUTORY AUTHORITY

The amendments are authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system; and Texas Human Resources Code §32.021, which provides HHSC with the authority to administer the federal medical assistance program in Texas and to adopt rules and standards for program administration.

The amendments affect Texas Government Code §524.0151 and Texas Human Resources Code §32.021.

§353.1502. *Definitions.*

The following words and terms, when used in this subchapter, have the following meanings unless the context clearly indicates otherwise.

(1) Assessments--Managed care organization (MCO) evaluation of a member's medical and functional service needs, including [community-based] long-term services and supports, behavioral health services, therapies (e.g., physical, occupational, speech), and nursing services. This includes the MCO's completion of program-specific instruments and forms.

(2) Audio-only--Synchronous interactive, two-way audio communication that uses only sound and that meets the privacy requirements of the Health Insurance Portability and Accountability Act. Audio-only includes the use of telephonic communication. Audio-only does not include face-to-face communication.

(3) Audio-visual--Synchronous interactive, two-way audio and video communication that conforms to privacy requirements under the Health Insurance Portability and Accountability Act. Audio-visual does not include audio-only or in-person communication.

(4) CFR [C.F.R.]--Code of Federal Regulations.

(5) Change in condition--A significant change in a member's health, caregiver support, or functional status that will not normally resolve itself without further intervention and requires review of and revision to the member's current service plan or individual service plan.

{(6) Community-based long-term services and supports (LTSS)--Services provided to a qualified member in the member's

home or another community-based setting necessary to allow the member to remain in the most integrated setting possible. Community-based LTSS includes Medicaid state plan services available to all members, as well as services available to members who qualify for the Home and Community Based Services (HCBS) Program or Medicaid 1915(c) waiver programs, including the STAR+PLUS Home and Community-Based Services (HCBS) Program and the Medically Dependent Children Program. Community-based LTSS is available to both HCBS -eligible and non-HCBS eligible members. Community-based LTSS in Medicaid managed care varies by program model.]

(6) [(7)] Community First Choice (CFC)--A Medicaid state plan benefit described in 1 TAC Chapter 354, Subchapter A, Division 27 (relating to Community First Choice).

(7) [(8)] Covered services--Unless a service or item is specifically excluded under the terms of the state plan, a federal waiver, a managed care services contract, or an amendment to any of these, the phrase "covered services" means all health care, long term services and supports, nonemergency medical transportation services, or dental services or items that the MCO must arrange to provide and pay for on a member's behalf under the terms of the contract executed between the MCO and the Texas Health and Human Services Commission, including:

(A) all services or items considered [comprising] "medical assistance" as defined in Human Resources Code §32.003; and

(B) all value-added services under such contract.

(8) [(9)] Declared state of disaster--A State of Disaster declared by the governor in accordance with Texas Government Code §418.014.

(9) [(10)] Face-to-face--In-person or audio-visual communication that meets the requirements of the Health Insurance Portability and Accountability Act. Face-to-face does not include audio-only communication.

(10) [(11)] Functionally necessary covered services--LTSS [Community-based long-term services and supports] provided to assist members with activities of daily living based on a functional assessment of the member's activities of daily living and a determination of the amount of supplemental supports necessary for the member to remain independent or in the most integrated setting.

(11) [(12)] Healthcare service plan--An individualized plan developed with and for a member with special healthcare needs in the STAR Health program. The healthcare service plan includes the following:

- (A) the member's history;
- (B) a summary of current medical and social needs and concerns;
- (C) short and long-term needs and goals; and
- (D) a treatment plan to address the member's physical, psychological, and emotional healthcare problems and needs, including:

- (i) a list of required services;
- (ii) the frequency of each service;
- (iii) a description of who will provide each service;

and

- (iv) for a member in the Early Childhood Intervention program, the individual family service plan.

(12) [(13)] HHSC--The Texas Health and Human Services Commission or its designee.

(13) [(14)] HIPAA--Health Insurance Portability and Accountability Act. Collectively, the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. §§1320d et seq., and regulations adopted under that act, as modified by the Health Information Technology for Economic and Clinical Health Act (HITECH) (P.L. 111-105), and regulations adopted under that act at 45 CFR Parts 160 and 164.

(14) [(15)] Individual service plan (ISP)--An individualized and person-centered plan in which a member enrolled in the STAR Kids, STAR Health, or STAR+PLUS HCBS program operated by an MCO, with assistance as needed, identifies and documents the member's preferences, strengths, and health and wellness needs in order to develop short term objectives and action steps to ensure personal outcomes are achieved within the most integrated setting by using identified supports and services. The ISP is supported by the results of a member's program-specific assessment and must meet the requirements of 42 CFR [C.F.R.] §441.301.

(15) [(16)] Information technology--Includes text, email, fax, secure transmission of clinical information, and HIPAA-compliant telecommunication tools such as health plan websites where a member or the member's legally authorized representative can access the member's healthcare information, including service plans.

(16) [(17)] In-person (or in person)--Within the physical presence of another person. In-person or in person does not include audio-visual or audio-only communication.

(17) [(18)] Legally authorized representative (LAR)--A person authorized by law to act on behalf of an individual with regard to a matter described in this subchapter, and may, depending on the circumstances, include a parent, guardian, or managing conservator of a minor, or the guardian of an adult, or a representative designated pursuant to 42 CFR [C.F.R.] §435.923.

(18) [(19)] Managed care organization (MCO)--An entity licensed and approved by the Texas Department of Insurance with which HHSC contracts to provide Medicaid services and that complies with Chapter 353 of this title (relating to Medicaid Managed Care).

(19) [(20)] Medical consentor--The person who may consent to medical care for a member under Texas Family Code Chapter 266.

(20) [(21)] Medically Dependent Children Program (MDCP)--A Medicaid §1915(c) [1915(e)] waiver program that provides community-based services to assist Medicaid members [beneficiaries] under age 21 to live in the community and avoid living in a care facility [institutionalization].

(21) [(22)] Medically necessary--Has the meaning as defined in §353.2 of this chapter (relating to Definitions).

(22) [(23)] Medical Necessity Level of Care (MN/LOC)--An assessment instrument used to determine medical necessity for a nursing facility as defined by 26 TAC §554.2601. An MN/LOC is required for STAR+PLUS HCBS Program and CFC eligibility.

(23) [(24)] Member--A person who is eligible for benefits under Medicaid, is in a Medicaid eligibility category included in the Medicaid managed care program, and is enrolled in a Medicaid MCO.

(24) [(25)] Minimum data set (MDS)--Has the meaning as defined in 26 TAC §554.101 (relating to Definitions).

(25) [(26)] Nursing facility--An entity that provides organized and structured nursing care and services, and is subject to licensure under Texas Health and Safety Code, Chapter 242.

(26) [(27)] Nursing facility level of care--The determination that the level of care required to adequately serve a member is at or above the level of care provided by a nursing facility.

(27) PDPM LTC--Patient Driven Payment Model for Long-Term Care. A classification system consisting of multiple categories, based on the minimum data set core elements in a resident assessment instrument, that is used to determine a recipient's service and care requirements for a nursing facility.

(28) Person-centered care--An approach to care that focuses on members as individuals and supports caregivers working most closely with members. It involves a continual process of listening, testing new approaches, and changing routines and organizational approaches in an effort to individualize and de-institutionalize the care environment.

(29) Resident Assessment Instrument (RAI)--Has the meaning as defined in 26 TAC §554.101.

[(30) Resource Utilization Group (RUG)--A categorization method, consisting of multiple categories based on the minimum data set core elements in a resident assessment instrument, that is used to determine a recipient's service and care requirements for a nursing facility. A RUG determination is necessary for MDCP and the STAR+PLUS HCBS Program eligibility because these programs require a nursing facility level of care.]

(30) [(31)] Service coordination--A specialized care management service that is performed or arranged by the MCO to identify needs, including physical health, mental health services and long term support services, facilitate development of a service plan or individualized service plan to address those identified needs, and coordination of services among the member's primary care provider, specialty providers, and non-medical providers to ensure timely access to covered services, non-capitated services, and community services.

(31) [(32)] Service coordinator--The person with primary responsibility for providing service coordination to Medicaid managed care members.

(32) [(33)] Service plan (SP)--An individualized and person-centered plan in which a member, with assistance as needed, identifies and documents the member's preferences, strengths, and needs in order to develop short-term objectives and action steps to ensure personal outcomes are achieved within the most integrated setting by using identified supports and services. The service plan is supported by the results of the member's program-specific assessment. In STAR+PLUS, a service plan applies to members who are not enrolled in the STAR+PLUS HCBS Program.

(33) [(34)] STAR+PLUS Home and Community-Based Services (HCBS) Program--The program that provides person-centered care services that are delivered in the home or in a community setting, as authorized through a federal waiver under §1115 of the Social Security Act, to qualified Medicaid-eligible clients who are age 21 or older, as cost-effective alternatives to institutional care in nursing facilities.

(34) [(35)] Telecommunications--An exchange of information by electronic and electrical means.

(35) [(36)] Telephonic--Audio-only communication using a telephone. Telephonic communication does not include audio-visual communication.

(36) [(37)] Verbal consent--The spoken agreement of a member, a member's legally authorized representative, or a member's medical consentor.

§353.1503. *Use of Telecommunications in Assessments.*

(a) STAR+PLUS.

(1) STAR+PLUS MCOs [managed care organizations (MCOs)] must conduct initial assessments and annual reassessments using HHSC-developed tools for STAR+PLUS HCBS Program eligibility in-person.

(2) STAR+PLUS MCOs must conduct all initial and annual assessments using HHSC-developed tools for functionally necessary covered services such as personal assistance services, Community First Choice services, and day activity and health services, in -person.

(3) Change in condition assessments that require or potentially require a change in the PDPM LTC [Resource Utilization Group (RUG)] level must be conducted in-person.

(4) STAR+PLUS MCOs may offer [to STAR+PLUS] members a choice of audio-visual communication in place of in-person change in condition assessments, if [as long as] the assessment does not require or potentially require a change in the PDPM LTC [RUG] level.

(A) When a STAR+PLUS [an] MCO conducts a change in condition assessment using audio-visual communication, the MCO must receive and document verbal consent [must be obtained and documented], and use a HIPAA-compliant audio-visual communication product [must be used].

(B) If verbal consent for audio-visual communication is not received, the STAR+PLUS MCO must meet the member in-person [use in-person communication].

(C) The STAR+PLUS MCO must inform members who use [utilize] audio-visual communication for change in condition assessments that the member's services depend on [will be subject to] the following. [:]

(i) The MCO must monitor services for fraud, waste, and abuse.

(ii) The MCO must determine whether additional social services or supports are needed.

(iii) The MCO must ensure that verbal consent to use telecommunications is documented in writing.

(5) Except as described in paragraph (4) of this subsection, a [A] STAR+PLUS MCO may not conduct an initial assessment, annual reassessment, or change in condition assessment without the in-person presence of the member.

(6) During a declared state of disaster, HHSC may issue direction to STAR+PLUS MCOs regarding whether initial, annual renewal, or change in condition assessments may be conducted through audio-visual or audio-only communication for STAR+PLUS members who reside in the area subject to the declared state of disaster.

(7) STAR+PLUS MCOs must adhere to §353.1153 of this chapter (relating to STAR+PLUS Home and Community Based Services (HCBS) Program) for STAR+PLUS assessments and service planning, and §353.1(c) of this chapter (relating to Purpose) regarding compliance with all terms of the contract with HHSC.

(8) For limited circumstances, STAR+PLUS MCOs may submit, in a manner and format prescribed by HHSC, an exceptions policy for required in-person assessments for approval by HHSC. The policy must be developed by the MCO's clinical staff, such as the Chief Medical Director or the Director's designee.

(b) STAR Kids.

(1) [The] STAR Kids MCOs [MCO] must administer the initial assessment and annual reassessments using the HHSC-developed STAR Kids assessment tool in-person.

(2) Change in condition assessments that require or potentially require a change in the PDPM LTC [RUG] level must be conducted in-person.

(3) MCOs may offer STAR Kids members a choice of audio-visual communication in place of in-person change in condition assessments, as long as the assessment does not require or potentially require a change in the PDPM LTC [RUG] level.

(A) When a STAR Kids [an] MCO conducts a change in condition assessment using audio-visual communication, the MCO must receive and document verbal consent [must be obtained and documented], and use a HIPAA-compliant audio-visual communication product [must be used].

(B) If verbal consent for audio-visual communication is not received, the STAR Kids MCO must meet the member in-person [use in-person communication].

(C) The STAR Kids MCO must inform members who use [utilize] audio-visual communication for change in condition assessments that the member's services depend on [will be subject to] the following. [:]

(i) The MCO must monitor services for fraud, waste, and abuse.

(ii) The MCO must determine whether additional social services or supports are needed.

(iii) The MCO must ensure that verbal consent to use telecommunications is documented in writing.

(4) [A] STAR Kids MCOs [MCO] may not conduct an assessment without the in-person presence of the member.

(5) During a declared state of disaster, HHSC may issue direction to STAR Kids MCOs regarding whether initial, annual renewal, or change in condition assessments may be conducted through audio-visual or audio-only communication for STAR Kids members who reside in the area subject to the declared state of disaster.

(6) STAR Kids MCOs must adhere to §353.1155 of this chapter (relating to Medically Dependent Children Program) for assessments and service planning, and §353.1(c) of this chapter regarding compliance with all terms of the contract with HHSC.

(7) For limited circumstances, STAR Kids MCOs may submit, in a manner and format prescribed by HHSC, an exceptions policy for required in-person assessments for approval by HHSC. The policy must be developed by the MCO's clinical staff, such as the Chief Medical Director or the Director's designee.

(c) STAR Health.

(1) The STAR Health MCO must administer the HHSC-developed assessment tool for initial Medically Dependent Children Program (MDCP) eligibility and annual reassessments in -person.

(2) The STAR Health MCO must conduct all initial and annual reassessments using HHSC-developed tools for functionally necessary covered services such as personal assistance services, personal care services, and Community First Choice services, in -person.

(3) Change in condition assessments that require or potentially require a change in the PDPM LTC [RUG] level must be conducted in-person.

(4) The STAR Health MCO [MCOs] may offer [STAR Health] members a choice of audio-visual communication in place of in-person change in condition assessments, if [as long as] the assessment does not require or potentially require a change in the PDPM LTC [RUG] level.

(A) When the STAR Health [an] MCO conducts a change in condition assessment using audio-visual communication, the MCO must receive and document verbal consent [must be obtained and documented], and use a HIPAA-compliant audio-visual communication product [must be used].

(B) If verbal consent for audio-visual communication is not received, the STAR Health MCO must meet the member in-person [use in-person communication].

(C) The STAR Health MCO must inform members who use [utilize] audio-visual communication for change in condition assessments that the member's services depend on [will be subject to] the following. [:]

(i) The MCO must monitor services for fraud, waste, and abuse.

(ii) The MCO must determine whether additional social services or supports are needed.

(iii) The MCO must ensure that verbal consent to use telecommunications is documented in writing.

(5) A STAR Health MCO may not conduct an assessment without the in-person presence of the member.

(6) During a declared state of disaster, HHSC may give [issue] direction to the STAR Health MCO on [MCOs regarding] whether initial, annual renewal, or change in condition assessments may be conducted through audio-visual or audio-only communication for [STAR Health] members who live [reside] in the area subject to the declared state of disaster.

(7) The [A] STAR Health MCO must adhere to §353.1155 of this chapter for MDCP assessments and service planning, and §353.1(c) of this chapter regarding compliance with all terms of the contract with HHSC.

(8) For limited circumstances, the [a] STAR Health MCO may submit, in a manner and format provided or described [prescribed] by HHSC, an exceptions policy for required in-person assessments. This policy must be approved [for approval] by HHSC. The policy must be developed by the MCO's clinical staff, such as the Chief Medical Director or the Director's designee.

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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Karen Ray

Chief Counsel

Texas Health and Human Services Commission

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For further information, please call: (512) 438-2910



TITLE 16. ECONOMIC REGULATION

PART 2. PUBLIC UTILITY COMMISSION OF TEXAS

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS

SUBCHAPTER S. WHOLESALE MARKETS

16 TAC §25.521

The Public Utility Commission of Texas (commission) proposes new §25.521 relating to Large Load Demand Management Service. This proposed rule will implement Public Utility Regulatory Act (PURA) §39.170 as enacted by Senate Bill 6 during the Texas 89th Regular Legislative Session. The proposed rule will require ERCOT to ensure that each electric cooperative, transmission and distribution utility, and municipally owned utility serving a transmission-voltage customer develops a protocol to allow the transmission-voltage customers to be curtailed during firm load shed; require ERCOT to develop a reliability service to competitively procure demand reductions from large load customers; and establish a framework for the program.

Growth Impact Statement

The agency provides the following governmental growth impact statement for the proposed rule, as required by Texas Government Code §2001.0221. The agency has determined that for each year of the first five years that the proposed rule is in effect, the following statements will apply:

- (1) the proposed rule will not create a government program and will not eliminate a government program;
- (2) implementation of the proposed rule will not require the creation of new employee positions and will not require the elimination of existing employee positions;
- (3) implementation of the proposed rule will not require an increase and will not require a decrease in future legislative appropriations to the agency;
- (4) the proposed rule will not require an increase and will not require a decrease in fees paid to the agency;
- (5) the proposed rule will create a new regulation;
- (6) the proposed rule will not expand, limit, or repeal an existing regulation;
- (7) the proposed rule will not change the number of individuals subject to the rule's applicability; and
- (8) the proposed rule will not affect this state's economy.

Fiscal Impact on Small and Micro-Businesses and Rural Communities

There is no adverse economic effect anticipated for small businesses, micro-businesses, or rural communities as a result of implementing the proposed rule. Accordingly, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002(c).

Takings Impact Analysis

The commission has determined that the proposed rule will not be a taking of private property as defined in chapter 2007 of the Texas Government Code.

Fiscal Impact on State and Local Government

Jessie Horn, Sr. Counsel, Rules and Projects Division, has determined that for the first five-year period the proposed rule is in effect, there will be fiscal implications for the state or for units of local government under Texas Government Code §2001.024(a)(4) as a result of enforcing or administering the section. A municipally owned utility that is a load serving entity will be charged by ERCOT for the large load demand management service (LLDMS) based upon the load serving entity's load ratio share during the relevant LLDMS obligation period.

Public Benefits

Ms. Horn has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be increased reliability. There will be no probable economic cost to persons required to comply with the rule under Texas Government Code §2001.024(a)(5).

Local Employment Impact Statement

For each year of the first five years the proposed section is in effect, there should be no effect on a local economy; therefore, no local employment impact statement is required under Texas Government Code §2001.022.

Costs to Regulated Persons

Texas Government Code §2001.0045(b) does not apply to this rulemaking because the commission is expressly excluded under subsection §2001.0045(c)(7).

Public Hearing

The commission staff will conduct a public hearing on this rulemaking if requested in accordance with Texas Government Code §2001.029. The request for a public hearing must be received by September 4, 2026. If a request for public hearing is received, commission staff will file in this project a notice of hearing.

Public Comments

Interested persons may file comments electronically through the interchange on the commission's website or by submitting a paper copy to Central Records, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326. Comments must be filed by September 4, 2026. Comments should be organized in a manner consistent with the organization of the proposed rules. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed rule. The commission also requests information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, and analysis. The commission will consider the costs and benefits in deciding whether to modify the proposed rules on adoption. All comments should refer to Project Number 58482.

In addition to general comments on the text of the proposed rule, the commission invites interested persons to address the following specific questions:

Proposed subsection (f)(1)(C) authorizes payment to a qualified scheduling entity representing a large load customer that is not instructed by ERCOT to deploy but is subject to availability verification during the Large Load Demand Management Service (LLDMS) obligation period. Should a large load customer that is available but not ultimately instructed to deploy during the LLDMS obligation period be compensated some percentage of the market clearing price for the large load customer's availability to reduce demand during the LLDMS obligation period? If so,

what is an appropriate payment to the large load customer for their availability during the LLDMS obligation period?

Proposed subsection (f)(4) imposes a maximum budget of \$54 million in a calendar year. What is an appropriate budget for the LLDMS program?

What cadence should ERCOT use to assess an extreme weather condition and how far in advance should ERCOT start the auction to procure LLDMS?

Should ERCOT be allowed to deploy LLDMS for transmission emergencies? If so, what limitations, if any, should the Commission impose on this authority?

Each set of comments should include a standalone executive summary as the last page of the filing. This executive summary must be clearly labeled with the submitting entity's name and should include a bulleted list covering each substantive recommendation made in the comments.

Statutory Authority

The rule is proposed under Public Utility Regulatory Act (PURA) §14.001, which grants the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by that title that is necessary and convenient to the exercise of that power and jurisdiction. §14.002, which authorizes the commission to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; §39.151, which specifies that ERCOT is directly responsible and accountable to the commission; and §39.170, which requires the commission to require ERCOT to ensure that each electric cooperative, transmission and distribution utility, and municipally owned utility serving a transmission-voltage customer develops a protocols, including installation of any necessary equipment or technology before the customer is interconnected, to allow the load to be curtailed during firm load shed, and requires the commission to require ERCOT to develop a reliability service to competitively procure demand reductions from large load customers to be deployed in the event of an anticipated emergency condition.

Cross Reference to Statute: Public Utility Regulatory Act §14.001; §14.002; §39.151; and §39.170.

§25.521. Large Load Demand Management Service (LLDMS).

(a) Directive to ERCOT.

(1) ERCOT must ensure that each electric cooperative, transmission and distribution utility, and municipally owned utility serving a transmission-voltage customer develops a protocol, including the installation of any necessary equipment or technology before the customer is interconnected, to allow the load to be curtailed during firm load shed. This subsection applies to a load interconnected after December 31, 2025, that is not:

(A) load operated by a critical load industrial customer, as defined by Public Utility Regulatory Act (PURA) §17.002; or

(B) designated as a critical natural gas facility under PURA §38.074.

(2) ERCOT must develop a Large Load Demand Management Service (LLDMS) to competitively procure demand reductions from large load customers consistent with this section.

(b) Definitions. The following words and terms, when used in this section, have the following meanings unless the context indicates otherwise:

(1) Extreme weather condition--A weather condition that creates a significant risk for an energy emergency alert (EEA) event.

(2) Large load customer--An entity with a total non-coincident peak demand at a single site that is equal to or greater than 75 megawatts (MW).

(3) LLDMS obligation period--The period identified in a LLDMS agreement through which a procured large load customer is obligated to provide LLDMS.

(4) Transmission emergency--A condition in which an element on the transmission system is operating above its emergency rating such that it creates a significant risk of firm load shed.

(c) Participation. Participation in LLDMS is limited to large load customers that pre-qualify for participation at least annually.

(1) Pre-qualification. ERCOT must establish criteria for a large load customer to pre-qualify for participation in LLDMS. The criteria for pre-qualification must include the following minimum requirements:

(A) the large load customer must offer at least 1 MW of demand reduction; and

(B) the large load customer must pass a price responsive test in compliance with ERCOT protocols.

(2) Ineligibility. A large load customer participating in the following services or program in the ERCOT market is not eligible to participate in LLDMS:

(A) a different reliability service;

(B) an ancillary service;

(C) a program administered by ERCOT that compensates for curtailment;

(D) a demand response program in which the large load customer curtails in response to the wholesale price of electricity;

(E) an ERCOT-procured contract for capacity;

(F) a net metering arrangement that imposes a curtailment obligation on the large load customer under PURA §39.169;

(G) firming service under PURA §39.1592 and §25.65 of this title (relating to Firming Program Requirements for Electric Generation Facilities in the ERCOT Region);

(H) a demand response product, program, or service administered by a transmission and distribution service provider; or

(I) the Voluntary Early Curtailment Load program, as defined in ERCOT protocols, or its successor program.

(d) Procurement. ERCOT may procure LLDMS from a large load customer on an as needed basis to help prevent an anticipated EEA event due to an extreme weather condition or alleviate an actual EEA event due to an extreme weather condition.

(1) Request for proposal. ERCOT may issue a request for proposal to large load customers that are pre-qualified to participate in LLDMS:

(A) based on monthly probabilistic modeling that identifies an elevated risk for an EEA event in the modeled month;

(B) based on weekly weather forecasting that identifies an elevated risk for an EEA event during the forecasted week;

(C) in advance of an anticipated EEA Level 1 event due to an extreme weather condition; or

(D) during an EEA event due to an extreme weather condition.

(2) Quantity. The total quantity of MW that ERCOT procures for an LLDMS obligation period must be based on a risk assessment informed by probabilistic modeling.

(3) Submitted offer.

(A) Submission. A qualified scheduling entity (QSE) must submit an offer to ERCOT on behalf of a large load customer that is pre-qualified to participate in LLDMS. The offer must be expressed in dollars per megawatt hour units.

(B) Rejection. ERCOT must reject an offer that is:

(i) unreasonable;

(ii) an outlier when evaluating the parameters of an acceptable offer;

(iii) submitted on behalf of a large load customer that failed to comply with ERCOT instructions to deploy during the previous LLDMS obligation period;

(iv) inconsistent with any other requirement established in ERCOT protocols; or

(v) greater than \$5,000 per megawatt hour.

(e) Deployment.

(1) Prior to deployment, ERCOT must provide at least 24-hour notice to a QSE that a large load customer represented by the QSE may be deployed to reduce its load during the LLDMS obligation period.

(2) ERCOT may deploy a large load customer as necessary to help maintain reliability during an EEA event due to an extreme weather condition throughout the LLDMS obligation period.

(3) When deployed by ERCOT, a large load customer must deploy consistent with its obligations and must remain deployed:

(A) for the duration of the EEA event; or

(B) until the large load customer can be recalled safely, as determined and communicated by ERCOT.

(f) Payment and charges.

(1) ERCOT must pay a QSE that represents a large load customer participating in LLDMS as follows:

(A) all payments must be based on a single clearing price;

(B) awards must be settled monthly after availability data is confirmed;

(C) A QSE representing a large load customer that is not instructed by ERCOT to deploy but is subject to availability verification during the LLDMS obligation period may receive a payment based on 25% of the market clearing price; and

(D) A QSE representing a large load customer that deploys consistent with ERCOT instructions during the LLDMS obligation period may receive payment based on 100% of the market clearing price associated with the deployed capacity.

(2) ERCOT must include load reduction under this section when calculating price adjustments for reliability deployments.

(3) ERCOT must charge each load serving entity for LLDMS deployment costs based upon the LSE's load ratio share during the procurement period.

(4) ERCOT may spend a maximum of \$54 million in procurement costs during a calendar year.

(g) Compliance.

(1) ERCOT must establish criteria to reduce a QSE's payment, claw back a QSE's payment, suspend a QSE from participation in LLDMS, or any combination thereof, based on the QSE's failure to meet its LLDMS obligation under this section or a related ERCOT protocol.

(2) ERCOT must establish criteria to suspend a large load customer based on noncompliance with this section or a related ERCOT protocol. ERCOT must also establish criteria for subsequent reinstatement.

(3) ERCOT must notify the commission of all alleged instances of noncompliance with this section or a related ERCOT protocol.

(4) ERCOT must maintain records relating to any alleged noncompliance with this section or a related ERCOT protocol.

(h) After action reporting requirement. Not later than 60 days after an event in which ERCOT procures LLDMS, ERCOT must file a report with the commission detailing:

(1) the number of large load customers that submitted offers;

(2) the number of megawatts procured;

(3) the highest offer;

(4) the lowest offer;

(5) the cleared price;

(6) the duration of deployment, as applicable;

(7) performance during deployment, as applicable; and

(8) any recommendation to revise LLDMS.

(i) Implementation. ERCOT must develop, in consultation with commission staff, additional procedures, including registration requirements for the large load customers participating in LLDMS, guides, technical requirements, protocols, or other standards that are consistent with this section and that ERCOT finds necessary to develop LLDMS.

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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TRD-202603227

Katelyn Lewis

Rules Coordinator

Public Utility Commission of Texas

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For further information, please call: (512) 936-7044

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TITLE 19. EDUCATION

PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

CHAPTER 22. STUDENT FINANCIAL AID PROGRAMS

SUBCHAPTER I. TEXAS ARMED SERVICES SCHOLARSHIP PROGRAM

19 TAC §22.165, §22.166

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 22, Subchapter I, §22.165 and §22.166, concerning Texas Armed Services Scholarship Program. Specifically, these amendments will provide additional information regarding the process of award calculation and establish a deadline by which all scholarship appointments may be made for a given year.

The Coordinating Board is authorized by Texas Education Code, §61.9771, to adopt rules relating to the Program.

Rule 22.165, Scholarship Amount, is amended to clarify subsection (a)(2), codifying the Coordinating Board's existing practice of using resident undergraduate cost of attendance in determining the maximum scholarship amount under that section. Amendments are also made to clarify that officer training program costs should be used in calculating the cost of attendance.

Rule 22.166, Appointment by Elected Officials, is amended to establish a deadline of November 30, 2026, and October 31 of subsequent years by which the lieutenant governor or speaker of the house may submit additional scholarship appointments on behalf of members of their respective chambers who did not submit appointments by the September 30 deadline established in statute. This deadline is established to ensure appointments are received by the Coordinating Board in time for scholarship funds to be disbursed to eligible students at the beginning of the spring semester and to allow sufficient time for technological systems used to administer the program to be updated for the following nomination cycle. Consistent with Texas Education Code, §61.9772(b-1), the amendment also clarifies that the lieutenant governor and speaker of the house may designate a member of their respective chambers to complete this function. The rule is further amended to provide an eligible student who was nominated as an additional appointment by the lieutenant governor or speaker of the house to fill a vacancy five business days to indicate a desire to pursue the scholarship and enter into a promissory note. If the recipient does not elect to pursue the scholarship, the lieutenant governor and speaker of the house of representative may fill the vacancy.

Andy MacLaurin, Assistant Commissioner for Funding and Financial Aid, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Andy MacLaurin, Assistant Commissioner for Funding and Financial Aid, has also determined that for each year of the first five years the sections are in effect, the public benefit anticipated

as a result of administering the sections will be the improved program administration. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;
- (6) the rules will not limit an existing rule;
- (7) the rules will not change the number of individuals subject to the rules; and
- (8) the rules will not affect this state's economy.

Comments on the proposed rules or information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research or analysis, may be submitted to Andy MacLaurin, Assistant Commissioner for Funding and Financial Aid, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

These amendments are proposed under Texas Education Code, Section 61.9771, which provides the Coordinating Board with the authority to adopt rules relating to the Program.

The proposed amendments affect Texas Administrative Code, Title 19, Part 1, Chapter 22, Subchapter I.

§22.165. *Scholarship Amount.*

(a) The Coordinating Board shall determine and announce the amount of a scholarship not later than the final day of January prior to the start of each fiscal year. The amount shall not exceed the greater of:

- (1) \$30,000; or
- (2) an amount equal to the average resident undergraduate cost of attendance at public institutions of higher education in this state at which one or more scholarship recipients were enrolled in the prior year.

(b) Notwithstanding subsection (a) of this section, a student may not receive a scholarship under this subchapter in an amount that exceeds the student's cost of attendance. In determining the student's cost of attendance, institutions should consider all additional education-related expenses incurred through participation in officer training programs.

(c) Notwithstanding subsection (a) of this section, if the Coordinating Board determines that insufficient appropriations are available to offer scholarships to all eligible students at the amount described by subsection (a) of this section in a given fiscal year, then the Coordinating Board may instead calculate and publish a maximum scholarship amount that ensures all eligible students receive an equitable portion of available funds.

§22.166. *Appointment by Elected Officials.*

(a) Each year the governor and the lieutenant governor shall each appoint two students and two alternates, and each state senator and

each state representative shall appoint one student and one alternate to receive an initial scholarship.

(b) State senators or state representatives shall make appointments under subsection (a) of this section no later than September 30 of each year.

(c) If the Coordinating Board has not received an appointment required from a state senator or state representative by the deadline in subsection (b) of this section [all such appointments by the September 30 deadline], the Coordinating Board will notify the lieutenant governor and the speaker of the house of representatives and request additional appointments. The lieutenant governor and speaker of the house of representatives, or their designee(s), shall make additional appointments no later than November 30, 2026, or October 31 of each subsequent year.

(d) If a student appointed to receive a scholarship is determined to be ineligible to receive an initial scholarship, the Coordinating Board must notify the alternate on file of his or her nomination.

(e) An appointed student selected to fill a vacancy under subsection (c) of this section shall, not later than the fifth business day after the Coordinating Board sends the student notice of the appointment, provide written or electronic notice that the student intends to pursue the scholarship. The Coordinating Board shall inform the student of the response deadline and the consequences of failing to respond in the notice. If the student timely declines the scholarship, fails to provide timely notice, or is determined ineligible, the Coordinating Board shall notify the lieutenant governor or speaker of the house of representatives, as appropriate, or the member designated under subsection (c) of this section, that the vacancy remains unfilled. The appropriate presiding officer or designated member shall promptly make another appointment.

(f) [(e)] If a recipient's scholarship converts to a loan prior to graduation, beginning with the academic year following the determination, the appointing official may appoint another eligible student to receive any available funds designated for the recipient who no longer meets the requirements for the scholarship.

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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Douglas Brock

General Counsel

Texas Higher Education Coordinating Board

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For further information, please call: (512) 427-6495



PART 2. TEXAS EDUCATION AGENCY

CHAPTER 161. COMMISSIONER'S RULES CONCERNING ADVISORY COMMITTEES

The Texas Education Agency (TEA) proposes the repeal of §161.1001 and §161.1003, new §161.1001 and §161.1003, and an amendment to §161.1002, concerning advisory committees. The proposed revisions would update the rules addressing the establishment of discretionary and mandatory advisory committees, TEA operating procedures for the committees, and the list of existing committees.

BACKGROUND INFORMATION AND JUSTIFICATION: Section 161.1001 recognizes the commissioner of education's authority to appoint advisory committees. Section 161.1002 defines the relevant information to be included within agency operating procedures about each advisory committee, and §161.1003 lists advisory committees that have been appointed.

Section 161.1001 would be repealed and proposed new §161.1001 would provide clarifying language and specify that each advisory committee is subject to Texas Government Code, Chapter 551.

The proposed amendment to §161.1002 would streamline the information required in TEA operating procedures and improve clarity for those seeking further information about appointed advisory committees.

Section 161.1003 would be repealed and proposed new §161.1003 would update the list of appointed advisory committees and provide further information about those committees relevant to the provisions of Texas Government Code, Chapter 2110.

FISCAL IMPACT: Tracy Young, commissioner's chief of staff and chief communications officer, has determined that for the first five-year period the proposal is in effect, there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would repeal existing regulations and create new regulations, and it would limit an existing regulation by removing information from the operating procedures concerning advisory committees.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not expand an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Ms. Young has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing

the proposal would be to provide clarification on the commissioner's establishment of advisory committees and TEA operating procedures and identify committees that have been established. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: TEA requests public comments on the proposal, including, per Texas Government Code, §2001.024(a)(8), information related to the cost, benefit, or effect of the proposed rule and any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. The public comment period on the proposal begins August 14, 2026, and ends September 14, 2026. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on August 14, 2026. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_\(TAC\)/Proposed_Commissioner_of_Education_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/).

19 TAC §161.1001, §161.1003

STATUTORY AUTHORITY. The repeals are proposed under Texas Education Code (TEC), §7.055(b)(11), which permits the commissioner to appoint advisory committees, in accordance with Texas Government Code, Chapter 2110, as necessary to advise the commissioner in carrying out the duties and mission of the agency; and Texas Government Code, Chapter 2110, which provides direction for the establishment of advisory committees by state agencies.

CROSS REFERENCE TO STATUTE. The repeals implement TEC, §7.055(b)(11), and Texas Government Code, Chapter 2110.

§161.1001. Establishment of Advisory Committees.

§161.1003. Advisory Committees.

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 August 3, 2026.

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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: September 13, 2026

For further information, please call: (512) 475-1497



19 TAC §§161.1001 - 161.1003

STATUTORY AUTHORITY. The new rule and amendment are proposed under TEC, §7.055(b)(11), which permits the commissioner to appoint advisory committees, in accordance with

Texas Government Code, Chapter 2110, as necessary to advise the commissioner in carrying out the duties and mission of the agency and Texas Government Code, Chapter 2110, provides direction for the establishment of advisory committees by state agencies.

CROSS REFERENCE TO STATUTE. The new rule and amendment implement Texas Education Code (TEC), §7.055(b)(11), and Texas Government Code, Chapter 2110.

§161.1001. Establishment of Advisory Committees.

The commissioner of education may appoint advisory committees as necessary to advise the commissioner in carrying out the duties and mission of the Texas Education Agency.

§161.1002. Texas Education Agency Operating Procedures.

[The commissioner of education shall adopt and implement Texas Education Agency (TEA) operating procedures governing establishment and operation of public education advisory committees.] For each committee listed in §161.1003 of this title (relating to Advisory Committees), the commissioner of education shall include the following information as an attachment to the Texas Education Agency (TEA) operating procedure relating to Advisory Committees [procedures] :

(1) name of the committee;

(2) purpose of the committee; and

~~[(3) statutory authority under which the committee is established;]~~

~~[(4) number of members; and]~~

(3) ~~[(5)]~~ staff contact at TEA.

§161.1003. Advisory Committees.

The commissioner of education has appointed the following advisory committees.

(1) Discretionary committee. Commissioner's Advisory Council on the Education of Gifted/Talented Students.

(A) Purpose and tasks.

(i) Purpose. The purpose of the committee is to advise the commissioner on policy and practice related to gifted/talented education and advanced academics.

(ii) Tasks. The committee shall meet quarterly, provide minutes of meetings to supporting Texas Education Agency (TEA) staff, and generate an annual report on its activity.

(B) Manner of reporting. The committee shall provide meeting minutes to supporting TEA staff within two weeks of the completion of each meeting and shall provide a report on its activity to supporting TEA staff annually.

(C) Duration. This committee will continue in existence until abolished affirmatively by the commissioner.

(2) Mandatory committees.

(A) Adult High School Charter School Program Advisory Committee.

(i) Purpose and tasks.

(I) Purpose. The purpose of the committee is to make recommendations to the commissioner regarding the secondary exit-level assessment tool adopted or developed under Texas Education Code (TEC), §12.260, and the satisfactory performance level for that tool and the accountability frameworks adopted under TEC, §12.262, including the performance domains and measures in each framework.

(II) Tasks. The committee shall complete tasks as outlined in TEC, §§12.251-12.265.

(ii) Manner of reporting. This committee will report to TEA as outlined in TEC, §§12.251-12.265.

(iii) Duration. This committee will continue in existence until no longer required by state law.

(B) Continuing Advisory Committee for Special Education.

(i) Purpose and tasks.

(I) Purpose. The purpose of the committee is to advise TEA of unmet needs within the state in the education of children with disabilities; comment publicly on any rules or regulations proposed by the state regarding the education of children with disabilities; advise TEA in developing evaluations and reporting on data to the secretary of education under the Individuals with Disabilities Education Act (IDEA), §1418; advise TEA in developing corrective action plans to address findings identified in federal monitoring reports under IDEA, Part B; and advise TEA in developing and implementing policies relating to the coordination of services for children with disabilities.

(II) Tasks. The committee shall complete tasks as described in subclause (I) of this clause.

(ii) Manner of reporting. The committee shall report to the legislature every two years with recommended changes to state law and TEA rules relating to special education as provided by TEC, §29.006.

(iii) Duration. This committee will continue in existence until no longer required by state or federal law.

(C) Open Education Resource Advisory Board.

(i) Purpose and tasks.

(I) Purpose. The purpose of the committee is to ensure that open education resource instructional materials made available under TEC, §§31.0701-31.076, are of the highest quality; aligned with the essential knowledge and skills adopted by the State Board of Education under TEC, §28.002, for the applicable subject and grade level; suitable for the age of students at the grade level for which the materials are developed; free from bias and factual error; and in compliance with TEC, §28.0022.

(II) Tasks. The committee shall complete tasks as needed to support the purpose described in subclause (I) of this clause.

(ii) Manner of reporting. The committee will report to TEA staff as needed to support the purpose described in clause (i)(I) of this subparagraph.

(iii) Duration. This committee will continue in existence until no longer required by state law.

(D) Expanded Learning Opportunities Council.

(i) Purpose and tasks.

(I) Purpose. The purpose of the committee is to study issues concerning expanded learning opportunities for Texas' public school students and report related recommendations to the Texas Legislature on a biennial basis.

(II) Tasks. The committee shall complete tasks as provided in TEC, §§33.256-33.258.

(ii) Manner of reporting. The committee shall report to TEA as provided in TEC, §33.259.

(iii) Duration. Unless continued in existence as provided by Texas Government Code, Chapter 325 (the Texas Sunset Act), the council is abolished on September 1, 2029.

(E) State Advisory Council on Educational Opportunity for Military Children.

(i) Purpose and tasks.

(I) Purpose. The purpose of the committee is to provide for coordination between state agencies, school districts, and military installations concerning the state's participation in and compliance with the Interstate Compact on Educational Opportunity for Military Children.

(II) Tasks. The committee shall conduct meetings at least quarterly; provide meeting dates, agendas, minutes, end-of-year reports, and other documentation as required to the Military Interstate Children's Compact Commission; and establish policies and procedures governing the committee's operations.

(ii) Manner of reporting. There are no reporting requirements for this committee in the authorizing statute, TEC, Chapter 162.

(iii) Duration. This committee will continue in existence until no longer required by state law.

(F) State Parent Advisory Council for Migrant Education.

(i) Purpose and tasks.

(I) Purpose. The purpose of the committee is to advise TEA in planning, implementing, and evaluating the state program designed to meet the educational needs of migratory children.

(II) Tasks. The committee shall be invited to comment and make recommendations on the following:

(-a-) improving the Texas Migrant State Plan submitted to the United States Department of Education;

(-b-) improving programs and services offered to migrant children;

(-c-) improving evaluation of the migrant programs;

(-d-) increasing the quantity and quality of parent involvement; and

(-e-) considering other items which may be appropriate to the role of the State Parent Advisory Council for Migrant Education.

(ii) Manner of reporting. TEA staff will review and incorporate feedback and recommendations provided by committee members.

(iii) Duration. This committee will continue in existence until no longer required by federal law.

(G) Title I, Committee of Practitioners/Texas Ed-Flex Committee.

(i) Purpose and tasks.

(I) Purpose. Review and provide comments and suggestions on any proposed state rule or regulation pursuant to Title I of the Elementary and Secondary Education Act (ESEA) as amended by the Every Student Succeeds Act (ESSA). Conduct peer review of Individual Programmatic Ed-Flex waiver applications and makes rec-

ommendations for approval to the commissioner or his/her designee, thus functioning as the state's Ed-Flex committee.

(II) Tasks. The committee shall complete tasks as needed to support the purpose described in subclause (I) of this clause.

(ii) Manner of reporting. The committee shall provide comments and suggestions to TEA staff on any proposed state rule or regulation pursuant to the ESEA, Title I, as amended by the ESSA; make recommendations on Individual Programmatic Ed-Flex waiver applications; and provide supporting TEA staff with meeting minutes.

(iii) Duration. This committee will continue in existence until no longer required by federal law.

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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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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For further information, please call: (512) 475-1497



PART 7. STATE BOARD FOR EDUCATOR CERTIFICATION

CHAPTER 229. ACCOUNTABILITY SYSTEM FOR EDUCATOR PREPARATION PROGRAMS

(Editor's note: In accordance with Texas Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," the figures in 19 TAC §229.1 and 19 TAC §229.3 are not included in the print version of the Texas Register. The figures are available in the on-line version of the August 14, 2026, issue of the Texas Register.)

The State Board for Educator Certification (SBEC) proposes amendments to 19 Texas Administrative Code (TAC) §§229.1 - 229.5, and 229.7, concerning the performance standards and procedures for educator preparation program (EPP) accountability. The proposed amendments would provide for adjustments to the Texas Accountability System for Educator Preparation (ASEP) Manual; would clarify and streamline language; would provide clarity on processes and timelines related to new certification tests, surveys, and observation requirements; would update sources of information for population identification; would increase ASEP communications, would provide time and supports for EPPs with a lowered ASEP status; and would include technical updates.

BACKGROUND INFORMATION AND JUSTIFICATION: EPPs are entrusted to prepare educators for success in the classroom. Texas Education Code (TEC), §21.0443, requires EPPs to adequately prepare candidates for certification. Similarly, TEC, §21.031, requires SBEC to ensure candidates for certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state. TEC, §21.045, also requires SBEC to establish standards to govern

the continuing accountability of all EPPs. SBEC rules in Chapter 229 establish the process used for issuing annual accreditation ratings for all EPPs to comply with these provisions of the TEC and to ensure the highest level of educator preparation, which is codified in the SBEC Mission Statement.

The following is a description of the proposed amendments to Chapter 229, Subchapters A, B, C, and E, including the ASEP Manual (Figure: 19 TAC §229.1(c)), and updated data collection requirements (Figure: 19 TAC §229.3(f)(1)).

Subchapter A, Accountability System for Educator Preparation Program Procedures

§229.1. General Provisions and Purpose of Accountability System for Educator Preparation Programs.

Updates to ASEP Manual

The proposed amendment to Figure: 19 TAC §229.1(c) would update the ASEP Manual as follows:

Updates to Chapter 1 would remove an outdated reference to Chapter 9 and correct the description of Chapter 8.

Updates to Chapter 3 would clarify how a redesigned test would be integrated into pass rates calculations as they begin. The worked examples would be updated to increase clarity about redesigned tests and how they are handled in the pass rates calculations each year.

Updates to Chapter 5 would clarify that EPPs have an opportunity to review their student growth roster and request the removal of individuals. This would align with current practices described in other chapters and provide clarity for EPPs regarding this process. This would also clarify the population included in relation to deactivated certificates.

Updates to Chapter 6 would clarify that, beginning in the 2025-2026 academic year, individuals completing internship, residency, or clinical teaching experiences will be identified using the clinical experience record end date. This would incorporate updated data and provide transparency to EPPs about which candidates will be evaluated each year. These updates would further establish observation frequency requirements as the standard for the 2025-2026 and 2026-2027 reporting years, generalize references to Chapter 228, Requirements for Educator Preparation Programs, Subchapter F, Support for Candidates During Required Clinical Experiences, to facilitate future rulemaking, and incorporate the term reporting year for clarity and consistency.

A technical edit would be made to §229.1(c) to remove reference to a provision repealed effective January 7, 2025.

§229.2. Definitions.

Proposed new §229.2(19) and (23) would add definitions for "governing body" and "legal authority," which are used in Chapter 229, to clarify the responsibilities of leadership roles in an EPP and provide examples of positions at an EPP that are considered leadership roles.

Proposed new §229.2(20) would align language related to the individual who supports a teacher resident with language in §228.2, defining the term as "host teacher."

Proposed new §229.2(22) would align language related to the mentor of a candidate completing an internship with language in §228.2, defining the term as "intern mentor teacher."

§229.3. Required Submissions of Information, Surveys, and Other Data.

The proposed amendment to §229.3(a) would align language with the proposed changes to §229.2(20) and (22).

Updates to Required Data Collections

The proposed amendment to Figure: 19 TAC §229.3(f)(1) would add "EPP contact information" to the list of required data to collect the names, email addresses, and phone numbers of the EPP's legal authority, chief operating officer, and governing body chair. It also requires that each individual be separate persons. This requirement would enable robust communication and is consistent with feedback from SBEC.

Technical edits to conform with style would be made throughout the subchapter.

Subchapter B, Accountability System for Educator Preparation Accreditation Statuses

§229.4. Determination of Accreditation Status.

The proposed amendment to §229.4(a) and (a)(4)(A)(i) would remove rules that are no longer applicable to streamline the rule text.

The proposed amendment to §229.4(a)(4)(A)(ii) would clarify the changes to minimum observation requirements in Chapter 228, Subchapter F, that will be effective September 1, 2026. This would provide clarity to the field about which observation requirements are actionable for each evaluation year.

The proposed amendments to §229.4(a)(2) and (5) would allow for the first reporting year that a redesigned survey is distributed in replacement of a prior survey to be a report-only year for the principal and teacher surveys. The principal and teacher surveys will be revised to remain aligned with the Texas Teacher Evaluation and Support System (T-TESS) teacher observation rubric, which is being updated to align with new educator standards. This update would provide for visibility on the outcomes of the new survey to SBEC and EPPs prior to the new survey being actionable for accountability and is responsive to stakeholder input.

The proposed amendment to §229.4(b)(3)(A) would update the assignment of accreditation statuses so that an ASEP Index score that is less than 80% in the first year would be Accredited-Warned status. This would result in EPPs receiving an Accredited-Warned status prior to receiving an Accredited-Probation status. This would provide additional time for EPP improvement and is consistent with feedback from SBEC.

The proposed amendment to §229.4(b)(4)(A) would update the Accredited-Probation status counting to begin in the first year after an Accredited-Warned status was approved when the ASEP Index is below 80%. This would provide additional time for EPP improvement and is consistent with feedback from SBEC.

Technical edits to conform with style would be made throughout the subchapter.

Subchapter C, Accreditation Sanctions

§229.5. Accreditation Sanctions and Procedures.

Proposed new §229.5(b) would require an EPP to complete a continuing EPP review if an EPP receives a status of Accredited-Warned or Accredited-Probation. This update would allow for EPPs to receive additional oversight and support through the

Continuing Approval Review system when they fall below the Accredited performance level.

Proposed §229.5(c)-(f) would be relettered to accommodate the addition of proposed new subsection (b).

Technical edits to conform with style would also be made throughout the subchapter.

Subchapter E, Review Procedures

§229.7. Informal Review of Texas Education Agency Recommendations.

The proposed amendment to §229.7(b)(4) would clarify that a required notice of an accreditation status recommendation or change be communicated to the chief operating officer, legal authority, and chair of the governing body. This change would ensure communication of these results and is consistent with feedback from SBEC.

The proposed amendment to §229.7(c) would add "legal authority" to the list of individuals in rule who can request an informal review. This would ensure alignment with several parties being able to request an informal review and is consistent with feedback from SBEC.

Technical edits to conform with style requirements would be made throughout the subchapter.

FISCAL IMPACT: Jessica McLoughlin, associate commissioner for educator preparation and talent development, has determined that for the first five years enforcing or administering the rules, there will be additional costs for EPPs that are required to complete a discretionary continuing educator preparation program review. The proposed rules would require a Continuing Educator Preparation Program Approval Review in a circumstance where approved Accountability System for Educator Preparation status is "Accredited-Warned" or "Accredited-Probation" for the first consecutive year (or first time after previously receiving an Accredited status). The number was modeled off of the results in the 2024-2025 Accountability System for Educator Preparation approved statuses. In 2024-2025, nine programs scored below 80% on the ASEP Index, which is the score that would result in an Accredited-Warned or Accredited-Probation status in the future. Of those nine, five were Accredited in the previous reporting year in which they had an approved status. One of the five was already scheduled for their five-year Continuing Educator Preparation Program Approval Review. This program would have been assessed the fee of \$4,500 for a review regardless of their accreditation status. The other four programs would receive a discretionary review under the proposed rules at a cost of \$4,500. This would amount to \$18,000 in new revenues for the state government and \$18,000 in new costs for EPPs that are complying with the rule's enactment.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code (TGC), §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in TGC, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to TGC, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under TGC, §2007.043.

GOVERNMENT GROWTH IMPACT: Texas Education Agency (TEA) staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, proposed §229.3(f)(1) would create a new regulation for EPPs by requiring new data reporting collections of data related to legal authority, chief operating officer, and governing body chair. This helps ensure that multiple role holders at each EPP receive transparent communications regarding accreditation and governance status changes for their EPP.

Proposed §229.4(b)(3)(A) and §229.4(b)(4)(A) would create a new regulation for EPPs that results in the recommendation of accreditation statuses differently. It would require that an ASEP Index score that is below 80% in the first-year result in an Accredited-Warning status and an ASEP Index score that is below 80% in years two through four result in an Accredited-Probation status. This update creates more fluency in the accreditation status approval process and ensures that EPPs have adequate time to receive data and improve their program.

Proposed new §229.5(b) would create a new regulation for EPPs by requiring that they complete a Continuing Educator Preparation Program Approval if an EPP receives a status of Accredited-Warning or Accredited-Probation. This responds to stakeholder feedback to ensure that EPPs diagnose issues and are supported in remediating the issues.

PUBLIC BENEFIT AND COST TO PERSONS: Jessica McLoughlin, associate commissioner for educator preparation and talent development, has determined that for the first five years the proposal is in effect, the public benefit anticipated would be aligning the rules with statute and reflecting current procedures. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have a data and reporting impact. New reporting requirements in proposed §229.3(f)(1) would include annual collection of data related to the names, addresses, and phone numbers of an EPP's legal authority, chief operating officer, and governing body chair. This collection is necessary under proposed §229.7(b)(4) and (c). EPPs are already required to create and retain this data locally, and allowing EPPs to report this data to TEA using the Educator Certification Online System would ensure that the appropriate personnel at an EPP receive notice of accreditation and governance findings and allow them to file an informal review on behalf of the EPP. This ensures that TEA is transparent with communications to personnel who make policy decisions for the EPP.

ENVIRONMENTAL IMPACT: The proposal does not require an environmental impact analysis because the proposal does not include major environmental rules under TGC, §2001.0225.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA staff has determined the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The SBEC requests public comments on the proposal, including, per TGC, §2001.024(a)(8), information related to the cost, benefit, or effect of the proposed rule and any applicable data, research, or analysis, from any

person required to comply with the proposed rule or any other interested person. The public comment period on the proposal begins August 14, 2026, and ends September 14, 2026. A form for submitting public comments is available on the TEA website at <https://tea.texas.gov/laws-and-rules/sbec-rules-tac/proposed-state-board-educator-certification-rules>. Comments on the proposal may also be submitted by calling (512) 475-1497. The SBEC will also take registered oral and written comments on the proposal during the September 2026 meeting's public comment period in accordance with the SBEC board operating policies and procedures.

SUBCHAPTER A. ACCOUNTABILITY SYSTEM FOR EDUCATOR PREPARATION PROGRAM PROCEDURES

19 TAC §§229.1 - 229.3

STATUTORY AUTHORITY: The amendments are proposed under TEC, §21.041(a), which allows SBEC to adopt rules as necessary for its own procedures; TEC, §21.041(b)(1), which requires SBEC to propose rules that provide for the regulation of educators and the general administration of TEC, Chapter 21, Subchapter B, in a manner consistent with TEC, Chapter 21, Subchapter B; TEC, §21.041(d), which states that SBEC may adopt a fee for the approval and renewal of approval of an EPP, for the addition of a certificate or field of certification, and to provide for the administrative cost of appropriately ensuring the accountability of EPPs; TEC, §21.043(b) and (c), which require SBEC to provide EPPs with data, as determined in coordination with stakeholders, based on information reported through PEIMS that enables an EPP to assess the impact of the program and revise the program as needed to improve; TEC, §21.0441(c) and (d), which require SBEC to adopt rules setting certain admission requirements for EPPs; TEC, §21.0443, which states that SBEC shall propose rules to establish standards to govern the approval or renewal of approval of EPPs and certification fields authorized to be offered by an EPP. To be eligible for approval or renewal of approval, an EPP must adequately prepare candidates for educator certification and meet the standards and requirements of SBEC. SBEC shall require that each EPP be reviewed for renewal of approval at least every five years. SBEC shall adopt an evaluation process to be used in reviewing an EPP for renewal of approval; TEC, §21.045, which states that SBEC shall propose rules establishing standards to govern the approval and continuing accountability of all EPPs; TEC, §21.0451, which states that SBEC shall propose rules for the sanction of EPPs that do not meet accountability standards and shall annually review the accreditation status of each EPP. The costs of technical assistance required under TEC, §21.0451(a)(2)(A), or the costs associated with the appointment of a monitor under TEC, §21.0451(a)(2)(C), shall be paid by the sponsor of the EPP; TEC, §21.0452, which states that to assist persons interested in obtaining teaching certification in selecting an EPP and assist school districts in making staffing decisions, SBEC shall make certain specified information regarding EPPs in this state available to the public through SBEC's Internet website.

CROSS REFERENCE TO STATUTE. The amendments implement TEC, §§21.041(a), (b)(1), and (d); 21.043(b) and (c); 21.0441(c) and (d); 21.0443; 21.045; 21.0451; and 21.0452.

§229.1. General Provisions and Purpose of Accountability System for Educator Preparation Programs.

(a) The State Board for Educator Certification (SBEC) is responsible for establishing standards to govern the continuing accountability of all educator preparation programs (EPPs). The rules adopted by the SBEC in this chapter govern the accreditation of each EPP that prepares individuals for educator certification. No candidate shall be recommended for any Texas educator certification class or category except by an EPP that has been approved by the SBEC pursuant to Chapter 228 of this title (relating to Requirements for Educator Preparation Programs) and is accredited as required by this chapter.

(b) The purpose of the accountability system for educator preparation is to assure that each EPP is held accountable for the readiness for certification of candidates completing the programs.

(c) The relevant criteria, formulas, calculations, and performance standards relevant to ~~[subsection (d) of this section and]~~ §229.4 of this title (relating to Determination of Accreditation Status) are prescribed in the *Texas Accountability System for Educator Preparation (ASEP) Manual* provided as a figure in this subsection.

Figure: 19 TAC §229.1(c)
~~[Figure: 19 TAC §229.1(e)]~~

§229.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Academic year--If not referring to the academic year of a particular public, private, or charter school or institution of higher education, September 1 through August 31.

(2) Administrator--For purposes of the surveys and information required by this chapter, an educator whose certification would entitle him or her to be assigned as a principal or assistant principal in Texas, whether or not he or she is currently working in such an assignment.

(3) Beginning teacher--For purposes of ~~[the]~~ Texas Education Code (TEC), §21.045(a)(3), and its implementation in this chapter, a classroom teacher with fewer than three years of experience as a certified classroom teacher.

(4) Candidate--An individual who has been formally or contingently admitted into an educator preparation program (EPP) who has not yet completed or exited the EPP.

(5) Certification category--A certificate type within a certification class, as described in Chapter 233 of this title (relating to Categories of Classroom Teaching Certificates).

(6) Certification class--A certificate, as described in §230.33 of this title (relating to Classes of Certificates), that has defined characteristics; may contain one or more certification categories, as described in Chapter 233 of this title.

(7) Clinical experience--An assignment, as described in §228.2 of this title (relating to Definitions).

(8) Clinical teaching--An assignment, as described in §228.2 of this title ~~[(relating to Definitions)]~~.

(9) Completer--A person who has met all the requirements of an approved EPP ~~[educator preparation program]~~. In applying this definition, the fact that a person has or has not been recommended for a standard certificate or passed a certification examination shall not be used as criteria for determining who is a completer.

(10) Consecutively measured years--Consecutive years for which a group's performance is measured, excluding years in which the small group exception applies, in accordance with §229.4(c) of this title (relating to Determination of Accreditation Status).

(11) Content pedagogy test ~~[Pedagogy Test]~~--Examination listed in the column labeled "Required Content Pedagogy Test(s)" in Figure: 19 TAC §230.21(e).

(12) Cooperating teacher--An individual, as described in §228.2 of this title ~~[(relating to Definitions)]~~, who supports a candidate during a candidate's clinical teaching experience.

(13) Demographic group--Male and female, as to gender; and African American, Hispanic, White, and Other, as to race and ethnicity.

(14) Educator preparation program--An entity approved by the State Board for Educator Certification (SBEC) to recommend candidates in one or more educator certification classes or categories.

(15) Educator preparation program data--Data reported to meet requirements under TEC ~~[the Texas Education Code]~~, §21.045(b) and §21.0452.

(16) Examination--An examination or other test required by statute, or any other SBEC ~~[State Board for Educator Certification]~~ rule codified in the Texas Administrative Code, Title 19, Part 7, that governs an individual's admission to an EPP ~~[educator preparation program]~~, certification as an educator, continuation as an educator, or advancement as an educator.

(17) Field supervisor--An individual, as described in §228.2 of this title ~~[(relating to Definitions)]~~, who is hired by an EPP ~~[educator preparation program]~~ to observe candidates, monitor their performance, and provide constructive feedback to improve their effectiveness as educators.

(18) First-year teacher--For purposes of TEC ~~[the Texas Education Code]~~, §21.045(a)(2), and its implementation in this chapter, an individual in his or her first year of employment as a classroom teacher.

(19) Governing body--A group or board of individuals responsible for oversight of EPP policies and activities, including, but not limited to, governance, administration, and accreditation functions. This body includes at minimum the governing body chairperson.

(20) Host teacher--An individual, as described in §228.2 of this title, who supports a teacher resident candidate during the candidate's teacher residency field placement experience.

(21) ~~[(19)]~~ Internship--An assignment, as described in §228.2 of this title ~~[(relating to Definitions)]~~.

(22) ~~[(20)]~~ Intern mentor teacher ~~[Mentor]~~--An individual, as described in §228.2 of this title ~~[(relating to Definitions)]~~, who supports a candidate during a candidate's internship experience.

(23) Legal authority--The person with final decision-making authority in an EPP such as a dean, director, owner, executive director, superintendent, or program director.

(24) ~~[(21)]~~ Pedagogy test ~~[Test]~~--Examination listed in the column labeled "Pedagogical Requirement(s)" in Figure: 19 TAC §230.21(e).

(25) ~~[(22)]~~ Practicum--An assignment, as described in §228.2 of this title ~~[(relating to Definitions)]~~.

(26) ~~[(23)]~~ Reporting year ~~[Year]~~--September 1 through August 31.

(27) ~~[(24)]~~ Residency--A supervised educator assignment, as described in §228.2 of this title ~~[(relating to Definitions)]~~.

(28) [(25)] Site supervisor--An individual, as described in §228.2 of this title [(relating to Definitions)], who supports a candidate during a candidate's practicum experience.

(29) [(26)] Texas Education Agency staff--Staff of the Texas Education Agency assigned by the commissioner of education to perform the SBEC's [State Board for Educator Certification's] administrative functions and services.

§229.3. Required Submissions of Information, Surveys, and Other Data.

(a) Educator preparation programs (EPPs), EPP candidates, first-year teachers, beginning teachers, field supervisors, administrators, intern mentor teachers [mentors], site supervisors, host teachers, and cooperating teachers shall provide to the Texas Education Agency (TEA) staff all data and information required by this chapter, as set forth in subsections (e) and (f) of this section.

(b) Any individual holding a Texas-issued educator certificate who fails to provide information required by this chapter and [the] Texas Education Code (TEC), §21.045 and §21.0452, as set forth in subsection (e) of this section, may be subject to sanction of his or her certificate, including the placement of restrictions, inscribed or non-inscribed reprimand, suspension, or revocation.

(c) Any Texas public school that fails to provide information required by this chapter and [the] TEC, §21.045 and §21.0452, as set forth in subsection (e) of this section, may be referred to the commissioner of education with a recommendation that sanctions upon its accreditation status be imposed for failure to comply with this section and [the] TEC, §21.0452.

(d) Any open-enrollment charter school that fails to provide information required by this chapter and [the] TEC, §21.045 and §21.0452, as set forth in subsection (e) of this section, may be referred to the commissioner of education with a recommendation that sanctions be imposed for failure to comply with this section and [the] TEC, §21.0452.

(e) All required EPP data for an academic year shall be submitted to the TEA staff annually by September 15 following the end of that academic year. All surveys and information required to be submitted pursuant to this chapter by principals shall be submitted by June 15 of any academic year in which an administrator has had experience with a first-year teacher who was a candidate or completer at an EPP. All surveys and information required to be submitted pursuant to this chapter by first-year teachers shall be submitted by June 15 of the first full academic year after the teacher completed the requirements of an EPP. All surveys and information required to be submitted pursuant to this chapter by EPP candidates shall be submitted by August 31 of the academic year in which the candidate completed the requirements of an EPP.

(f) The following apply to data submissions required by this chapter.

(1) EPPs shall provide data for all candidates as specified in the figure provided in this paragraph.

Figure: 19 TAC §229.3(f)(1)

[Figure: 19 TAC §229.3(f)(1)]

(2) Candidates in an EPP shall complete a survey, in a form approved by the State Board for Educator Certification (SBEC), evaluating the preparation he or she received in the EPP. Completion and submission to [the] TEA of the survey is a requirement for completion of an EPP.

(3) Administrators in Texas public schools and open-enrollment charter schools shall complete surveys, in a form to be ap-

proved by [the] SBEC, evaluating the effectiveness of preparation for classroom success based on experience with first-year teachers who were candidates or completers in an EPP.

(4) First-year teachers in a Texas public school, including an open-enrollment charter school, shall complete surveys, in a form to be approved by [the] SBEC, evaluating the effectiveness of preparation for classroom success.

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 August 3, 2026.

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Director, Rulemaking

State Board for Educator Certification

Earliest possible date of adoption: September 13, 2026

For further information, please call: (512) 475-1497



SUBCHAPTER B. ACCOUNTABILITY SYSTEM FOR EDUCATOR PREPARATION ACCREDITATION STATUSES

19 TAC §229.4

STATUTORY AUTHORITY: The amendment is proposed under TEC, §21.041(a), which allows SBEC to adopt rules as necessary for its own procedures; TEC, §21.041(b)(1), which requires SBEC to propose rules that provide for the regulation of educators and the general administration of TEC, Chapter 21, Subchapter B, in a manner consistent with TEC, Chapter 21, Subchapter B; TEC, §21.041(d), which states that SBEC may adopt a fee for the approval and renewal of approval of an EPP, for the addition of a certificate or field of certification, and to provide for the administrative cost of appropriately ensuring the accountability of EPPs; TEC, §21.043(b) and (c), which require SBEC to provide EPPs with data, as determined in coordination with stakeholders, based on information reported through PEIMS that enables an EPP to assess the impact of the program and revise the program as needed to improve; TEC, §21.0441(c) and (d), which require SBEC to adopt rules setting certain admission requirements for EPPs; TEC, §21.0443, which states that SBEC shall propose rules to establish standards to govern the approval or renewal of approval of EPPs and certification fields authorized to be offered by an EPP. To be eligible for approval or renewal of approval, an EPP must adequately prepare candidates for educator certification and meet the standards and requirements of SBEC. SBEC shall require that each EPP be reviewed for renewal of approval at least every five years. SBEC shall adopt an evaluation process to be used in reviewing an EPP for renewal of approval; TEC, §21.045, which states that SBEC shall propose rules establishing standards to govern the approval and continuing accountability of all EPPs; TEC, §21.0451, which states that SBEC shall propose rules for the sanction of EPPs that do not meet accountability standards and shall annually review the accreditation status of each EPP. The costs of technical assistance required under TEC, §21.0451(a)(2)(A), or the costs associated with the appointment of a monitor under TEC, §21.0451(a)(2)(C), shall be paid by the sponsor of the EPP; TEC, §21.0452, which states that to assist persons interested in obtaining teaching certification in selecting an EPP and assist school districts in making

staffing decisions, SBEC shall make certain specified information regarding EPPs in this state available to the public through SBEC's Internet website.

CROSS REFERENCE TO STATUTE. The amendment implements TEC, §§21.041(a), (b)(1), and (d); 21.043(b) and (c); 21.0441(c) and (d); 21.0443; 21.045; 21.0451; and 21.0452.

§229.4. Determination of Accreditation Status.

(a) Accountability performance indicators. The State Board for Educator Certification (SBEC) shall determine the accreditation status of an educator preparation program (EPP) at least annually, based on the following accountability performance indicators, disaggregated by demographic group and other requirements of this chapter and determined with the formulas and calculations included in the figure provided in §229.1(c) of this title (relating to General Provisions and Purpose of Accountability System for Educator Preparation Programs). Data will be used only if the following indicators were included in the accountability system for that academic year. ~~[Except for the 2019-2020 and 2020-2021 academic years, when the data described in paragraphs (1)-(5) of this subsection will be reported to EPPs and will not be used to determine accreditation statuses,]~~ EPP accreditation statuses shall be based on:

(1) the EPP candidates' performance on pedagogy tests and content pedagogy tests. The EPP candidates' performance on pedagogy tests and content pedagogy tests shall provide separate accountability performance indicators for EPPs;

(A) For both pedagogy tests and content pedagogy tests, the performance standard shall be the percent of individuals admitted after December 26, 2016, who passed an examination within the first two attempts, including those examinations attempted after the individual has completed the EPP or when the EPP has not recommended the individual for a standard certificate. The pass rate is based solely on the examinations approved by the EPP. Examinations taken before admission to the EPP or specific examinations taken for pilot purposes are not included in the pass rate.

(B) For pedagogy tests, the performance standard shall be a pass rate of 85%.

(C) For content pedagogy tests, the performance standard shall be a pass rate of 75%.

(2) the results of appraisals of first-year teachers by administrators, based on a survey in a form to be approved by ~~[the]~~ SBEC. The performance standard shall be 70% of first-year teachers from the EPP who are appraised as "sufficiently prepared" or "well prepared". The first academic year for which a redesigned survey is distributed in replacement of a prior survey will be a reporting year only and will not be used to determine accreditation status;

(3) the growth of students taught by beginning teachers as indicated by the STAAR Annual Growth Points, determined at the student level as described in Figure: 19 TAC §97.1001(b) of Part II of this title (relating to Accountability Rating System), and aggregated at the teacher level as described in Figure: 19 TAC §229.1(c) of this title. For the 2024-2025 and 2025-2026 academic years, the performance standard shall be 60% of beginning teachers from the EPP reaching the individual performance threshold. For the 2026-2027 academic year, the performance standard shall be 65% of beginning teachers from the EPP reaching the individual performance threshold. Beginning in the 2027-2028 academic year, the performance standard shall be 70% of beginning teachers from the EPP reaching the individual performance threshold;

(4) the results of data collections establishing EPP compliance with SBEC requirements regarding the frequency, duration, and

quality of field supervision to candidates completing clinical teaching, residency, or an internship. The frequency and duration of field supervision shall provide one accountability performance indicator, and the quality of field supervision shall provide a separate accountability performance indicator;

(A) The performance standard as to the frequency, duration, and required documentation of field supervision shall be that the EPP meets the requirements for 95% of the EPP's candidates. EPPs that do not meet the standard of 95% for the aggregated group or for any disaggregated demographic group but have only one candidate not meet the requirement in the aggregated or any disaggregated group has met the standard for that group.

~~[(i)]~~ For the 2023-2024 and 2024-2025 academic years, individuals will be evaluated against the frequency and duration requirements in Chapter 228 of this title (relating to Requirements for Educator Preparation Programs) that were effective August 31, 2024.]

(i) ~~[(ii)]~~ Beginning in the 2025-2026 academic year, individuals will be evaluated against the frequency and duration requirements in Chapter 228, Subchapter F, of this title (relating to Support for Candidates During Required Clinical Experiences) that were effective beginning September 1, 2024.

(ii) Beginning in the 2026-2027 academic year, individuals will be evaluated against the frequency and duration requirements in Chapter 228, Subchapter F, of this title that were effective beginning September 1, 2026.

(B) The performance standard for quality shall be 90% of candidates rating the field supervision as "frequently" or "always or almost always" providing the components of structural guidance and ongoing support; and

(5) the results from a teacher satisfaction survey, in a form approved by ~~[the]~~ SBEC, of first-year teachers administered at the end of the first year of teaching as a teacher of record. The performance standard shall be 70% of teachers responding that they were "sufficiently prepared" or "well prepared" by their EPP. The first academic year for which a redesigned survey is distributed in replacement of a prior survey will be a reporting year only and will not be used to determine accreditation status.

(b) Accreditation status assignment. All approved EPPs may be assigned an accreditation status based on their performance in the Accountability System for Educator Preparation Programs (ASEP) Index system, as described in Figure: 19 TAC §229.1(c) of this title.

(1) Accredited status. An EPP shall be assigned an Accredited status if the EPP has met the standard of 80% [85%] of the possible points in the ASEP Index system as described in Figure: 19 TAC §229.1(c) of this title and has been approved by ~~[the]~~ SBEC to prepare, train, and recommend candidates for certification.

(2) Accredited-Not Rated status.

(A) An EPP shall be assigned Accredited-Not Rated status upon initial approval to offer educator preparation, until the EPP can be assigned a status based on the ASEP Index system as described in Figure: 19 TAC §229.1(c) of this title. An EPP is fully accredited and may recommend candidates for certification while it is in Accredited-Not Rated status.

(B) An EPP shall be assigned Accredited-Not Rated status in any reporting year in which the EPP candidate group, aggregated or disaggregated by demographic group, does not meet the necessary number of individuals needed to measure against performance standards for that year, for all indicators.

(i) Any sanction assigned as a result of an Accredited-Warned or Accredited-Probation status in the prior year shall continue unless the SBEC modifies the sanction as deemed necessary based on subsequent performance.

(ii) If the EPP is assigned a status of Accredited-Not Rated this shall not break a count of consecutively measured years for the purpose of paragraph (5)(A) of this subsection.

(3) Accredited-Warned status.

(A) An EPP shall be assigned Accredited-Warned status if the EPP accumulates less than 80% [80% or greater but less than 85%] of the possible points in the ASEP Index system as described in Figure: 19 TAC §229.1(c) of this title and it is the first consecutive year in which the EPP had accumulated less than 80% of the possible points.

(B) An EPP may be assigned Accredited-Warned status if the SBEC determines that the EPP has violated SBEC rules, orders, and/or Texas Education Code (TEC), Chapter 21.

(4) Accredited-Probation status.

(A) An EPP shall be assigned Accredited-Probation status if the EPP accumulates less than 80% of the possible points in the ASEP Index system as described in Figure: 19 TAC §229.1(c) of this title and it is greater than the first consecutive year in which the EPP had accumulated less than 80% of the possible points.

(B) An EPP may be assigned Accredited-Probation status if [the] SBEC determines that the EPP has violated SBEC rules, orders, and/or TEC, Chapter 21.

(5) Not Accredited-Revoked status.

(A) An EPP shall be assigned Not Accredited-Revoked status and its approval to recommend candidates for educator certification revoked if it is assigned Accredited-Probation status for three consecutively measured years.

(B) An EPP may be assigned Not Accredited-Revoked status if the EPP has been on Accredited-Probation status for one year, and [the] SBEC determines that revoking the EPP's approval is reasonably necessary to achieve the purposes of [the] TEC, §21.045 and §21.0451.

(C) An EPP may be assigned Not Accredited-Revoked status if the EPP fails to pay the required ASEP technology fee by the deadline set by TEA as prescribed in §229.9(7) of this title (relating to Fees for Educator Preparation Program Approval and Accountability).

(D) An EPP may be assigned Not Accredited-Revoked status if the SBEC determines that the EPP has violated SBEC rules, orders, and/or TEC, Chapter 21.

(E) An assignment of Not Accredited-Revoked status and revocation of EPP approval to recommend candidates for educator certification is subject to the requirements of notice, record review, and appeal as described in this chapter.

(F) A revocation of an EPP approval shall be effective for a period of two years from the closure date, after which a program may reapply for approval as a new EPP pursuant to Chapter 228 of this title (relating to Requirements for Educator Preparation Programs).

(G) Upon revocation of EPP approval, the EPP shall submit a letter as described in §228.21(a)(1) of this title (relating to Program Consolidation or Closure) no later than 14 days after the revocation identifying a closure date. If a letter is not submitted within 14 days after the revocation, the closure date shall be the last day of the current academic year.

(H) Upon revocation of EPP approval, the EPP shall adhere to the requirements for program closure contained in §228.21 of this title.

(c) Small group exception.

(1) For purposes of accreditation status determination, the performance of an EPP candidate group, aggregated or disaggregated by demographic group, shall be measured against performance standards described in this chapter in any one year in which the number of individuals in the group exceeds 10. The small group exception does not apply to compliance with the frequency and duration of field supervisor observations.

(2) For an EPP candidate group, aggregated or disaggregated by demographic group, where the group contains 10 or fewer individuals, the group's performance shall not be counted for purposes of accreditation status determination for that academic year based on only that year's group performance.

(3) If the current year's EPP candidate group, aggregated or disaggregated by demographic group, contained between one and 10 individuals, that group performance shall be combined with the group performance from the next most recent prior year subsequent to the 2020-2021 academic year for which there was at least one individual, and if the two-year cumulated group contains more than 10 individuals, then the two-year cumulated group performance must be measured against the standards in the current year. The two-year cumulated group shall not include group performance from years prior to the 2021-2022 academic year.

(4) If the two-year cumulated EPP candidate group described in subsection (c)(3) of this section, aggregated or disaggregated by demographic group, contains between one and 10 individuals, then the two-year cumulated group performance shall be combined with the next most recent group performance subsequent to the 2020-2021 academic year for which there was at least one individual. The three-year cumulated group performance must be measured against the standards in the current year, regardless of how small the cumulated number of group members may be. When evaluating a three-year cumulated group of fewer than 10 individuals, the candidate group will be measured against the performance standard of the current year, or a performance standard of up to one candidate failing to meet the requirement, whichever is more favorable. The three-year cumulated group performance shall not include group performance from years prior to the 2021-2022 academic year.

(5) In any reporting year in which subsection (c)(3) or (4) of this section results in an evaluation against the standard and the evaluated cumulated group does not meet the performance standard, the current year candidate group is separately evaluated against the performance standard. If the current year candidate group meets the performance standard, then the failure does not count as an additional consecutively measured year for the purposes of the ASEP Index as described in Figure: 19 TAC §229.1(c) of this title or for §229.5(d) [§229.5(e)] of this title (relating to Accreditation Sanctions and Procedures). If the current year candidate group does not meet the performance standard, then the failure does count as an additional consecutively measured year for the purposes of the ASEP Index and for §229.5(d) [§229.5(e)] of this title.

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 August 3, 2026.
TRD-202603257

SUBCHAPTER C. ACCREDITATION SANCTIONS

19 TAC §229.5

STATUTORY AUTHORITY: The amendment is proposed under TEC, §21.041(a), which allows SBEC to adopt rules as necessary for its own procedures; TEC, §21.041(b)(1), which requires SBEC to propose rules that provide for the regulation of educators and the general administration of TEC, Chapter 21, Subchapter B, in a manner consistent with TEC, Chapter 21, Subchapter B; TEC, §21.041(d), which states that SBEC may adopt a fee for the approval and renewal of approval of an EPP, for the addition of a certificate or field of certification, and to provide for the administrative cost of appropriately ensuring the accountability of EPPs; TEC, §21.043(b) and (c), which require SBEC to provide EPPs with data, as determined in coordination with stakeholders, based on information reported through PEIMS that enables an EPP to assess the impact of the program and revise the program as needed to improve; TEC, §21.0441(c) and (d), which require SBEC to adopt rules setting certain admission requirements for EPPs; TEC, §21.0443, which states that SBEC shall propose rules to establish standards to govern the approval or renewal of approval of EPPs and certification fields authorized to be offered by an EPP. To be eligible for approval or renewal of approval, an EPP must adequately prepare candidates for educator certification and meet the standards and requirements of SBEC. SBEC shall require that each EPP be reviewed for renewal of approval at least every five years. SBEC shall adopt an evaluation process to be used in reviewing an EPP for renewal of approval; TEC, §21.045, which states that SBEC shall propose rules establishing standards to govern the approval and continuing accountability of all EPPs; TEC, §21.0451, which states that SBEC shall propose rules for the sanction of EPPs that do not meet accountability standards and shall annually review the accreditation status of each EPP. The costs of technical assistance required under TEC, §21.0451(a)(2)(A), or the costs associated with the appointment of a monitor under TEC, §21.0451(a)(2)(C), shall be paid by the sponsor of the EPP; TEC, §21.0452, which states that to assist persons interested in obtaining teaching certification in selecting an EPP and assist school districts in making staffing decisions, SBEC shall make certain specified information regarding EPPs in this state available to the public through SBEC's Internet website.

CROSS REFERENCE TO STATUTE. The amendment implements TEC, §§21.041(a), (b)(1), and (d); 21.043(b) and (c); 21.0441(c) and (d); 21.0443; 21.045; 21.0451; and 21.0452.

§229.5. Accreditation Sanctions and Procedures.

(a) The State Board for Educator Certification (SBEC) may assign an educator preparation program (EPP) Accredited-Warned or Accredited-Probation status if [the] SBEC determines that the EPP has violated SBEC rules and/or Texas Education Code (TEC), Chapter 21.

(b) If an EPP has been assigned Accredited-Warned or Accredited-Probation status, SBEC shall require the EPP to complete

a continuing educator preparation program review, as described in §228.13 of this title (relating to Continuing Educator Preparation Program Approval). If, at the time this status is assigned by SBEC, an EPP is already in the process of a review under §228.13 of this title, the in-process review will satisfy this requirement.

(c) [(b)] If an EPP has been assigned Accredited-Warned or Accredited-Probation status, or if the SBEC determines that additional action is a necessary condition for the continuing approval of an EPP to recommend candidates for educator certification, [the] SBEC may take any one or more of the following actions, which shall be reviewed by [the] SBEC at least annually:

(1) require the EPP to obtain technical assistance approved by the Texas Education Agency (TEA) or SBEC;

(2) require the EPP to obtain professional services approved by [the] TEA or SBEC;

(3) require the EPP to provide TEA staff with verification of the EPP's compliance with SBEC rules and/or the TEC;

(4) require the EPP to post on its website:

(A) accreditation status;

(B) notice that [the] SBEC has instated conditions on the EPP's continuing approval;

(C) TEA's continuing approval review report; and/or

(D) official notification of recommended status;

(5) appoint a monitor to participate in the activities of the EPP and report the activities to [the] TEA or SBEC; and/or

(6) require the EPP to develop an action plan addressing the deficiencies and describing the steps the program will take to improve the performance of its candidates. TEA staff may prescribe the information that must be included in the action plan. The action plan must be sent to TEA staff no later than 45 calendar days following notification to the EPP that SBEC has ordered the action plan.

(d) [(e)] Notwithstanding the accreditation status of an EPP, if the performance of candidates on an examination required for certification (as listed in Figure: 19 TAC §230.21(e) of this title (relating to Educator Assessment)) in an individual certification class or category offered by an EPP fails to meet the performance standard on the content pedagogy test as described in §229.4(a)(1)(D) of this title (relating to Determination of Accreditation Status) for three consecutive years, the approval to offer that certification class or category shall be revoked.

(1) For purposes of determining compliance with this subsection [(e) of this section], candidate performance in individual certification classes or categories in only the 2016-2017 academic year and subsequent academic years will be considered.

(2) Performance indicators by demographic group shall not be counted for purposes of this subsection [(e) of this section] pertaining to performance standards for individual certification classes or categories. If the aggregated number of individuals counted for a certification class or category is 10 or fewer, the performance on the standard shall be cumulated and counted in the same manner as provided in §229.4(c) of this title.

(3) Upon revocation of certification class or category, the EPP shall submit a letter as described in §228.21(a)(1) of this title (relating to Program Consolidation or Closure) no later than 14 days after the revocation identifying a closure date. If a letter is not submitted within 14 days after the revocation, the closure date shall be the last day of the current academic year.

(4) Upon revocation of the approval to offer the certification class or category, the EPP shall adhere to the requirements for program closure contained in §228.21 of this title.

(c) [(d)] An EPP shall be notified in writing regarding any action proposed to be taken pursuant to this section, or proposed assignment of an accreditation status of Accredited-Warned, Accredited-Probation, or Not Accredited-Revoked. The notice shall state the basis on which the proposed action is to be taken or the proposed assignment of the accreditation status is to be made.

(f) [(e)] All costs associated with providing or requiring technical assistance, professional services, or the appointment of a monitor pursuant to this section shall be paid by the EPP to which the services are provided or required, or its sponsor.

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 August 3, 2026.

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Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

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For further information, please call: (512) 475-1497



SUBCHAPTER E. REVIEW PROCEDURES

19 TAC §229.7

STATUTORY AUTHORITY: The amendment is proposed under TEC, §21.041(a), which allows SBEC to adopt rules as necessary for its own procedures; TEC, §21.041(b)(1), which requires SBEC to propose rules that provide for the regulation of educators and the general administration of TEC, Chapter 21, Subchapter B, in a manner consistent with TEC, Chapter 21, Subchapter B; TEC, §21.041(d), which states that SBEC may adopt a fee for the approval and renewal of approval of an EPP, for the addition of a certificate or field of certification, and to provide for the administrative cost of appropriately ensuring the accountability of EPPs; TEC, §21.043(b) and (c), which require SBEC to provide EPPs with data, as determined in coordination with stakeholders, based on information reported through PEIMS that enables an EPP to assess the impact of the program and revise the program as needed to improve; TEC, §21.0441(c) and (d), which require SBEC to adopt rules setting certain admission requirements for EPPs; TEC, §21.0443, which states that SBEC shall propose rules to establish standards to govern the approval or renewal of approval of EPPs and certification fields authorized to be offered by an EPP. To be eligible for approval or renewal of approval, an EPP must adequately prepare candidates for educator certification and meet the standards and requirements of SBEC. SBEC shall require that each EPP be reviewed for renewal of approval at least every five years. SBEC shall adopt an evaluation process to be used in reviewing an EPP for renewal of approval; TEC, §21.045, which states that SBEC shall propose rules establishing standards to govern the approval and continuing accountability of all EPPs; TEC, §21.0451, which states that SBEC shall propose rules for the sanction of EPPs that do not meet accountability standards and shall annually review the accreditation status of each EPP. The costs of technical assistance required under TEC, §21.0451(a)(2)(A), or the costs associated

with the appointment of a monitor under TEC, §21.0451(a)(2)(C), shall be paid by the sponsor of the EPP; TEC, §21.0452, which states that to assist persons interested in obtaining teaching certification in selecting an EPP and assist school districts in making staffing decisions, SBEC shall make certain specified information regarding EPPs in this state available to the public through SBEC's Internet website.

CROSS REFERENCE TO STATUTE. The amendment implements TEC, §§21.041(a), (b)(1), and (d); 21.043(b) and (c); 21.0441(c) and (d); 21.0443; 21.045; 21.0451; and 21.0452.

§229.7. *Informal Review of Texas Education Agency Recommendations.*

(a) Applicability. This section applies only to a notice required under §229.5(e) [§229.5(d)] of this title (relating to Accreditation Sanctions and Procedures) or under §229.6(c) of this title (relating to Continuing Approval) proposing to:

(1) require an educator preparation program (EPP) or a particular class or category of certification offered by an EPP to obtain technical assistance as provided by [the] Texas Education Code (TEC), §21.0451(a)(2)(A);

(2) require an EPP or a particular class or category of certification offered by an EPP to obtain professional services as provided by [the] TEC, §21.0451(a)(2)(B);

(3) appoint a monitor for an EPP or a particular class or category of certification offered by an EPP as provided by [the] TEC, §21.0451(a)(2)(C);

(4) assign a change in accreditation status of Accredited-Warned, Accredited-Probation, or Not Accredited-Revoked, as specified in §229.4 of this title (relating to Determination of Accreditation Status);

(5) issue a public reprimand or impose conditions on the continuing approval of an EPP to recommend candidates for certification pursuant to §229.6(b) of this title;

(6) revoke the approval of an EPP to recommend candidates for certification in a particular class or category of certification; or

(7) revoke the approval of an EPP to recommend candidates for certification.

(b) Notice. Notice of a proposed recommendation for an order or change in accreditation status, subject to this section, shall be made as provided by §229.5(e) of this title [§229.5(d)] and §229.6(c) of this title, and this section.

(1) The notice shall attach or make reference to all information on which the proposed recommendation is based.

(A) Information maintained on the Texas Education Agency (TEA) and State Board for Educator Certification (SBEC) websites may be referenced by providing a general citation to the information.

(B) The TEA and SBEC reports previously sent to the EPP may be referenced by providing the title and date of the report.

(C) On request, [the] TEA shall provide copies of, or reasonable access to, information referenced in the notice.

(2) The notice shall state the procedures for requesting an informal review of the proposed recommendation or change in accreditation status under this section, including the name and department of the TEA staff to whom a request for an informal review may be addressed.

(3) The notice shall set a deadline for requesting an informal review, which shall not be less than 14 calendar days from the date of receipt of the notice. The notice may be delivered by mail, personal delivery, facsimile, or email.

(4) The notice shall be sent by email to the chief operating officer, legal authority, and chair of the governing body.

(c) Request. The chief operating officer, legal authority, or designee of the EPP may request, in writing, an informal review under this section.

(1) The request must be properly addressed to the member of the TEA staff identified in the notice under subsection (b)(2) of this section and must be received by TEA staff on or before the deadline specified in subsection (b)(3) of this section.

(2) The request must set out the reasons the EPP believes the proposed recommendation or change in accreditation status is incorrect, with citations to include supporting evidence. The EPP may submit any written information to TEA as evidence to support its request, without regard to admissibility under the Texas Rules of Evidence. The request for review shall concisely state, in numbered paragraphs:

(A) if alleging the proposed recommendation would violate a statutory provision, the statutory provision violated and the specific facts supporting a conclusion that the statute was violated by the proposed recommendation;

(B) if alleging the proposed recommendation would be in excess of the SBEC's statutory authority, the SBEC's statutory authority and the specific facts supporting a conclusion that the proposed recommendation would be in excess of this authority;

(C) if alleging the proposed recommendation was made through unlawful procedure, the lawful procedure and the specific facts supporting a conclusion that the proposed recommendation was made through unlawful procedure;

(D) if alleging the proposed recommendation is affected by other error of law, the law violated and the specific facts supporting a conclusion that the proposed recommendation violated that law;

(E) if alleging the proposed recommendation is not reasonably supported by a preponderance of the evidence, each finding, inference, or conclusion of the proposed recommendation that is unsupported by a preponderance of the evidence, and the evidence that creates a preponderance against the specific finding, inference, or conclusion at issue;

(F) if alleging the proposed recommendation is arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion, each finding, inference, conclusion, or proposed recommendation affected and the specific facts supporting a conclusion that each is so affected;

(G) for each violation, error, or defect alleged under subparagraphs (A)-(F) of this paragraph, the substantial rights of the EPP that are prejudiced by such violation, error, or defect;

(H) a concise statement of the relief sought by the EPP (petitioner); and

(I) the name, mailing address, telephone number, facsimile number, and email address of the petitioner's representative.

(3) Failure to comply with the requirements of this subsection may result in dismissal of the request for informal review.

(d) No review requested. If [the] TEA staff does not receive the EPP's request for an informal review by the deadline set in accordance with subsection (b)(3) of this section, the proposed recommendation will become a final recommendation and will proceed in accordance with subsection (f) of this section.

(e) Informal review. In response to a request under subsection (c) of this section, TEA staff will review the materials and documents provided by the EPP and issue a final recommendation. The final recommendation may include changes or additions to the proposed recommendation and such modifications are not subject to another informal review.

(f) Final recommendation.

(1) If the final recommendation proposes revocation of approval of an EPP to recommend candidates for educator certification, within 14 calendar days of receipt of the final recommendation, the EPP may agree in writing to accept the final revocation without further proceedings or may request that TEA staff schedule the matter for a hearing before an administrative law judge at the State Office of Administrative Hearings (SOAH), as provided by §229.8 of this title (relating to Contested Cases for Accreditation Revocation).

(2) If the final recommendation does not propose revocation of approval of an EPP to recommend candidates for educator certification, the final recommendation will be submitted to SBEC for consideration of a final order.

(g) Other law. Texas Government Code, Chapter 2001, and [the] TEC, §7.057, do not apply to an informal review under this section.

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 August 3, 2026.

TRD-202603259

Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

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For further information, please call: (512) 475-1497



TITLE 22. EXAMINING BOARDS

PART 17. TEXAS STATE BOARD OF PLUMBING EXAMINERS

CHAPTER 367. ENFORCEMENT

22 TAC §367.2

The Texas State Board of Plumbing Examiners (Board or TS-BPE) proposes amendment to the existing rule at 22 Texas Administrative Code (TAC), Chapter §367.2 to update the codes adopted under the authority of Texas Occupations Code, Sec. 1301.255 to the 2021 Uniform Plumbing Code and the 2021 International Plumbing Code. The proposed change is referred to as the "proposed rule."

EXPLANATION OF AND JUSTIFICATION FOR THE RULE

Under Texas Occupations Code §1301.255(a), the Texas State Board of Plumbing Examiners is required to adopt the Uniform

Plumbing Code (UPC), as published by the International Association of Plumbing and Mechanical Officials (IAPMO), and the International Plumbing Code (IPC), as published by the International Code Council (ICC), as those codes existed on May 31, 2001. Section 1301.255(b) authorizes the Board to adopt later editions of those codes by rule.

The IAPMO and ICC regularly update the UPC and IPC to incorporate advances in plumbing technology, construction methods, materials, and safety standards. The Board currently has the 2018 editions of the UPC and IPC adopted by rule. After reviewing the changes included in the 2021 editions and surveying plumbing code adoption by jurisdictions throughout Texas, the Board determined that updating its adopted codes to the 2021 editions is appropriate. The 2021 UPC and IPC are the editions most commonly adopted by local jurisdictions across the state and reflect nationally recognized plumbing standards.

Adopting the 2021 editions will allow the Board's rules to remain consistent with modern plumbing practices, enhance public health and safety by recognizing updated code provisions, and promote greater uniformity between state and local plumbing requirements, thereby reducing regulatory inconsistencies for licensees, inspectors, and the public.

SECTION BY SECTION SUMMARY

Proposed Rule 367.2 shows simply that the 2018 UPC and IPC, and the codes incorporated by reference of the 2018 International Fuel Gas Code and 2018 International Residential Code, are repealed, and the 2021 UPC and IPC codes, and the incorporated 2021 International Fuel Gas Code and 2021 International Residential Code, are adopted.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Lisa G. Hill, Executive Director for the TSBPE (Executive Director), has determined that for the first five-year period the amended rule is in effect, there are no foreseeable increases or reductions in costs to the state or local governments as a result of enforcing or administering the rule. The Executive Director has further determined that for the first five-year period the amended rule is in effect, there will be no foreseeable losses or increases in revenue for the state or local governments as a result of enforcing or administering the rule.

PUBLIC BENEFITS

The Executive Director has determined that for each of the first five years the amended rule is in effect, the public benefit anticipated as a result of enforcing or administering the amended rule will be enhanced public safety through adoption of current nationally recognized plumbing standards and increased regulatory consistency among Texas jurisdictions.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH THE PROPOSAL

The Executive Director has determined that for the first five years the amended rule is in effect, there are no substantial economic costs anticipated to persons required to comply with the amended rule.

ONE-FOR-ONE REQUIREMENT FOR RULE WITH A FISCAL IMPACT

Given that the amended rule does not have a fiscal note which imposes a cost on regulated persons, including another state agency, a special district, or local government, proposal and

adoption of the rule is not subject to the requirements of Texas Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT

For each of the first five years the amended rule is in effect, the Board has determined the following: (1) the amended rule does not create or eliminate a government program; (2) implementation of the amended rule does not require the creation of new employee positions or the elimination of existing employee positions; (3) implementation of the amended rule does not require an increase or decrease in future legislative appropriations to the agency; (4) the amended rule does not require an increase or decrease in fees paid to the agency; (5) the amended rule does not create a new regulation; (6) the amended rule does not expand, limit, or repeal an existing regulation; (7) the amended rule does not increase or decrease the number of individuals subject to the rule's applicability; and (8) the amended rule does not positively or adversely affect this state's economy.

LOCAL EMPLOYMENT IMPACT STATEMENT

No local economies are substantially affected by the amended rule. As a result, preparation of a local employment impact statement pursuant to Texas Government Code §2001.022 is not required.

FISCAL IMPACT ON SMALL AND MICRO-BUSINESS, AND RURAL COMMUNITIES

The amended rule will not have an adverse effect on small or micro-businesses, or rural communities because there are no substantial economic costs anticipated to persons required to comply with the amended rule. As a result, preparation of an economic impact statement and a regulatory flexibility analysis, as provided by Texas Government Code §2006.002, are not required.

TAKINGS IMPACT ASSESSMENT

There are no private real property interests affected by the amended rule. As a result, preparation of a takings impact assessment, as provided by Texas Government Code §2007.043, is not required.

REQUEST FOR PUBLIC COMMENT

Written comments regarding the amended rule may be submitted by mail to Patricia Latombe at 7915 Cameron Rd., Austin, Texas 78754, or by email to rule.comment@tsbpe.texas.gov with the subject line "Rule Amendments." All comments must be received no later than 30 days after publication in the *Texas Register*.

STATUTORY AUTHORITY

This proposed rule is made under the authority of Texas Occupations Code, Sec. 1301.251(2) which authorizes the TSBPE to adopt rules as necessary to implement the Section, and Texas Occupations Code, Sec. 1301.255 which requires the TSBPE to adopt the Uniform Plumbing Code, as published by the International Association of Plumbing and Mechanical Officials and the International Plumbing Code, as published by the International Code Council, as they existed on May 31, 2001 and allows any later editions of the codes to be adopted in rule.

No other statutes or rules are affected by the proposal.

§367.2. *Code Requirements.*

(a) To protect the health and safety of the citizens of this state, the Board adopts the following plumbing codes:

(1) the 2021 [2018] Uniform Plumbing Code, as published by the International Association of Plumbing and Mechanical Officials; and

(2) The 2021 [2018] International Plumbing Code, as published by the International Code Council and the codes incorporated by reference within the 2021 [2018] International Plumbing Code, including:

(A) the 2021 [2018] International Fuel Gas Code; and

(B) the 2021 [2018] International Residential Code.

(b) To ensure the proper design, installation, and maintenance of plumbing systems within its jurisdiction, a political subdivision may adopt a plumbing code with any amendments necessary to address local concerns provided that the amendments do not substantially vary with the rules or laws of this state.

(c) Plumbing must be installed in accordance with all applicable plumbing codes adopted by the political subdivision in which the plumbing is being installed.

(1) Plumbing installed by an individual licensed under the PLL in an unincorporated area of the county or other area where no plumbing code has been adopted must be installed in accordance with a plumbing code adopted under subsection (a) of this section.

(2) A plumbing installation that was started prior to the Board's adoption of the plumbing codes listed in subsection (a) of this section may be completed under the requirements of the codes in effect at the time permits for the installation were issued or work on the installation commenced.

(3) In addition to all applicable plumbing codes, Liquefied Petroleum Gas (LP-Gas) piping must be installed in accordance with all applicable rules adopted by the Texas Railroad Commission.

(d) Any piping connecting a plumbing fixture, including a water closet, to a potable water supply shall be installed to prevent the back flow of nonpotable substances into the potable water system in accordance with the applicable plumbing code and state laws. Water closet fill valves (ball cocks) shall be of the antisiphon, integral vacuum breaker type with the critical level (the air inlet portion of the vacuum breaker) installed at least one (1) inch above the flood level rim of the fixture (the inlet of the water closet overflow tube).

(e) Plumbing installed in compliance with a code adopted under subsection (a) or (b) of this section must be inspected by a Plumbing Inspector licensed under the PLL and Board rules.

(f) A licensee or registrant shall not install, and a person shall not require a licensee or registrant to install, plumbing that is not in compliance with the Plumbing License Law or any other laws of this state, Board Rules, or any applicable plumbing codes.

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 31, 2026.

TRD-202603248

Patricia Latombe

General Counsel

Texas State Board of Plumbing Examiners

Earliest possible date of adoption: September 13, 2026

For further information, please call: (512) 936-5216

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TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 3. MEMORANDUM OF UNDERSTANDING WITH OTHER STATE AGENCIES

SUBCHAPTER E. MOU--COORDINATION OF SPECIAL EDUCATION SERVICES TO STUDENTS WITH DISABILITIES IN RESIDENTIAL FACILITIES

26 TAC §3.251

The executive commissioner of the Texas Health and Human Services Commission (HHSC) proposes the repeal of Texas Administrative Code (TAC), Title 26, Chapter 3, Subchapter E, which consists of §3.251, concerning Interagency Coordination of Special Education Services to Students with Disabilities in Residential Facilities.

BACKGROUND AND PURPOSE

The purpose of the proposal is to remove an unnecessary rule from the TAC. Texas Education Code §29.012(d) requires the Texas Education Agency (TEA), HHSC, the Department of Family and Protective Services, and the Texas Juvenile Justice Department to have a memorandum of understanding (MOU) for the provision of public education in residential facilities as required by the Individuals with Disabilities Education Act. House Bill 2 and Senate Bill 568, 89th Legislature, Regular Session, 2025, amended Texas Education Code §29.012(d) by removing the requirement to have the MOU in rule. Section 3.251 adopts by reference a TEA rule, 19 TAC §89.1115, that provides the terms of the MOU in rule. While the MOU is still required by statute and is in place, since the MOU is no longer required to be in rule, HHSC is repealing §3.251.

The proposal also supports regulatory reform by removing unnecessary rules in the TAC making the TAC easier to use and understand.

FISCAL NOTE

Victoria Grady, Deputy Chief, Finance, has determined that for each year of the first five years that the rule will be in effect, enforcing or administering the rule does not have foreseeable implications relating to costs or revenues of state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

HHSC has determined that during the first five years that the rule will be in effect:

(1) the proposed rule will not create or eliminate a government program;

(2) implementation of the proposed rule will not affect the number of HHSC employee positions;

(3) implementation of the proposed rule will result in no assumed change in future legislative appropriations;

(4) the proposed rule will not affect fees paid to HHSC;

(5) the proposed rule will not create a new regulation;

- (6) the proposed rule will repeal an existing regulation;
- (7) the proposed rule will not change the number of individuals subject to the rule; and
- (8) the proposed rule will not affect the state's economy.

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

Victoria Grady, Deputy Chief, Finance, has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities because the rule does not apply to small businesses, micro-businesses, or rural businesses.

LOCAL EMPLOYMENT IMPACT

The proposed rule will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to this rule because the rule does not impose a cost on regulated persons.

PUBLIC BENEFIT AND COSTS

Laura Cazabon, State Supported Living Centers Associate Commissioner, has determined that for each year of the first five years the rule is in effect, the public benefit will be the removal of an unnecessary rule in TAC, which will reduce the number of rules with similar information and streamline the TAC for easier navigation and improve clarity.

Victoria Grady 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 because the rule does not include costs to persons required to comply.

TAKINGS IMPACT ASSESSMENT

HHSC has determined that the proposal does not restrict or limit an owner's right to the owner's 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

Written comments on the proposal, including information related to the cost, benefit, or effect of the proposed rule, as well as any applicable data, research, or analysis, may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 4601 West Guadalupe Street, Austin, Texas 78751; or emailed to HHSRulesCoordinationOffice@hhs.texas.gov.

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) emailed before midnight on the last day of the comment period. If the 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 26R044" in the subject line.

STATUTORY AUTHORITY

The rule repeal is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision

of services by the health and human services system and Texas Education Code §29.012(d) which allows the adoption of a memorandum of understanding without incorporating that agreement in rule.

The rule repeal affects Texas Government Code §524.0151 and Texas Education Code §29.012(d).

§3.251. Interagency Coordination of Special Education Services to Students with Disabilities in Residential Facilities.

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 August 3, 2026.

TRD-202603268

Karen Ray

Chief Counsel

Health and Human Services Commission

Earliest possible date of adoption: September 13, 2026

For further information, please call: (512) 438-3049



CHAPTER 300. STATE AUTHORITY RESPONSIBILITIES

SUBCHAPTER B. INTERAGENCY AGREEMENTS

26 TAC §300.101

The executive commissioner of the Texas Health and Human Services Commission (HHSC) proposes the repeal of Texas Administrative Code (TAC), Title 26, Chapter 300, Subchapter B, which consists of §300.101, concerning Interagency Coordination of Special Education Services to Students with Disabilities in Residential Facilities.

BACKGROUND AND PURPOSE

The purpose of the proposal is to remove an unnecessary rule from the TAC. Texas Education Code §29.012(d) requires the Texas Education Agency (TEA), HHSC, the Department of Family and Protective Services, and the Texas Juvenile Justice Department to have a memorandum of understanding (MOU) for the provision of public education in residential facilities as required by the Individuals with Disabilities Education Act. House Bill 2 and Senate Bill 568, 89th Legislature, Regular Session, 2025, amended Texas Education Code §29.012(d) by removing the requirement to have the MOU in rule. Section 300.101 adopts by reference a TEA rule, 19 TAC §89.1115, that provides the terms of the MOU in rule. While the MOU is still required by statute and is in place, since the MOU is no longer required to be in rule, HHSC is repealing §300.101.

The proposal also supports regulatory reform by removing unnecessary rules in the TAC making the TAC easier to use and understand.

FISCAL NOTE

Victoria Grady, Deputy Chief, Finance, has determined that for each year of the first five years that the rule will be in effect, enforcing or administering the rule does not have foreseeable implications relating to costs or revenues of state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

HHSC has determined that during the first five years that the rule will be in effect:

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

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

Victoria Grady, Deputy Chief, Finance, has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities because the rule does not apply to small businesses, micro-businesses, or rural businesses.

LOCAL EMPLOYMENT IMPACT

The proposed rule will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to this rule because the rule does not impose a cost on regulated persons.

PUBLIC BENEFIT AND COSTS

Laura Cazabon, State Supported Living Centers Associate Commissioner, has determined that for each year of the first five years the rule is in effect, the public benefit will be the removal of an unnecessary rule in TAC, which will reduce the number of rules with similar information and streamline the TAC for easier navigation and improve clarity.

Victoria Grady 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 because the rule does not include costs to persons required to comply.

TAKINGS IMPACT ASSESSMENT

HHSC has determined that the proposal does not restrict or limit an owner's right to the owner's 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

Written comments on the proposal, including information related to the cost, benefit, or effect of the proposed rule, as well as any applicable data, research, or analysis, may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 4601 West Guadalupe Street, Austin, Texas 78751; or emailed to HHSCRulesCoordinationOffice@hhs.texas.gov.

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) emailed before midnight on the last day of the comment period. If the 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 26R044" in the subject line.

STATUTORY AUTHORITY

The rule repeal is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system and Texas Education Code §29.012(d) which allows the adoption of a memorandum of understanding without incorporating that agreement in rule.

The rule repeal affects Texas Government Code §524.0151 and Texas Education Code §29.012(d).

§300.101. Interagency Coordination of Special Education Services to Students with Disabilities in Residential Facilities.

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 August 3, 2026.

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Karen Ray

Chief Counsel

Health and Human Services Commission

Earliest possible date of adoption: September 13, 2026

For further information, please call: (512) 438-3049



CHAPTER 554. NURSING FACILITY REQUIREMENTS FOR LICENSURE AND MEDICAID CERTIFICATION

The executive commissioner of the Texas Health and Human Services Commission (HHSC) proposes amendments to §554.2403, concerning Medical Necessity Determination; §554.2407, concerning Denied Medical Necessity; §554.2413, concerning Determination of Payment Rate Based on the MDS Assessment Submission; §554.2601, concerning Vendor Payment (Items and Services Included); and §554.2611, concerning Retroactive Vendor Payment.

BACKGROUND AND PURPOSE

This proposal is necessary to align Medicaid program rules with the fiscal rules that implement House Bill (H.B.) 1, 88th Legislature, Regular Session, 2023 (Article II, Health and Human Services Commission (HHSC), Rider 25), which require HHSC to implement a Texas version of the Patient Driven Payment Model for Long-Term Care (PDPM LTC) methodology for the reimbursement of long-term stay nursing facility (NF) services in the Medicaid program.

Under Title 42 Code of Federal Regulations §441.302(e) and (f), changing the NF reimbursement methodology from the

Resource Utilization Group (RUG) to the PDPM LTC requires HHSC to incorporate the PDPM LTC methodology into the individual cost limit methodologies and related cost limit methodology. This proposal updates references to the former RUG reimbursement methodology with the term "reimbursement rate" in the Texas Administrative Code (TAC) for the state's two NF waiver programs, the STAR+PLUS Home and Community-Based Services Program and the Medically Dependent Children Program.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §554.2403 replaces a reference to the former RUG reimbursement methodology with the term "reimbursement rate" and specifies this term has the meaning defined in §554.2413, updates citations to reflect the current statute and TAC references, corrects outdated agency acronyms, and makes other minimal changes to grammar and rule structure for clarity.

The proposed amendment to §554.2407 replaces a reference to the former RUG reimbursement methodology with the term "reimbursement rate" and specifies this term has the meaning defined in §554.2413, clarifies language, updates citations to reflect the current TAC references, and corrects outdated agency acronyms.

The proposed amendment to §554.2413 updates citations to reflect the current TAC references, corrects outdated agency acronyms, adds a definition of "Reimbursement Rate" that provides a reference to the HHSC reimbursement rules in 1 TAC §355.318, replaces references to the former RUG reimbursement methodology with the term "reimbursement rate" and makes other minimal changes to grammar and rule structure for clarity.

The proposed amendment to §554.2601 clarifies language, updates citations to reflect the current TAC references; corrects outdated agency acronyms; clarifies the requirements for items included in the NF daily vendor rate; and makes other minimal changes to grammar and rule structure for clarity.

The proposed amendment to §554.2611 updates citations to reflect the current TAC references; corrects outdated agency acronyms; replaces a reference to the former RUG reimbursement methodology with the term "reimbursement rate" and specifies this term has the meaning defined in §554.2413; and makes other minimal changes to grammar and rule structure for clarity.

FISCAL NOTE

Victoria Grady, Deputy Chief, Finance, has determined that for each year of the first five years that the rules will be in effect, enforcing or administering the rules does not have foreseeable implications relating to costs or revenues of state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

HHSC 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 not create a new regulation;
- (6) the proposed rules will not expand, limit, or repeal existing regulations;
- (7) the proposed rules will not change the number of individuals subject to the rules; and
- (8) the proposed rules will not affect the state's economy.

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

Victoria Grady has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities. The rule does not have a cost to small businesses, micro-businesses, or rural communities because the rules are codifying current processes and MCO capitation rates were addressed in rule project 24R019.

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 do not impose a cost on regulated persons; are necessary to receive a source of federal funds or comply with federal law; and are necessary to implement legislation that does not specifically state that §2001.0045 applies to the rules.

PUBLIC BENEFIT AND COSTS

Emily Zalkovsky, Chief Medicaid and CHIP Services Officer, has determined that for each year of the first five years the rules are in effect, the public will benefit from having these rules use terminology consistent with the new PDPM LTC reimbursement methodology being implemented in 26 TAC Chapter 554.

Victoria Grady 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 because the proposed rules don't require affected persons to alter current business practices and MCO capitation rates were addressed in rule project 24R019.

TAKINGS IMPACT ASSESSMENT

HHSC has determined that the proposal does not restrict or limit an owner's right to the owner's 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

Written comments on the proposal, including information related to the cost, benefit, or effect of the proposed rule, as well as any applicable data, research, or analysis, may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 4601 West Guadalupe Street, Austin, Texas 78751; or emailed to HHSRulesCoordinationOffice@hhs.texas.gov.

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) emailed before midnight on the last day of the comment period. If the 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 24R074" in the subject line.

SUBCHAPTER Y. MEDICAL NECESSITY DETERMINATIONS

26 TAC §§554.2403, 554.2407, 554.2413

STATUTORY AUTHORITY

The amendments are authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system; and Texas Human Resources Code §32.021, which provides HHSC with the authority to administer the federal medical assistance program in Texas and to adopt rules and standards for program administration.

The amendments affect Texas Government Code §524.0151 and Texas Human Resources Code §32.021.

§554.2403. *Medical Necessity Determination.*

(a) Purpose. A recipient must have a determination of medical necessity for nursing facility care to participate in the Texas Medicaid Nursing Facility Program.

(1) The state Medicaid claims administrator makes a medical necessity determination by evaluating a recipient's medical and nursing needs. This determination is based on the admissions MDS assessment that is required by HHSC [DADS].

(2) A recipient must have a determination of medical necessity for nursing facility care before the nursing facility can be paid for services. Exceptions to this requirement are [; except as] provided in §554.2413 [§19.2413] of this subchapter (relating to Determination of Payment Rate Based on the MDS Assessment Submission) and §554.2611 [§19.2611] of this chapter (relating to Retroactive Vendor Payment).

(b) Admission MDS assessment review.

(1) The admission MDS assessment review process begins [is initiated] when the state Medicaid claims administrator receives an admission MDS assessment and the Long-Term Care Medicaid Information Section, in accordance with §554.2413 [§19.2413] of this subchapter, indicating that a Medicaid applicant or recipient is asking for [requesting] vendor payment for care in a contracted nursing facility. A registered nurse must sign and certify that the MDS assessment is completed in accordance with §554.801 [§19.801] of this chapter (relating to Resident Assessment).

(2) The review of the admission MDS assessment [review] determines medical necessity and authorizes [establishes the authorization for] payment of a reimbursement [calculated RUG] rate. Reimbursement rate as used in this paragraph has the meaning defined in §554.2413 of this subchapter.

(c) Role of the state Medicaid claims administrator. The state Medicaid claims administrator reviews all MDS assessments, including significant change in status assessments, modifications, and significant corrections, and approves or denies medical necessity in accordance with §554.2401 [§19.2401] of this subchapter (relating to General Qualifications for Medical Necessity Determinations).

(d) Effective period.

(1) A determination of medical necessity based on the admission MDS assessment review remains in effect for the time period determined by the federal MDS submission schedule.

(2) If a nursing facility submits a recipient's MDS assessment after the due date established by the federal MDS submission schedule, the recipient's medical necessity remains in effect for the period between the due date and the date the state Medicaid claims administrator received the MDS assessment.

(3) If a nursing facility submits a recipient's MDS assessment after the due date established by the federal MDS submission schedule and, after reviewing the MDS assessment, the state Medicaid claims administrator determines that the recipient does not meet the criteria for medical necessity, the effective date of the denial of medical necessity is the date the state Medicaid claims administrator received the MDS assessment. A denial of medical necessity is conducted in accordance with §554.2407 [§19.2407] of this subchapter (relating to Denied Medical Necessity).

(e) Permanent medical necessity.

(1) A recipient's permanent medical necessity status is established on the completion date of any MDS assessment approved for medical necessity no less than 184 calendar days after the recipient's admission to the Texas Medicaid Nursing Facility Program.

(2) A nursing facility must submit a recipient's MDS assessment in compliance with the federal MDS submission schedule even after the recipient achieves permanent medical necessity status.

(3) A recipient's permanent medical necessity status moves with the recipient, unless the recipient is discharged to home for more than 30 days.

(4) If a recipient who has permanent medical necessity status transfers to another Medicaid-certified nursing facility, the nursing facility to which the recipient transfers must complete a new MDS assessment in compliance with the federal MDS submission schedule.

(f) Insufficient information. If an MDS assessment does not have sufficient information for the state Medicaid claims administrator to make a medical necessity determination, the MDS assessment is put in suspense for 21 days with a message from the state Medicaid claims administrator informing the nursing facility that the MDS assessment has been put in suspense for 21 days. Unless the nursing facility provides sufficient information on the MDS assessment to determine medical necessity within 21 days, medical necessity is denied.

§554.2407. *Denied Medical Necessity.*

(a) If the state Medicaid claims administrator determines that a Medicaid applicant or a Medicaid recipient does not meet the criteria for medical necessity described in §554.2401 [§19.2401] of this subchapter (relating to General Qualifications for Medical Necessity Determinations), the state Medicaid claims administrator notifies the attending physician and the nursing facility in writing. The state Medicaid claims administrator gives the attending physician and the nursing facility [and provides them] an opportunity to present additional information about the applicant's or recipient's medical need for nursing facility care.

(1) If the attending physician or a nursing facility physician does not respond or contest the findings of the state Medicaid claims administrator within 10 working days after receipt of the written notice about the decision, the findings are final.

(2) If the attending physician or a nursing facility physician contests the findings of the state Medicaid claims administrator, at least one physician with the state Medicaid claims administrator must review the case. If the state Medicaid claims administrator's physician

determines that the applicant's or recipient's admission or stay is not medically necessary, the determination becomes final.

(3) The state Medicaid claims administrator sends a written notice ~~[notification]~~ of the final determination of denied medical necessity to:

(A) the attending physician; [;]

(B) the nursing facility; [;] and

(C) the applicant, ~~[or]~~ recipient, or responsible party ~~[(or responsible party)]~~.

(b) After an applicant receives written notice of a determination of denied medical necessity, the applicant or responsible party must request a fair hearing within 90 days after the date of denied medical necessity, or the applicant loses the right to a fair hearing.

(c) After a recipient receives written notice of a determination of denied medical necessity, the recipient or responsible party must request a fair hearing within 10 days after the date of the written notice in order to have nursing facility services paid for during the appeal.

(1) If the recipient requests a fair hearing within 10 days after the date of the written notice and the determination of denied medical necessity is upheld, the effective date of the denial is 10 days after the hearing officer's written decision.

(2) If the recipient does not request a fair hearing within 10 days after the date of the written notice, HHSC ~~[DADS]~~ makes vendor payments to the nursing facility at the previously established reimbursement [RUG] rate for 15 days or until the recipient is discharged, whichever happens ~~[occurs]~~ first. Reimbursement rate as used in this paragraph has the meaning defined in §554.2413 of this subchapter (relating to Determination of Payment Rate Based on the MDS Assessment Submission).

(3) If the recipient does not request a fair hearing within 10 days after the date of the written notice, the recipient must request a fair hearing within 90 days after the date of denied medical necessity, or the recipient loses the right to a fair hearing.

(d) Fair hearings are conducted by HHSC ~~[the Texas Health and Human Services Commission (HHSC)]~~ in accordance with HHSC rules at 1 TAC Chapter 357 (relating to Hearings).

§554.2413. *Determination of Payment Rate Based on the MDS Assessment Submission.*

(a) Definitions. In this section, the following words and terms have the following meanings unless the context clearly indicates otherwise.

(1) All conditions of eligibility--A recipient meets all conditions of eligibility when the state Medicaid claims administrator approves the recipient for medical necessity and the recipient meets financial eligibility for Medicaid.

(2) On-time MDS assessment--An MDS assessment that is submitted in accordance with the federal MDS submission schedule and is received by the state Medicaid claims administrator within 31 days after the completion date.

(3) Missed MDS assessment--An MDS assessment that is received by the state Medicaid claims administrator outside the time period that the MDS assessment covers.

(4) Reimbursement rate--The reimbursement rate is described by the Patient Driven Payment Model for Long-Term Care located in 1 TAC §355.318 (relating to Reimbursement Setting Methodology for Nursing Facilities on or after September 1, 2025).

(b) MDS submission requirement. A nursing facility must:

(1) complete all MDS assessments according to CMS' instructions;

(2) submit a recipient's MDS assessment, including an admission MDS assessment, a quarterly MDS assessment, and a significant change in status assessment, to the state MDS database in compliance with the federal MDS submission schedule;

(3) submit the Long-Term Care Medicaid Information Section to the state Medicaid claims administrator; and

(4) submit the recipient's MDS assessment in compliance with the federal MDS submission schedule even after the recipient has permanent medical necessity as described in §554.2403(e) ~~[\$19.2403(e)]~~ of this subchapter (relating to Medical Necessity Determination).

(c) Admission MDS assessments.

(1) If a nursing facility discharges a recipient who is not expected to return ~~[with a status of return not anticipated]~~, and the recipient does return ~~[returns]~~ to the facility, the nursing facility must complete an admission MDS assessment to determine ~~[for a determination of]~~ medical necessity and to establish ~~[establishment of]~~ a reimbursement [RUG] rate. The facility must complete an admission MDS assessment ~~[;]~~ regardless of the amount of time between the recipient's discharge and return.

(2) A nursing facility must complete and submit an admission MDS assessment to receive payment for a recipient's period of stay in the nursing facility, even if the recipient leaves the nursing facility before the MDS assessment is completed and never returns long enough for the MDS assessment to be completed. See subsection (i) of this section for completion of an admission MDS assessment in the event of a recipient's death.

(3) HHSC ~~[DADS]~~ pays a reimbursement [calculated RUG] rate for an admission MDS assessment starting from the date the recipient was admitted to the nursing facility, except as provided in §554.2611 ~~[\$19.2611]~~ of this chapter (relating to Retroactive Vendor Payments).

(d) Payment of a reimbursement [calculated RUG] rate. If a recipient meets all conditions of eligibility, HHSC ~~[DADS]~~ pays a reimbursement [calculated RUG] rate for an MDS assessment if the assessment ~~[it]~~ is received by the state Medicaid claims administrator during the [time] period that is covered on the MDS assessment ~~[covers]~~.

(e) On-time MDS assessment. If a recipient meets all conditions of eligibility, HHSC ~~[DADS]~~ pays a reimbursement [calculated RUG] rate starting from the completion date of the required MDS assessment, except for an admission MDS assessment as described in subsection (c)(3) of this section.

(f) MDS assessments that are not on time. The state Medicaid claims administrator stops payment for services if the state Medicaid claims administrator does not receive an on-time MDS assessment. Payment for services resumes when the state Medicaid claims administrator receives all the MDS assessments that are due as required by the federal MDS submission schedule.

(g) Missed MDS assessments. Except as described in paragraph (2) of this subsection, if the recipient meets financial eligibility for Medicaid, and ~~[When]~~ the state Medicaid claims administrator receives a missed MDS assessment, HHSC ~~[DADS]~~ pays the nursing facility a default reimbursement [RUG] rate for the entire period of the

missed MDS assessment, [if the recipient meets financial eligibility for Medicaid, except as provided in paragraph (2) of this subsection.]

(1) If an MDS assessment is missed for the purpose of calculating a reimbursement [RUG] rate, the nursing facility must still submit the MDS assessment to comply with §554.801 [§19.801] of this chapter (relating to Resident Assessment).

(2) For a newly contracted nursing facility and a nursing facility that undergoes a change of ownership, HHSC [DADS] pays the reimbursement [calculated RUG] rate for any missed MDS assessments that occur while the nursing facility is unable to submit MDS assessments to the state MDS database.

(h) Significant change in status assessment, modification, or significant correction. If a recipient meets all conditions of eligibility, HHSC [DADS] pays the reimbursement [calculated RUG] rate from the completion date of a significant change in status assessment, modification, or significant correction.

(i) Incomplete or erroneous MDS assessments. If a Medicaid [an] applicant meets all conditions of eligibility, HHSC [DADS] pays a default reimbursement rate for an MDS assessment that is incomplete or has errors.

(j) Prohibition against recourse. A nursing facility must not charge and must not take any other recourse against a recipient, the recipient's family members, the recipient's estate or the recipient's representative for a claim that is reduced because the facility did not meet the requirements of an HHSC [failed to comply with a DADS] rule or procedure pertaining to reimbursement.

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 August 3, 2026.

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Karen Ray

Chief Counsel

Health and Human Services Commission

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For further information, please call: (512) 438-2910



SUBCHAPTER AA. VENDOR PAYMENT

26 TAC §554.2601, §554.2611

STATUTORY AUTHORITY

The amendments are authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system; and Texas Human Resources Code §32.021, which provides HHSC with the authority to administer the federal medical assistance program in Texas and to adopt rules and standards for program administration.

The amendments affect Texas Government Code §524.0151 and Texas Human Resources Code §32.021.

§554.2601. *Vendor Payment (Items and Services Included).*

(a) A facility provides, under the terms of the contract, for the total medical, nursing, and psychosocial needs of each recipient.

(b) The daily rate is compatible with reasonable charges consistent with efficiency, economy, and quality of total care. The facility

must provide care that addresses the unique health needs and well-being of every recipient [ensure that care meets the health needs and promotes the maximum well-being of recipients]. The payment rate that HHSC makes to the facility includes the following items and services, which [are included in the payment rate made to the facility by the Department of Aging and Disability Services (DADS) and, therefore,] the facility must provide:

(1) nursing care;

(2) social services;

(3) regular, special, and supplemental diets, including tube feedings;

(4) non-legend [nonlegend] drugs, with the exception of insulin; [; and]

(5) alcoholic beverages that are [unless] prescribed for medicinal purposes if the prescription includes the dosage and frequency of the alcohol; [; Alcoholic beverages:]

[(A) prescribed for medicinal purposes must include the dosage and frequency of the alcohol; and]

[(B) not prescribed for medicinal purposes are at the expense of the recipient or family;]

(6) [(5)] for a recipient who is not eligible for Medicare Part D benefits, legend drugs that are not covered by the Medicaid Vendor Drug Program;

(7) [(6)] for a recipient who is eligible for Medicare Part D benefits, legend drugs in a category that is not covered by Medicare Part D and that are not covered by the Medicaid Vendor Drug Program;

(8) [(7)] regular laundry services, except dry cleaning;

(9) [(8)] medical accessories, such as cannulas [canulas], tubes, masks, catheters, ostomy bags and supplies, IV fluids, IV equipment, and equipment that can be used by more than one person, such as wheelchairs, adjustable chairs, crutches, canes, mattresses, hospital-type beds, enteral pumps, trapeze bars, walkers, and oxygen equipment, such as tanks, concentrators, tubing, masks, valves, and regulators, and in addition: [;]

(A) the facility is [Facilities are] required to maintain, in good repair, equipment necessary to meet the needs of the recipient; [;]

(B) if [If] a recipient wants [desires] equipment for the recipient's exclusive use; [; its]

(i) the recipient is responsible for purchasing the desired equipment [purchase is the responsibility of the recipient]; [;]

(ii) [(i)] only [Only] the recipient can use the equipment[;] and the equipment [it] must be identified as the personal property of the recipient; [;]

(iii) [(ii)] upon [Upon] discharge from the facility, the recipient keeps [retains] the equipment the recipient [he] purchased; [; If]

(iv) if the recipient dies, the facility follows the requirements in §554.416 of this chapter (relating to Personal Property); [purchased equipment must be transferred to the estate. If it is donated or sold to the facility by the recipient or the estate, the transaction must be documented. (See §19.416 of this title (relating to Personal Property))];]

(v) [(C)] the facility must maintain and repair a piece of equipment [If] a recipient owns [a piece of equipment] that is medi-

cally necessary; and [; the facility must maintain and repair the equipment.]

(vi) [(D)] when the recipient's [When] Part B Medicare benefits are used [accessed] to pay for equipment and accessories, the facility or supply company may not charge the recipient or family [may not be charged by the facility or supply company] for any portion of these items;

(10) [(9)] medical supplies, including[; but not limited to] tongue depressors, swabs, band-aids [bandaids], cotton balls, and alcohol; and

(11) [(10)] routine [basic] personal hygiene items and services to meet the needs of the recipients, as described in §554.405 of this chapter (relating to Additional Requirements for Trust Funds in Medicaid-certified Facilities), and in addition: [residents (See §19.405(h) of this title (relating to Additional Requirements for Trust Funds in Medicaid-Certified Facilities) for a list of such items and services);]

(A) the facility must tell the recipient the [The] specific type or brand of personal hygiene items [used by] the facility uses [must be disclosed to the recipient];

(B) [then;] if a recipient prefers to use a specific type or brand of a personal hygiene item [item(s)] rather than the item [item(s)] furnished by the facility, the recipient [he] may use [his] personal funds to purchase the item; [item(s);]

(C) [(A)] before the facility purchases or charges [Before purchasing or charging] for the preferred item: [item(s);]

(i) the facility must get [secure] written authorization from the recipient or family indicating the recipient's [his] desired preference; [;]

(ii) the written authorization must include the date; [;] and signature of the person requesting the preferred item; and [item(s); The]

(iii) the signature may not be from [that of] an employee of the facility; [;]

(D) [(B)] if [If] the recipient's personal funds are used to purchase an item: [an item(s); the item(s) is for his sole use;]

(i) the item is for the recipient's sole use; and

(ii) the facility must ensure that the item is in an individual container or package that is labeled with the recipient's name; and

(E) [(C)] the [When the facility purchases personal hygiene item(s) with the recipient's personal funds, the facility must ensure that the item(s) is in an individual container or package that is labeled with the recipient's name. The] facility is not [held] responsible for labeling personal hygiene items brought into the facility if the items are [and] not reported to the management.

(c) Facilities may [are not required to] provide any [particular] brand of non-legend drug, medical accessory, equipment, or supply[; but only those items] necessary to ensure appropriate recipient care unless the physician orders a specific brand or the recipient or family prefers a specific brand of item rather than the one the facility provides. Before purchasing or charging for an item the recipient or family prefers, rather than one furnished by the facility, the facility must:

(1) get written authorization from the recipient or family indicating the recipient's desired preference;

(2) the written authorization must include the date and signature of the person requesting the preferred item; and

(3) the signature may not be from an employee of the facility.

[(1) Unless the physician orders a specific type or brand, the facility may choose the type or brand.]

[(2) If the recipient or family prefers a specific type or brand of item rather than the one furnished by the facility, the recipient, responsible party, or family may be billed for the item, or the recipient's personal funds may be used to purchase the item, or both.]

[(3) Before purchasing or charging for the preferred item, the facility must secure written authorization from the recipient or family indicating his desired preference, the date, and signature of the person requesting the preferred item. The signature may not be that of an employee of the facility.]

(d) If a recipient or family requests [resident has requested] and freely chooses [chosen] to participate in an activity, or to have an item or service provided that is not included, or is different than that provided, in the daily vendor rate, then the resident may be charged for the activity, item, or service.

(1) When there is documentation [is present] that supports the [above] criteria in subsection (d) of this section [;] and that is required by §554.405(d)(5) of this chapter (relating to Additional Requirements for Trust Funds in Medicaid-certified Facilities) [§19.405(d)(5) of this title], the amount may be paid from the recipient's [resident's] trust fund.

(2) When the facility collects payment [acts as a collection agent] for any item, service, or activity that is not included in the daily rate, the facility must be able to provide clear documentation indicating [that clearly indicates] that any charges made to the recipient or the recipient's [his] trust fund are pass-through costs only. The facility may not charge any fees, including handling fees, for these types of transactions.

(e) Except as described in paragraphs (1) and (2) of this subsection, HHSC [DADS] makes vendor payments to nursing facilities [Nursing Facilities] for the day a recipient enters a nursing facility, but not for the day a recipient leaves a facility. The two exceptions are as follows.

(1) If entrance and departure are on the same day, and the recipient does not enter another Title XIX facility on that day, HHSC [DADS] pays for the entire day.

(2) If departure is because of the recipient's death and the deceased recipient is not sent to another Title XIX facility for legal procedures necessary upon the death of the recipient, HHSC [DADS] pays for the entire day.

(f) Vendor payments are made to Medicaid nursing facilities [Nursing Facilities] that comply with the PASARR requirements.

§554.2611. *Retroactive Vendor Payment.*

(a) In this section, retroactive vendor payment is payment HHSC [DADS] makes retroactively to a nursing facility for services the nursing facility provided to an individual who was eligible for, but had not yet applied for, Medicaid. A nursing facility is eligible for up to three months retroactive vendor payment for services it provided, if:

(1) the individual resided in a Medicaid-certified nursing facility, or a distinct part, during the time services were provided;

(2) the individual did not receive Supplemental Security Income cash benefits;

(3) the individual met Medicaid financial eligibility requirements;

(4) the state Medicaid claims administrator has a current MDS assessment for the individual that the facility submitted in compliance with the federal MDS submission requirements; and

(5) the nursing facility met physician certification and plan of care requirements during the time services were provided.

(b) After receipt of an application for Medicaid, HHSC [Texas Health and Human Services Commission (HHSC)] Medicaid eligibility staff notify the applicant whether the applicant meets financial eligibility. The state Medicaid claims administrator uses the applicant's current MDS assessment to make the MN determination and determine the effective date of the MN determination. For the purpose of establishing three months prior eligibility, the effective date of the MN determination for a new recipient is the first day of the month in which the recipient qualified for MN.

(c) If the requirements in subsection (a) of this section are met, HHSC [DADS] makes a retroactive vendor payment using the reimbursement [based on the recipient's calculated RUG] rate for the period that is covered by the retroactive vendor payment. Reimbursement rate as used in this subsection has the meaning defined in §554.2413 of this chapter (relating to Determination of Payment Rate Based on the MDS Assessment Submission).

(d) [DADS or] HHSC may verify that the recipient's record includes the required physician's certification, recertification, and plans of care, and that the plans were reviewed as required during the applicable periods.

(e) If a recipient paid the nursing facility for services for which the facility later receives retroactive vendor payment, the facility must reimburse the recipient the full amount the recipient paid, beginning with the effective date of Medicaid eligibility, minus any applied income or co-payment as determined by HHSC Medicaid eligibility staff.

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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Karen Ray
Chief Counsel

Health and Human Services Commission

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For further information, please call: (512) 438-2910



CHAPTER 562. LICENSED CHEMICAL DEPENDENCY COUNSELORS

26 TAC §562.19

The executive commissioner of the Texas Health and Human Services Commission (HHSC) proposes the repeal of §562.19, concerning Inactive Status, and an amendment to §562.21, concerning Standards for the Training and Supervision of Counselor Interns.

BACKGROUND AND PURPOSE

The purpose of the proposal is to reduce potential costs and confusion regarding the license status for licensed chemical dependency counselors (LCDCs) by repealing §562.19 and to improve

clarity and remove outdated information in the rule for LCDC counselor interns at §562.21.

The proposed repeal of §562.19 eliminates potential costs to LCDCs by removing the rule that allows an LCDC to apply for inactive status. An LCDC with an inactive license must pay an inactive status fee and maintain continuing education requirements while the license is inactive. An LCDC with a license on inactive status may miss the license renewal deadline and become ineligible for license renewal. The former LCDC would then need to reapply to be licensed as an LCDC again. Repealing §562.19 will reduce the frequency of late fees and new license fees for individuals who would have been able to renew their license if it hadn't expired while on inactive status.

The proposed amendment of §562.21 simplifies the standards for supervising counselor interns (CIs) by removing references to the CTI and CCS Assessment Form, which HHSC no longer requires. CIs who want to file a complaint about their supervisor will now file a complaint through the HHSC complaint process and not through the CTI and CCS Assessment Form. Requiring CIs to file a complaint through the HHSC complaint process ensures consistency in complaint processes across Health Care Regulation rulesets.

This proposal supports regulatory reform by reducing unnecessary regulatory burden, lowering potential compliance costs, and improving the clarity and accuracy of the rules.

SECTION-BY-SECTION SUMMARY

The proposed repeal of §562.19 removes the rule section.

The proposed amendment to §562.21 simplifies the CI supervisor assessment process by removing references to the CTI and CCS Assessment Form.

The proposed amendment requires the Clinical Training Institution or Certified Clinical Supervisor to instead give the CI information about how to file a complaint with HHSC during the orientation process.

The proposed amendment corrects the spelling of several defined terms, consistently uses "CI" instead of sometimes using "counselor intern," updates a reference to "HHSC", and updates rule references.

FISCAL NOTE

Victoria Grady, Deputy Chief, Finance, has determined that for each year of the first five years that the rules will be in effect, there will be an estimated loss of revenue to state government as a result of enforcing and administering the rules as proposed. Enforcing or administering the rules does not have foreseeable implications relating to costs or revenues of state government.

The effect on state government for each of the first five years the proposed repeal is in effect is an estimated loss of revenue because LCDCs may no longer request an inactive status, or request to reactivate the license, each requiring a fee. However, HHSC is unable to estimate the loss of revenue because it is unknown how many providers would apply for an inactive status and pay the \$50 inactive status fee and how many would return to active status and pay the applicable fees.

GOVERNMENT GROWTH IMPACT STATEMENT

HHSC 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 require a decrease in fees paid to HHSC;
- (5) the proposed rules will not create a new regulation;
- (6) the proposed rules will repeal an existing regulation;
- (7) the proposed rules will not change the number of individuals subject to the rule; and
- (8) HHSC has insufficient information to determine the proposed rules' effect on the state's economy.

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

Victoria Grady has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities because there is no requirement to alter current business practices, and there are no new fees imposed.

LOCAL EMPLOYMENT IMPACT

The proposed rule will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to this rule because the rule does not impose a cost on regulated persons and is amended to reduce the burden or responsibilities imposed on regulated persons by the rule.

PUBLIC BENEFIT AND COSTS

David Kostroun, Chief Regulatory Services Officer, has determined that for each year of the first five years the rules are in effect, the public benefit will be removing potential costs and burdens on license holders and reducing the administrative burden on the counselor intern training and supervision process.

Victoria Grady 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 because there are no requirements to alter current business practices and there are no new fees or costs imposed on those required to comply.

TAKINGS IMPACT ASSESSMENT

HHSC has determined that the proposal does not restrict or limit an owner's right to the owner's 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

Written comments on the proposal, including information related to the cost, benefit, or effect of the proposed rule, as well as any applicable data, research, or analysis, may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 4601 West Guadalupe Street, Austin, Texas 78751; or emailed to HHSCRulesCoordinationOffice@hhs.texas.gov.

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) emailed before midnight on the last day of the comment period. If the 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 26R029" in the subject line.

STATUTORY AUTHORITY

The repeal is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, and Texas Occupations Code §504.051, which authorizes the executive commissioner to adopt rules governing the performance, conduct, and ethics for persons licensed as LCDCs.

The repeal implements Texas Government Code §524.0151 and Texas Occupations Code §504.051.

§562.19. *Inactive 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 August 3, 2026.

TRD-202603266

Karen Ray

Chief Counsel

Health and Human Services Commission

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For further information, please call: (512) 834-4591



26 TAC §562.21

STATUTORY AUTHORITY

The amendment is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, and Texas Occupations Code §504.051, which authorizes the executive commissioner to adopt rules governing the performance, conduct, and ethics for persons licensed as LCDCs.

The amendment implements Texas Government Code §524.0151 and Texas Occupations Code §504.051.

§562.21. *Standards for the Training and Supervision of Counselor Interns.*

(a) A Clinical Training Institution (CTI) [CTI] shall appoint a single training coordinator who is a Qualified Credentialed Counselor (QCC). The CTI coordinator or a Certified Clinical Supervisor (CCS) [CCS] shall oversee all training activities of a counselor intern (CI) and ensure compliance with the Texas Health and Human Services Commission (HHSC) [department] requirements and rules relating to the training and supervision of a CI [CIs].

(b) The CTI or CCS shall not accept an applicant for training and establish acceptance criteria for CIs. No applicant shall be accepted to a CTI or accepted for CCS supervision without:

(1) documentation that the applicant is registered as a CI [~~counselor intern~~] with HHSC [~~the department~~]; and

(2) a signed ethics agreement that is consistent with the standards in §562.23 [~~§140.423~~] of this chapter [~~title~~] (relating to Professional and Ethical Standards for all License Holders).

(c) The CTI or CCS shall [~~establish the following level system to~~] classify a CI [~~counselor interns~~] according to the CI's hours of supervised work experience using the following level system:

- (1) Level I: 0-1,000 hours of work experience;
- (2) Level II: 1,001-2000 hours of work experience;
- (3) Level III: 2,001-4,000 hours of work experience; and
- (4) Graduate Status: over 4,000 hours of work experience.

(d) [~~The CTI or CCS shall have a supervision structure that includes all intern levels.~~] The CTI or CCS shall designate each CI's [~~intern's~~] level in writing and provide the CI [~~intern~~] with a copy of the documentation.

(e) The CCS, or the CTI coordinator or intern's supervising QCC at a CTI, shall supervise a CI as outlined in §562.22 of this chapter (relating to Direct Supervision of Interns). [~~All counselor interns at a CTI must be under the direct supervision of a QCC as described in §140.422 of this title (relating to Direct Supervision of Interns). A CCS must directly supervise a counselor intern under the CCS's supervision, as described in §140.422 of this title.~~]

(f) The CTI or CCS shall provide each CI designated as Level I, II, or [~~and~~] III, [~~intern~~] with reading assignments and training activities for the supervised work experience that includes material in each Knowledge, Skills, and Attitudes (KSA) [~~KSA~~] dimension.

(g) [~~The CTI or CCS shall use the department's counselor intern evaluation forms to structure the intern's 4,000 hours of supervised work experience.~~] The CCS or the CI's supervising QCC, under the oversight and monitoring of the CTI coordinator, shall perform the CCS' or CTI's responsibilities as follows [~~in the following paragraphs of this subsection~~].

(1) The CCS or CTI shall set weekly objectives with the CI based on areas targeted for improvement.

(2) The CCS or CTI shall provide the CI reading, computer, or [~~and/or~~] video assignments that address areas needing improvement. The CTI or CCS shall allow the CI [~~intern~~] two hours per month to complete these assignments.

(3) The CCS or CTI shall monitor the CI's [~~intern's~~] progress and provide verbal and written feedback during weekly supervision meetings.

(4) The CCS or CTI shall require the CI to complete [~~intern shall complete~~] a written KSA self-evaluation during the first 50 hours of work experience.

(5) The CCS or [~~the~~] CTI, and the CI, [~~intern~~] shall complete and discuss a written KSA evaluation at the completion of each level listed in subsection (c)(1) - (3) of this section [~~of experience~~] (after 1,000 hours, 2,000 hours, and 4,000 hours).

(h) The CTI or CCS shall not allow a CI designated as Level I, II, or III [~~intern~~] to accrue more than 40 hours of work experience per week.

(i) A CI with Graduate Status (over 4,000 hours) [~~graduate intern~~] may continue to provide chemical dependency counseling services at a registered CTI [~~clinical training institution~~] or with a CCS for

as long as the CI's registration is valid [~~during that individual's maximum CI registration period~~].

(j) The CTI coordinator or CCS shall send the following documents [~~directly~~] to HHSC [~~the department~~] and provide the CI [~~intern~~] with copies within ten working days after [~~from~~] the date the CI [~~intern~~] completes the required 4,000 hours or after the date the CI leaves the CTI or the CCS. [~~agency~~];

(1) The HHSC Intern Supervised Work Experience Documentation [~~the department's supervised work experience documentation~~] form, fully completed and signed by the CCS or the CI's supervising QCC and the CTI Coordinator. [~~;~~ and]

(2) A [~~a~~] copy of the CI's [~~intern's~~] job description showing job responsibilities within the KSAs.

(k) The CTI or CCS shall ensure all training [~~All~~] activities counted towards the CI's [~~intern's~~] supervised work experience are [~~shall be~~] within the scope of chemical dependency counseling services as defined by the KSAs.

(l) The CTI or CCS shall not approve hours of work experience for which the CI [~~intern~~] fails to substantially complete reading assignments and training activities for the supervised work experience [~~related activities and supervision assignments~~]. The CTI or CCS shall document any [~~Any~~] failure by the CI to complete assignments [~~shall be documented~~] on the Intern Supervised Work Experience Documentation [~~weekly supervision~~] form located on the HHSC website.

(m) After the CTI or CCS accepts an applicant as a CI, the CTI or CCS, as part of the orientation process, shall give each CI information in writing on how to file a complaint with HHSC about the CTI, CCS, or other LCDC or CI. [~~The CTI or CCS shall give each CI the department's CTI and CCS Assessment Form with instructions to complete the assessment and mail it directly to the department.~~]

[~~(n) The CTI or CCS shall use current department forms for all training and supervision documentation mandated by the department.~~]

(n) [~~(o)~~] The CTI shall ensure that each CTI coordinator and supervising QCC obtains three hours of continuing education in clinical supervision every two years.

(o) [~~(p)~~] The CTI or CCS shall inform a CI [~~interns~~] of licensure examination requirements and procedures, as well as examination schedules and information provided by HHSC [~~the department~~].

(p) [~~(q)~~] The CTI or CCS shall ensure that:

(1) a CI designates the CI's [~~interns designate their~~] status by using "counselor intern," "intern" or "CI" when signing client record entries; [~~;~~ and

(2) [~~that~~] only a registered CI uses one of these designations when signing client record entries [~~CI's use this designation~~].

(q) [~~(r)~~] The CTI or CCS shall maintain a complete file for each CI [~~counselor intern~~] for five years from the end of the CI's employment with a CTI or supervision by a CCS, as applicable, to include:

- (1) letter of registration;
- (2) ethics agreement signed by the CI [~~intern~~];
- (3) copies of KSA evaluations;
- (4) documentation of all supervision activities;
- (5) documentation of CI [~~intern~~] levels and accumulated hours of work experience at each level; and
- (6) copy of the HHSC Intern Supervised Work Experience Documentation [~~supervised work experience documentation~~] form.

(r) [(s)] The CTI or CCS shall give the CI [intern] a copy of all information contained in the CI's [intern] file when the CI [intern] completes the required supervised work experience or [and/or] leaves the CTI or the CCS [agency].

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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Karen Ray

Chief Counsel

Health and Human Services Commission

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For further information, please call: (512) 834-4591



CHAPTER 746. MINIMUM STANDARDS FOR CHILD-CARE CENTERS

The executive commissioner of the Texas Health and Human Services Commission (HHSC) proposes amendments to §§746.1107, 746.1317, and 746.4301; the repeal of §§746.201, 746.301, 746.303, 746.607, 746.609, 746.611, 746.625, 746.705, 746.709, 746.805, 746.1021, 746.1045, 746.1057, 746.1309, 746.1311, 746.1313, 746.1329, 746.3605, 746.3607, 746.4201, 746.4203, 746.4205, 746.4207, 746.4401, 746.4403, 746.4405, and 746.4407; and new §§746.201, 746.301, 746.303, 746.609, 746.705, 746.1021, 746.1045, 746.1309, 746.1313, 746.1329, 746.3605, 746.4201, 746.4401, and 746.4407, in Texas Administrative Code, Chapter 746, concerning Minimum Standards for Child-Care Centers.

BACKGROUND AND PURPOSE

The purpose of the proposal is to implement changes due to an accelerated review of Chapter 746, Minimum Standards for Licensed Child-Care Centers, conducted by Child Care Regulation (CCR). The project involved reviewing low-weighted minimum standards to identify rules that could be amended, simplified, or removed to streamline requirements necessary to protect the health, safety, and well-being of children in the care of licensed child care centers.

HHSC conducted a review of existing child care rules related to record keeping and reporting to determine if any rules needed to be revised to ensure accountability of child care providers receiving Texas Workforce Commission Child Care Services (CCS) subsidies or improve the accuracy of the information reported. The proposal includes a provision requiring compliance with CCS program rules and requirements and amends rules to make non-substantive changes which remove the hyphen between "child" and "care."

SECTION-BY-SECTION SUMMARY

Proposed new §746.201 uses the standard format for the title rather than the question-and-answer format. The rule outlines permit holder responsibilities and requires compliance with CCS program requirements if receiving CCS subsidies.

The proposed repeal of §746.201 deletes the rule. The content of the rule is added to proposed new §746.201 with substantive changes.

Proposed new §746.301 uses the standard format for the title rather than the question-and-answer format. The rule outlines situations that must be reported to CCR in writing and situations that require notification and approval by CCR before changes are made to the child care center.

Proposed new §746.303 uses the standard format for the title rather than the question-and-answer format. The rule describes situations in which the child care center must notify CCR of changes concerning certain employees or controlling persons.

The proposed repeal of §746.301 deletes the rule. The content of the rule is added to proposed new §746.301 with substantive changes.

The proposed repeal of §746.303 deletes the rule. The content of the rule is added to proposed new §746.303 with substantive changes.

Proposed new §746.609 uses the standard format for the title rather than the question-and-answer format. The rule provides that the child's records must be updated with the child's parent annually, that the parent must sign and date updates and that the records must be maintained in the child's file.

The proposed repeal of §746.607 deletes the rule requiring a parent's signature on the enrollment form as no longer necessary because parents enrolling children in child care centers must already sign other specific authorizations that make this requirement duplicative.

The proposed repeal of §746.609 deletes the rule. The content of the rule is added to proposed new §746.609 with substantive changes.

The proposed repeal of §746.611 deletes the rule as no longer necessary because there is no statutory authority for the requirement of parents to provide health statements for their children to attend care.

The proposed repeal of §746.625 deletes the rule as no longer necessary and to comply with Texas Human Resources Code §42.043(e). This rule allowed for an exception to operations maintaining immunization records for children enrolled in preschool or school at another location provided the child's parent signed a statement that the records were on file at the school.

The title of Subchapter C, Division 2, is amended.

Proposed new §746.705 uses the standard format for the title rather than the question-and-answer format. The rule requires the child care center director or another employee designated by the director to review incident and illness reports and requires the reports to be signed by the director or designated employee.

The proposed repeal of §746.705 deletes the rule. The content of the rule is added to proposed new §746.705 with substantive changes.

The proposed repeal of §746.709 deletes the rule as no longer necessary because §746.603(a)(7) already outlines that incident and illness reports must be kept in the child's file and §746.803(a) already outlines records retention periods for all records at the licensed child care center.

The proposed repeal of §746.805 deletes the rule as no longer necessary. The rule was adopted in 2010 to notify centers that the centers are permitted to keep electronic records, which is no longer a new practice. The rule indicates children's records must be accessible to caregivers which is already established

in §746.601 and it indicates that records must be available for review by CCR upon request which is already established in §746.601, §746.801, and §746.901.

Proposed new §746.1021 uses the standard format for the title rather than the question-and-answer format. The rule describes child care experience that may qualify a person to work as a child care center director.

Proposed new rule §746.1045 uses the standard format for the title rather than the question-and-answer format. The rule provides the requirements for submission and review of transcripts for foreign education.

The proposed repeal of §746.1021 deletes the rule. The content of the rule is added to proposed new §746.1021 with substantive changes.

The proposed repeal of §746.1045 deletes the rule. The content of the rule is added to proposed new §746.1045 with substantive changes.

The proposed repeal of §746.1057 deletes the rule as no longer necessary because it is duplicative of §746.201(4) which outlines the requirement for a qualified director.

The proposed amendment of §746.1107 uses the standard format for the title rather than the question-and-answer format. The amendment consolidates acceptable documentation of high school equivalency completion into one section and updates language to improve readability and understanding.

Proposed new §746.1309 uses the standard format for the title rather than the question-and-answer format. The rule outlines the required annual training for directors and caregivers in child care centers; includes required topics, number of training hours required, and statutory citations for reference; prohibits certain training hours from counting toward a caregiver's annual training; and prohibits a director from earning training hours by presenting training to others.

Proposed new §746.1313 uses the standard format for the title rather than the question-and-answer format. It provides the requirement for caregiver and director annual training to occur within a 12-month period, outlines that the operation may choose to establish their training year in one of two ways, and outlines that the option selected for how the child care center will determine annual training years must be consistent for all operation staff.

The proposed amendment to §746.1317 uses the standard format for the title rather than the question-and-answer format, includes statutory citations for reference, eliminates the requirement for operations to maintain records related to instructor led and self-instructional training, and updates language to improve readability and understanding.

Proposed new §746.1329 uses the standard format for the title rather than the question-and-answer format. The rule outlines documentation requirements for annual training for employees of a child care center.

The proposed repeal of §746.1309 deletes the rule. The content of the rule is added to proposed new §746.1309 with substantive changes.

The proposed repeal of §746.1311 deletes the rule. The content of the rule is added to proposed new §746.1309 with substantive changes.

The proposed repeal of §746.1313 deletes the rule. The content of the rule is added to proposed new §746.1313 with substantive changes.

The proposed repeal of §746.1329 deletes the rule. The content of the rule is added to proposed new §746.1329 with substantive changes.

Proposed new §746.3605 uses the standard format for the title rather than the question-and-answer format. The rule outlines how operations should respond to illnesses and injuries to children in care.

The proposed repeal of §746.3605 deletes the rule. The content of the rule is added to proposed new §746.3605 with substantive changes.

The proposed repeal of §746.3607 deletes the rule. The content of the rule is added to proposed new §746.3605.

Proposed new §746.4201 uses the standard format for the title rather than the question-and-answer format. The rule outlines the indoor activity space requirements and restrictions.

The proposed repeal of §746.4201 deletes the rule. The content of the rule is added to proposed new §746.4201 with substantive changes.

The proposed repeal of §746.4203 deletes the rule. The content of the rule is added to proposed new §746.4201 with substantive changes.

The proposed repeal of §746.4205 deletes the rule. The content of the rule is added to proposed new §746.4201 with substantive changes.

The proposed repeal of §746.4207 deletes the rule. The content of the rule is added to proposed new §746.4201.

The proposed amendment of §746.4301 uses the standard format for the title rather than the question-and-answer format. The amendment reduces the outdoor square footage requirement per child and updates language to improve readability and understanding.

Proposed new §746.4401 uses the standard format for the title rather than the question-and-answer format. The new rule outlines hand-washing sink requirements for child care centers.

Proposed new §746.4407 uses the standard format for the title rather than the question-and-answer format. The rule outlines toilet requirements for child care centers.

The proposed repeal of §746.4401 deletes the rule. The content of the rule is added to proposed new §746.4401 with substantive changes.

The proposed repeal of §746.4403 deletes the rule. The content of the rule is added to proposed new §746.4401 with substantive changes.

The proposed repeal of §746.4405 deletes the rule. The content of the rule is added to proposed new §746.4401.

The proposed repeal of §746.4407 deletes the rule. The content of the rule is added to proposed new §746.4407 with substantive changes.

FISCAL NOTE

Victoria Grady, Deputy Chief, Finance, has determined that for each year of the first five years that the rules will be in effect, enforcing or administering the rules does not have foreseeable

implications relating to costs or revenues of state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

HHSC 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 a new regulation;
- (6) the proposed rules will expand, limit, and repeal existing regulations;
- (7) the proposed rules will not change the number of individuals subject to the rules; and
- (8) the proposed rules will not affect the state's economy.

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

Victoria Grady 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 required to comply with the rules.

LOCAL EMPLOYMENT IMPACT

The proposed rules will not affect the 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; do not impose a cost on regulated persons; and reduce the burden or responsibilities imposed on regulated persons by the rules.

PUBLIC BENEFIT AND COSTS

Rachel Ashworth-Mazerolle, Deputy Executive Commissioner for Child Care Regulation, has determined that for each year of the first five years the rules are in effect the public benefit will be reduced administrative burdens in licensed child care centers by easing or eliminating certain regulations, and streamlining requirements necessary to protect the health, safety, and well-being of children in child care centers.

Victoria Grady 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 because the rules do not require any significant updates to training that would result in a cost or require any additional resources to comply.

TAKINGS IMPACT ASSESSMENT

HHSC has determined that the proposal does not restrict or limit an owner's right to the owner's 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

Written comments on the proposal, including information related to the cost, benefit, or effect of the proposed rule, as well as any applicable data, research, or analysis, may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 4601 West Guadalupe Street, Austin, Texas 78751; or emailed to HHSRulesCoordinationOffice@hhs.texas.gov.

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) emailed before midnight on the last day of the comment period. If the 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 26R057" in the subject line.

SUBCHAPTER B. ADMINISTRATION AND COMMUNICATION

DIVISION 1. PERMIT HOLDER RESPONSIBILITIES

26 TAC §746.201

STATUTORY AUTHORITY

The repealed rule is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The rule repeal implements Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.201. What are my responsibilities as the permit holder?

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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Karen Ray

Chief Counsel

Health and Human Services Commission

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For further information, please call: (512) 438-3269



DIVISION 2. REQUIRED NOTIFICATION

26 TAC §746.301, §746.303

STATUTORY AUTHORITY

The repealed rules are authorized by Texas Government Code §524.0151, which provides that the executive commissioner of

HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The rule repeals implement Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.301. *What changes regarding my child-care center must I notify Licensing about before making the change?*

§746.303. *What changes must I notify Licensing of regarding the child-care center's designee, governing body, director, and employees?*

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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SUBCHAPTER C. RECORD KEEPING

DIVISION 1. RECORDS OF CHILDREN

26 TAC §§746.607, 746.609, 746.611, 746.625

STATUTORY AUTHORITY

The repealed rules are authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The rule repeals implement Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.607. *Must the child's parent sign the admission information?*

§746.609. *Must I update the admission information?*

§746.611. *Must I have a health statement for children in my care?*

§746.625. *If a child's immunization record is already on file at a pre-kindergarten program or school away from the child-care center, must I also have a copy of the child's immunization record in my files?*

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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DIVISION 2. RECORDS OF ACCIDENTS AND INCIDENTS

26 TAC §746.705, §746.709

STATUTORY AUTHORITY

The repealed rules are authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The rule repeals implement Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.705. *Must someone from my child-care center sign the Incident/Illness Report form?*

§746.709. *Where must I file the Incident/Illness Report form and how long must I keep it?*

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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DIVISION 3. RECORDS THAT MUST BE KEPT ON FILE AT THE CHILD-CARE CENTER

26 TAC §746.805

STATUTORY AUTHORITY

The repealed rule is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The rule repeal implements Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.805. May I keep electronic records or a combination of paper and electronic records?

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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SUBCHAPTER D. PERSONNEL

DIVISION 1. CHILD-CARE CENTER DIRECTOR

26 TAC §§746.1021, 746.1045, 746.1057

STATUTORY AUTHORITY

The repealed rules are authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The rule repeals implement Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.1021. What constitutes experience in a licensed child-care center, or in a licensed or registered child-care home?

§746.1045. Does education received outside of the United States substitute for the education requirements for a child-care director?

§746.1057. What happens if my Child-Care Center Director's Certificate expires?

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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DIVISION 4. PROFESSIONAL DEVELOPMENT

26 TAC §§746.1309, 746.1311, 746.1313, 746.1329

STATUTORY AUTHORITY

The repealed rules are authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The rule repeals implement Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.1309. What areas of training must the annual training for caregivers cover?

§746.1311. What areas of training must the annual training for my child-care center director cover?

§746.1313. When must annual training for my caregivers and director be obtained?

§746.1329. What documentation must I provide to Licensing to verify that employees have met training requirements?

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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SUBCHAPTER R. HEALTH PRACTICES

DIVISION 3. ILLNESS AND INJURY

26 TAC §746.3605, §746.3607

STATUTORY AUTHORITY

The repealed rules are authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The rule repeals implement Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.3605. How must caregivers respond when a child becomes ill?

§746.3607. How must caregivers respond when a child is injured and requires immediate treatment by a health-care professional?

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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SUBCHAPTER T. PHYSICAL FACILITIES

DIVISION 1. INDOOR SPACE REQUIREMENTS

26 TAC §§746.4201, 746.4203, 746.4205, 746.4207

STATUTORY AUTHORITY

The repealed rules are authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The rule repeals implement Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.4201. How many square feet of indoor activity space must I have for children?

§746.4203. Am I required to care for children younger than 18 months separately from older children?

§746.4205. Must I limit the number of children in each room based on the indoor activity space measurements for that room?

§746.4207. Do these indoor activity space requirements apply to my child-care center if it was licensed before September 1, 2003?

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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DIVISION 3. TOILETS AND SINKS

26 TAC §§746.4401, 746.4403, 746.4405, 746.4407

STATUTORY AUTHORITY

The repealed rules are authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas

Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The rule repeals implement Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.4401. How many hand-washing sinks must I have in my child-care center for children's use?

§746.4403. Must I have a hand-washing sink in the diaper-changing area?

§746.4405. Where must I locate the hand-washing sinks for children's use?

§746.4407. How many toilets am I required to have in my child-care center?

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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CHAPTER 746. MINIMUM STANDARDS FOR CHILD CARE CENTERS

SUBCHAPTER B. ADMINISTRATION AND COMMUNICATION

DIVISION 1. PERMIT HOLDER RESPONSIBILITIES

26 TAC §746.201

STATUTORY AUTHORITY

The new rule is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The new section implements Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.201. Permit Holder Responsibilities.

The permit holder must:

(1) develop and follow operational policies that comply with the minimum standards specified in this chapter;

(2) establish written personnel policies, including detailed job descriptions, responsibilities, and requirements;

(3) ensure training requirements in this chapter are met;

(4) appoint a qualified director who is present at the child care center to oversee daily operations;

(5) require employees, contract service providers, and volunteers report suspected abuse, neglect, or exploitation to the Texas Abuse and Neglect Hotline as required by Texas Family Code §261.101 and ensure:

(A) this duty is not delegated to another person; and

(B) any person reporting abuse, neglect, or exploitation is not required by the child care center to seek permission or notify the child care center before making a report;

(6) keep all information about background checks confidential and protect background check information from disclosure to unauthorized persons, as required by law;

(7) allow a parent to visit the child care center any time during operating hours without prior approval;

(8) follow the liability insurance requirements in this division;

(9) ensure the number of children in care, both at the child care center and away from the child care center, such as during a field trip, does not exceed the licensed capacity;

(10) comply with Texas Human Resources Code Chapter 42, all minimum standards, and any other Texas Administrative Code rules that apply;

(11) report Department of Justice substantiated complaints from Title III of the Americans with Disabilities Act to Child Care Regulation; and

(12) comply with all Texas Workforce Commission Child Care Services (CCS) requirements when receiving CCS subsidies. Failure to follow the CCS requirements, including knowingly or negligently failing to meet any provider requirements or responsibilities outlined in Title 40, Texas Administrative Code, Chapter 809 (relating to Child Care Services), is considered a violation of the Texas Health and Human Services Commission minimum standards.

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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Karen Ray

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DIVISION 2. REQUIRED NOTIFICATION

26 TAC §746.301, §746.303

STATUTORY AUTHORITY

The new rules are authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the

executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The new sections implement Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.301. Child Care Regulation (CCR) Notification Requirements.

(a) A child care center must notify Child Care Regulation (CCR) in writing before:

(1) changing hours, days, or months when care is provided;

(2) closing for five consecutive days or more when the closure is planned or, when there is an unplanned closure, as soon as possible;

(3) closing permanently; or

(4) completing a change of ownership. Ensuring a completed application for a new permit is submitted by the intended new owner at least 60 days before the change of ownership is completed may make it possible for the intended new owner to operate under the new permit without a break in service.

(b) A child care center must notify CCR in writing and receive CCR approval before changing:

(1) the address or location of the child care center, as specified in Texas Human Resources Code §42.048(e-3) and Chapter 745, Subchapter D, Division 10 of this title (relating to Relocation of Operation);

(2) indoor or outdoor facilities, equipment, or space; or

(3) any of the services offered by the child care center in a manner that would require CCR to amend the permit.

§746.303. Controlling Persons or Employee Change Notification Requirements.

(a) A child care center must notify Child Care Regulation (CCR) in writing within five days after any person that is a child care center director, designee, governing body board member, or other executive officer departs from the person's role or changes a mailing address.

(b) If a person at the child care center newly becomes a controlling person, the child care center must submit controlling person information within two days after the person becomes a controlling person.

(c) A child care center must report how many employees left the center's employment during the previous calendar year. The information must be submitted through the provider portal account no later than January 15 of each year.

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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SUBCHAPTER C. RECORD KEEPING

DIVISION 1. RECORDS OF CHILDREN

26 TAC §746.609

STATUTORY AUTHORITY

The new rule is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The new section implements Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.609. Child Record Requirements.

(a) At least once every year, a child care center must review each child's record, whether maintained in physical or electronic form, with the child's parent to confirm that all information is current and accurate.

(b) As part of the annual review of each child's record, the parent must sign and date any changes to the information. A child care center must keep the updated information in the child's record.

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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DIVISION 2. INCIDENT AND ILLNESS

RECORD KEEPING

26 TAC §746.705

STATUTORY AUTHORITY

The new rule is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The new section implements Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.705. Incident and Illness Report Requirements.

A director or another employee designated by the director of a child care center must review incident and illness reports within 24 hours of the incident or illness. Once reviewed, the director or another employee designated by the director must sign and date all reports to indicate the reports are complete. The completed reports must be maintained in the child's record.

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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SUBCHAPTER D. PERSONNEL

DIVISION 1. CHILD CARE CENTER

DIRECTOR

26 TAC §746.1021, §746.1045

STATUTORY AUTHORITY

The new rules are authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The new sections implement Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.1021. Director Experience Requirements.

(a) Child care center experience means providing direct care to children in a licensed or certified center. A position qualifies only if it involved providing direct care in the child care center setting. Positions such as director, assistant director, or caregiver may qualify.

(b) Child care home experience means providing direct care to children in a licensed or registered child care home. A position qualifies only if it involved providing direct care in the child care home setting. Positions such as primary caregiver, assistant caregiver, or substitute caregiver may qualify.

(c) Child Care Regulation calculates experience requirements on a full-time 30-hour work week. Part-time experience may be credited on an hour-by-hour basis toward the full-time requirement.

§746.1045. Director International Education Requirements.

Official transcripts must be provided to Child Care Regulation to verify course work completion and equivalency. All documents must be translated into English for review.

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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DIVISION 2. CHILD CARE [CHILD-CARE] CENTER EMPLOYEES AND CAREGIVERS

26 TAC §746.1107

STATUTORY AUTHORITY

The amended rule is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The amendment implements Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.1107. Minimum Caregiver Age and Education Requirements. [What additional minimum qualifications must each of my caregivers meet?]

Except as otherwise provided in this division, each caregiver who works directly with children [must comply with minimum standards for employees and] must:

(1) be [Be] at least 18 years of age; and

(2) have a high school diploma, high school equivalent, or high school certificate of coursework completion as defined in Texas Education Code §28.025(d). [Have a:]

[(A) High school diploma;]

[(B) High school equivalent; or]

[(C) High school certificate of coursework completion as defined in Texas Education Code, §28.025(d).]

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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DIVISION 4. PROFESSIONAL DEVELOPMENT

26 TAC §§746.1309, 746.1313, 746.1317, 746.1329

STATUTORY AUTHORITY

The amendment and new rules are authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The amendment and new sections implement Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.1309. Director, Caregiver, and Other Employee Required Annual Training.

(a) Director annual training must be relevant to the ages of the children cared for by the child care center. Caregiver annual training must be relevant to the ages of the children cared for by the caregiver.

(b) At least six hours of the annual training for caregivers must be in one or more of the following topics:

(1) child growth and development;

(2) guidance and discipline;

(3) age-appropriate curriculum; and

(4) caregiver-child interaction.

(c) At least two hours of the annual training for any employee at the child care center must be about preventing, recognizing, and reporting child abuse, neglect, or exploitation, in accordance with the Texas Human Resources Code §42.04261(b), including:

(1) factors indicating a child is at risk for abuse, neglect, or exploitation;

(2) warning signs indicating a child may be a victim of abuse, neglect, or exploitation;

(3) the procedures that mandatory reporters must use to report child abuse, neglect, or exploitation; and

(4) a list of community organizations that have training programs on preventing, recognizing, and reporting child abuse, neglect or exploitation that are available to employees, children, and parents.

(d) If the child care center provides care for children younger than 24 months of age, the director and caregivers responsible for those children's care must complete one hour of annual training, in accordance with the Texas Human Resources Code §42.0421(b), that includes the following topics:

(1) recognizing and preventing shaken baby syndrome;

(2) preventing sudden infant death syndrome; and

(3) understanding early childhood brain development.

(e) Directors and caregivers must complete training in the following topics annually:

(1) emergency preparedness;

(2) preventing and controlling the spread of communicable diseases and immunization requirements;

(3) administering medication;

(4) preventing and responding to emergencies caused by allergic reactions to food or other allergens;

(5) understanding physical premises safety, including identifying and preventing injuries from common hazards; and

(6) handling, storing, and disposing of hazardous materials and biological contaminants.

(f) The remaining annual training hours for directors and caregivers must be in one or more of the following topics:

(1) caring for children with special needs;

(2) promoting child health;

(3) safety practices;

(4) risk management;

(5) recognizing and caring for children who are ill;

(6) professional development topics;

(7) planning developmentally appropriate learning activities;

(8) observation and assessment;

(9) attachment and responsive caregiving; and

(10) minimum standards and how they apply to the caregiver.

(g) Instructor-led training must make up at least six hours of the director's and five hours of a caregiver's required annual training.

(h) Training hours related to orientation, pre-service training, pediatric first aid and pediatric cardiopulmonary resuscitation do not count toward the director and caregiver annual training hours required in this section.

(i) A director may not earn training hours by presenting training to others.

§746.1313. Annual Training Timeframes.

(a) Each caregiver and director must complete annual training hours within 12 months of the date of employment and during each subsequent 12-month period. Training hours must be counted in the year in which they are completed and may not be carried over into the next training year.

(b) A child care center may designate a single start date for the annual training year for all employees that corresponds with the school or calendar year rather than each employee's date of employment. For staff hired after the designated date, the child care center must:

(1) prorate the staff member's required training hours from the date of employment to the end of the designated annual training year; and

(2) require the staff member to begin a new 12-month period aligned with the designated school or calendar year.

(c) A child care center may use either subsection (a) or (b) of this section to determine annual training requirements. The child care center must apply the selected option consistently to all staff.

§746.1317. Approved Training Sources. [Must the training for my caregivers and the director meet certain criteria?]

[(a)] All training [Training] may include clock hours or Continuing Education Units (CEUs) [CEUs] provided by the following in accordance with Texas Human Resources Code §42.0421(f):

(1) a [A] training provider registered with the Texas Early Childhood Professional Development System Training Registry, maintained by the Texas Head Start State Collaboration Office;

(2) an [An] instructor who teaches early childhood development or another relevant course at a secondary school or institution of higher education accredited by a recognized accrediting agency;

(3) an [An] employee of a state agency with relevant expertise;

(4) a [A] physician, psychologist, licensed professional counselor, social worker, or registered nurse;

(5) a [A] person who holds a generally recognized credential or possesses documented knowledge relevant to the training the person will provide;

(6) the designated [A] director at the child care [your child-care] center if:

(A) the [The] director has demonstrated core knowledge in child development and caregiving;

(B) HHSC has not placed the child care [your] center on probation or suspended, revoked, or refused to renew the [your] permit in the two years preceding the training;

(C) HHSC has not assessed an administrative penalty against the child care [your] center during the previous two years while the [your] director was serving in that role; and

(D) the [The] only caregivers receiving the training are employees at the director's [of your] center; or[.]

(7) a [A] person who has at least two years of experience working in child development, a child development program, early childhood education, a childhood education program, or a Head Start or Early Head Start program and:

(A) has [Has] a current Child Development Associate [(CDA)] credential; or

(B) holds [Holds] at least an associate degree in child development, early childhood education, or a related field.

[(b)] Training may include clock hours or CEUs obtained through self-instructional materials, if the materials were developed by a person who meets one of the qualifications in subsection (a) of this section.]

[(c)] Instructor-led and self-instructional training, but not self-study training, must include:]

[(1)] Specifically stated learning objectives;]

[(2)] A curriculum, which includes experiential or applied activities;]

[(3)] An evaluation/assessment tool to determine whether the person has obtained the information necessary to meet the stated objectives; and]

[(4)] A certificate of successful completion from the training source.]

§746.1329. Required Training Documentation.

(a) A child care center must keep records showing that each employee completed annual training. These records must be maintained in the employee's personnel file.

(b) All certificates or letters documenting completion of training must include:

- (1) participant's name;
- (2) date of the training;
- (3) title or subject of the training;
- (4) the trainer's name, or the source of the training for self-instructional training;
- (5) how the trainer qualifies as a training provider, in accordance with Texas Human Resources Code §42.0421(f); and
- (6) length of the training specified in hours, CEUs, or college credit hours, as appropriate.

(c) Documentation of pediatric first aid and pediatric cardiopulmonary resuscitation training must also include the date the certification expires or the renewal due date. The training organization determines the expiration or renewal date.

(d) For orientation and pre-service training, a child care center can maintain letters or certificates showing completion or the employee and person who provided the training can execute a signed and dated statement verifying completion.

(e) Documentation of any completed training on preventing, recognizing, and reporting child abuse, neglect, or exploitation, in accordance with Texas Human Resources Code §42.0426(a-1), must include the signature of the employee who completed the training.

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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SUBCHAPTER R. HEALTH PRACTICES

DIVISION 3. ILLNESS AND INJURY

26 TAC §746.3605

STATUTORY AUTHORITY

The new rule is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The new section implements Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.3605. Illness and Injury Response Requirements.

(a) If a child becomes ill or injured and needs urgent care from a health-care professional or hospital admission, a child care center's employee or caregiver must:

- (1) call emergency medical services or take the child to the closest emergency room;
- (2) provide first aid or cardiopulmonary resuscitation when needed; and
- (3) notify the child's parent.

(b) If a child becomes ill or injured and does not need urgent care from a health-care professional or hospital admission, a child care center's employee or caregiver must:

- (1) contact the child's parent to pick up the child who is ill or to notify the parent of the minor injury;
- (2) provide first-aid treatment, when needed;
- (3) care for the child who is ill and separate the child from other children, as needed; and
- (4) follow proper health and sanitation practices to prevent the spread of illness.

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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SUBCHAPTER T. PHYSICAL FACILITIES

DIVISION 1. INDOOR SPACE REQUIREMENTS

26 TAC §746.4201

STATUTORY AUTHORITY

The new rule is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The new section implements Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.4201. Indoor Activity Space Requirements.

(a) A child care center must have at least 30 square feet of activity space for each child counted in the capacity of the child care center.

(b) Children less than 18 months old must be cared for separately from children over 18 months, unless there are fewer than 12 children in care.

(c) A child care center must not exceed room capacity unless children over 18 months old are taking part in a shared activity in the same space.

(d) Kindergarten and nursery schools, as well as schools with kindergarten or higher grades, licensed before September 1, 2003, are required to provide at least 20 square feet of space for each child. This reduced space requirement is allowed only while the permit issued before September 1, 2003, remains valid.

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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DIVISION 2. OUTDOOR SPACE REQUIREMENTS

26 TAC §746.4301

STATUTORY AUTHORITY

The amendment is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The amendment implements Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.4301. Outdoor Space Requirements. [How many square feet of outdoor activity space must I have?]

(a) A child care center [You] must have 75 [80] square feet of [outdoor] activity space per [for each] child in [using] the outdoor activity area at one time unless a child care center is licensed to provide only alternate or get-well care.[; unless you are licensed to provide only:]

[(1) An alternate care program; or]

[(2) A get-well care program.]

(b) A child care center's [You must have enough square footage in the] outdoor activity space must be large enough to accommodate [to equal] at least 25 percent [25%] of the [your] licensed [indoor] capacity.

(c) A child care center [If you were] licensed before September 1, 2003, does not have to comply with subsection (b) of this section if

the permit remains valid [you do not have to comply with the outdoor activity space requirements specified in subsection (b) of this section unless the permit issued prior to September 1, 2003, is no longer valid].

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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DIVISION 3. TOILETS AND SINKS

26 TAC §746.4401, §746.4407

STATUTORY AUTHORITY

The new rules are authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority, and Texas Human Resources Code §42.042, which requires the executive commissioner to adopt minimum standards related to the health, safety, and welfare of children attending child care centers.

The new sections implement Texas Government Code §524.0151, §524.0005, and Texas Human Resources Code §42.042.

§746.4401. Hand-washing Sink Requirements.

(a) A child care center must have at least one hand-washing sink for every 17 children who are 18 months old and older, except:

(1) a child care center licensed before September 1, 2003, as a kindergarten and nursery school or school grades kindergarten and above, must have at least one hand-washing sink for every 20 children, if the permit issued before that date remains valid; and

(2) a drop-in child care center licensed before September 1, 2003, must have at least one hand-washing sink for every 25 children, if the permit issued before that date remains valid.

(b) A child care center must have one hand-washing sink in each diaper changing area. A child care center licensed before September 1, 2003, as a day care center, group day care home, or drop-in child care center, that is unable to provide a hand-washing sink in the diaper changing area is exempt from this requirement if the permit issued before that date remains valid.

(c) A hand-washing sink must be easy for a child 18 months old or older to reach. Each sink must have soap, running water, and either single-use disposable towels or a hot-air hand dryer that children can use.

§746.4407. Toilet Requirements.

(a) A child care center must have at least one flush toilet for every 17 children who are 18 months old and older, except for:

(1) a child care center licensed before September 1, 2003, as a kindergarten and nursery school or school grades kindergarten and above, must have at least one flush toilet for every 20 children; and

(2) a drop-in child care center licensed before September 1, 2003, must have at least one flush toilet for every 25 children.

(b) The exceptions in this section are allowed only if the permit issued before September 1, 2003 remains valid.

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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TITLE 30. ENVIRONMENTAL QUALITY

PART 1. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

CHAPTER 30. OCCUPATIONAL LICENSES AND REGISTRATIONS

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes the amendments to §§30.7, 30.24, 30.26, 30.30, 30.33, 30.192, 30.317, 30.340, 30.355, 30.390, 30.392, and 30.400.

Background and Summary of the Factual Basis for the Proposed Rules

Legislative Implementation

House Bill (HB) 1237 amended Texas Water Code (TWC), §37.006, to allow individuals additional time to renew any license or registration up to 180 days past expiration. The bill allows TCEQ to charge up to 1.5 times the normal fee to renew a license or registration that is up to 90 days past expiration and up to two times the normal renewal fee to renew a license or registration that is more than 90 days but not more than 180 days past expiration. Previously, the statute only allowed an individual to renew their license up to 30 days past the expiration date and allowed a licensing agency to charge up to 1.5 times the normal fee. TCEQ proposes setting the renewal fees for 1.5 times the normal fee and 2 times the normal fee for license and registration applications that are submitted up to 90- and 180-days past expiration respectively.

HB 5629 amended Texas Occupations Code (TOC) Chapter 55, *Licensing of Military Service Members, Military Veterans, and Military Spouses*, specifically the reciprocal process for military service members, veterans, and military spouses with an occupational license from another state seeking an occupational license in Texas. The review process for reciprocal licenses will be based on whether the license in the other state is similar in scope of practice to a license in Texas, regardless of whether the requirements are substantially equivalent to Texas or how the license was obtained. A military member, veteran, or military

spouse, applying for a reciprocal license in Texas, would need to provide supporting documentation to prove that he or she is in good standing with the state from which he or she holds a license by submitting a notarized affidavit. HB 5629 gives TCEQ 10 days to respond to an applicant as to whether they qualify for the reciprocal license, the application is incomplete, or the agency is unable to recognize the applicant's out-of-state license. HB 5629 also requires TCEQ to waive the application fee for all military service members, veterans, or military spouses' applications for a new or reciprocal license. HB 5629 also requires TCEQ to maintain a record of complaints made against military service members, veterans, or military spouses with reciprocal licenses and publish these complaints quarterly on the agency's website.

SB 1818 amended TOC Chapter 55, *Licensing of Military Service Members, Military Veterans, and Military Spouses*, by requiring state licensing authorities to promptly issue a provisional license or license to military members, veterans, and military spouses who apply for a reciprocal license. The provisional license would expire when the agency approves or denies the application for a reciprocal license or 180 days after the provisional license is issued, whichever comes first.

SB 1080 amended TOC Chapter 53, *Consequences of Criminal Conviction*, specifically TOC §53.021, to amend the requirement to automatically revoke a license following a felony conviction. The bill continues to require TCEQ to automatically revoke a license for a felony conviction that results in imprisonment for an offense that directly relates to the duties and responsibilities of the licensed occupation, an offense listed in Article 42A.054, Code of Criminal Procedure, or a sexually violent offense, as defined by Article 62.001, Code of Criminal Procedures. However, instead of continuing to require automatic revocation for all other felony convictions that resulted in imprisonment, the bill makes revocation discretionary. Previously, the statute required automatic revocation for all licensees that received any felony conviction that resulted in imprisonment.

Staff Recommended Changes

The statute allows for an individual who submits a renewal application within 90 days after the license expiration date to continue performing duties that require the license. Although the statute does not expressly address completion of required training during this 90-day period, the proposed rulemaking would allow an individual who submits a renewal application during that period to complete the required training within that 90-day period.

This rulemaking proposes to correct the Class B Wastewater required hours from 100 hours to 120 hours in the figure in §30.340(a). TCEQ added the Basic Wastewater course as a requirement for the Class A and Class B Wastewater licenses in §30.340(f) during the last rulemaking for this chapter (2024-004-030-WS) to be consistent with the requirements of the Class A and Class B Public System Water Operator licenses. However, the number of required hours for the Class B Wastewater was not adjusted in §30.340(a) to include the added 20-hour Basic Wastewater Course. This rulemaking proposes to make that correction and change the required number of hours for the Wastewater B license from 100 to 120. The proposed change is consistent with TWC, §§37.002 and 37.008.

The rulemaking also proposes to amend the requirement for TCEQ to notify the licensee of the impending expiration of their license to allow TCEQ to send the notification via email. Currently, the rule requires TCEQ to "mail a renewal notification".

TCEQ proposes to amend the language to "send written notice of the impending expiration." This would allow TCEQ to send the renewal notice via email, rather than just via paper mail. The proposed change is consistent with TWC, §37.006(c).

Other minor updates to 30 Texas Administrative Code (TAC) Chapter 30 will be made, as necessary, to provide clarification or consistency with other licensing requirements and rules.

Section by Section Discussion

TCEQ proposes to amend 30 TAC §30.7 to add definitions for "provisional license", "temporary license", and "written notice". "Provisional license" is defined as a non-renewable license issued for certain license types authorizing the person to engage in an activity covered by 30 TAC Chapter 30. "Temporary license" is defined as a specific type of license issued to a military service member, military veteran, or military spouse who apply for a reciprocal license with TCEQ. A temporary license is granted if the executive director does not issue or deny a reciprocal license within 10 days of receiving a complete application. It authorizes the person to engage in an activity covered by 30 TAC Chapter 30 and is valid for up to 180 days. These definitions were added to distinguish between the existing provisional licenses and the new temporary licenses for military service members created by SB 1818. "Written notice" is defined as a notice sent by the executive director to an applicant, registrant, or licensee via email or mail. This definition supports the proposed changes to 30 TAC §30.24(b)(1). The subsequent definitions in 30 TAC §30.7 have been re-numbered.

TCEQ proposes to amend 30 TAC §30.24(a) to allow an individual to submit an application to renew a license up to 180 days past the expiration date of the license, to reflect the amendments to TWC, §37.006 made by HB 1237. After 180 days past expiration, an individual must submit an application for a new license and re-take the applicable licensing exam. The current rule allows an individual up to 30 days after expiration to renew their license.

Additionally, TCEQ proposes to amend 30 TAC §30.24(b)(1) to change the language from the ED "shall mail a renewal notification" to an individual whose license is about to expire to "shall send written notice of the impending expiration". TCEQ is required under TWC, §37.006(c) to send a notice to all licensees 60 days before the date an individual's license is scheduled to expire to remind them to renew. The current rules state that TCEQ shall "mail notice"; however, TWC, §37.006(c) specifies "written notice." TCEQ is proposing to change the rule language to better align with the statutory text, which would allow the ED to send the notifications via email.

TCEQ proposes to amend §30.24(d) to allow an individual who applies for a renewal within 90 days after the expiration date of the license or registration to complete the required training credits within 90 days after the license expiration date. While not expressly addressed in the statute, this would be in line with the flexibility added by HB 1237, which allows a licensee additional time to submit a renewal application and allows for an individual who submits a renewal application within 90 days after license expiration date to continue performing duties that require a license. A person who applies for a renewal license more than 90 days after the expiration date may not complete training credits to meet the requirements of an expired license or registration.

TCEQ proposes to amend 30 TAC §30.24(f) and (g) to allow an individual up to 180 days after expiration to renew their license, per HB 1237. The current rule allows an individual up to 30 days

after expiration to renew their license. The proposed change is consistent with the statutory text of TWC, §37.002, 37.005, and 37.006.

TCEQ proposes to amend 30 TAC §30.24(r) such that an applicant has 30 days or until 90 days past the expiration date of the license, whichever is later, to notify the executive director that the application deficiencies have been resolved. Currently, an applicant has only 30 days from the date of the letter to notify the executive director that all deficiencies have been met. The proposed amendments are consistent with the statutory text of TWC, §37.002, 37.005, and 37.006.

TCEQ proposes to amend 30 TAC §30.24(s) to add that an individual may engage in activities that require a license or registration when TCEQ receives the application to renew if the renewal is received within 90 days past the expiration date of the license or registration, as amended by HB 1237. Currently, the rule states that an individual would not be able to engage in activities that require a license or registration until the license or registration is renewed. The proposed change is consistent with the statutory text of TWC, §37.002, 37.005, and 37.006.

TCEQ proposes to amend 30 TAC §30.26(f)(1) to add that the executive director may issue a temporary license to a military service member, military veteran, or military spouse that applies for a reciprocity license, per SB 1818. Additionally, the rule-making proposes to amend §30.26(f)(1)(A) to change that a military service member, veteran, or military spouse must hold a license in another state, rather than a jurisdiction, that is similar in scope to the license for which they are applying, as amended by HB 5629. Currently, a military service member, military veteran, or military spouse must hold a license in another jurisdiction that has licensing requirements that are substantially equivalent to the requirements of the license for which they are applying. These proposed changes are consistent with the statutory text of TWC, §§37.002, 37.005, 37.006, TOC, §§55.004 and 55.0041.

TCEQ proposes to add 30 TAC §30.26(f)(2) to require military service members, veterans, and military spouses to submit a notarized affidavit stating that he or she is in good standing with other states' licensing authority with which they hold a license, as required by HB 5629. This new subsection outlines that an applicant is in good standing if the applicant holds a current license that has not been suspended or revoked, and has not been voluntarily surrendered during an investigation for unprofessional conduct; has not been disciplined by a licensing authority with respect to the license or occupation; and is not currently under investigation by a licensing authority for unprofessional conduct related to the license or profession. These proposed changes are consistent with the statutory text of TOC, §§55.004, 55.0041, and 55.0042.

To implement HB 5629, TCEQ also proposes to add 30 TAC §30.26(f)(3) to require TCEQ to issue a temporary reciprocal license for military service members, veterans, and military spouses if the license is not issued or denied within 10 days. The temporary reciprocal license will expire when the agency approves or denies the application for a reciprocal license or 180 days after the temporary license is issued, whichever comes first. The subsequent subsections have been renumbered. The proposed change is consistent with the statutory text of TOC, §§55.004, 55.0041, 55.0042, 55.005.

Also to implement HB 5629, TCEQ proposes to amend 30 TAC §30.26(f)(6) (previously §30.26(f)(4)) to require TCEQ, within 10

days of receipt of the application, to issue a reciprocal license to military service members, veterans, or military spouses, notify the applicant the application is incomplete, or notify the applicant that the commission is unable to recognize the applicant's out-of-state license because the agency does not issue a license similar in scope of practice to the applicant's license. The current rule requires TCEQ to issue the reciprocal license within 30 days of receipt of the application unless the applicant is deficient. The proposed change is consistent with the statutory text of TOC, §§55.004, 55.0041, 55.0042, 55.005.

TCEQ proposes to amend 30 TAC §30.30(c) to establish the fees to renew a license past the expiration date, as authorized by HB 1237. Applications to renew a license or individual registration received before the expiration date are subject to the \$111 fee. Applications to renew a license received after the expiration date, but not more than 90 days after the expiration, are subject to a fee of \$166.50. Applications to renew a license received after 90 days after the expiration date, but not more than 180 days after expiration, are subject to a fee of \$222. These proposed changes are consistent with the statutory text of TWC, §§37.006 and 37.009.

TCEQ proposes to amend 30 TAC §30.30(d) to waive the fee for all new licenses from military service members, rather than just for initial licenses to implement HB 5629. Currently, language that waives the fee for just the initial license for military service members, veterans, and military spouses that hold a license in another jurisdiction is in 30 TAC §30.30(c). Subsequent subsections have been renumbered. The proposed change is consistent with the statutory text of TWC, §§37.006, 37.009, TOC, §55.009.

TCEQ proposes to amend 30 TAC §30.30(d) (proposed 30 TAC §30.30(e)) to establish the fees to renew a company registration past the expiration date, as authorized by HB 1237. Applications to renew a registration received after the expiration date but not more than 90 days after the expiration are subject to a fee 1.5 times the normal fee to renew the registration. Applications to renew a registration received after 90 days after the expiration date but not more than 180 days after expiration are subject to a fee two times the normal fee to renew the registration. The proposed change is consistent with the statutory text of TWC, §§37.006 and 37.009.

TCEQ proposes to amend 30 TAC §30.33(h) to implement SB 1080. TCEQ proposes to amend 30 TAC §30.33(h)(2) to specify that the commission is *required* to revoke a license or registration upon an individual's imprisonment following a felony conviction *only* if the offense is directly related to the license or registration; a violent offense as defined by the Code of Criminal Procedure (CCP), Article 42.054; or a sexually violent offense listed in the Code of Criminal Procedure, Article 62.001. TCEQ proposes to add §30.33(h)(3) to clarify that TCEQ *may* revoke a license or registration following a felony conviction that is not listed in §30.33(h)(2). The requirement for TCEQ to revoke a license or registration upon an individual's imprisonment following a felony community supervision revocation, revocation of parole, or revocation of mandatory supervision has been moved to new §30.33(h)(4). These proposed changes are consistent with the statutory text of TOC, §§51.4014, 53.021, and 53.0211.

TCEQ proposes to amend §30.192 to establish the fees to renew a leaking petroleum storage tank (LPST) corrective action specialist registration past the expiration date, as authorized by HB 1237. Applications to renew an LPST corrective action specialist registration received after the expiration date but not more than

90 days after the expiration are subject to a fee of \$348 to renew the registration. Applications to renew a registration received after 90 days after the expiration date but not more than 180 days after expiration are subject to a fee of \$465 to renew the registration. The proposed change is consistent with the statutory text of TWC, §§37.006 and 37.009.

TCEQ proposes to amend §30.317 to establish the fees to renew an underground storage tank (UST) contractor registration past the expiration date, as authorized by HB 1237. Applications to renew an UST contractor registration received after the expiration date but not more than 90 days after the expiration are subject to a fee of \$348 to renew the registration. Applications to renew a registration received after 90 days after the expiration date but not more than 180 days after expiration are subject to a fee of \$465 to renew the registration. The proposed change is consistent with the statutory text of TWC, §§37.006 and 37.009.

TCEQ proposes to amend §30.340(a) to correct the number of hours required for a Class B Wastewater Operator from 100 hours to 120 hours. TCEQ made a correction during the last rulemaking for this chapter (Rulemaking Project Number 2024-004-030-WS) to add the Basic Wastewater as a requirement for the Class A and Class B Wastewater license to be consistent with the requirements of the Class A and Class B Public System Water Operator licenses. However, the number of required hours to obtain a Class B Wastewater Operator license was not adjusted to include the 20-hour Basic Wastewater Course. The chart format has been updated to make it easier to understand. These proposed changes are consistent with the statutory text of TWC, §§37.002, 37.005, and 37.006.

TCEQ proposes to amend 30 TAC §30.355 to establish the fees to renew a Wastewater System Operations Company registration past the expiration date, as authorized by HB 1237. TCEQ proposes to amend §30.355(c) to specify that the fees shown in Figure: 30 TAC §30.355(c) apply to applications to renew a wastewater system operation company's registration applies to new applications and renewal applications received on or before the expiration date of the registration. Proposed new §30.355(d) sets the fees for applications received after the expiration date but not more than 90 days after the expiration date of the registration as 1.5 times the fee shown in Figure: 30 TAC §30.355(c). Proposed new §30.355(e) sets the fees for applications received after 90 days after the expiration date of the registration but not more than 180 days past the expiration date as two times the fee shown in Figure: 30 TAC §30.355(c). These proposed changes are consistent with the statutory text of TWC, §§37.006 and 37.009.

TCEQ proposes to amend Figure: 30 TAC §30.390(a) to update the format of the table to make it easier to understand and to be consistent with the format of amended Figure: 30 TAC §30.340(a). The proposed change is consistent with the statutory text of TWC, §§37.002.

TCEQ proposes to amend 30 TAC §30.392 to remove the date for which the resiliency training requirement was previously applicable. All individuals renewing a water operator license are now required to take resiliency training, so the date in the current rule is no longer necessary. The proposed change is consistent with the statutory text of TWC, §§37.002 and 37.008.

TCEQ proposes to amend 30 TAC §30.400 to establish the fees to renew a public water system operating company registration past the expiration date, as authorized by HB 1237. TCEQ proposes to amend §30.400(c) to specify that the fees shown in

Figure: 30 TAC §30.400(c) apply to applications to renew a public water system operating company's registration applies to new applications and renewal applications received on or before the expiration date of the registration. Proposed new §30.400(d) sets the fees for applications received after the expiration date but not more than 90 days after the expiration date of the registration as 1.5 times the fee shown in Figure: 30 TAC §30.400(c). Proposed new §30.400(e) sets the fees for applications received after 90 days after the expiration date of the registration but not more than 180 days past the expiration date as two times the fee shown in Figure: 30 TAC §30.400(c). These proposed changes are consistent with the statutory text of TWC, §§37.006 and 37.009.

Fiscal Note: Costs to State and Local Government

Kyle Girtten, Analyst in the Budget and Planning Division, has determined that for the first five-year period the proposed rule is in effect, no fiscal implications are anticipated for the agency or for other units of state or local government as a result of administration or enforcement of the proposed rule unless any individual opts to renew their license after its expiration date. Should any licensee that is subject to this rulemaking apply for renewal of their license after it is expired and within 90 or 120 days of the expiration, TCEQ would receive additional revenue in the amounts specified in 30 TAC §§30.30(c), 30.30(e), 30.192(3), 30.355(d), 30.355(e), and 30.400(c) of the proposed rulemaking. These sections of the rule would provide for an increase in the fee by one-and-a-half times the normal amount for applications received within 90 days after the expiration date, and two times the normal amount for applications received after 90 days but not more than 180 days. This language is consistent with the flexibility provided for in HB 1237 from the 89th Regular Legislative Session (2025).

Public Benefits and Costs

Mr. Girtten determined that for each year of the first five years the proposed rules are in effect, the public will benefit from rule language that is consistent and compliant with state law, specifically HB 1237, HB 5629, SB 1818, and SB 1080 from the 89th Regular Legislative Session (2025). Licensees will benefit from additional flexibility to renew their licenses up to 180 days past the expiration date, as proposed in §30.24(a) of the rulemaking. The public will also benefit from minor corrections and clarifications in the rule.

The proposed rulemaking is not anticipated to result in fiscal implications for individuals or businesses during the first five-year period the proposed rule is in effect unless any individuals opt to renew licenses after they have expired.

Local Employment Impact Statement

The commission reviewed this proposed rulemaking and determined that a Local Employment Impact Statement is not required because the proposed rulemaking does not adversely affect a local economy in a material way for the first five years that the proposed rule is in effect.

Rural Communities Impact Assessment

The commission reviewed this proposed rulemaking and determined that the proposed rulemaking does not adversely affect rural communities in a material way for the first five years that the proposed rules are in effect. The amendments would apply statewide and have the same effect in rural communities as in urban communities.

Small Business and Micro-Business Assessment

No adverse fiscal implications are anticipated for small or micro-businesses due to the implementation or administration of the proposed rule for the first five-year period the proposed rules are in effect.

Small Business Regulatory Flexibility Analysis

The commission reviewed this proposed rulemaking and determined that a Small Business Regulatory Flexibility Analysis is not required because the proposed rule does not adversely affect a small or micro-business in a material way for the first five years the proposed rules are in effect.

Government Growth Impact Statement

The commission prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program and will not require an increase or decrease in future legislative appropriations to the agency. The proposed rulemaking does not require the creation of new employee positions, eliminate current employee positions, nor require an increase or decrease in fees paid to the agency. The proposed rulemaking amends an existing regulation, and it does not create, expand, repeal, or limit this regulation. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years, the proposed rule should not impact positively or negatively the state's economy.

Written comments concerning the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Draft Regulatory Impact Analysis Determination

TCEQ reviewed this rulemaking action in light of the regulatory analysis requirements of Texas Government Code (TGC), §2001.0225 and determined that the proposed rules are not subject to that statute because the proposed rules do not meet the criteria for "Major environmental rules" as defined in TGC, §2001.0225(g)(3).

TGC, §2001.0225 applies only to rules that are specifically intended to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. During the 89th Legislature, 2025, HB 1237, HB 5629, SB 1818, and SB 1080 were passed which added to and amended provisions of the occupational licensing and registration programs administered by TCEQ.

The specific intent of the proposed rules is: to ensure consistency between the rules and their applicable statutes as amended by recent legislation; to clarify the procedure for renewing applications after expiration and extend the renewal period; to provide flexibility for professionals who may miss the renewal deadline due to unforeseen circumstances, while maintaining accountability through increased fees for late renewals; to address the procedure relating to reciprocal licensing of military service members, military veterans, and military spouses; to reduce barriers to employment, support military families, and encourage participation in the state workforce; to make revocation of a license following a felony conviction discretionary in some circumstances, in accordance with SB

1080; and to modify or add language to improve clarity and strengthen alignment with the applicable statute.

The proposed rules would streamline and update the agency's licensing and registration programs. The specific intent of the proposed rules is to improve procedural aspects of occupational licensing and training requirements, not to protect the environment or reduce risks to human health from environmental exposure. Therefore, the proposed rules do not meet the definition of a "Major environmental rule" found in TGC, §2001.0225(g)(3). Because the proposed rules are not major environmental rules, a Regulatory Impact Analysis under TGC, §2001.0225 is not required.

Furthermore, even if the proposed rules did meet the definition of a major environmental rule, the proposed rules are not subject to TGC, §2001.0225, because they do not meet any of the four applicability requirements specified in TGC, §2001.0225(a). TGC, §2001.0225(a) applies to rules adopted by an agency, the result of which is to: 1) exceed a standard set by federal law, unless the rule is specifically required by state law; 2) exceed an express requirement of state law, unless the rule is specifically required by federal law; 3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopt a rule solely under the general powers of the agency instead of under a specific state law.

In this case, the proposed rules do not meet any of these requirements: there are no federal standards for the occupational licenses and registrations program administered by the commission; the rules do not exceed an express requirement of state law; there is no delegation agreement that would be exceeded by the rules; and the proposed rules would implement requirements of HB 1237, HB 5629, SB 1818, SB 1080, TWC, §37.006, and TWC, §37.008.

The commission invites public comment regarding the Draft Regulatory Impact Analysis Determination during the public comment period. Written comments on the Draft Regulatory Impact Analysis Determination may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Takings Impact Assessment

TCEQ has prepared a takings impact assessment for these proposed rules pursuant to TGC, §2007.043. Under TGC, §2007.002(5), "taking" means: "(A) a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the United States Constitution or Section 17 or 19, Article I, Texas Constitution; or (B) a governmental action that: (i) affects an owner's private real property that is the subject of the governmental action, in whole or in part or temporarily or permanently, in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action; and (ii) is the producing cause of a reduction of at least 25% in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect." TGC, §2007.002(4) defines "private real property" as "an interest in real property recognized by common law, including a groundwater or surface water right of any kind, that is not owned

by the federal government, this state, or a political subdivision of this state."

The proposed rules do not burden "private real property" as defined by TGC, §2007.002(4) because the proposed rules update and improve licensing procedures and training requirements and do not concern interests in real property recognized by common law. Further, this proposed rulemaking does not burden, restrict, or limit an owner's right to private real property, nor reduce the market value of any private real property. Therefore, the proposed governmental action does not constitute a taking under TGC, §2007.002.

Consistency with the Coastal Management Program

The commission reviewed the proposed rules and found that they are neither identified in Coastal Coordination Act Implementation Rules, 31 TAC §29.11(b)(2) or (4), nor will they affect any action/authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §29.11(a)(6). Therefore, the proposed rules are not subject to the Texas Coastal Management Program.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Announcement of Hearing

The commission will hold a hybrid virtual and in-person public hearing on this proposal in Austin on September 9, 2026, at 2:00 p.m. in building E, room 201S, at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing at 1:30 p.m.

Individuals who plan to attend the hearing virtually and want to provide oral comments and/or want their attendance on record must register by September 7, 2026. To register for the hearing, please email Rules@tceq.texas.gov and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on September 8, 2026, to those who register for the hearing.

For the public who do not wish to provide oral comments but would like to view the hearing may do so at no cost at:

<https://events.teams.microsoft.com/event/3e5e0072-0b2a-4c8f-b7aa-c7597329a161@871a83a4-a1ce-4b7a-8156-3bcd93a08fba>

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RELAY-TX (TDD). Requests should be made as far in advance as possible.

Submittal of Comments

Written comments may be submitted to Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to fax4808@tceq.texas.gov. Electronic comments may be submitted at: <https://tceq.commentinput.com/comment/search>. File size restrictions may apply to comments being submitted via the

TCEQ Public Comments system. All comments should reference Rule Project Number 2025-027-030. The comment period closes at 11:59 p.m. on September 15, 2026. Please choose one of the methods provided to submit your written comments.

Copies of the proposed rulemaking can be obtained from the commission's website at https://www.tceq.texas.gov/rules/propose_adopt.html. For further information, please contact Rebecca Morigan, Occupational Licensing and Registration Division, (512) 239-2463.

SUBCHAPTER A. ADMINISTRATION OF OCCUPATIONAL LICENSES AND REGISTRATIONS

30 TAC §§30.7, 30.24, 30.26, 30.30, 30.33

Statutory Authority

The rules are proposed under: Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission, which establishes the general jurisdiction of the commission; TWC, §5.102, concerning General Powers, which establishes the commission's general authority necessary to carry out its jurisdiction; TWC, §5.103, concerning Rules, which requires the commission to adopt rules necessary to carry out its powers and duties; TWC, §5.105, concerning General Policy, which provides the commission with the authority to establish and approve all general policy of the commission by rule; TWC, §37.002, concerning Rules, which provides the commission with the authority to adopt rules for various occupational licenses; TWC, §37.003, concerning License or Registration Required, which provides that persons engaged in certain occupations must be licensed by the commission; TWC, §37.005, concerning Issuance and Denial of Licenses and Registration, which requires the commission to establish requirements and uniform procedures for issuing licenses and registrations; TWC, §37.006, concerning Renewal of License or Registration, which requires the commission to establish requirements and uniform procedures for renewing licenses and registrations; TWC, §37.008, concerning Training; Continuing Education, which provides that the commission shall approve training programs necessary to qualify for or renew a license; TWC, §37.009, concerning Fees, which provides the commission with the authority to establish and collect fees to cover the cost of administering and enforcing the provisions of TWC; Texas Code of Criminal Procedure (TCP), Article 42A.054, concerning Limitation on Judge-Ordered Community Supervision, which lists violent offenses to which judge-ordered community supervision is not applicable; TCP, Article 62.001, concerning Definitions, which defines sexually violent offenses; Texas Occupations Code (TOC) §53.021(a-2), concerning Authority to Revoke, Suspend, or Deny License, which authorizes a licensing authority to revoke a license on the grounds of the license holder's imprisonment following a felony conviction; TOC §53.021(b), concerning Authority to Revoke, Suspend, or Deny License, which requires that a license be revoked following a license holder's imprisonment for certain felony convictions; TOC §53.0211, concerning Licensing of Certain Applicants with Prior Criminal Convictions, which authorizes licensing authorities to issue provisional licenses to an applicant with certain kinds of prior criminal convictions and outlines requirements for these provisional licenses; TOC §55.001, concerning Definitions, which provides a definition of state agency as it pertains to licensing of military service members, military veterans, and military spouses; TOC §55.004(b-1),

concerning Alternative Licensing for Military Service Members, Military Veterans, and Military Spouses, which requires state agencies to promptly issue a six-month provisional license to military service members, veterans, and military spouses, while the agency processes those applications for a license; TOC §55.004(a), concerning Alternative Licensing for Military Service Members, Military Veterans, and Military Spouses, which requires state agencies to issue a license to military service members, veterans, and military spouses who hold a license in another state with a similar scope of practice in good standing; TOC §55.0041, concerning Recognition of Out-of-state License of Military Service Members and Military Spouses, which provides requirements for reciprocal licensing of military service members and military spouses who hold current licenses in other states; TOC §55.0042, concerning Determination of Good Standing, which provides a definition of good standing for purposes of licensing out-of-state license of military service members and military spouses; TOC §55.005(a), concerning Expedited License Procedure for Military Service Members, Military Veterans, and Military Spouses, which requires state agencies to process applications and issue licenses to qualified applicants who are military service members, military veterans, and military spouses within 10 days; TOC §55.009, concerning License Application and Examination Fees, which requires state agencies to waive the license application and exam fees for new licenses for all military service members, military veterans, and military spouses.

The proposed rules implement requirements in House Bill (HB) 1237, 89th Legislature, 2025, which amended TWC, §37.006(f) and (g) and added Subsection (h); HB 5629, 89th Legislature, 2025, which amended TOC §55.004(a) and (d), amended TOC §55.0041(a), (b), (d), and (d-1), added TOC §55.0041(b-1), added TOC §55.0042, added TOC §55.0043, amended TOC §55.005(a), amended TOC §55.009; Senate Bill (SB) 1818, 89th Legislature, 2025, which added TOC §55.004(b-1) and added TOC §55.041(b-1); SB 1080, 89th Legislature, 2025, which amended TOC §51.4014(a) and added Subsection (a-1), added TOC §53.021(a-2) and amended Subsection (b).

§30.7. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise.

(1) Aerobic treatment system owner--Persons that in their individual capacities own a single-family dwelling that is serviced by an on-site sewage disposal system using aerobic treatment.

(2) Approved application--An application submitted to the Occupational Licensing Section that contains all the information the executive director has deemed necessary to be accurately processed and that the executive director has determined to be approved.

(3) Approved training providers--Entities that have been approved by the executive director to provide training after demonstration of hands-on subject matter expertise, knowledge of and experience with educational principles, and effective instructional designs.

(4) Approved training--Training which provides the knowledge and skills necessary to perform occupational job tasks and is used for obtaining or renewing a license or registration, as determined by the executive director.

(5) Approved training delivery method--Methods approved by the executive director that currently include in-person, live-online, self-paced, and may include other technologies approved by the executive director.

(6) Association--The term association as used in the context of this chapter is an industry-related non-profit association whose members hold licenses or registrations issued by the commission or whose members are required to employ or contract with individuals who hold licenses or registrations issued by the commission.

(7) Association meetings--Sessions conducted by an Association that may be delivered in-person, live-online, or a combination of both.

(8) Classroom training--Training that is an instructor-led course held in real-time in a classroom environment and may be held in-person, live-online, or a combination of both.

(9) Conference--The term conference as used in the context of this chapter includes TCEQ-approved conferences, seminars, workshops, symposiums, expos, and any other such training venues and may be delivered in-person, live-online, or a combination of both and conducted by a governmental entity or their designated agents, associations, or colleges as listed by accrediting agencies that are recognized by the United States Department of Education.

(10) Continuing education--Job-related training credit approved by the executive director used for renewal of licenses or registrations.

(11) Core training--Courses required to obtain an occupational license or registration that are approved by the executive director.

(12) Correspondence training--The term correspondence training as used in the context of this chapter is self-paced training that can either be paper-based and conducted through a postal system, electronic-based, or a blend of these delivery systems.

(13) Distributor--Any person or nongovernmental organization that sells a product primarily to individuals maintaining occupational licenses or registrations administered by the agency.

(14) High school diploma--An earned high school diploma from a United States high school, an accredited secondary school equivalent to that of United States high school, or a passing score on the general education development (GED) test that indicates a high school graduation level.

(15) Home school diploma--An earned diploma from a student who predominately receives instruction in a general elementary or secondary education program that is provided by the parent, or by a person in parental authority, in or through the child's home.

(16) In-person training delivery method-- Training that is interactive instructor-led and delivered in real time at the same physical location.

(17) License--An occupational license issued by the commission to a person authorizing the person to engage in an activity covered by this chapter.

(18) Live-online training delivery method-- Training that is delivered virtually in real time as either instructor-led classroom, conference, or association meeting.

(19) Maintenance provider--A person that, for compensation, provides service or maintenance for one or more on-site sewage disposal systems using aerobic treatment.

(20) Manufacturer--For the purpose of this subchapter any person, company, or nongovernmental organization that produces a product for sale primarily to individuals who maintain occupational licenses that are administered by the agency.

(21) Person--As defined in §3.2 of this title (relating to Definitions).

(22) Prerecorded training--Training that has previously been recorded or developed through a virtual or online platform and is not delivered in person nor in real time.

(23) Provisional License--A non-renewable license issued for certain license types authorizing the person to engage in an activity covered by this chapter.

(24) [(23)] Qualified instructor--An individual approved to teach a TCEQ-approved core occupational licensing or registration course who has instructional experience, work-related experience, and subject matter expertise that enables the individual to communicate course information in a relevant, informed manner and to answer students' questions.

(25) [(24)] Qualified presenter--An individual approved to present TCEQ-approved continuing education training who has instructional experience, work-related experience, and subject matter expertise that enables the individual to answer students' questions and to communicate course information in a relevant, informed manner.

(26) [(25)] Registration--An occupational registration issued by the commission to a person authorizing the person to engage in an activity covered by this chapter.

(27) [(26)] Self-paced training delivery method--Training that is delivered using various technologies with a separation of place and time between the instructor or learning resources and the learner. Self-paced training may include correspondence training, prerecorded training, and other technologies approved by the executive director.

(28) [(27)] Service provider--Any person, company, or nongovernmental organization that provides a service for its own profit to individuals who maintain occupational licenses that are administered by the agency.

(29) [(28)] Subject matter expert--A person having a minimum of three years of hands-on work-related experience and expert knowledge in a particular content area or areas as relates to training.

(30) Temporary license--A specific type of license issued to a military service member, military veteran, or military spouse who apply for a reciprocal license authorizing the person to engage in an activity covered by this chapter for up to 180 days. A temporary license is granted if the executive director does not issue or deny a reciprocal license within 10 days of receiving a complete application.

(31) [(29)] Training credit--Hours awarded by the executive director for successful completion of approved training.

(32) [(30)] Training provider--An administrative entity and its designated personnel who are responsible for obtaining approval of training, providing acceptable delivery of approved training, ensuring that qualified instructors or subject matter experts are utilized in the delivery, support, and development of training and monitoring, recording, and reporting attendance accurately and promptly as required by the executive director.

(33) Written notice--A notice sent by the executive director to an applicant, registrant, or licensee via mail or email.

§30.24. License and Registration Applications for Renewal.

(a) A license or registration may not be renewed if it has been:

(1) expired for more than 180 [30] days and an application has not been received by the executive director or postmarked within 180 [30] days after the expiration date of the license or registration;

(2) revoked; or

(3) replaced by a higher class of license.

(b) Applications for renewal must be made on a standard form provided by the executive director.

(1) The executive director shall send written notice of the impending expiration [mail a renewal notification] at least 60 days before the license or registration expires to the most recent address provided to the executive director. If a person does not receive a renewal notification, the person is not relieved of the responsibility to timely submit a renewal application.

(2) The person is responsible for ensuring that the completed renewal application, the renewal fee, and other required information are submitted to the executive director by the expiration date of the license or registration.

(c) All statements, qualifications, and attachments provided by the applicant that relate to a renewal application shall be true, accurate, complete, and contain no misrepresentation or falsification.

(d) Approved training to renew a license must be successfully completed after the issuance date and before the expiration date of the current license unless a person applies for renewal within 90 days after the expiration date of the license or registration. In that case, the person may complete required training credits within 90 days after the expiration date. A person who applies for a renewal license more than 90 days after the expiration date may not complete training credits to meet the requirements of an expired license or registration. Any training credits completed in excess of the amount required for the renewal period shall not be carried over to the next renewal period.

(e) An individual who holds a license prescribed by Texas Water Code, §26.0301, or Texas Health and Safety Code, §341.033 or §341.034, specifically the holder of a Class A or Class B public water system operator or Class A or B wastewater treatment facility operator license may certify compliance with continuing education requirements prior to or at the time the license is renewed by submitting a continuing education certification form available from the executive director.

(f) The executive director may renew a license or registration if the application is received by the executive director or is postmarked within 180 [30] days after the expiration date of the license or registration, and the person meets the requirements for renewal by the expiration date of the license or registration and pays all appropriate fees. This subsection does not extend the validity period of the license or registration nor grant the person authorization to perform duties requiring a license or registration. This subsection only allows an additional 180 [30] days after the expiration of the license or registration for the person to submit the renewal application, any supporting documentation, and appropriate fees.

(g) An individual whose license renewal application is not received by the executive director or is not postmarked within 180 [30] days after the license expiration date may not renew the license and must meet the current education, training, and experience requirements, submit a new application with the appropriate fee, and pass the examination. A person whose registration renewal application is not received by the executive director or is not postmarked within 180 [30] days after the expiration date may not renew the registration and must submit a new application with the appropriate fee and meet all applicable requirements for a new registration.

(h) Persons failing to renew their license or registration in a timely manner due to serving as a military service member may renew their license within two years of returning from active duty by submitting the following:

- (1) a completed renewal application;

(2) a copy of the military orders substantiating the military service during the time the license expired; and

- (3) the applicable license renewal fee.

(i) For good cause the executive director may extend the two years period for a military service member seeking to renew their license. Good cause may include, but is not limited to, hospitalization or injury to the licensee.

(j) Completion of the required continuing education will be waived for the renewal cycle for military service members outside of this state who were unable to complete the requirements.

(k) These procedures apply only to military service members who are outside this state and not to military contractors.

(l) All licensees must notify the executive director of any change in the previously submitted application information within ten days from the date the change occurs.

(m) All registration holders must notify the executive director of any change in the previously submitted application information within ten days after the month in which the change occurs.

(n) Licenses and registrations that have renewal cycles in transition shall follow the renewal requirements in the applicable subchapter.

(o) The executive director shall determine whether an applicant meets the renewal requirements of this subchapter. If all requirements have been met, the executive director shall renew the license or registration.

(p) The license or registration shall be valid for the term specified.

(q) If the application does not meet the requirements, the executive director shall notify the applicant in writing of the deficiencies.

(r) An [All deficiencies must be resolved, and the] applicant notified that their application is deficient as outlined in subsection (q) of this section must notify the executive director that the deficiency has been resolved[;] within 30 days of the date printed on the notification or within 90 days past the expiration date of the license, whichever is later, or the renewal application shall be considered expired [after the license expiration date].

(s) A person whose license or registration has expired shall not engage in activities that require a license or registration until the license or registration is renewed or a new license or registration has been obtained unless the person has applied for renewal within 90 days of the expiration date of the license or registration. A person who has applied for renewal within 90 days of the expiration date of the license or registration may engage in activities that require the license or registration from the date of the submittal of the application, after the expiration of the license or registration, until the license or registration is renewed or denied.

(t) The commission shall follow the notification requirements in §30.36 of this title (relating to Notice) prior to denying an individual the opportunity to renew a license based on the individual's prior conviction of an offense.

§30.26. Recognition of Licenses from Out-of-State; Licenses for Military Service Members, Military Veterans, or Military Spouses.

(a) Except for landscape irrigators the executive director may waive qualifications, training, or examination for individuals with a good compliance history who hold a current license from another state, territory, or country if that state, territory, or country has requirements equivalent to those in this chapter.

(b) A license may be issued after review and approval of the application, receipt of the appropriate fee, and verification of the license from the corresponding state, territory, or country.

(c) The executive director may waive any of the prerequisites for obtaining a landscape irrigator license, if the applicant is licensed as an irrigator in another jurisdiction that has a reciprocity agreement with the State of Texas.

(d) The executive director may require the applicant to provide information about other occupational licenses and registrations held by the person, including:

- (1) the state in which the other license or registration was issued;
- (2) the current status of the other license or registration; and
- (3) whether the other license or registration was ever denied, suspended, revoked, surrendered, or withdrawn.

(e) To maintain a license that was issued on the basis of reciprocity, applicants must comply with the renewal requirements of this subchapter. Reciprocity will not be granted for the issuance of lower level licenses of the same type as the one that was initially issued on the basis of reciprocity.

(f) Military Service Members, Military Veterans, or Military Spouses.

(1) The executive director shall issue a temporary license or license to an applicant who is a military service member, military veteran, or military spouse and:

(A) holds a current license issued by another state [jurisdiction] that is similar in scope to the license for which they are applying [has licensing requirements that are substantially equivalent to the requirements for the license]; or

(B) within the five years preceding the application date held the license in this state.

(2) The applicant shall submit a notarized affidavit stating that he or she is in good standing with other states' licensing authorities with which they hold a license. An applicant is in good standing if the applicant:

(A) holds a current license that has not been suspended or revoked, and has not been voluntarily surrendered during an investigation for unprofessional conduct;

(B) has not been disciplined by a licensing authority with respect to the license or practice of occupation for which the license is issued; and

(C) is not currently under investigation by a licensing authority for unprofessional conduct related to the license or profession.

(3) The executive director shall issue a temporary license to an applicant who is a military service member, military veteran, or military spouse if the license is not issued or denied within 10 days of the date the reciprocal license application was submitted. The temporary license shall expire when the agency approves or denies the application for a reciprocal license or 180 days after the temporary license is issued, whichever comes first.

(4) [(2)] A license issued under this subsection shall be valid for the term specified in §30.18(i) of this title (relating to Applications for an Initial License).

(5) [(3)] The executive director shall notify the license holder of the requirements for renewing a license issued under this

subsection as specified in §30.24(b)(1) of this title (relating to License and Registration Applications for Renewal).

(6) [(4)] Within 10 days of receipt of application, the [The] executive director shall:

(A) issue a license to an individual who meets the requirements in paragraph (1) of this subsection; [§30.26(f)(1) within 30 days of receipt of application unless the applicant is deficient.]

(B) notify the applicant the application is incomplete;
or

(C) notify the applicant that the commission is unable to recognize the applicant's out-of-state license because the agency does not issue a license similar in scope of practice to the applicant's license.

(g) In lieu of the standard method(s) of demonstrating competency for a particular license, and based on the applicant's circumstances, the alternative methods for demonstrating competency may include, but not be limited to, any combination of the following as determined by the executive director:

- (1) education;
- (2) continuing education;
- (3) examinations (written, practical, or a combination of written and practical);
- (4) letters of good standing;
- (5) letters of recommendation;
- (6) work experience; or
- (7) other methods or options as determined by the executive director.

(h) Military service members or military veterans. The executive director shall credit verified military service, training, or education toward the licensing requirements.

(1) Verified military service, training, or education shall not be credited toward an examination requirement.

(2) The executive director may not apply this credit provision to an applicant who:

- (A) holds a restricted license issued by another jurisdiction; or
- (B) has an unacceptable criminal history.

§30.30. Terms and Fees for Licenses and Registrations.

(a) Licenses and registrations are valid for three years from the date of issuance, unless specified otherwise by Subchapters B - L of this chapter (relating to Backflow Prevention Assembly Testers; Customer Service Inspectors; Landscape Irrigators, Irrigation Technicians, and Irrigation Inspectors; Leaking Petroleum Storage Tank Corrective Action Project Managers and Specialists; Municipal Solid Waste Facility Supervisors; On-Site Sewage Facilities Installers, Apprentices, Designated Representatives, Maintenance Providers, Maintenance Technicians, and Site Evaluators; Water Treatment Specialists; Underground Storage Tank On-Site Supervisor Licensing and Contractor Registration; Wastewater Operators and Operations Companies; Public Water System Operators and Operations Companies; and Visible Emissions Evaluator Training and Certification, respectively).

(b) The executive director may adopt a system under which licenses or registrations expire on various dates.

(c) The license fee is \$111 for a three-year license. The total amount shall be paid with each initial and renewal application and is

nonrefundable. Applications to renew a license received before the expiration date are subject to the \$111 fee. Applications to renew a license received after the expiration date, but not more than 90 days after the expiration, are subject to a fee of \$166.50. Applications to renew a license received more than 90 days after the expiration date, but not more than 180 days after expiration, are subject to a fee of \$222.00. [The initial fee is waived for military service member, military veteran, or military spouse applicants if they:]

~~[(1) meet all other requirements for the license; or]~~

~~[(2) hold a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license the applicant is applying for in this state.]~~

(d) The fee is waived for new license applications for military service members, military veterans, or military spouses.

(c) ~~[(d)]~~ Applications to renew a registration received prior to the expiration date are subject to the registration [Registration] fees [are] established in the applicable subchapters of this chapter. Applications to renew a registration received after the expiration date but not more than 90 days after the expiration are subject to a fee 1.5 times the normal fee to renew the registration. Applications to renew a registration received after 90 days after the expiration date but not more than 180 days after expiration are subject to a fee 2 times the normal fee to renew the registration.

(f) ~~[(e)]~~ The executive director may charge a \$20 fee to process a duplicate certificate or pocket card.

(g) ~~[(f)]~~ A convenience fee may be set by the executive director or service provider for alternative fee payment methods. A person using an alternative payment method is responsible for paying the convenience fee.

(h) ~~[(g)]~~ An examination or reexamination fee may be charged if the executive director designates an entity to administer the examinations.

(i) ~~[(h)]~~ The executive director may charge an individual requesting a criminal history evaluation letter under §30.13 of this title (relating to Eligibility of Certain Applicants for Occupational Licenses or Registrations) a fee adopted by the commission. Fees adopted by the commission under §30.13 of this title must be in an amount sufficient to cover the cost of administering §30.13 of this title.

§30.33. License or Registration Denial, Warning, Suspension, or Revocation.

(a) The executive director may deny an initial or renewal application for the following reasons.

(1) Insufficiency. The executive director shall notify the applicant of the executive director's intent to deny the application and advise the applicant of the opportunity to file a motion to overturn the executive director's decision under §50.139 of this title (relating to Motion to Overturn Executive Director's Decision). The executive director may determine that an application is insufficient for the following reasons:

(A) failing to meet the licensing or registration requirements of this chapter; or

(B) if an out-of-state licensing program does not have requirements substantially equivalent to those of this chapter.

(2) Cause. After notice and opportunity for a hearing, the commission may deny an application for a license or registration by an applicant who:

(A) provides fraudulent information or falsifies the application;

(B) has engaged in fraud or deceit in obtaining or applying for a license or registration;

(C) has demonstrated gross negligence, incompetence, or misconduct in the performance of activities authorized by a license or registration;

(D) made an intentional misstatement or misrepresentation of fact or information required to be maintained or submitted to the commission by the applicant or by the license or registration holder;

(E) failed to keep and transmit records as required by a statute within the commission's jurisdiction or a rule adopted under such a statute; or

(F) at the time the application is submitted, is indebted to the state for a fee, penalty, or tax imposed by a statute within the commission's jurisdiction or a rule adopted under such a statute.

(b) If an individual causes, contributes to, or allows a violation of this chapter, the executive director may issue a warning letter. The letter shall be placed in the individual's permanent file maintained by the executive director. This letter shall be a warning that further violations or offenses by the individual may be grounds for suspension, revocation, enforcement action, or some combination. A warning is not a prerequisite for initiation of suspension, revocation, or enforcement proceedings.

(c) After notice and hearing, the commission may suspend or revoke a license, certificate, or registration on any of the grounds contained in Texas Water Code, §7.303(b).

(d) After notice and hearing a license or registration may be suspended for a period of up to one year, depending upon the seriousness of the violations. A license or registration shall be revoked after notice and hearing upon a second suspension.

(e) The commission may revoke a license or registration after notice and hearing for a designated term or permanently. If a license or registration is revoked a second time, the revocation shall be permanent.

(f) The following procedures for renewal apply to individuals that have had their license or registration suspended.

(1) If a license or registration expiration date falls within the suspension period, an individual may renew the license or registration during the suspension period according to §30.24 of this title (relating to License and Registration Applications for Renewal) and the applicable subchapters of this chapter.

(2) A license or registration suspended in accordance with subsection (j) of this section may not be renewed during the suspension period. The license or registration may only be renewed if the court or the Title IV-D agency renders an order vacating or staying an order suspending the license or registration and the license or registration has not expired during the suspension period.

(3) After the suspension period has ended, the license or registration shall be automatically reinstated unless the individual failed to renew the license or registration during the suspension period.

(g) Individuals that have had their license or registration revoked shall not have their license or registration reinstated after the revocation period. After the revocation period has ended, an individual may apply for a new license or registration according to this chapter.

(h) Criminal Conviction.

(1) After notice and hearing, the commission may deny, suspend, or revoke a license on the grounds that the individual has been convicted of an offense, other than a Class C misdemeanor that:

(A) directly relates to the duties and responsibilities of the licensed occupation;

(B) is listed in Texas Code of Criminal Procedure, Article 42.12, Section 3g; or

(C) is a sexually violent offense, as defined by Texas Code of Criminal Procedure, Article 62.001.

(2) The commission shall revoke the license or registration upon an individual's imprisonment following a felony conviction that is: ~~felony community supervision revocation, revocation of parole, or revocation of mandatory supervision.~~

(A) directly related to the license;

(B) a violent offense as defined in the Code of Criminal Procedure, Article 42A.054; or

(C) a sexually violent offense listed in the Code of Criminal Procedure, Article 62.001.

(3) The commission may revoke the license or registration upon an individual's imprisonment following a felony conviction that is not listed in paragraph (2) of this subsection.

(4) The commission shall revoke the license or registration upon an individual's imprisonment following a felony community supervision revocation, revocation of parole, or revocation of mandatory supervision.

(5) [(3)] Prohibited Employment.

(A) Individuals subject to registration under the Texas Code of Criminal Procedure, Chapter 62 because of a reportable conviction or adjudication for which an affirmative finding is entered under Texas Code of Criminal Procedure, Article 42.015(b) or Section 5(e)(2), Article 45.12, and licensed after September 1, 2013, may not, for compensation, provide or offer to provide any type of service in the residence of another person unless the provision of service will be supervised.

(B) For purposes of this subsection:

(i) "Residence" means a structure primarily used as a permanent dwelling and land that is contiguous to that permanent dwelling.

(ii) "Supervision" means direct, continuous visual observation of the individual at all times.

(6) [(4)] Except as provided by paragraph (7) [(5)] of this subsection, notwithstanding any other law, the executive director may not consider an individual to have been convicted of an offense for purposes of this section if, regardless of the statutory authorization:

(A) the individual entered a plea of guilty or nolo contendere;

(B) the judge deferred further proceedings without entering an adjudication of guilt and placed the individual under the supervision of the court or an officer under the supervision of the court; and

(C) at the end of the period of supervision, the judge dismissed the proceedings and discharged the individual.

(7) [(5)] The executive director may consider an individual to have been convicted of an offense for purposes of this section regard-

less of whether the proceedings were dismissed and the individual was discharged as described by paragraph (6) [(4)] of this subsection if:

(A) the individual was charged with:

(i) any offense described by Texas Code of Criminal Procedure, Article 62.001(5); or

(ii) an offense other than an offense described by clause (i) of this subparagraph if:

(I) the individual has not completed the period of supervision or the individual completed the period of supervision less than five years before the date the individual applied for the license; or

(II) a conviction for the offense would make the individual ineligible for the license by operation of law; and

(B) after consideration of the factors described by Texas Occupations Code, §53.022 and §53.023(a), the executive director determines that:

(i) the individual may pose a continued threat to public safety; or

(ii) employment of the individual in the licensed occupation would create a situation in which the individual has an opportunity to repeat the prohibited conduct.

(i) After notice and hearing, the commission may revoke a maintenance provider registration on any of the grounds in Texas Health and Safety Code, §366.0515(m).

(j) Failure to pay child support.

(1) The commission may suspend a license or registration if a licensed or registered individual has been identified by the Office of the Attorney General as being delinquent on child support payments (upon receipt of a final order suspending a license or registration, the executive director shall proceed as described in Texas Family Code, Chapter 232).

(2) The commission shall refuse to accept an application for:

(A) issuance of a new license or registration to an individual; or

(B) renewal of an existing license or registration to an individual if:

(i) the individual has failed to pay child support for six months or more;

(ii) the commission is notified by a child support agency, as defined by Texas Family Code, §101.004; and

(iii) the child support agency requests the commission to refuse to accept the application.

(3) The commission shall not accept an application for a license that was refused under paragraph (2) of this subsection until notified by the child support agency that the individual has:

(A) paid all child support arrearages;

(B) made an immediate payment of not less than \$200 toward child support arrearages owed and established with the child support agency a satisfactory repayment schedule for the remainder or is in compliance with a court order for payment of the arrearages;

(C) been granted an exemption from this subsection as part of a court-supervised plan to improve the individual's earnings and child support payments; or

(D) successfully contested the child support agency's request for the commission's denial of issuance or renewal of the license or registration.

(4) The commission may charge a fee in an amount sufficient to recover the administrative costs incurred for denying or suspending that license.

(5) For purposes of this subsection, the suspension period for a license or registration shall be until:

(A) the court or the Title IV-D agency renders an order vacating or staying an order suspending the license or registration; or

(B) the expiration of the license or registration.

(k) The commission shall follow the notification requirements in §30.36 of this title (relating to Notice) prior to the denial of an initial license, the revocation of a license, or renewal of a license based on the individual's prior conviction of an offense.

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SUBCHAPTER E. LEAKING PETROLEUM STORAGE TANK CORRECTIVE ACTION PROJECT MANAGERS AND SPECIALISTS

30 TAC §30.192

Statutory Authority

The rules are proposed under: Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission, which establishes the general jurisdiction of the commission; TWC, §5.102, concerning General Powers, which establishes the commission's general authority necessary to carry out its jurisdiction; TWC, §5.103, concerning Rules, which requires the commission to adopt rules necessary to carry out its powers and duties; TWC, §5.105, concerning General Policy, which provides the commission with the authority to establish and approve all general policy of the commission by rule; TWC, §37.002, concerning Rules, which provides the commission with the authority to adopt rules for various occupational licenses; TWC, §37.003, concerning License or Registration Required, which provides that persons engaged in certain occupations must be licensed by the commission; TWC, §37.006, concerning Renewal of License or Registration, which requires the commission to establish requirements and uniform procedures for renewing licenses and registrations; TWC, §37.009, concerning Fees, which provides the commission with the authority to establish and collect fees to cover the cost of administering and enforcing the provisions of TWC.

The proposed rules implement requirements in House Bill (HB) 1237, 89th Legislature, 2025, which amended TWC §37.006(f) and (g) and added Subsection (h).

§30.192. Qualifications for Registration Renewal.

To renew a registration, a person must:

(1) meet the requirements in Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations);

(2) complete an application for registration renewal for a corrective action specialist approved by the executive director, certifying that the company has continued to meet the financial requirements of §30.190 of this title (relating to Qualifications for Initial Registration); and

(3) pay the applicable [a] registration renewal fee. Applications to renew a registration received prior to the expiration date are subject to a fee of \$232. Applications to renew a registration after the expiration date but not more than 90 days after the expiration are subject to a fee of \$348. Applications to renew a license or registration received after 90 days after the expiration date but not more than 180 days after expiration are subject to a fee of \$464.

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SUBCHAPTER I. UNDERGROUND STORAGE TANK ON-SITE SUPERVISOR LICENSING AND CONTRACTOR REGISTRATION

30 TAC §30.317

Statutory Authority

The rules are proposed under: Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission, which establishes the general jurisdiction of the commission; TWC, §5.102, concerning General Powers, which establishes the commission's general authority necessary to carry out its jurisdiction; TWC, §5.103, concerning Rules, which requires the commission to adopt rules necessary to carry out its powers and duties; TWC, §5.105, concerning General Policy, which provides the commission with the authority to establish and approve all general policy of the commission by rule; TWC, §37.002, concerning Rules, which provides the commission with the authority to adopt rules for various occupational licenses; TWC, §37.003, concerning License or Registration Required, which provides that persons engaged in certain occupations must be licensed by the commission; TWC, §37.006, concerning Renewal of License or Registration, which requires the commission to establish requirements and uniform procedures for renewing licenses and registrations; TWC, §37.009, concerning Fees, which provides the commission with the authority to establish and collect fees to cover the cost of administering and enforcing the provisions of TWC.

The proposed rules implement requirements in House Bill (HB) 1237, 89th Legislature, 2025, which amended TWC §37.006(f) and (g) and added Subsection (h).

§30.317. Qualifications for Registration Renewal.

To renew an underground storage tank (UST) contractor registration a person must have:

(1) met the requirements in Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations);

(2) certified that the UST contractor has commercial liability insurance designating the commission as the certificate holder in an amount of not less than one million dollars (\$1,000,000) and of a type approved by the executive director;

(3) certified that the UST contractor has a net worth of not less than \$25,000; and

(4) submitted the applicable [a] renewal fee. Applications to renew a registration received prior to the expiration date are subject to a fee of \$232. Applications to renew a registration after the expiration date but not more than 90 days after the expiration are subject to a fee of \$348. Applications to renew a license or registration received after 90 days after the expiration date but not more than 180 days after expiration are subject to a fee of \$464.

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SUBCHAPTER J. WASTEWATER OPERATORS AND OPERATIONS COMPANIES

30 TAC §30.340, §30.355

Statutory Authority

The rules are proposed under: Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission, which establishes the general jurisdiction of the commission; TWC, §5.102, concerning General Powers, which establishes the commission's general authority necessary to carry out its jurisdiction; TWC, §5.103, concerning Rules, which requires the commission to adopt rules necessary to carry out its powers and duties; TWC, §5.105, concerning General Policy, which provides the commission with the authority to establish and approve all general policy of the commission by rule; TWC, §37.002, concerning Rules, which provides the commission with the authority to adopt rules for various occupational licenses; TWC, §37.003, concerning License or Registration Required, which provides that persons engaged in certain occupations must be licensed by the commission; TWC, §37.005, concerning Issuance and Denial of Licenses and Registration, which requires the commission to establish requirements and uniform procedures for issuing licenses and registrations; TWC, §37.006, concerning Renewal of License or Registration, which

requires the commission to establish requirements and uniform procedures for renewing licenses and registrations; TWC, §37.008, concerning Training; Continuing Education, which provides that the commission shall approve training programs necessary to qualify for or renew a license; TWC, §37.009, concerning Fees, which provides the commission with the authority to establish and collect fees to cover the cost of administering and enforcing the provisions of TWC.

The proposed rules implement requirements in House Bill (HB) 1237, 89th Legislature, 2025, which amended TWC, §37.006(f) and (g) and added Subsection (h).

§30.340. Qualifications for Initial License.

(a) To obtain a license, an individual must have met the requirements of Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations), the following requirements for each class of license, and pass an examination.

Figure: 30 TAC §30.340(a)

[Figure: 30 TAC §30.340(a)]

(b) At least one-half of the total experience required for a wastewater treatment license must be in actual domestic wastewater treatment facility operation or maintenance duties. Related experience, which involves tasks similar to those required for operation of wastewater treatment facilities, will count at a rate of 50% toward meeting the total experience requirement. For laboratory experience to be applicable, the laboratory must be owned and operated by the permittee and the laboratory technician must consult daily with operational personnel.

(c) Wastewater collection system experience must be in actual wastewater collection system operation or maintenance duties. Credit for wastewater experience that is not directly connected with collection system operation or maintenance shall be approved if the experience involves tasks that are similar to that required for the operation and maintenance of collection systems. Each year of related experience shall count as 1/2 year of experience. Each year of experience in collection system operation and maintenance shall only count as 1/2 year of experience toward a wastewater treatment facility operator license.

(d) Individuals who request to substitute a bachelor's or master's degree for experience at the Class A, Class B, or Class III level must have a major in chemistry, biology, engineering, microbiology, bacteriology, or another similar discipline approved by the executive director.

(e) For each license, applicants may substitute either college hours or training credit hours to meet the experience requirement:

(1) 16 semester hours or an additional 20 hours of training credits are equal to six months of the required work experience;

(2) Class C and Class II applicants may only substitute up to one year of the required work experience; and

(3) Class A, Class B, and Class III applicants may only substitute up to two years of the required work experience.

(f) The hours of training credit required for a license must be in approved courses, which include the following or their equivalents. Figure: 30 TAC §30.340(f) (No change.)

(g) An individual who previously held a Class D license or higher may not apply for a new Class D license if the individual currently operates any activated sludge type facilities, any trickling filter or rotating biological contractor facilities with a permitted daily average flow of 100,000 gallons per day or greater, or any facility that uses a subsurface area drip dispersal system as defined in §222.5 of this title

(relating to Definitions) for disposal of its effluent. A trickling filter or rotating biological contractor is a secondary aerobic process that uses microbiological organisms attached to a fixed substrate.

§30.355. Additional Requirements for Wastewater Operations Companies.

(a) When a wastewater operations company submits an application to obtain or renew a registration, it must submit a report to the executive director. For each wastewater treatment facility or wastewater collection system the report shall include:

- (1) the operations company name, location, and mailing address;
- (2) the permittee's name and mailing addresses;
- (3) the commission permit number, if applicable;
- (4) the dates of operation during the registration validity period;
- (5) the names and license numbers of all licensed operators employed by the operations company;
- (6) the name of the licensed chief operator for each facility; and
- (7) any additional information required by the executive director.

(b) A registered wastewater system operations company must apply for a new registration and submit an amended report if the company is bought or sold and the name of the company changes.

(c) Wastewater system operations companies shall pay a three year registration fee based on the number of facilities and collection systems served as indicated in the following table. The fees in the following table apply to applications for new registrations and applications to renew a registration received on or before the expiration date of the registration.

Figure: 30 TAC §30.355(c) (No change.)

(d) Applications to renew a registration received after the expiration date but not more than 90 days after the expiration are subject to 1.5 times the fee in subsection (c) of this section.

(e) Applications to renew a registration received after 90 days after the expiration date but not more than 180 days after expiration are subject to a fee 2 times fee in subsection (c) of this section.

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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SUBCHAPTER K. PUBLIC WATER SYSTEM OPERATORS AND OPERATIONS COMPANIES

30 TAC §§30.390, 30.392, 30.400

Statutory Authority

The rules are proposed under: Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission, which establishes the general jurisdiction of the commission; TWC, §5.102, concerning General Powers, which establishes the commission's general authority necessary to carry out its jurisdiction; TWC, §5.103, concerning Rules, which requires the commission to adopt rules necessary to carry out its powers and duties; TWC, §5.105, concerning General Policy, which provides the commission with the authority to establish and approve all general policy of the commission by rule; TWC, §37.002, concerning Rules, which provides the commission with the authority to adopt rules for various occupational licenses; TWC, §37.003, concerning License or Registration Required, which provides that persons engaged in certain occupations must be licensed by the commission; TWC, §37.005, concerning Issuance and Denial of Licenses and Registration, which requires the commission to establish requirements and uniform procedures for issuing licenses and registrations; TWC, §37.006, concerning Renewal of License or Registration, which requires the commission to establish requirements and uniform procedures for renewing licenses and registrations; TWC, §37.008, concerning Training; Continuing Education, which provides that the commission shall approve training programs necessary to qualify for or renew a license; TWC, §37.009, concerning Fees, which provides the commission with the authority to establish and collect fees to cover the cost of administering and enforcing the provisions of TWC.

The proposed rules implement requirements in House Bill (HB) 1237, 89th Legislature, 2025, which amended TWC, §37.006(f) and (g) and added Subsection (h).

§30.390. Qualifications for Initial License.

(a) To obtain a license, an individual must meet the requirements of Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations), and the following requirements for each class of license, and pass an examination.

Figure: 30 TAC §30.390(a)

[Figure: 30 TAC §30.390(a)]

(b) An individual who applies for a Class C, B, or A license, and relies on a bachelor's or master's degree to meet the educational requirements, must have a bachelor's or master's degree with a major in chemistry, biology, engineering, microbiology, bacteriology, or other similar discipline approved by the executive director.

(c) An individual who applies for a Class C or B license must obtain at least one-half of the total work experience requirement in the specific field for the license that is requested:

(1) for Class C and B surface water licenses, the experience must be obtained through operations activities at the production or treatment facilities for surface water or groundwater under the direct influence of surface water;

(2) for Class C and B groundwater licenses, the experience must be obtained through operations activities at the production or treatment facilities for groundwater source or groundwater under the direct influence of surface water; or

(3) for Class C and B distribution licenses, at least one-half of the required experience must be obtained as a result of operations activities at treated water storage, pumping, or distribution facilities; and

(4) once the work experience has been met from paragraphs (1), (2), or (3) of this subsection, the executive director may

count any remaining experience to meet up to 50% of the remaining requirement.

(d) For all classes of licenses, laboratory experience must:

(1) be obtained at a laboratory that is owned and operated by the public water system; and

(2) involve daily consultation with individuals who perform process control duties in production or distribution of drinking water for the water system.

(e) For each license, applicants may substitute either college hours or training credits to meet the experience requirement:

(1) 16 semester hours or an additional 20 hours of training credits are equal to six months of the experience;

(2) Class C applicants may only substitute up to one year of the required work experience; and

(3) Class B and Class A applicants may only substitute up to two years of the required work experience.

(f) Training credits must be in approved courses that include the following or equivalent.

Figure: 30 TAC §30.390(f) (No change.)

(g) An individual who previously held a Class D license or higher shall not apply for a new Class D license if the individual:

(1) currently operates facilities at groundwater treatment systems of 250 connections or more;

(2) currently operates facilities at groundwater treatment systems serving a population of 750 or more;

(3) currently operates facilities at surface water treatment systems;

(4) currently operates facilities at groundwater systems under the influence of surface water;

(5) performs supervisor, crew chief, or foremen duties for distribution systems that have over 250 connections; or

(6) operates multiple groundwater systems and the cumulative number of connections exceeds 250.

§30.392. *Qualifications for License Renewal.*

(a) To renew a license, an individual must have met the requirements of Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations) and completed a total amount of approved continuing education equal to that of ten hours per year the license is valid, two of which must qualify as resiliency training [for licenses that expire on or after April 1, 2024].

(b) The basic water training course shall not be used to renew a Class B or A license.

(c) Class D licenses are not renewable for licensed operators:

(1) at groundwater treatment systems of 250 connections or more;

(2) at groundwater treatment systems serving a population of 750 or more;

(3) at surface water treatment systems;

(4) at groundwater systems under the influence of surface water;

(5) who are supervisors, crew chiefs, or foremen of distribution systems that have over 250 connections; or

(6) who operate multiple groundwater systems and the cumulative number of connections exceeds 250.

(d) To renew an active converted perpetual license, an individual must have met the requirements of this section, with the exception of the renewal fee.

(e) Individuals with a license that expires on or after April 1, 2024, are required to take the Resiliency Overview Course once as part of the continuing education requirement to renew a license.

§30.400. *Additional Requirements for Public Water System Operations Companies.*

(a) When a public water system operating company submits an application to obtain or renew a registration, it must submit a report to the executive director. The report shall include:

(1) the public water system operating company name, registration number, location, and mailing address;

(2) the public water system identification number and name for each system operated;

(3) the dates of operation during the reporting period;

(4) the names and license numbers of all licensed operators employed by the operations company;

(5) the names of the licensed chief operators and licensed supervisors; and

(6) any additional information required by the executive director.

(b) A person that operates a public water system under contract must apply for a new registration and submit an amended report if a company is bought or sold and the name of the company changes.

(c) Public water system operating companies shall submit a registration fee based on the number of public water systems served as indicated in the following table. The fees in the following table apply to applications for new registrations and applications to renew a registration received on or before the expiration date of the registration.
Figure: 30 TAC §30.400(c) (No change.)

(d) Applications to renew a registration received after the expiration date but not more than 90 days after the expiration are subject to 1.5 times the fee in subsection (c) of this section.

(e) Applications to renew a registration received after 90 days after the expiration date but not more than 180 days after expiration are subject to 2 times the fee in subsection (c) of this section.

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 13. TEXAS COMMISSION ON FIRE PROTECTION

CHAPTER 429. FIRE INSPECTOR AND FIRE PLANS [~~PLAN~~] EXAMINER

The Texas Commission on Fire Protection (Commission) proposes amendments to 37 Texas Administrative Code, Chapter 429, Fire Inspector and Plan Examiner, including a rename of the chapter to Fire Inspector and Fire Plans Examiner, concerning §§429.11, 429.201, and 429.205.

Background and Purpose

The purpose of the proposed amendments is to update terminology in Chapter 429 to align with changes made to the National Fire Protection Association (NFPA) standards resulting from NFPA's consolidation process. Specifically, the references to "Inspector I" and "Inspector II" are updated to reflect the consolidated "Fire Inspector" designation, and the term "Plan Examiner I" is updated to "Fire Plans Examiner" to align with the current NFPA standard nomenclature. These are title and naming changes only and do not alter the substantive requirements for certification.

Fiscal Note and Impact on State and Local Government

Michael Wisko, Agency Chief, has determined that for each year of the first five-year period these rules are in effect, there will be no fiscal impact on state or local government as a result of enforcing or administering these rules.

Public Benefit and Cost Note

Mr. Wisko has also determined that for each of the first five years these rules are in effect, the anticipated public benefit will be improved clarity and consistency in certification terminology aligned with current NFPA standards. There are no anticipated economic costs to individuals required to comply with the proposed rules.

Local Economy Impact Statement

There is no anticipated effect on local employment or the local economy for the first five years the rules are in effect; therefore, no local employment impact statement is required under Texas Government Code § 2001.022.

Economic Impact on Small Businesses, Micro-Businesses, and Rural Communities

The Commission has determined that there will be no effect on small or micro-businesses or rural communities as a result of implementing these rules; therefore, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code § 2006.002.

Government Growth Impact Statement

Under Texas Government Code § 2001.0221, the Commission has determined that during the first five years the rules are in effect:

The rules will not create or eliminate a government program;

The rules will not create or eliminate any existing employee positions;

The rules will not require an increase or decrease in future legislative appropriations;

The rules will not result in an increase or decrease in fees paid to the agency;

The rules will not create a new regulation;

The rules will not expand, limit, or repeal an existing regulation;

The rules will not increase the number of individuals subject to the rule; and

The rules are not anticipated to have an adverse effect on the state's economy.

Takings Impact Assessment

The Commission has determined that the proposed rules do not restrict or burden private real-property rights and therefore do not constitute a taking under Texas Government Code § 2007.043.

Costs to Regulated Persons

The proposed rules do not impose additional costs on regulated persons, including another state agency, a special district, or a local government, and therefore are not subject to Texas Government Code § 2001.0045.

Environmental Impact Statement

The Commission has determined that the proposed rules do not require an environmental impact analysis because the rules are not major environmental rules under Texas Government Code § 2001.0225.

Request for Public Comment

Comments on the proposed rules may be submitted in writing within 30 days of publication of this notice in the *Texas Register* to:

Frank King, General Counsel

Texas Commission on Fire Protection

P.O. Box 2286, Austin, Texas 78768

Email: frank.king@tcfp.texas.gov

SUBCHAPTER A. MINIMUM STANDARDS FOR FIRE INSPECTOR CERTIFICATION

37 TAC §429.11

Statutory Authority

The proposed amendments are authorized by Texas Government Code §§419.008 and 419.032, which authorize the Commission to adopt rules for the administration of its statutory responsibilities.

Cross Reference to Statute: Texas Government Code, Chapter 419.

§429.11. *International Fire Service Accreditation Congress (IFSAC) Seal.*

[(a)] Individuals who pass the applicable sections of the state examination may be granted IFSAC seal(s) for Inspector I and Inspector II by making application to the commission for the IFSAC seal(s) and paying the associated fees, provided they meet the following provisions:

(1) To receive the IFSAC Fire Inspector [~~Inspector I~~] seal, the individual must:

(A) complete the Fire Inspector [~~Inspector I~~] section of a commission approved course; and

(B) pass the Fire Inspector [Inspector I section of a] commission examination.

[(2) To receive the IFSAC Inspector II seal, the individual must:]

[(A) complete the Inspector II section of a commission approved course;]

[(B) document possession of an IFSAC Inspector I seal; and]

[(C) pass the Inspector II section of a commission examination.]

(2) [(b)] In order to qualify for an IFSAC seal, an individual must submit the application for the seal prior to the expiration of the examination.

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 29, 2026.

TRD-202603223

Mike Wisko

Agency Chief

Texas Commission on Fire Protection

Earliest possible date of adoption: September 13, 2026

For further information, please call: (512) 936-3812



SUBCHAPTER B. MINIMUM STANDARDS FOR PLAN EXAMINER

37 TAC §429.201, §429.205

Statutory Authority

The proposed amendments are authorized by Texas Government Code §§419.008 and 419.032, which authorize the Commission to adopt rules for the administration of its statutory responsibilities.

§429.201. *Minimum Standards for Plan Examiner Personnel.*

Fire Plans Examiner [Plan examiner] duties are defined as the review of building or other structure plans for the purpose of determining compliance with adopted fire codes and standards.

§429.205. *International Fire Service Accreditation Congress (IF-SAC) Seal.*

(a) Individuals who pass the state examination may be granted an IFSAC seal for Fire Plans Examiner [Plan Examiner I] by making application to the commission for the IFSAC seal and paying the associated fee.

(b) In order to qualify for an IFSAC seal, an individual must submit the application for the seal prior to the expiration of the examination.

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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Mike Wisko

Agency Chief

Texas Commission on Fire Protection

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For further information, please call: (512) 936-3812



TITLE 43. TRANSPORTATION

PART 1. TEXAS DEPARTMENT OF TRANSPORTATION

CHAPTER 25. TRAFFIC OPERATIONS

SUBCHAPTER A. GENERAL

43 TAC §25.1

The Texas Department of Transportation (department) proposes the amendments to §25.1 concerning Uniform Traffic Control Devices.

EXPLANATION OF PROPOSED AMENDMENTS

Under Transportation Code, §544.001, the Texas Transportation Commission (commission) is required to adopt a manual for a uniform system of traffic control devices. The statute further states that the manual must be consistent with the state traffic laws and to the extent possible conform to the system approved by the American Association of State Highway Transportation Officials. The edition of the manual that is currently effective is the 2025 version.

The national Manual on Uniform Traffic Control Devices (MUTCD) is adopted and published by the Federal Highway Administration (FHWA) under Title 23, Code of Federal Regulations, Part 655, Subpart F. The national MUTCD defines the standards used by road managers nationwide to install and maintain traffic control devices on all streets, highways, pedestrian and bicycle facilities, and site roadways open to public travel. The Texas Manual on Uniform Traffic Control Devices (Texas MUTCD) is required to substantially conform with the federal MUTCD to allow use of a single manual for local, state, and Federal-aid highway projects. The Texas MUTCD is periodically updated to maintain substantial conformance with the national MUTCD.

FHWA issued Revision 1 of the 11th Edition of the national MUTCD on March 5, 2026. Amendments to §25.1 adopt Revision 1 of the 2025 Texas MUTCD by reference, to maintain substantial conformance with the national MUTCD. Amendments to §25.1 also clarify language in subsection (c).

The purpose of Revision 1 to the TMUTCD is primarily to correct FHWA known errors, omissions, and clarify language. In addition, TxDOT is modifying several sections throughout Chapters 2A and 2B (regarding FHWA disclaimers, adding supporting statements, and updating a sign name), 2F (regarding tolling) and 2E (regarding Left Exit signs), and Section 7C.02 (regarding school zone pavement markings) in accordance with an agreement with FHWA regarding issues that were still outstanding when the 2025 Texas MUTCD was first adopted in January 2026.

Revision 1 to the 2025 Texas MUTCD is available for review online at the department's website at www.txdot.gov and at the department's Traffic Safety Division office at 6230 East Stassney

Lane in Austin, Texas. The federal MUTCD is available online at <https://mutcd.fhwa.dot.gov>.

FISCAL NOTE

Stephen Stewart, Chief Financial Officer, has determined, in accordance with Government Code, §2001.024(a)(4), that for each of the first five years in which the proposed rules are in effect, there will be no fiscal implications for state or local governments as a result of the department's or commission's enforcing or administering the proposed rules.

LOCAL EMPLOYMENT IMPACT STATEMENT

George Villarreal, P.E., Director, Traffic Safety Division, has determined that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed rules and therefore, a local employment impact statement is not required under Government Code, §2001.022.

PUBLIC BENEFIT

Mr. Villarreal has determined, as required by Government Code, §2001.024(a)(5), that for each year of the first five years in which the proposed rules are in effect, the public benefit anticipated as a result of enforcing or administering the rules will be a more uniform use of traffic control devices statewide. This uniformity increases user comprehension and therefore improves safety and mobility for all users on all streets and highways open to public travel.

COSTS ON REGULATED PERSONS

Mr. Villarreal has also determined, as required by Government Code, §2001.024(a)(5), that for each year of that period there are no anticipated economic costs for persons, including a state agency, special district, or local government, required to comply with the proposed rules and therefore, Government Code, §2001.0045, does not apply to this rulemaking.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities, as defined by Government Code, §2006.001, and therefore, an economic impact statement and regulatory flexibility analysis are not required under Government Code, §2006.002.

GOVERNMENT GROWTH IMPACT STATEMENT

Mr. Villarreal has considered the requirements of Government Code, §2001.0221 and anticipates that the proposed rules will have no effect on government growth. He expects that during the first five years that the rule would be in effect:

- (1) it would not create or eliminate a government program;
- (2) its implementation would not require the creation of new employee positions or the elimination of existing employee positions;
- (3) its implementation would not require an increase or decrease in future legislative appropriations to the agency;
- (4) it would not require an increase or decrease in fees paid to the agency;
- (5) it would not create a new regulation;
- (6) it would not expand, limit, or repeal an existing regulation;

(7) it would not increase or decrease the number of individuals subject to its applicability; and

(8) it would not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

Mr. Villarreal has determined that a written takings impact assessment is not required under Government Code, §2007.043.

SUBMITTAL OF INFORMATION AND COMMENTS

Any person that is required to comply with the proposed rule or any other interested person may provide information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis, or may submit written comments on the amendments to §25.1. The information or comments must be submitted to Rule Comments, General Counsel Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483 or to RuleComments@txdot.gov with the subject line "TMUTCD." The deadline for receipt of the information or comments is 5:00 p.m. on September 14, 2026. In accordance with Transportation Code, §201.811(a)(5), a person who makes a submission must disclose, in writing with the submission, whether the person does business with the department, may benefit monetarily from the proposed amendments, or is an employee of the department.

STATUTORY AUTHORITY

The amendments are proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code §544.001, which requires the commission to adopt a manual of uniform traffic control devices.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, Chapter 544

§25.1. Uniform Traffic Control Devices.

(a) The 2025 Texas Manual on Uniform Traffic Control Devices, Revision 1 was prepared by the Texas Department of Transportation to govern standards and specifications for all traffic control devices to be erected and maintained upon any street, highway, bikeway, public facility, or private property open to public travel within this state, including those under local jurisdiction, and is adopted by reference. Copies of the manual are available online through the Texas Department of Transportation web site, www.txdot.gov, and a copy is available for public inspection at the department's Traffic Safety Division office located at 6230 East Stassney Lane, Austin, Texas 78744.

(b) This manual will be periodically updated. In the intervals between updates, standards contained in "Official Rulings on Requests for Interpretations, Changes, and Experimentation" to the United States Department of Transportation's Manual on Uniform Traffic Control Devices for Streets and Highways will be inserted in this manual and may be used as interim standards.

(c) This manual is not intended to preclude the use of sound engineering judgment and experience in the application and installation of devices, [and] particularly in those cases not specifically covered in the manual. However, decisions based on engineering judgment and experience [which] must not conflict with the manual or other applicable state laws.

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 30, 2026.



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Becky Blewett

Deputy General Counsel

Texas Department of Transportation

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For further information, please call: (512) 416-3200