

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 372. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES AND SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAMS

SUBCHAPTER B. ELIGIBILITY

DIVISION 6. RESOURCES

1 TAC §372.355

The executive commissioner of the Texas Health and Human Services Commission (HHSC) proposes an amendment to §372.355, concerning Treatment of Resources in SNAP.

BACKGROUND AND PURPOSE

The proposal is necessary to comply with Texas Human Resources Code §33.021, which requires HHSC to increase the excluded amounts of a vehicle's fair market value (FMV) when determining Supplemental Nutrition Assistance Program (SNAP) eligibility. Texas Human Resources Code §33.021 was amended by House Bill 1287, 88th Legislature, Regular Session, 2023. The proposed amendment updates the excluded amount of FMV from the first and additional vehicle when determining the value of countable resources.

Households qualify to receive SNAP benefits by meeting eligibility requirements when they apply, recertify, or report a change. One requirement limits the amount of certain financial resources SNAP recipients may have on hand (e.g., cash, vehicles). To meet the resource test, the household's countable liquid resources plus excess vehicle value must be \$5,000 or less.

SECTION-BY-SECTION SUMMARY

The proposed amendment updates the exclusionary amount for vehicles from \$15,000 to \$22,500 for the highest valued vehicle and \$4,650 to \$8,700 for all other countable vehicles. This change will allow HHSC to implement the state law.

FISCAL NOTE

Trey Wood, Chief Financial Officer, 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 not expand, limit, or 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

Trey Wood has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities because the rule expands the resource limit and increases the amount of people eligible for SNAP in Texas based on their resources and does not require additional costs for small businesses, micro-businesses, or rural communities.

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 necessary to implement legislation that does not specifically state that §2001.0045 applies to the rule.

PUBLIC BENEFIT AND COSTS

Molly Regan, Deputy Executive Commissioner for Access and Eligibility Services, has determined that for each year of the first five years the rule is in effect, the public benefit will be to allow people an increased excluded amount on their vehicles when their resources are tested for SNAP eligibility.

Trey Wood 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 amended rule is only updating resources and does not require any costs to the public.

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 ex-

ist 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 HHRulesCoordinationOffice@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 24R042" in the subject line.

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.

The amendment affects Texas Government Code §531.0055.

§372.355. *Treatment of Resources in SNAP.*

(a) In SNAP, the Texas Health and Human Services Commission (HHSC) follows 7 CFR §273.8(a) and (b) to determine the countable resources limit. Unless a household is considered categorically eligible for SNAP under 7 CFR §273.2(j) by receiving Supplemental Security Income, TANF cash, or TANF non-cash benefits, the countable resource limit for a household is the amount of liquid resources and excess vehicle values specified in 7 CFR §273.8(b).

(b) HHSC follows 7 CFR §273.8 to determine whose resources to count in SNAP.

(c) HHSC follows 7 CFR §273.8 to determine what resources are counted, and 7 CFR §273.8(e) and 7 U.S.C. §2014(g) to determine what resources are excluded.

(d) HHSC also excludes:

(1) up to \$2,000 of gifts annually from tax-exempt organizations provided to children with life-threatening conditions;

(2) independent living payments to youths who are leaving foster care, as provided by the Social Security Act, Title IV-E (42 U.S.C. §670 et seq.);

(3) funds from adoption subsidy payments made under Title IV-A and Title IV-E of the Social Security Act;

(4) funds from insurance policy dividends;

(5) funds from veterans payments earmarked as a household allowance or as an aid and attendance allowance;

(6) \$22,500 [\$15,000] for the first vehicle and \$8,700 [\$4,650] for each additional vehicle;

(7) resources of categorically eligible households as described in 7 CFR §273.8(a); and

(8) funds held in a school-based account or bond as described by Texas Education Code §28.0024 [of the Texas Education Code] and authorized by Texas Human Resources Code §33.0291 [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 8, 2025.

TRD-202502806

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Earliest possible date of adoption: September 21, 2025

For further information, please call: (512) 915-0519



TITLE 13. CULTURAL RESOURCES

PART 1. TEXAS STATE LIBRARY AND ARCHIVES COMMISSION

CHAPTER 6. STATE RECORDS

SUBCHAPTER A. RECORDS RETENTION SCHEDULING

13 TAC §6.9

The Texas State Library and Archives Commission (commission) proposes the repeal of Texas Administrative Code, Title 13, Part 1, Chapter 6, Subchapter A, §6.9, Notification by State Records Administrator.

BACKGROUND. The commission recently concluded its quadrennial review of Chapter 6 as required by Government Code, §2001.039. This statute requires state agencies to "review and consider for readoption each of its rules . . . not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date." Gov't Code §2001.039(b). The statute further requires state agencies to "readopt, readopt with amendments, or repeal a rule as a result of reviewing the rule under this section." Gov't Code §2001.039(c). After reviewing the chapter, the commission determined that, in general, the reasons for initially adopting the rules continue to exist. However, the commission identified one section that is no longer necessary and proposes to repeal that section. The commission also identified one section that would be more appropriately placed in a different subchapter with no changes to the text of the rule or section number.

The commission proposes the repeal of §6.9, Notification by State Records Administrator, because the rule is outdated, unnecessary, and does not implement, interpret, or prescribe law or policy or describe a commission procedure or practice requirement. In compliance with Government Code, §441.182, the commission's State and Local Records Management Division regularly corresponds with and assists state agencies regarding their responsibilities under §6.2 (relating to Submission of Records Retention Schedules for Certification) and §6.3 (relating to Submission of Records Retention Schedules for Recertification).

During the rule review, the commission also determined that the current placement of §6.122, Records Storage Services Fee Schedule, in Subchapter E, Records Center Storage Services Fee Schedules, could be confusing, as the commission's other rule related to fee schedules (§6.121, Micrographics Services Fee Schedule) is placed within Subchapter D, Fee Schedules. The commission finds that moving §6.122 into Subchapter D with the commission's other fee schedule rule and eliminating Subchapter E will result in a more logical placement of the rule. This change will be made on adoption of the proposed repeal of §6.9.

FISCAL IMPACT. Craig Kelso, Director, State and Local Records Management Division, has determined that for each of the first five years the proposed repeal is in effect, there will not be a fiscal impact on state or local government.

PUBLIC BENEFIT AND COSTS. Mr. Kelso has determined that for the first five-year period the repeal is in effect, the public benefit will be efficiency and clarity in the commission's rules by elimination of an unnecessary regulation.

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

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT STATEMENT. There will be no adverse economic effect on small businesses, micro-businesses, or rural communities; therefore, a regulatory flexibility analysis under Government Code, §2006.002 is not required.

COST INCREASE TO REGULATED PERSONS. The rule as proposed for repeal does not impose or increase a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, the commission is not required to take any further action under Government Code, §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT. In compliance with Government Code, §2001.0221, the commission provides the following government growth impact statement. For each year of the first five years the rule as proposed for repeal will be in effect, the commission has determined the following:

1. The proposed repeal will not create or eliminate a government program;
2. Implementation of the rule as proposed for repeal will not require the creation of new employee positions or the elimination of existing employee positions;
3. Implementation of the rule as proposed for repeal will not require an increase or decrease in future legislative appropriations to the commission;
4. The proposal will not require an increase or decrease in fees paid to the commission;
5. The proposal will not create new regulations;
6. The proposal will repeal an existing regulation;
7. The proposal will not increase the number of individuals subject to the rule's applicability; and
8. The proposal will not positively or adversely affect the state's economy.

TAKINGS IMPACT ASSESSMENT. No private real property interests are affected by this proposal, and the proposal does not restrict or limit an owner's right to his or her property that would

otherwise exist in the absence of government action. Therefore, the proposed repeal does not constitute a taking under Government Code, §2007.043.

REQUEST FOR PUBLIC COMMENT. Written comments on the proposed repeal may be submitted to Sarah Swanson, General Counsel, Texas State Library and Archives Commission, P.O. Box 12927, Austin, Texas 78711, or via email at rules@tsl.texas.gov. To be considered, a written comment must be received no later than 30 days from the date of publication in the *Texas Register*.

STATUTORY AUTHORITY. The repeal is proposed under Government Code, §441.199, which authorizes the commission to adopt rules it determines necessary for cost reduction and efficiency of recordkeeping by state agencies and for the state's management and preservation of records; Government Code, §441.190, which authorizes the commission to adopt rules establishing standards and procedures for the protection, maintenance, and storage of state records; and §441.182, which authorizes the commission to recover costs through the assessment of fees for operating the state records center for the economical and efficient storage, accessibility, protection, and final disposition of inactive and vital state records and performing micrographic and other imaging services for the protection, accessibility, and preservation of state records.

CROSS REFERENCE TO STATUTE. Government Code, Chapter 441.

§6.9. Notification by State Records Administrator.

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 4, 2025.

TRD-202502751

Sarah Swanson

General Counsel

Texas State Library and Archives Commission

Earliest possible date of adoption: September 21, 2025

For further information, please call: (512) 463-5460



CHAPTER 7. LOCAL RECORDS

SUBCHAPTER D. RECORDS RETENTION SCHEDULES

13 TAC §7.125

The Texas State Library and Archives Commission (commission) proposes the repeal of Texas Administrative Code, Title 13, Part 1, Chapter 7, Subchapter D, §7.125, Records Retention Schedules.

BACKGROUND. Section 441.158 of the Government Code requires the director and librarian, under the direction of the commission, to prepare records retention schedules for each type of local government, including a schedule for records common to all types of local government. The statute further requires the commission to adopt the schedules by rule. Each schedule must (1) list the various types of records of the applicable local government, (2) state the retention period prescribed by a federal or state law, rule of court, or regulation for records for which a period is prescribed, and (3) prescribe retention periods for all other

records, which periods have the same effect as if prescribed by law after the records retention schedule is adopted as a rule of the commission.

The commission first adopted §7.125 in 1992. This one section includes full images of 12 unique records retention schedules applicable to each type of local government: Public Works and Other Government Services, County Clerks, District Clerks, Public Safety Agencies, Public School Districts, Public Junior Colleges, Justice and Municipal Courts, Property Taxation, Elections and Voter Registration, Public Health Agencies, and Utility Services. The rule also includes a schedule for records common to all local governments. The schedules have been updated over time as changes in laws, rules, or regulations have occurred, as well as in response to changes in the types of records maintained by local governments. The schedules have also been updated over time to simplify the language, consolidate records series when appropriate, and to make the schedules easier to use.

The commission finds it necessary to update and improve each of the records retention schedules to ensure each records series is correct and current with the most appropriate legal citation(s) and to clarify and simplify language where possible. Because all 12 schedules are currently contained within one section of the Administrative Code, reviewing and updating individual schedules is challenging, as amendments to a rule may not be proposed until any previously adopted amendments are effective. Therefore, the commission proposes to repeal existing §7.125 and propose each schedule as its own rule. Not only will this action improve the commission's ability to update and maintain the schedules; it will also improve users' ability to find what they need. These new proposed sections are also published in this same issue of the *Texas Register*.

FISCAL IMPACT. Craig Kelso, Director, State and Local Records Management Division, has determined that for each of the first five years the proposed repeal is in effect, there will not be a fiscal impact on state or local government.

PUBLIC BENEFIT AND COSTS. Mr. Kelso has determined that for the first five-year period the repeal is in effect, the public benefit will be efficiency and ease of use, as specific local government records retention schedules will be easier to find. Additionally, once the schedules are adopted as individual rules, the commission will be able to update and improve each schedule more efficiently, leading to more accurate and up-to-date schedules.

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

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT STATEMENT. There will be no adverse economic effect on small businesses, micro-businesses, or rural communities; therefore, a regulatory flexibility analysis under Government Code, §2006.002 is not required.

COST INCREASE TO REGULATED PERSONS. The rule as proposed for repeal does not impose or increase a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, the commission is not required to take any further action under Government Code, §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT. In compliance with Government Code, §2001.0221, the commission provides the following government growth impact statement. For each year of the first five years the rule as proposed for

repeal will be in effect, the commission has determined the following:

1. The proposed repeal will not create or eliminate a government program;
2. Implementation of the rule as proposed for repeal will not require the creation of new employee positions or the elimination of existing employee positions;
3. Implementation of the rule as proposed for repeal will not require an increase or decrease in future legislative appropriations to the commission;
4. The proposal will not require an increase or decrease in fees paid to the commission;
5. The proposal will not create new regulations;
6. The proposal will repeal an existing regulation;
7. The proposal will not increase the number of individuals subject to the rule's applicability; and
8. The proposal will not positively or adversely affect the state's economy.

TAKINGS IMPACT ASSESSMENT. No private real property interests are affected by this proposal, and the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action. Therefore, the proposed repeal does not constitute a taking under Government Code, §2007.043.

REQUEST FOR PUBLIC COMMENT. Written comments on the proposed repeal may be submitted to Sarah Swanson, General Counsel, Texas State Library and Archives Commission, P.O. Box 12927, Austin, Texas 78711, or via email at rules@tsl.texas.gov. To be considered, a written comment must be received no later than 30 days from the date of publication in the *Texas Register*.

STATUTORY AUTHORITY. The repeal is proposed under Government Code, §441.158, which requires the director and librarian, under the direction of the commission, to prepare records retention schedules for each type of local government, including a schedule for records common to all types of local government, and to adopt the schedules by rule.

CROSS REFERENCE TO STATUTE. Government Code, Chapter 441; Local Government Code, Chapter 203.

§7.125. Records Retention Schedules.

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 4, 2025.

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Sarah Swanson

General Counsel

Texas State Library and Archives Commission

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For further information, please call: (512) 463-5460



13 TAC §§7.126 - 7.137

(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 13 TAC §§7.126 - 7.137 are not included in the print version of the Texas Register. The figures are available in the on-line version of the August 22, 2025, issue of the Texas Register.)

The Texas State Library and Archives Commission (commission) proposes the following new sections to Texas Administrative Code, Title 13, Part 1, Chapter 7, Subchapter D: §7.126, Local Schedule GR, Records Common to All Local Governments; §7.127, Local Schedule PW: Records of Public Works and Other Government Services; §7.128, Local Schedule CC: Records of County Clerks; §7.129, Local Schedule DC: Records of District Clerks; §7.130, Local Schedule PS: Records of Public Safety Agencies; §7.131, Local Schedule SD: Records of Public School Districts; §7.132, Local Schedule JC: Records of Public Junior Colleges; §7.133, Local Schedule LC: Records of Justice and Municipal Courts; §7.134, Local Schedule TX: Records of Property Taxation; §7.135, Local Schedule EL: Records of Elections and Voter Registration; §7.136, Local Schedule HR: Records of Public Health Agencies; and §7.137, Local Schedule UT: Records of Utility Services.

BACKGROUND. Section 441.158 of the Government Code requires the director and librarian, under the direction of the commission, to prepare records retention schedules for each type of local government, including a schedule for records common to all types of local government. The statute further requires the commission to adopt the schedules by rule. Each schedule must (1) list the various types of records of the applicable local government, (2) state the retention period prescribed by a federal or state law, rule of court, or regulation for records for which a period is prescribed, and (3) prescribe retention periods for all other records, which periods have the same effect as if prescribed by law after the records retention schedule is adopted as a rule of the commission.

The commission finds it necessary to update and improve each of the records retention schedules to ensure each records series is correct and current with the most appropriate legal citation(s) and to clarify and simplify language where possible. All of the local government records retention schedules are currently contained within one single section of the Texas Administrative Code. When printed, this section exceeds 475 pages. Reviewing and updating individual schedules is challenging, even when the changes impact only one type of local government records retention schedule, as amendments to a rule may not be proposed until any previously adopted amendments are effective. To ultimately make the process for reviewing and updating the schedules more efficient and to simplify the commission's rules for better usability by local governments, the commission now proposes each individual schedule as an administrative rule without changes to any of the rule text at this time. Not only will this action improve the commission's ability to update and maintain the schedules; it will also improve users' ability to find the information they need. The commission is also simultaneously proposing the repeal of §7.125, Records Retention Schedules, which is the single section that currently includes all 12 records retention schedules. This proposal may be found in this same issue of the *Texas Register*.

FISCAL IMPACT. Craig Kelso, Director, State and Local Records Management Division, has determined that for each of the first five years the proposed new sections are in effect, there will not be a fiscal impact on state or local government.

PUBLIC BENEFIT AND COSTS. Mr. Kelso has determined that for the first five-year period the proposed new sections are in ef-

fect, the public benefit will be efficiency and ease of use, as specific local government records retention schedules will be easier to find. Additionally, once the schedules are adopted as individual rules, the commission will be able to update and improve each schedule more efficiently.

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

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT STATEMENT. There will be no adverse economic effect on small businesses, micro-businesses, or rural communities; therefore, a regulatory flexibility analysis under Government Code, §2006.002 is not required.

COST INCREASE TO REGULATED PERSONS. The rules as proposed do not impose or increase a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, the commission is not required to take any further action under Government Code, §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT. In compliance with Government Code, §2001.0221, the commission provides the following government growth impact statement. For each year of the first five years the rules as proposed will be in effect, the commission has determined the following:

1. The proposed rules will not create or eliminate a government program;
2. Implementation of the rules as proposed will not require the creation of new employee positions or the elimination of existing employee positions;
3. Implementation of the rules as proposed will not require an increase or decrease in future legislative appropriations to the commission;
4. The proposal will not require an increase or decrease in fees paid to the commission;
5. The proposal will create new regulations, but none of the regulations are new requirements. Each of the proposed new regulations currently exists within one single, yet cumbersome, section;
6. The proposal will not repeal an existing regulation;
7. The proposal will not increase the number of individuals subject to the rule's applicability; and
8. The proposal will not positively or adversely affect the state's economy.

TAKINGS IMPACT ASSESSMENT. No private real property interests are affected by this proposal, and the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action. Therefore, the proposed new sections do not constitute a taking under Government Code, §2007.043.

REQUEST FOR PUBLIC COMMENT. Written comments on the proposed new sections may be submitted to Sarah Swanson, General Counsel, Texas State Library and Archives Commission, P.O. Box 12927, Austin, Texas 78711, or via email at rules@tsl.texas.gov. To be considered, a written comment must be received no later than 30 days from the date of publication in the *Texas Register*.

STATUTORY AUTHORITY. The new sections are proposed under Government Code, §441.158, which requires the director and librarian, under the direction of the commission, to prepare records retention schedules for each type of local government, including a schedule for records common to all types of local government, and to adopt the schedules by rule.

CROSS REFERENCE TO STATUTE. Government Code, Chapter 441; Local Government Code, Chapter 203.

§7.126. Local Schedule GR: Records Common to All Local Governments.

Local Schedule GR: Records Common to All Local Governments.
Figure: 13 TAC §7.126

§7.127. Local Schedule PW: Records of Public Works and Other Government Services.

Local Schedule PW: Records of Public Works and Other Government Services.
Figure: 13 TAC §7.127

§7.128. Local Schedule CC: Records of County Clerks.

Local Schedule CC: Records of County Clerks.
Figure: 13 TAC §7.128

§7.129. Local Schedule DC: Records of District Clerks.

Local Schedule DC: Records of District Clerks.
Figure: 13 TAC §7.129

§7.130. Local Schedule PS: Records of Public Safety Agencies.

Local Schedule PS: Records of Public Safety Agencies.
Figure: 13 TAC §7.130

§7.131. Local Schedule SD: Records of Public School Districts.

Local Schedule SD: Records of Public School Districts.
Figure: 13 TAC §7.131

§7.132. Local Schedule JC: Records of Public Junior Colleges.

Local Schedule JC: Records of Public Junior Colleges.
Figure: 13 TAC §7.132

§7.133. Local Schedule LC: Records of Justice and Municipal Courts.

Local Schedule LC: Records of Justice and Municipal Courts.
Figure: 13 TAC §7.133

§7.134. Local Schedule TX: Records of Property Taxation.

Local Schedule TX: Records of Property Taxation.
Figure: 13 TAC §7.134

§7.135. Local Schedule EL: Records of Elections and Voter Registration.

Local Schedule EL: Records of Elections and Voter Registration.
Figure: 13 TAC §7.135

§7.136. Local Schedule HR: Records of Public Health Agencies.

Local Schedule HR: Records of Public Health Agencies.
Figure: 13 TAC §7.136

§7.137. Local Schedule UT: Records of Utility Services.

Local Schedule UT: Records of Utility Services.
Figure: 13 TAC §7.137

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 4, 2025.

TRD-202502750

Sarah Swanson

General Counsel

Texas State Library and Archives Commission

Earliest possible date of adoption: September 21, 2025

For further information, please call: (512) 463-5460



TITLE 22. EXAMINING BOARDS

PART 16. TEXAS BOARD OF PHYSICAL THERAPY EXAMINERS

CHAPTER 322. PRACTICE

22 TAC §322.1

The Texas Board of Physical Therapy Examiners (board) proposes amending 22 TAC §322.1(a)(2)(D)-(G) relating to exceptions to referral requirement.

The following amendment is necessary to implement changes to Texas Occupations Code §453.301(a)(3)(B) and (b) pursuant Tex. H.B. 4099, 89th R.S. (2025). Specifically, the amendment changes the number of days a physical therapist (PT) who possesses a doctoral degree in physical therapy or has completed at least 30 CCUs in the area of differential diagnosis may treat a patient without a referral from "for not more than 10 consecutive business days" to "for not more than 30 consecutive calendar days."

Additionally, the requirement for a PT to possess a doctoral degree and either has completed a physical therapy residency or fellowship or is certified by an entity approved by the board to treat a patient without a referral for not more than 15 consecutive business days has been eliminated.

Fiscal Note

Ralph A. Harper, Executive Director of the Executive Council of Physical Therapy & Occupational Therapy Examiners, has determined that for the first five-year period the amendment is in effect there would be no loss of revenue, and there would be no fiscal implication to units of local government as a result of enforcing or administering the rules.

Public Benefits and Costs

Mr. Harper has determined that for the first five-year period the amendment is in effect, the public benefit will be greater accessibility to physical therapy services to prevent delay of care and worsened outcomes, higher costs, and greater strain on the health care system. Additionally, there will be no cost to the public with implementation of this amendment.

Local Employment Economic Impact Statement

The amendment is not anticipated to impact a local economy, so a local employment economic impact statement is not required.

Small and Micro-Businesses and Rural Communities Impact

Mr. Harper has determined that there will be no costs or adverse economic effects to small or micro-businesses or rural communities as the result of the amendment; therefore, an economic impact statement or regulatory flexibility analysis is not required.

Government Growth Impact Statement

During the first five-year period the amendment is in effect, the impact on government growth is as follows:

- (1) The proposed rule amendment will neither create nor eliminate a government program.
- (2) The proposed rule amendment will neither create new employee positions nor eliminate existing employee positions.
- (3) The proposed rule amendment will neither increase nor decrease future legislative appropriations to the agency.
- (4) The proposed rule amendment will require neither an increase nor a decrease in fees paid to the agency.
- (5) The proposed rule amendment does not create a new regulation.
- (6) The proposed rule amendment will repeal the requirement for a PT to possess a doctoral degree and either has completed a physical therapy residency or fellowship or is certified by an entity approved by the board to treat a patient without a referral for not more than 15 consecutive business days.
- (7) The proposed rule amendment will not increase individuals subject to the rule's applicability.
- (8) The proposed rule amendment will neither positively nor adversely affect this state's economy.

Takings Impact Assessment

The proposed rule amendment will not impact private real property as defined by Tex. Gov't Code §2007.003, so a takings impact assessment under Tex. Gov't Code §2001.043 is not required.

Requirement for Rule Increasing Costs to Regulated Persons

Tex. Gov't Code §2001.0045, Requirement for Rule Increasing Costs to Regulated Persons, does not apply to this because the proposed rule amendment will not increase costs to regulated persons.

Public Comment

Comments on the proposed amendment and repeal may be submitted to Karen Gordon, PT Coordinator, Texas Board of Physical Therapy Examiners, 1801 Congress Ave, Suite 10.900, Austin, Texas 78701; email: karen@ptot.texas.gov. Comments must be received no later than 30 days from the date this proposed amendment is published in the *Texas Register*.

Statutory Authority

The amendment is proposed under Texas Occupation Code §453.102, which authorizes the board to adopt rules necessary to implement chapter 453.

Cross-reference to Statute

The proposed amendment implements provisions in Chapter 453, Subchapter G, Occupations Code, specifically §453.301(a)(3)(B) and (b) that pertain to treatment without a referral. No other statutes, articles, or codes are affected by the proposed amendment.

§322.1. Provision of Services.

- (a) Initiation of physical therapy services.
 - (1) (No change.)
 - (2) Exceptions to referral requirements
- (A) - (C) (No change.)

(D) A PT may treat a patient for an injury or condition without a referral for not more than 30 [10] consecutive calendar [business] days if the PT:

- (i) has been licensed to practice physical therapy for at least one year;
- (ii) is covered by professional liability insurance in the minimum amount of \$100,000 per claim and \$300,000 aggregate per year; and
- (iii) either:
 - (I) possesses a doctoral degree in physical therapy from:
 - (-a-) a program that is accredited by the Commission on Accreditation in Physical Therapy Education; or
 - (-b-) an institution that is accredited by an agency or association recognized by the United States secretary of education; or
 - (II) has completed at least 30 CCUs in the area of differential diagnosis.

~~[(E) A PT may treat a patient for an injury or condition without a referral for not more than 15 consecutive business days if the PT possesses a doctoral degree as described in subparagraph (D)(iii)(I)(-a-) or (-b-) of this paragraph and has satisfied the conditions set forth in subparagraph (D)(i) and (ii) of this paragraph, and either:]~~

~~[(i) has completed a physical therapy residency or fellowship, or]~~

~~[(ii) is certified by an entity approved by the board. The board will maintain a list of approved entities on its website.]~~

(E) ~~[(F)]~~ A PT must obtain a referral from a qualified healthcare practitioner before continuation of treatment that exceeds that which is authorized in subparagraph (D) ~~[or (E)]~~ of this paragraph.

(F) ~~[(G)]~~ A PT who treats a patient without a referral under subparagraph (D) ~~[or (E)]~~ of this paragraph must obtain a signed disclosure on a form prescribed by the board prior to the initiation of treatment. The disclosure form will be made available on the board's website.

(3) (No change.)

(b) - (c) (No change.)

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 8, 2025.

TRD-202502828

Ralph Harper

Executive Director

Texas Board of Physical Therapy Examiners

Earliest possible date of adoption: September 21, 2025

For further information, please call: (512) 305-6900



22 TAC §322.5

The Texas Board of Physical Therapy Examiners (Board) proposes amending 22 TAC §322.5(e) relating to standardize formats for and retention of records related to a patient's consent to treatment, data collection, and data sharing when providing physical therapy services via telehealth.

The following amendment is necessary to implement changes to Texas Occupations Code §111.004 pursuant to Tex. H.B. 1700, 89th R.S. (2025) which requires each agency with regulatory authority over a health professional providing telehealth service to adopt rules necessary to standardize formats for and retention of records related to a patient's consent to treatment, data collection, and data sharing.

Fiscal Note

Ralph A. Harper, Executive Director of the Executive Council of Physical Therapy & Occupational Therapy Examiners, has determined that for the first five-year period the amendment is in effect there would be no loss of revenue, and there would be no fiscal implication to units of local government as a result of enforcing or administering the rules.

Public Benefits and Costs

Mr. Harper has determined that for the first five-year period the amendment is in effect, the public benefit will be to enable the patient or the patient's authorized representative to make decisions regarding the provision of physical therapy via telehealth with knowledge of the benefits and/or risks, data collection and sharing, and retention of the documentation. Additionally, there will be no cost to the public with the implementation of this amendment.

Local Employment Economic Impact Statement

The amendment is not anticipated to impact a local economy, so a local employment economic impact statement is not required.

Small and Micro-Businesses and Rural Communities Impact

Mr. Harper has determined that there will be no costs or adverse economic effects to small or micro-businesses or rural communities as the result of the amendment; therefore, an economic impact statement or regulatory flexibility analysis is not required.

Government Growth Impact Statement

During the first five-year period the amendment is in effect, the impact on government growth is as follows:

- (1) The proposed rule amendment will neither create nor eliminate a government program.
- (2) The proposed rule amendment will neither create new employee positions nor eliminate existing employee positions.
- (3) The proposed rule amendment will neither increase nor decrease future legislative appropriations to the agency.
- (4) The proposed rule amendment will require neither an increase nor a decrease in fees paid to the agency.
- (5) The proposed rule amendment does not create a new regulation.
- (6) The proposed rule amendment will neither repeal nor limit an existing regulation.
- (7) The proposed rule amendment will not increase individuals subject to the rule's applicability.
- (8) The proposed rule amendment will neither positively nor adversely affect this state's economy.

Takings Impact Assessment

The proposed rule amendment will not impact private real property as defined by Tex. Gov't Code §2007.003, so a takings impact assessment under Tex. Gov't Code §2001.043 is not required.

Requirement for Rule Increasing Costs to Regulated Persons

Tex. Gov't Code §2001.0045, Requirement for Rule Increasing Costs to Regulated Persons, does not apply to this because the proposed rule amendment will not increase costs to regulated persons.

Public Comment

Comments on the proposed amendment may be submitted to Karen Gordon, PT Coordinator, Texas Board of Physical Therapy Examiners, 1801 Congress Ave, Suite 10.900, Austin, Texas 78701; email: karen@ptot.texas.gov. Comments must be received no later than 30 days from the date this proposed amendment is published in the *Texas Register*.

Statutory Authority

The Board proposes the amendment to §322.5, Telehealth, pursuant to Tex. H.B. 1700, 89th R.S. (2025), which requires each agency with regulatory authority over a health professional providing telehealth service to adopt rules necessary to standardize formats for and retention of records related to a patient's consent to treatment, data collection, and data sharing. The Board also proposes the amendment to §322.5 pursuant to Texas Occupations Code § 453.102, which authorizes the Board to adopt rules necessary to implement chapter 453, Occupations Code.

Cross-reference to Statute

The Board proposes the amendment to §322.5 under Texas Occupations Code § 111.102, Informed Consent, which sets out the telehealth requirements for informed consent that apply to health professionals generally. No other statutes, articles, or codes are affected by the proposed amendment.

§322.5. Telehealth.

(a) - (d) (No change.)

(e) Informed Consent. A physical therapist that provides telehealth services must obtain and maintain the informed consent of the patient, or of another individual authorized to make health care treatment decisions for the patient, prior to the provision of telehealth services.

(1) The informed consent must include the patient's consent to:

(A) treatment;

(B) data collection; and

(C) data sharing.

(2) Consent documentation is acceptable either in written format or verbally.

(A) Informed consent obtained verbally must be documented in the patient's medical record and must include the date that the verbal consent is given.

(B) If the informed consent is provided by a responsible party of the patient, the name and relationship to the patient must be included.

(3) The informed consent must be retained as part of the patient's medical record.

(f) - (i) (No change.)

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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Ralph Harper

Executive Director

Texas Board of Physical Therapy Examiners

Earliest possible date of adoption: September 21, 2025

For further information, please call: (512) 305-6900



CHAPTER 329. LICENSING PROCEDURE

22 TAC §329.1, §329.7

The Texas Board of Physical Therapy Examiners (Board) proposes amending 22 TAC §329.1(a)(2) relating to the exemption of the non-refundable application fee for active U.S. military service members, military spouses, or military veterans. Additionally, the Board proposes amending 22 TAC §329.7(b)(5) and (c) relating to exemptions from licensure for active military service members and military spouses and relating to a license in good standing with another state's licensing authority.

Specifically, the amendment to §329.1(a)(2) corrects an omission of military spouses from exemption of the non-refundable application fee, and the amendment to §329.7(b)(5) and (c) align with the changes to Texas Occupations Code §55.0041 effective September 1, 2025 and to the provisions in 50 USC 4025a: Portability of professional licenses of servicemembers and their spouses.

The following amendments are necessary to implement changes to Texas Occupations Code §55.004 and §55.0041 pursuant to Tex. H.B. 5629, 89th R.S. (2025) relating to the occupational licensing of military service members, military veterans, and military spouses.

Fiscal Note

Ralph A. Harper, Executive Director of the Executive Council of Physical Therapy & Occupational Therapy Examiners, has determined that for the first five-year period these amendments are in effect there would be no loss of revenue, and there would be no fiscal implication to units of local government as a result of enforcing or administering the rules.

Public Benefits and Costs

Mr. Harper has determined that for the first five-year period these amendments are in effect, the public benefit will be greater access to physical therapy services by providing military service members and military spouses licensure through recognition of their out-of-state license. Additionally, there will be no cost to the public with the implementation of these amendments.

Local Employment Economic Impact Statement

The amendments are not anticipated to impact a local economy, so a local employment economic impact statement is not required.

Small and Micro-Businesses and Rural Communities Impact

Mr. Harper has determined that there will be no costs or adverse economic effects to small or micro-businesses or rural communities as the result of these amendments; therefore, an economic impact statement or regulatory flexibility analysis is not required.

Government Growth Impact Statement

During the first five-year period these amendments are in effect, the impact on government growth is as follows:

- (1) The proposed rule amendments will neither create nor eliminate a government program.
- (2) The proposed rule amendments will neither create new employee positions nor eliminate existing employee positions.
- (3) The proposed rule amendments will neither increase nor decrease future legislative appropriations to the agency.
- (4) The proposed rule amendments will require neither an increase nor a decrease in fees paid to the agency.
- (5) The proposed rule amendments do not create a new regulation.
- (6) The proposed rule amendments will neither repeal nor limit an existing regulation.
- (7) The proposed rule amendments will not increase individuals subject to the rule's applicability.
- (8) The proposed rule amendments will neither positively nor adversely affect this state's economy.

Takings Impact Assessment

The proposed rule amendments will not impact private real property as defined by Tex. Gov't Code §2007.003, so a takings impact assessment under Tex. Gov't Code §2001.043 is not required.

Requirement for Rule Increasing Costs to Regulated Persons

Tex. Gov't Code §2001.0045, Requirement for Rule Increasing Costs to Regulated Persons, does not apply to this because the proposed rule amendments will not increase costs to regulated persons.

Public Comment

Comments on the proposed amendments may be submitted to Karen Gordon, PT Coordinator, Texas Board of Physical Therapy Examiners, 1801 Congress Ave, Suite 10.900, Austin, Texas 78701; email: karen@ptot.texas.gov. Comments must be received no later than 30 days from the date these proposed amendments are published in the *Texas Register*.

Statutory Authority

The Board proposes amendments to §329.1. General Licensure Requirements and Procedures and §329.7. Exemptions from Licensure pursuant to Tex. H.B. 5629, 89th R.S. (2025) relating to the occupational licensing of military service members, military veterans, and military spouses. The Board also proposes these amendments pursuant to Texas Occupations Code § 453.102, which authorizes the Board to adopt rules necessary to implement chapter 453, Occupations Code.

Cross-reference to Statute

The Board proposes the amendments to §329.1 and §329.7 under Texas Occupations Code §55.004 and §55.0041 pertaining to alternative licensing for military service members, military vet-

erans, and military spouses and to the recognition of out-of-state license of military service members and military spouses. No other statutes, articles, or codes are affected by the proposed amendments.

§329.1. *General Licensure Requirements and Procedures.*

(a) Requirements. All applications for licensure shall include:

(1) a completed board application form with a recent color photograph of the applicant;

(2) the non-refundable application fee as set by the executive council; the application fee of applicants who are active U.S. military service members, military spouses, or military veterans will be waived upon submission of official documentation of the active duty, military spouse, or veteran status of the applicant.

(3) - (5) (No change.)

(b) - (i) (No change.)

§329.7. *Exemptions from Licensure.*

(a) (No change.)

(b) The following categories of individuals practicing physical therapy in the state are exempt from licensure by the board and must notify the board of their intent to practice in the state.

(1) - (4) (No change.)

(5) A physical therapist or physical therapist assistant licensed in good standing in another jurisdiction of the U.S. who is a military service member or military spouse for the period during which the military service member to whom the military spouse is married is stationed at a military installation in Texas.

(A) The military service member or military spouse must submit an application [~~written notification~~] including the following:

(i) [~~proof of the military service member or military spouse's residency in this state including~~] a copy of the member's military orders showing relocation to this state [~~permanent change of station order for the military service member to whom the spouse is married~~];

(ii) a copy of the [~~military service member or~~] military spouse's marriage license if the applicant is a military spouse [~~military identification card~~]; and

(iii) a notarized affidavit affirming under penalty of perjury that: [~~a list of the jurisdictions in which the military service member or military spouse has held or currently holds a license.~~]

(I) the applicant is the person described and identified in the application;

(II) all statements in the application are true, correct, and complete;

(III) the applicant understands the scope of practice for the physical therapy or physical therapist assistant license in this state and will not perform outside of that scope of practice; and

(IV) the applicant is in good standing in each state in which the applicant holds or has held an applicable license.

(B) Not later than the 10th business day after the date the board receives an application, the board will notify the applicant that: [~~The board will issue a written confirmation stating that:~~]

(i) the board recognizes the applicant's out-of-state license; [licensure in other jurisdictions has been verified;]

(ii) the application is incomplete; or [the military service member or military spouse is authorized to practice physical therapy in the state; and]

(iii) the board is unable to recognize the applicant's out-of-state license because the board does not issue a license similar in scope of practice to the applicant's license. [authorization does not exceed three years from the date the confirmation is received.]

(C) This exemption establishes requirements and procedures authorized or required by Texas Occupations Code, Chapter 55, and does not modify or alter rights that might be provided under federal law.

(c) For individuals exempt from licensure under subsection (b) of this section, the following applies:

(1) any jurisdiction of the U.S. that licenses physical therapists and physical therapist assistants is deemed to have substantially equivalent requirements for licensure;

(2) verification of licensure in other jurisdictions may be through online primary source verification; [~~and~~]

(3) the individual must comply with all of the laws and regulations applicable to the provision of physical therapy in Texas; [~~and~~];

(4) a person is in good standing with another state's licensing authority if the person:

(A) holds a license that is current, has not been suspended or revoked, and has not been voluntarily surrendered during an investigation for unprofessional conduct;

(B) has not been disciplined by the licensing authority with respect to the license or person's practice of the occupation for which the license is issued; and

(C) is not currently under investigation by the licensing authority for unprofessional conduct related to the person's license or profession.

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 8, 2025.

TRD-202502830

Ralph Harper

Executive Director

Texas Board of Physical Therapy Examiners

Earliest possible date of adoption: September 21, 2025

For further information, please call: (512) 305-6900



CHAPTER 341. LICENSE RENEWAL

22 TAC §341.2

The Texas Board of Physical Therapy Examiners (Board) proposes amending 22 TAC §341.2(h) relating to the development and maintenance of an online repository for storing and tracking of continuing competence activities as part of any Request for Approval (RFP) for the continuing competence approval program.

The following amendment is in response to the provision in Tex. S.B. 912, 89th R.S. (2025) that allows a licensing entity that has an agreement in place with a continuing education tracking system provider that is able to implement the requirements of Sub-

chapter C, Chapter 112, Occupations Code may maintain that agreement and any costs associated with implementation of the agreement.

The Board has a Memorandum of Understanding (MOU) with the Texas Physical Therapy Association (TPTA) as the result of an RFP in 2018 and 2022 to develop, administer, and maintain a continuing competence approval system including an on-line repository for storing and tracking of continuing competence completion documents by licensees of Texas.

Fiscal Note

Ralph A. Harper, Executive Director of the Executive Council of Physical Therapy & Occupational Therapy Examiners, has determined that for the first five-year period the amendment is in effect there would be no loss of revenue, and there would be no fiscal implication to units of local government as a result of enforcing or administering the rules.

Public Benefits and Costs

Mr. Harper has determined that for the first five-year period the amendment is in effect, the public benefit will be assurance that the continuing competence activities of licensees can be tracked for compliance with the renewal requirement. Additionally, there will be no cost to the public with the implementation of the amendment.

Local Employment Economic Impact Statement

The amendment is not anticipated to impact a local economy, so a local employment economic impact statement is not required.

Small and Micro-Businesses and Rural Communities Impact

Mr. Harper has determined that there will be no costs or adverse economic effects to small or micro-businesses or rural communities as the result of the amendment; therefore, an economic impact statement or regulatory flexibility analysis is not required.

Government Growth Impact Statement

During the first five-year period the amendment is in effect, the impact on government growth is as follows:

- (1) The proposed rule amendment will neither create nor eliminate a government program.
- (2) The proposed rule amendment will neither create new employee positions nor eliminate existing employee positions.
- (3) The proposed rule amendment will neither increase nor decrease future legislative appropriations to the agency.
- (4) The proposed rule amendment will require neither an increase nor a decrease in fees paid to the agency.
- (5) The proposed rule amendment does not create a new regulation.
- (6) The proposed rule amendment will neither repeal nor limit an existing regulation.
- (7) The proposed rule amendment will not increase individuals subject to the rule's applicability.
- (8) The proposed rule amendment will neither positively nor adversely affect this state's economy.

Takings Impact Assessment

The proposed rule amendment will not impact private real property as defined by Tex. Gov't Code §2007.003, so a takings im-

pact assessment under Tex. Gov't Code §2001.043 is not required.

Requirement for Rule Increasing Costs to Regulated Persons

Tex. Gov't Code §2001.0045, Requirement for Rule Increasing Costs to Regulated Persons, does not apply to this because the proposed rule amendment will not increase costs to regulated persons.

Public Comment

Comments on the proposed amendment may be submitted to Karen Gordon, PT Coordinator, Texas Board of Physical Therapy Examiners, 1801 Congress Ave, Suite 10.900, Austin, Texas 78701; email: karen@ptot.texas.gov. Comments must be received no later than 30 days from the date this proposed amendment is published in the *Texas Register*.

Statutory Authority

The Board also proposes the amendment pursuant to Texas Occupations Code § 453.102, which authorizes the Board to adopt rules necessary to implement chapter 453, Occupations Code.

Cross-reference to Statute

The Board proposes the amendment to §341.2 pursuant to Tex. S.B. 912, 89th R.S. (2025) that allows a licensing entity that has an agreement in place with a continuing education tracking system provider that is able to implement the requirements of Subchapter C, Chapter 112, Occupations Code may maintain that agreement and any costs associated with implementation of the agreement.

§341.2. Continuing Competence Requirements.

(a) - (g) (No change.)

(h) If the board chooses to authorize an organization(s) to approve continuing competence activities, the board shall select an appropriate organization(s) pursuant to §323.4 of this title, Request for Proposals for Outsourced Services.

(1) Any Request for Proposal (RFP) conducted in accordance with this subsection must include development and maintenance of an online repository for storing and tracking of continuing competence activities and completion documents by licensees of Texas as a required element of the Scope of Work.

(2) The above-described online repository for continuing education tracking must comply with the requirements in Texas Occupations Code Chapter 112, Subchapter C.

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 8, 2025.

TRD-202502831

Ralph Harper

Executive Director

Texas Board of Physical Therapy Examiners

Earliest possible date of adoption: September 21, 2025

For further information, please call: (512) 305-6900



TITLE 28. INSURANCE

PART 1. TEXAS DEPARTMENT OF INSURANCE

CHAPTER 3. LIFE, ACCIDENT, AND HEALTH INSURANCE AND ANNUITIES

SUBCHAPTER S. MINIMUM STANDARDS AND BENEFITS AND READABILITY FOR INDIVIDUAL ACCIDENT AND HEALTH INSURANCE POLICIES

28 TAC §3.3052

The Texas Department of Insurance (TDI) proposes to amend 28 TAC §3.3052, concerning standards for termination of insurance provision. The amendment to §3.3052 implements House Bill 446, 88th Legislature, 2023.

EXPLANATION. Section 3.3052 implements Insurance Code §1201.059 as amended by HB 446. Section 1201.059 addresses termination of coverage based on a child's age in an accident and health insurance plan. The proposed amendment to §3.3052 replaces the term "mental retardation" in subsection (h)(1) with "intellectual disability," in alignment with HB 446, which updated references to "mental retardation" in the Insurance Code.

In a separate rulemaking, as part of the implementation of HB 446, TDI proposes to amend 28 TAC §19.1703 and §19.2003, concerning utilization reviews for health care, to similarly update references to "mental retardation." The proposed Chapter 19 amendments are also published in this issue of the *Texas Register*.

In addition, the proposed amendments include nonsubstantive rule drafting and formatting changes to conform the section to the agency's current style and to improve the rule's clarity. These changes include adding a comma in subsection (b)(1) after "Medical" in the reference to the heading for §3.3038 to conform the reference to the current heading, correcting capitalization of "coverage" in subsection (b)(2)(A) and (B), inserting the titles of cited Insurance Code provisions in subsections (b)(2)(B) and (d) and punctuation revisions related to the change in subsection (b)(2)(B), and adding a comma in subsections (b)(2)(A) and in (f).

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Rachel Bowden, director of Regulatory Initiatives in the Life and Health Division, has determined that during each year of the first five years the proposed amendments are in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the amendments, other than that imposed by statute. Ms. Bowden made this determination because the proposed amendments do not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed amendments.

Ms. Bowden does not anticipate any measurable effect on local employment or the local economy as a result of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendments are in effect, Ms. Bowden expects that administering or enforcing the proposed amendments will have the public benefit of ensuring that TDI's rules align with changes made by HB 446.

Ms. Bowden expects that the proposed amendments will not increase the cost of compliance because they do not impose any requirements.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed amendments will not have an adverse economic effect on small or micro businesses or on rural communities because the amendments merely update statutory language by replacing an out-of-date term and make other nonsubstantive changes that do not affect costs. As a result, and in accordance with Government Code §2006.002(c), TDI is not required to prepare a regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. TDI has determined that this proposal does not impose a possible cost on regulated persons. Therefore, no additional rule amendments are required under Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT. TDI has determined that for each year of the first five years that the proposed amendments are in effect, the proposed rule:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase or decrease in fees paid to the agency;
- will not create a new regulation;
- will not expand, limit, or repeal an existing regulation;
- will not increase or decrease the number of individuals subject to the rule's applicability; and
- will not positively or adversely affect the Texas economy.

TAKINGS IMPACT ASSESSMENT. TDI has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. TDI will consider any written comments on the proposal that are received by TDI no later than 5:00 p.m., central time, on September 22, 2025. Send your comments to ChiefClerk@tdi.texas.gov or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030.

To request a public hearing on the proposal, submit a request before the end of the comment period to ChiefClerk@tdi.texas.gov or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030. The request for public hearing must be separate from any comments and received by TDI no later than 5:00 p.m., central time, on September 22, 2025. If a public hearing is held, TDI will consider written and oral comments presented at the hearing.

STATUTORY AUTHORITY. TDI proposes amendments to §3.3052 under Insurance Code §1201.006 and §36.001.

Insurance Code §1201.006 authorizes the commissioner to adopt reasonable rules as necessary to implement the purposes and provisions of Chapter 1201.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. The amendment of §3.3052 implements Insurance Code §1201.059.

§3.3052. Standards for Termination of Insurance Provision.

(a) A policy subject to this subchapter must include termination provisions that specify as to each eligible family member, as set out in §3.3051 of this title (relating to Initial and Subsequent Conditions of Eligibility Provision), the age, or event, if any, upon which coverage under the policy will terminate.

(b) In regard to individual hospital, medical or surgical coverage, a policy may only contain the following bases for termination of coverage:

(1) the bases for nonrenewal contained in §3.3038 of this title (relating to Mandatory Guaranteed Renewability Provisions for Individual Hospital, Medical, or Surgical Coverage; Exceptions);

(2) in regard to policies covering a spouse of the primary insured or dependents:

(A) coverage [Coverage] of the spouse may terminate upon the dissolution of the marriage through divorce or other lawful means, subject to this section, §21.407 of this title (relating to Continuation of Coverage), and other applicable law; and

(B) coverage [Coverage] of a dependent may terminate upon the dependent's attainment of a limiting age, subject to Insurance Code §1201.059, concerning Termination of Coverage Based on Age of Child in Individual, Blanket, or Group Policy; this section;[5] and other applicable law.

(c) A policy containing noncancellable, guaranteed renewable or limited guarantee of renewability provisions may not provide for termination of coverage of the spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than nonpayment of premium. The provision must stipulate that in the event of the insured's death the spouse of the insured, if covered under the policy, will become the insured.

(d) The provision must stipulate that if the insurer accepts premium for coverage extending beyond the date, age, or event specified for termination as to an insured family member, then coverage as to such person will continue during the period for which an identifiable premium was accepted, except where such acceptance was predicated on a misstatement of age outlined in Insurance Code §1201.011, concerning Coverage for Premium Period with Limitations by Age or Date; Misstatement of Age of Insured.

(e) In the event of cancellation by the insurer or refusal to renew by the insurer of a policy providing pregnancy benefits, the provision must provide for an extension of benefits as to pregnancy commencing while the policy is in force and for which benefits would have been payable had the policy continued in force.

(f) The provision must stipulate that termination of the policy by the insurer will be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period the policy was in force may be predicated upon the continuous total disability of the insured person limited to the duration

of the policy benefit period, payment of the maximum benefits, or to a time period of not less than three months.

(g) The provision may provide for the termination or suspension of family members who become eligible for coverage provided by the federal government.

(h) A policy may not provide for termination of coverage of a dependent child on attainment of the limiting age for dependent children specified in the policy while the child is:

(1) incapable of self-sustaining employment due to intellectual disability [~~mental retardation~~] or physical handicap; and

(2) chiefly dependent upon the insured for support and maintenance. Proof of the incapacity and dependency must be furnished to the insurer by the insured within 31 days of the child's attainment of the limiting age and subsequently as may be required but not more frequently than annually after the two-year period following the child's attainment of the limiting age. Upon the attainment of the limiting age, the applicable adult premium may be charged.

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 5, 2025.

TRD-202502762

Jessica Barta

General Counsel

Texas Department of Insurance

Earliest possible date of adoption: September 21, 2025

For further information, please call: (512) 676-6655



CHAPTER 19. LICENSING AND REGULATION OF INSURANCE PROFESSIONALS

The Texas Department of Insurance (TDI) proposes to amend 28 TAC §19.1703 and §19.2003, concerning utilization reviews for health care. The amendments to §19.1703 and §19.2003 implement House Bill 446, 88th Legislature, 2023.

EXPLANATION. Section 19.1703 and §19.2003 provide definitions for TDI rules relating to utilization reviews for health care provided under a health plan or workers' compensation insurance coverage, including the definition of the term "person." The amendments to §19.1703 and §19.2003 update the definition of "person" in §19.1703(b)(22) and §19.2003(b)(25) to replace the words "mental retardation" with "intellectual disability," in alignment with HB 446, which updated the definition of "person" in Insurance Code §1305.004.

In a separate rulemaking, as part of the implementation of HB 446, TDI proposes to amend 28 TAC §3.3052, concerning standards for termination of insurance provision, to similarly update references to the term "mental retardation." The proposed Chapter 3 amendments are also published in this issue of the *Texas Register*.

In addition, the proposed amendments include nonsubstantive rule drafting and formatting changes to conform the sections to the agency's current style and to improve the rules' clarity.

In §19.1703, these changes include inserting the titles of cited Insurance Code provisions in subsections (a), (b)(5), (b)(6)(A), (b)(14), (b)(22), and (b)(24)(A) and necessary punctuation

updates related to the change in subsection (b)(22); inserting the title of a cited Government Code provision in subsection (b)(17)(A); italicizing *Diagnostic and Statistical Manual of Mental Disorders* in subsection (b)(21); changing "prior to" to "before" in subsection (b)(26)(A) - (C) for plain language purposes; and changing "re-certification" to "recertification" in subsection (b)(35).

In §19.2003, these changes include inserting the titles of cited Insurance Code provisions in subsections (a), (b)(5), (b)(7)(A), (b)(25), (b)(39), and (b)(43); inserting the titles of cited Labor Code provisions in subsections (b)(2), (b)(6), and (b)(40); inserting the title of a cited Government Code provision in subsection (b)(16)(A); adding a comma in subsection (b)(2); italicizing *Diagnostic and Statistical Manual of Mental Disorders* in subsection (b)(22); changing "prior to" to "before" in subsection (b)(28)(A) - (C) for plain language purposes; and removing an incorrect comma in subsection (b)(30).

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Rachel Bowden, director of Regulatory Initiatives in the Life and Health Division, has determined that during each year of the first five years the proposed amendments are in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the amendments, other than that imposed by statute. Ms. Bowden made this determination because the proposed amendments do not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed amendments.

Ms. Bowden does not anticipate measurable effect on local employment or the local economy as a result of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendments are in effect, Ms. Bowden expects that administering or enforcing the proposed amendments will have the public benefit of ensuring that TDI's rules align with changes made by HB 446.

Ms. Bowden expects that the proposed amendments will not increase the cost of compliance because they do not impose requirements.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed amendments will not have an adverse economic effect on small or micro businesses or on rural communities because the amendments merely update statutory language by replacing an out-of-date term and make other nonsubstantive changes that do not affect costs. As a result, and in accordance with Government Code §2006.002(c), TDI is not required to prepare a regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. TDI has determined that this proposal does not impose a possible cost on regulated persons. Therefore, no additional rule amendments are required under Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT. TDI has determined that for each year of the first five years that the proposed amendments are in effect, the proposed rule:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;

- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase or decrease in fees paid to the agency;
- will not create a new regulation;
- will not expand, limit, or repeal an existing regulation;
- will not increase or decrease the number of individuals subject to the rule's applicability; and
- will not positively or adversely affect the Texas economy.

TAKINGS IMPACT ASSESSMENT. TDI has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. TDI will consider any written comments on the proposal that are received by TDI no later than 5:00 p.m., central time, on September 22, 2025. Send your comments to ChiefClerk@tdi.texas.gov or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030.

To request a public hearing on the proposal, submit a request before the end of the comment period to ChiefClerk@tdi.texas.gov or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030. The request for public hearing must be separate from any comments and received by TDI no later than 5:00 p.m., central time, on September 22, 2025. If a public hearing is held, TDI will consider written and oral comments presented at the hearing.

SUBCHAPTER R. UTILIZATION REVIEWS FOR HEALTH CARE PROVIDED UNDER A HEALTH BENEFIT PLAN OR HEALTH INSURANCE POLICY DIVISION 1. UTILIZATION REVIEWS

28 TAC §19.1703

STATUTORY AUTHORITY. TDI proposes amendments to §19.1703 under Insurance Code §4201.003 and §36.001.

Insurance Code §4201.003 provides that the commissioner may adopt rules to implement Chapter 4201.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. Section 19.1703 implements Insurance Code §1305.004.

§19.1703. Definitions.

(a) The words and terms defined in Insurance Code Chapter 4201, concerning Utilization Review Agents, have the same meaning when used in this subchapter, except as otherwise provided by this subchapter, unless the context clearly indicates otherwise.

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

(1) Adverse determination--A determination by a URA made on behalf of any payor that the health care services provided or proposed to be provided to an enrollee are not medically necessary or appropriate or are experimental or investigational. The term does not include a denial of health care services due to the failure to request prospective or concurrent utilization review.

(2) Appeal--A URA's formal process by which an enrollee, an individual acting on behalf of an enrollee, or an enrollee's provider of record may request reconsideration of an adverse determination.

(3) Biographical affidavit--National Association of Insurance Commissioners biographical affidavit to be used as an attachment to the URA application.

(4) Certificate--A certificate issued by the commissioner to an entity authorizing the entity to operate as a URA in the State of Texas. A certificate is not issued to an insurance carrier or health maintenance organization that is registered as a URA under §19.1704 of this title (relating to Certification or Registration of URAs).

(5) Commissioner--As defined in Insurance Code §31.001, concerning Definitions.

(6) Complaint--An oral or written expression of dissatisfaction with a URA concerning the URA's process in conducting a utilization review. The term "complaint" does not include:

(A) an expression of dissatisfaction constituting an appeal under Insurance Code §4201.351, concerning Complaint as Appeal; or

(B) a misunderstanding or misinformation that is resolved promptly by supplying the appropriate information or by clearing up the misunderstanding to the satisfaction of the complaining party.

(7) Concurrent utilization review--A form of utilization review for ongoing health care or for an extension of treatment beyond previously approved health care.

(8) Declination--A response to a request for verification in which an HMO or preferred provider benefit plan does not issue a verification for proposed medical care or health care services. A declination is not necessarily a determination that a claim resulting from the proposed services will not ultimately be paid.

(9) Disqualifying association--Any association that may reasonably be perceived as having potential to influence the conduct or decision of a reviewing physician, doctor, or other health care provider, which may include:

(A) shared investment or ownership interest;

(B) contracts or agreements that provide incentives, for example, referral fees, payments based on volume or value, or waiver of beneficiary coinsurance and deductible amounts;

(C) contracts or agreements for space or equipment rentals, personnel services, management contracts, referral services, warranties, or any other services related to the management of a physician's, doctor's, or other health care provider's practice;

(D) personal or family relationships; or

(E) any other financial arrangement that would require disclosure under the Insurance Code or applicable TDI rules, or any other association with the enrollee, employer, insurance carrier, or HMO that may give the appearance of preventing the reviewing physician, doctor, or other health care provider from rendering an unbiased opinion.

(10) Doctor--A doctor of medicine, osteopathic medicine, optometry, dentistry, podiatry, or chiropractic who is licensed and authorized to practice.

(11) Experimental or investigational--A health care treatment, service, or device for which there is early, developing scientific or clinical evidence demonstrating the potential efficacy of the treatment, service, or device[,] but that is not yet broadly accepted as the prevailing standard of care.

(12) Health care facility--A hospital, emergency clinic, outpatient clinic, or other facility providing health care.

(13) Health coverage--Payment for health care services provided under a health benefit plan or a health insurance policy.

(14) Health maintenance organization or HMO--As defined in Insurance Code §843.002, concerning Definitions.

(15) Insurance carrier or insurer--An entity authorized and admitted to do the business of insurance in Texas under a certificate of authority issued by TDI.

(16) Independent review organization or IRO--As defined in §12.5 of this title (relating to Definitions).

(17) Legal holiday--

(A) a holiday as provided in Government Code §662.003(a), concerning Dates and Descriptions of Holidays;

(B) the Friday after Thanksgiving Day;

(C) December 24; and

(D) December 26.

(18) Medical records--The history of diagnosis and treatment, including medical, mental health records as allowed by law, dental, and other health care records from all disciplines providing care to an enrollee.

(19) Mental health medical record summary--A summary of process or progress notes relevant to understanding the enrollee's need for treatment of a mental or emotional condition or disorder, including:

(A) identifying information; and

(B) a treatment plan that includes a:

(i) diagnosis;

(ii) treatment intervention;

(iii) general characterization of enrollee behaviors or thought processes that affect level of care needs; and

(iv) discharge plan.

(20) Mental health therapist--Any of the following individuals who, in the ordinary course of business or professional practice, as appropriate, diagnose, evaluate, or treat any mental or emotional condition or disorder:

(A) an individual licensed by the Texas Medical Board to practice medicine in this state;

(B) an individual licensed as a psychologist, a psychological associate, or a specialist in school psychology by the Texas State Board of Examiners of Psychologists;

(C) an individual licensed as a marriage and family therapist by the Texas State Board of Examiners of Marriage and Family Therapists;

(D) an individual licensed as a professional counselor by the Texas State Board of Examiners of Professional Counselors;

(E) an individual licensed as a social worker by the Texas State Board of Social Worker Examiners;

(F) an individual licensed as a physician assistant by the Texas Medical Board;

(G) an individual licensed as a registered professional nurse by the Texas Board of Nursing; or

(H) any other individual who is licensed or certified by a state licensing board in the State of Texas, as appropriate, to diagnose, evaluate, or treat any mental or emotional condition or disorder.

(21) Mental or emotional condition or disorder--A mental or emotional illness as detailed in the most current *Diagnostic and Statistical Manual of Mental Disorders* [~~Diagnostic and Statistical Manual of Mental Disorders~~].

(22) Person--Any individual;[;] partnership;[;] association;[;] corporation;[;] organization;[;] trust;[;] hospital district;[;] community mental health center;[;] intellectual disability [~~mental retardation~~] center;[;] mental health and intellectual disability [~~mental retardation~~] center;[;] limited liability company;[;] limited liability partnership;[;] the statewide rural health care system under Insurance Code Chapter 845, concerning Statewide Rural Health Care System; and any similar entity.

(23) Preauthorization--A form of prospective utilization review by a payor or its URA of health care services proposed to be provided to an enrollee.

(24) Preferred provider--

(A) with regard to a preferred provider benefit plan, a preferred provider as defined in Insurance Code Chapter 1301, concerning Preferred Provider Benefit Plans.

(B) with regard to an HMO:

(i) a physician, as defined in Insurance Code §843.002(22), who is a member of that HMO's delivery network; or

(ii) a provider, as defined in Insurance Code §843.002(24), who is a member of that HMO's delivery network.

(25) Provider of record--The physician, doctor, or other health care provider that has primary responsibility for the health care services rendered or requested on behalf of the enrollee or the physician, doctor, or other health care provider that has rendered or has been requested to provide the health care services to the enrollee. This definition includes any health care facility where health care services are rendered on an inpatient or outpatient basis.

(26) Reasonable opportunity--At least one documented good faith attempt to contact the provider of record that provides an opportunity for the provider of record to discuss the services under review with the URA during normal business hours before [~~prior to~~] issuing a prospective, concurrent, or retrospective utilization review adverse determination:

(A) no less than one working day before [~~prior to~~] issuing a prospective utilization review adverse determination;

(B) no less than five working days before [~~prior to~~] issuing a retrospective utilization review adverse determination; or

(C) before [~~prior to~~] issuing a concurrent or post-stabilization review adverse determination.

(27) Registration--The process for a licensed insurance carrier or HMO to register with TDI to perform utilization review solely for its own enrollees.

(28) Request for a review by an IRO--Form to request a review by an independent review organization that is completed by the requesting party and submitted to the URA.

(29) Retrospective utilization review--A form of utilization review for health care services that have been provided to an enrollee. Retrospective utilization review does not include review of services for which prospective or concurrent utilization reviews were previously conducted or should have been previously conducted.

(30) Routine vision services--A routine annual or biennial eye examination to determine ocular health and refractive conditions that may include provision of glasses or contact lenses.

(31) Screening criteria--The written policies, decision rules, medical protocols, or treatment guidelines used by the URA as part of the utilization review process.

(32) TDI--The Texas Department of Insurance.

(33) URA--Utilization review agent.

(34) URA application--Form for application for, renewal of, and reporting a material change to a certification or registration as a URA in this state.

(35) Verification--A guarantee by an HMO or preferred provider benefit plan that the HMO or preferred provider benefit plan will pay for proposed medical care or health care services if the services are rendered within the required timeframe to the enrollee for whom the services are proposed. The term includes pre-certification, certification, recertification [~~re-certification~~], and any other term that would be a reliable representation by an HMO or preferred provider benefit plan to a physician or provider if the request for the pre-certification, certification, recertification [~~re-certification~~], or representation includes the requirements of §19.1719 of this title (relating to Verification for Health Maintenance Organizations and Preferred Provider Benefit Plans).

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 5, 2025.

TRD-202502763

Jessica Barta

General Counsel

Texas Department of Insurance

Earliest possible date of adoption: September 21, 2025

For further information, please call: (512) 676-6655



SUBCHAPTER U. UTILIZATION REVIEWS FOR HEALTH CARE PROVIDED UNDER WORKERS' COMPENSATION INSURANCE COVERAGE

28 TAC §19.2003

STATUTORY AUTHORITY. TDI proposes §19.2003 under Insurance Code §§1305.007, 4201.003, and 36.001.

Insurance Code §1305.007 provides that the commissioner may adopt rules as necessary to implement Chapter 1305.

Insurance Code §4201.003 provides that the commissioner may adopt rules to implement Chapter 4201.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. Section 19.2003 implements Insurance Code §1305.004.

§19.2003. Definitions.

(a) The words and terms defined in Insurance Code Chapter 4201, concerning Utilization Review Agents, have the same meaning when used in this subchapter, except as otherwise provided by this subchapter, unless the context clearly indicates otherwise.

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

(1) Adverse determination--A determination by a URA made on behalf of a payor that the health care services provided or proposed to be provided to an injured employee are not medically necessary or appropriate. The term does not include a denial of health care services due to the failure to request prospective or concurrent utilization review. For the purposes of this subchapter, an adverse determination does not include a determination that health care services are experimental or investigational.

(2) Appeal--The URA's formal process by which an injured employee, an injured employee's representative, or an injured employee's provider of record may request reconsideration of an adverse determination. For the purposes of this subchapter, the term also applies to reconsideration processes prescribed by Labor Code Title 5, concerning Workers' Compensation, and applicable rules for workers' compensation.

(3) Biographical affidavit--National Association of Insurance Commissioners biographical affidavit to be used as an attachment to the URA application.

(4) Certificate--A certificate issued by the commissioner to an entity authorizing the entity to operate as a URA in the State of Texas. A certificate is not issued to an insurance carrier that is registered as a URA under §19.2004 of this title (relating to Certification or Registration of URAs).

(5) Commissioner--As defined in Insurance Code §31.001, concerning Definitions.

(6) Compensable injury--As defined in Labor Code §401.011, concerning General Definitions.

(7) Complaint--An oral or written expression of dissatisfaction with a URA concerning the URA's process in conducting a utilization review. The term "complaint" does not include:

(A) an expression of dissatisfaction constituting an appeal under Insurance Code §4201.351, concerning Complaint as Appeal; or

(B) a misunderstanding or misinformation that is resolved promptly by supplying the appropriate information or by clearing up the misunderstanding to the satisfaction of the complaining party.

(8) Concurrent utilization review--A form of utilization review for ongoing health care or for an extension of treatment beyond previously approved health care.

(9) Disqualifying association--Any association that may reasonably be perceived as having potential to influence the conduct or decision of a reviewing physician, doctor, or other health care provider, which may include:

(A) shared investment or ownership interest;

(B) contracts or agreements that provide incentives, for example, referral fees, payments based on volume or value, or waiver of beneficiary coinsurance and deductible amounts;

(C) contracts or agreements for space or equipment rentals, personnel services, management contracts, referral services, or warranties, or any other services related to the management of a physician's, doctor's, or other health care provider's practice;

(D) personal or family relationships; or

(E) any other financial arrangement that would require disclosure under Labor Code or applicable TDI-DWC rules, Insurance Code or applicable TDI rules, or any other association with the injured employee, employer, or insurance carrier that may give the appearance of preventing the reviewing physician, doctor, or other health care provider from rendering an unbiased opinion.

(10) Doctor--As defined in Labor Code §401.011.

(11) Experimental or investigational--A health care treatment, service, or device for which there is early, developing scientific or clinical evidence demonstrating the potential efficacy of the treatment, service, or device but that is not yet broadly accepted as the prevailing standard of care.

(12) Health care--As defined in Labor Code §401.011.

(13) Health care facility--As defined in Labor Code §401.011.

(14) Insurance carrier or insurer--As defined in Labor Code §401.011.

(15) Independent review organization or IRO--As defined in §12.5 of this title (relating to Definitions).

(16) Legal holiday--

(A) a holiday as provided in Government Code §662.003(a), concerning Dates and Descriptions of Holidays;

(B) the Friday after Thanksgiving Day;

(C) December 24; and

(D) December 26.

(17) Medical benefit--As defined in Labor Code §401.011.

(18) Medical emergency--The sudden onset of a medical condition manifested by acute symptoms of sufficient severity, including severe pain that the absence of immediate medical attention could reasonably be expected to result in:

(A) placing the injured employee's health or bodily functions in serious jeopardy; or

(B) serious dysfunction of any body organ or part.

(19) Medical records--The history of diagnosis of and treatment for an injury, including medical, mental health records as allowed by law, dental, and other health care records from all disciplines providing care to an injured employee.

(20) Mental health medical record summary--A summary of process or progress notes relevant to understanding the injured employee's need for treatment of a mental or emotional condition or disorder including:

- (A) identifying information; and
- (B) a treatment plan that includes a:
 - (i) diagnosis;
 - (ii) treatment intervention;
 - (iii) general characterization of injured employee behaviors or thought processes that affect level of care needs; and
 - (iv) discharge plan.

(21) Mental health therapist--Any of the following individuals who, in the ordinary course of business or professional practice, as appropriate, diagnose, evaluate, or treat any mental or emotional condition or disorder:

- (A) an individual licensed by the Texas Medical Board to practice medicine in this state;
- (B) an individual licensed as a psychologist, psychological associate, or a specialist in school psychology by the Texas State Board of Examiners of Psychologists;
- (C) an individual licensed as a marriage and family therapist by the Texas State Board of Examiners of Marriage and Family Therapists;
- (D) an individual licensed as a professional counselor by the Texas State Board of Examiners of Professional Counselors;
- (E) an individual licensed as a social worker by the Texas State Board of Social Worker Examiners;
- (F) an individual licensed as a physician assistant by the Texas Medical Board;
- (G) an individual licensed as a registered professional nurse by the Texas Board of Nursing; or
- (H) any other individual who is licensed or certified by a state licensing board in the State of Texas, as appropriate, to diagnose, evaluate, or treat any mental or emotional condition or disorder.

(22) Mental or emotional condition or disorder--A mental or emotional illness as detailed in the most current *Diagnostic and Statistical Manual of Mental Disorders* [~~Diagnostic and Statistical Manual of Mental Disorders~~].

(23) Payor--Any person or entity that provides, offers to provide, or administers hospital, outpatient, medical, or other health benefits, including workers' compensation benefits, to an individual treated by a health care provider under a policy, plan, statute, or contract.

(24) Peer review--An administrative review by a health care provider performed at the insurance carrier's request without a physical examination of the injured employee.

(25) Person--Any individual, partnership, association, corporation, organization, trust, hospital district, community mental health center, intellectual disability [~~mental retardation~~] center, mental health and intellectual disability [~~mental retardation~~] center, limited liability company, limited liability partnership, a political subdivision of this state, the statewide rural health care system under Insurance Code Chapter 845, concerning Statewide Rural Health Care System, and any similar entity.

(26) Preauthorization--A form of prospective utilization review by a payor or a payor's URA of health care services proposed to be provided to an injured employee.

(27) Provider of record--The physician, doctor, or other health care provider that has primary responsibility for the health care services rendered or requested on behalf of an injured employee, or a physician, doctor, or other health care provider that has rendered or has been requested to provide health care services to an injured employee. This definition includes any health care facility where health care services are rendered on an inpatient or outpatient basis.

(28) Reasonable opportunity--At least one documented good faith attempt to contact the provider of record that provides an opportunity for the provider of record to discuss the services under review with the URA during normal business hours before [~~prior to~~] issuing a prospective, concurrent, or retrospective utilization review adverse determination:

- (A) no less than one working day before [~~prior to~~] issuing a prospective utilization review adverse determination;
- (B) no less than five working days before [~~prior to~~] issuing a retrospective utilization review adverse determination; or
- (C) before [~~prior to~~] issuing a concurrent or post-stabilization review adverse determination.

(29) Registration--The process for an insurance carrier to register with TDI to perform utilization review solely for injured employees covered by workers' compensation insurance coverage issued by the insurance carrier.

(30) Request for a review by an IRO--Form to request a review by an independent review organization that is completed by the requesting party and submitted to the URA[,] or insurance carrier that made the adverse determination.

(31) Retrospective utilization review--A form of utilization review for health care services that have been provided to an injured employee. Retrospective utilization review does not include review of services for which prospective or concurrent utilization reviews were previously conducted or should have been previously conducted.

(32) Screening criteria--The written policies, decision rules, medical protocols, or treatment guidelines used by a URA as part of the utilization review process.

(33) TDI--The Texas Department of Insurance.

(34) TDI-DWC--The Texas Department of Insurance, Division of Workers' Compensation.

(35) Texas Workers' Compensation Act--Labor Code Title 5, Subtitle A.

(36) Treating doctor--As defined in Labor Code §401.011.

(37) URA--Utilization review agent.

(38) URA application--Form for application for, renewal of, and reporting a material change to a certification or registration as a URA in this state.

(39) Workers' compensation health care network--As defined in Insurance Code §1305.004, concerning Definitions.

(40) Workers' compensation health plan--Health care provided by a political subdivision contracting directly with health care providers or through a health benefits pool, under Labor Code §504.053(b)(2), concerning Election.

(41) Workers' compensation insurance coverage--As defined in Labor Code §401.011.

(42) Workers' compensation network coverage--Health care provided under a workers' compensation health care network.

(43) Workers' compensation non-network coverage--Health care delivered under Labor Code Title 5, excluding health care provided under Insurance Code Chapter 1305, concerning Workers' Compensation Health Care Networks.

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 5, 2025.

TRD-202502764

Jessica Barta

General Counsel

Texas Department of Insurance

Earliest possible date of adoption: September 21, 2025

For further information, please call: (512) 676-6655



TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 6. INVESTMENT MANAGEMENT

SUBCHAPTER B. STANDARDS FOR MEMBERS OF THE COMPTROLLER'S INVESTMENT ADVISORY BOARD

34 TAC §§6.10 - 6.18

The Comptroller of Public Accounts proposes new §6.10, concerning definitions; §6.11, concerning advisory capacity; §6.12, concerning advisory board member duties; §6.13, concerning advisory board composition; §6.14, concerning compensation and expenses; §6.15, concerning disclosures and annual affirmation of compliance; §6.16, concerning term of office; and §6.17, concerning charter and policies; and §6.18, concerning removal of advisory board members. These new sections will be located in Texas Administrative Code, Title 34, Part 1, Chapter 6 (Investment Management), new Subchapter B (Standards for Members of the Comptroller's Investment Advisory Board).

The legislation enacted within the last four years that provides the statutory authority for the rules is Senate Bill 2900, 89th Legislature, R.S., 2025. These new sections will address the standards for the members of the Comptroller's Investment Advisory Board, including disclosure requirements applicable to advisory board members.

Section 6.10 provides definitions.

Section 6.11 acknowledges the advisory nature of the role of the members of the advisory board.

Section 6.12 lists the advisory board member duties and responsibilities.

Section 6.13 provides the advisory board composition.

Section 6.14 addresses compensation and expense reimbursement for advisory board members.

Section 6.15 provides the advisory board member ethics disclosure requirements and related annual affirmation requirements.

Section 6.16 sets the term of office for advisory board members.

Section 6.17 provides the requirement for the trust company to create an advisory board charter and related policies and to provide such information to the advisory board members.

Section 6.18 provides standards for the removal of advisory board members for cause.

Brad Reynolds, Chief Revenue Estimator, has determined that during the first five years that the proposed new rules are in effect, the rules: will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; will not increase or decrease the number of individuals subject to the rules' applicability; and will not positively or adversely affect this state's economy.

Mr. Reynolds also has determined that the proposed new rules would have no significant fiscal impact on the state government, units of local government, or individuals. The proposed new rules would benefit the public by conforming the rules to current statute and improving the clarity and implementation of the section. There would be no anticipated significant economic cost to the public. The proposed new rules would have no significant fiscal impact on small businesses or rural communities.

You may submit comments on the proposal to Whitney Blanton, General Counsel for the Texas Treasury Safekeeping Trust Company, 208 East 10th Street, Fourth Floor, Austin, Texas 78701. The comptroller must receive your comments no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The new sections are proposed under Government Code, §404.028(c), which authorizes the comptroller to adopt rules governing members of the comptroller's investment advisory board.

The proposed new sections implement Government Code, §404.028 concerning the comptroller's investment advisory board.

§6.10. Definitions.

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

(1) Advisory Board--The comptroller's investment advisory board, established pursuant to Government Code, §404.028.

(2) Comptroller--The Texas Comptroller of Public Accounts.

(3) Trust Company--The Texas Treasury Safekeeping Trust Company, established pursuant to Government Code, Chapter 404, Subchapter G.

§6.11. Advisory Capacity.

The advisory board serves only in an advisory capacity and is not a fiduciary with respect to the assets held by the comptroller or the trust company.

§6.12. Advisory Board Member Duties.

(a) The advisory board will advise the comptroller and the trust company with respect to state assets held and invested pursuant to Government Code, Chapter 404, and other laws.

(b) The advisory board will advise, assist, consult with, and make recommendations to the comptroller, with respect to the investment activities carried out by and through the trust company and policies respecting these activities.

(c) The advisory board is also responsible for:

(1) advising the trust company's chief executive officer and/or chief investment officer;

(2) reviewing investment management strategies, asset allocation policies, and investment performance;

(3) providing advice regarding prudent investment management practices;

(4) providing advice regarding the integrity of the investment management process;

(5) reviewing results of required financial audits; and

(6) advising the comptroller with respect to trust company staffing and compensation matters.

§6.13. Advisory Board Composition.

The advisory board is composed of seven members who must possess the expertise appropriate for advising the comptroller with regard to one or more types of investment that the comptroller makes under Government Code, Chapter 404, or other law.

§6.14. Compensation; Expenses.

Members of the advisory board serve without compensation but are entitled to reimbursement for actual and necessary expenses in attending meetings of the advisory board or performing other official duties authorized by the comptroller.

§6.15. Disclosures and Annual Affirmation of Compliance.

(a) Each member shall disclose to the advisory board and the trust company any situation in which board member's judgment or conduct in the performance of the member's official duties for the comptroller or the trust company would be influenced, could be influenced, or would give the appearance of being influenced by the advisory board member's familial, personal, or business relationship with a third party, or any situation that would be deemed a conflict of interest under federal or state law.

(b) A member who discloses such a matter to the trust company or the comptroller shall abstain from any discussion or action on that matter presented to or considered by the advisory board.

(c) The trust company shall annually require advisory board members to affirm that they are in compliance with these requirements and the other applicable provisions of this subchapter and Government Code, Chapter 404.

§6.16. Term of Office.

The term of office of an advisory board member is four years. Advisory board members may serve more than one term. The comptroller may stagger advisory board member terms to maintain continuity and institutional knowledge.

§6.17. Charter and Policies.

The trust company shall develop and provide to each member of the advisory board the following:

(1) formal charter document providing the advisory board purpose, statement of relevant legal authority, and an overview of advisory board operations, advisory board structure and membership, and advisory board business and administration;

(2) policy on advisory board attendance and a process for responding to advisory board attendance concerns;

(3) policy on ethics disclosures and a process for determining whether issues require disclosures; and

(4) policy on reimbursement of expenses.

§6.18. Removal of Advisory Board Members.

The comptroller may remove an advisory board member for any of the following causes:

(1) at the time of the member's appointment, the member did not have the qualifications prescribed by §404.028;

(2) the member does not maintain the qualifications prescribed by Government Code, §404.028; or

(3) for a substantial portion of the member's term, the member fails to discharge the member's duties or is unable to discharge the member's duties.

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 8, 2025.

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Victoria North

General Counsel for Fiscal and Agency Affairs

Comptroller of Public Accounts

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For further information, please call: (512) 475-2220



CHAPTER 16. COMPTROLLER GRANT PROGRAMS

SUBCHAPTER E. EDUCATION SAVINGS ACCOUNT PROGRAM

34 TAC §§16.401 - 16.410

The Comptroller of Public Accounts proposes new §16.401, concerning definitions; §16.402, concerning certified educational assistance organizations; §16.403, concerning program participation; §16.404, concerning education service providers and vendors of educational products; §16.405, concerning suspension of program participation; §16.406, concerning approved education-related expenses; §16.407, concerning program administration; §16.408, concerning program participant, provider, and vendor autonomy; §16.409, concerning appeals; and §16.410, concerning notice. These new sections will be located in Texas Administrative Code, Title 34, Part 1, Chapter 16, new Subchapter E (Education Savings Account Program).

The legislation enacted within the last four years that provides the statutory authority for the rules is Senate Bill 2, 89th Legislature, R.S., 2025. These new sections will address the standards for the education savings account program.

Section 16.401 provides definitions.

Section 16.402 addresses certified educational assistance organizations.

Section 16.403 addresses program participation.

Section 16.404 addresses education service providers and vendors of educational products.

Section 16.405 addresses suspension of program participation.

Section 16.406 describes approved education-related expenses.

Section 16.407 addresses program administration.

Section 16.408 addresses program participant, provider, and vendor autonomy.

Section 16.409 addresses appeals of decisions made by the program.

Section 16.410 addresses required notices and service of notice.

Brad Reynolds, Chief Revenue Estimator, has determined that the proposed rules will not increase or decrease the number of individuals subject to the rules' applicability relative to what is required by statute. During the first five years that the proposed new rules are in effect, the rules, relative to what is required by statute: will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; and will not positively or adversely affect this state's economy.

Mr. Reynolds also has determined that the proposed new rules would have no significant fiscal impact on the state government, units of local government, or individuals. The proposed new rules would benefit the public by fulfilling a statutory requirement and establishing a program. There would be no significant economic cost to the public. The proposed new rules would have no significant fiscal impact on small businesses or rural communities.

You may submit comments on the proposal to Education Savings Account Program, Educational Opportunities and Investments Division, 111 E. 17th Street, Austin, Texas 78774 or to the email address: Esa.Rule.Comment@cpa.texas.gov. The comptroller must receive your comments no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The new sections are proposed under Education Code, §29.372, which authorizes the comptroller to adopt rules to implement, administer, and enforce Education Code, Chapter 29, Subchapter J.

The new sections implement Education Code, Chapter 29, Subchapter J, concerning the education savings account program.

§16.401. Definitions.

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

(1) Agency--The Texas Education Agency.

(2) Application period--The period that the program is open to receive applications.

(3) Assessment instrument--A nationally norm-referenced test evaluating academic aptitude or a test consistent with the requirements under Education Code, Chapter 39, Subchapter B. For this subchapter, a "nationally norm-referenced test" requires that the test com-

pare a child's performance to the performance of comparable children throughout the United States.

(4) Campus--A building, set of buildings, or other property owned or controlled by an institution of learning within the same reasonably contiguous geographic area of the institution and used by the institution in direct support of, or in a manner directly related to, the provision of educational instruction.

(5) Certified educational assistance organization--As defined by Education Code, §29.351(2), an organization certified under Education Code, §29.354, to support the administration of the program.

(6) Child with a disability--As defined by Education Code, §29.351(3), a child who is eligible to participate in a school district's special education program under Education Code, §29.003.

(7) Comptroller--The Texas Comptroller of Public Accounts.

(8) Education service provider--A school, such as a private school, public school, including an open-enrollment charter school, or higher education school, as well as a tutor, therapist, or teaching service.

(9) Educational therapies--Treatment provided to a participating child by or at the direction of a licensed physician or licensed therapist to address the academic performance of a participating child.

(10) Good standing--A participating parent, participating child, education service provider, or vendor of educational products shall be considered in good standing with the program by complying with all applicable program requirements and applicable law.

(11) Higher education provider--As defined by Education Code, §29.351(4), an institution of higher education or a private or independent institution of higher education, as those terms are defined by Education Code, §61.003.

(12) Industry-based credential--A credential listed on the agency's most recently published Industry-Based Certification List for Public School Accountability.

(13) Online educational course--A single, for-credit, and subject-specific instructional offering in which instruction and content are delivered synchronously or asynchronously primarily over the Internet.

(14) Parent--As defined by Education Code, §29.351(5), a resident of this state who is a natural or adoptive parent, managing or possessory conservator, legal guardian, custodian, or other person with legal authority to act on behalf of a child.

(15) Participating child--As defined by Education Code, §29.351(6), a child enrolled in the program.

(16) Participating parent--The parent who applied to participate in the program under Education Code, §29.356, on behalf of their child.

(17) Program--As defined by Education Code, §39.351(8), the program established under Education Code, Chapter 29, Subchapter J.

(18) Program participant--As defined by Education Code, §29.351(9), a participating child or a participating parent.

(19) Program year--The period from July 1 of one year through June 30 of the next year.

(20) Secretary--The Texas Secretary of State.

(21) Sibling--A brother, sister, stepbrother, stepsister, half-brother, half-sister, or a foster brother or sister who is a dependent of the participating parent and has been placed with the participating parent by an authorized placement agency or by judgment, decree, or other order of a court of competent jurisdiction.

(22) Total annual income--The total income for federal income tax purposes of the child's parents or, if only one parent qualifies to claim the child as a dependent, the total income for federal income tax purposes of the parent who qualifies to claim the child as a dependent.

(23) Tuition and fees--The standard amount imposed on all students by a school for teaching or instruction, including application or registration fees.

(24) Vendor of educational products--A provider of tangible goods, such as textbooks, required uniforms, assessment instruments, curriculum, and required hardware, software, and other technological devices.

§16.402. Certified Educational Assistance Organizations.

(a) To be selected as a certified educational assistance organization by the comptroller, an organization must:

(1) be registered with the secretary to do business in this state;

(2) have the right to transact business in this state and comply with all tax filing, collection, and payment requirements imposed by the state of Texas;

(3) comply with the audit requirements under Education Code, §29.363, by providing to a private entity under contract with the comptroller or to the state auditor, as applicable:

(A) the organization's internal controls over program transactions;

(B) confirmation that residency documentation specified under Education Code, §29.355(a-1), for each child admitted to the program and served by the organization during the applicable program year was verified by the organization; and

(C) any other information or documentation related to a program transaction;

(4) establish and maintain cybersecurity controls and processes satisfactory to the comptroller, including best practices developed under Government Code, §2054.5181;

(5) comply with all applicable state and federal confidentiality and privacy laws, including the Family Educational Rights Privacy Act of 1974 (20 U.S.C. §1232g); and

(6) comply with all program requirements under Education Code, Chapter 29, Subchapter J.

(b) A certified educational assistance organization must have the ability to perform one or more of the services listed in Education Code, §29.354.

(c) On or before every October 1 and February 1, or as additionally requested by the comptroller, each certified educational assistance organization shall comply with the requirements under §29.362(d), Education Code, for each participating child served by the organization.

§16.403. Program Participation.

(a) A child is eligible to participate in the program if:

(1) the child is eligible to either attend a public school, including an open-enrollment charter school, under Education Code,

§25.001, or a free prekindergarten program offered by a public school or open-enrollment charter school to certain children under Education Code, §29.153;

(2) the child is not enrolled in a public school, including an open-enrollment charter school, or a prekindergarten program of a public school, including an open-enrollment charter school;

(3) the child is a citizen or national of the United States or has been lawfully admitted to the United States;

(4) the child has not been declared ineligible for the program under Education Code, §29.364; and

(5) the child has not graduated from high school.

(b) To apply for participation in the program, the child's parent must submit a comptroller-approved application to the designated certified educational assistance organization during the application period. The application must be accompanied by:

(1) proof that the child is a citizen or national of the United States or was lawfully admitted into the United States, in a format acceptable to the comptroller, such as a certified copy of one of the following for the child: a birth certificate issued in the United States or one of its territories, a certificate of naturalization, a certificate of citizenship, a Consular Report of Birth Abroad, a United States passport, or a Permanent Resident Card;

(2) proof of the child's current residency in this state as established by one of the following documents specified under Education Code, §29.355(a-1): a utility bill, lease or mortgage statement, driver's license or state identification card, voter registration card, letter from a government agency in the United States, or notarized affidavit of residency;

(3) proof of total annual income, such as an Internal Revenue Service transcript of a federal tax return;

(4) an agreement and certification under penalty of perjury by the participating parent that they will:

(A) only request the payment of program money for approved education-related expenses under Education Code, §29.359;

(B) not attempt to withdraw cash or seek reimbursement from the child's account;

(C) refrain from selling items purchased with program money within 12 months from the date of such purchase;

(D) for a participating child in grades 3 through 12 enrolled in a private school that is an approved education service provider and subject to the accommodations and exemptions provided under Education Code, Chapter 39, Subchapter B, authorize and instruct the private school that administers an assessment instrument administered to a child under Education Code, §29.358, to provide the results of such assessment to the certified educational assistance organization responsible for that child by the end of the program year during which the assessment is administered;

(E) comply with the audits requirements under Education Code, §29.363, by providing to a private entity under contract with the comptroller or to the state auditor any information or documentation related to a program transaction; and

(F) no later than 30 calendar days from the date the child enrolls in a public school, including an open-enrollment charter school, or otherwise becomes ineligible to participate in the program, provide written notification to the program in a comptroller-approved format and will cease requesting distributions from the child's account for any

expense incurred on and after the date the child is no longer eligible to participate in the program; and

(5) for a child to be considered a child with a disability for purposes of prioritization under Education Code, §29.356:

(A) a determination letter verifying the child's eligibility to receive Supplemental Security Income or Social Security Disability Insurance or a written diagnosis issued by a licensed physician describing one of the following conditions listed under Education Code, §29.003 that prevents a child not more than 21 years of age from being adequately or safely educated in a public school without the provision of special services:

- (i) a visual or auditory impairment;
- (ii) physical disability;
- (iii) intellectual or developmental disability;
- (iv) emotional disturbance;
- (v) learning disability;
- (vi) autism;
- (vii) speech disability; or
- (viii) traumatic brain injury; or

(B) authorization to verify that an individualized education program has been issued by a school district or open-enrollment charter school for the child for the purposes of determining both prioritization under Education Code, §29.356, and the amount to be transferred to the child's account under Education Code, §29.361.

(c) A participating parent must be in good standing and provide notice in a comptroller-approved format to a designated certified educational assistance organization during the application period if the parent intends for their participating child to continue to participate in the program the following program year. To the extent there are available positions, such a child shall be admitted to the program for the following program year prior to the approval of applications under subsection (e) of this section.

(d) Information shared with a certified educational assistance organization by the agency, a school district, or an open-enrollment charter school to determine a child's eligibility to participate in the program, including a child's public school enrollment status and whether the child can be counted toward a public school's average daily attendance for purposes of the allocation of funding under the foundation school program, shall be held consistent with all applicable federal and state confidentiality and privacy requirements, shall not be sold or otherwise distributed, and shall not be retained beyond the period necessary to determine a child's eligibility.

(e) Acceptable applications for admission to the program received during an application period shall, at the direction of the comptroller, be:

(1) separated into the following categories:

(A) siblings of participating children;

(B) children to whom subparagraph (C) of this paragraph of this section does not apply; and

(C) children who previously ceased participation in the program by enrolling in a public school, including an open-enrollment charter school;

(2) separated within each group established under paragraph (1) of this subsection into the following subcategories as described by Education Code, §29.356(b)(2):

(A) children with a disability who are members of a household with a total annual income that is at or below 500 percent of the federal poverty guidelines;

(B) children who are members of a household with a total annual income that is at or below 200 percent of the federal poverty guidelines;

(C) children who are members of a household with a total annual income that is above 200 percent of the federal poverty guidelines and below 500 percent of the federal poverty guidelines; and

(D) children who are members of a household with a total annual income that is at or above 500 percent of the federal poverty guidelines;

(3) sequentially ordered by lottery within each resulting subcategory if more eligible applications are received than available slots during an application period, with siblings applying during the same application period being considered together in the first subcategory for which one of the siblings qualifies;

(4) subject to Education Code, §29.3521(d), which limits admission of children under paragraph (2)(D) of this subsection to 20 percent of the amount appropriated for the school year, approved for admission to the program in the order established under paragraph (3) of this subsection until available funds calculated under §16.407(a) of this subchapter have been exhausted based on the total annual amount calculated under Education Code, §29.361, for each child admitted; and

(5) to the extent not approved for admission under paragraph (4) of this subsection, placed on a waiting list in the order established under paragraph (3) of this subsection.

(f) During a program year and subject to Education Code, §29.3521(d), which limits admission of children under subsection (e)(2)(D) of this section to 20 percent of the amount appropriated for the school year, if additional funds become available, applications for children on the waitlist shall be approved for admission to the program in the order established under subsection (e)(5) of this section, with funding of the child's account to be prorated for the remaining months of the program year beginning on the first day of the month following the month of approval. Applications for children remaining on the waitlist at the end of a program year expire and applicants must reapply for admission to the program to be considered for participation.

(g) A program participant who submits false or fraudulent documentation that causes the program to spend money from a participating child's account for expenses that are not approved education-related expenses shall be ineligible for the program as of the date of such purchases and shall reimburse the program for such purchases.

§16.404. Education Service Providers and Vendors of Educational Products.

(a) To be approved as an education service provider or vendor of educational products by the comptroller, a provider or vendor must submit a comptroller-approved application and:

(1) be registered with the secretary to do business in this state;

(2) have the right to transact business in this state by complying with all tax filing, collection, and payment requirements imposed by the state of Texas; and

(3) agree and certify under penalty of perjury that the provider or vendor will:

(A) accept orders and money from the program only for education-related expenses approved under Education Code, §29.359;

(B) not charge a program participant for services or products paid for by the program, including tuition and fees, in an amount greater than or in addition to the established standard amount charged to all others for that service or product by the provider or vendor;

(C) not charge a program participant or former participant for a service or product to the extent the service or product is not fully provided;

(D) not rebate, refund, or credit to or share program money with a program participant or any person on behalf of a program participant;

(E) promptly return any money received in violation of program rules or other relevant law to the comptroller or designated certified educational assistance organization for deposit into the program fund;

(F) prevent any individual who is required to be discharged or refused to be hired by a school district under Education Code, §22.085, included in the registry under Education Code, §22.092, or has engaged in misconduct described by Education Code, §22.093(c)(1), from interacting with any participating child;

(G) comply with the audits requirements under Education Code, §29.363, by providing to a private entity under contract with the comptroller or to the state auditor information or documentation related to a program transaction;

(H) notify the comptroller or designated certified educational assistance organization not later than the 30th calendar day after the date that the provider or vendor no longer meets the program requirements; and

(I) abide by all other program requirements.

(b) An approved provider of supplemental special education services under Education Code, Chapter 29, Subchapter A-1, in good standing with the agency shall be approved as a provider for the program.

(c) A private school located in this state may be approved as a provider by submitting proof of:

(1) accreditation by an organization recognized by the Texas Private School Accreditation Commission or agency;

(2) annual administration of an assessment instrument to participating children in grades 3 through 12; and

(3) continuous operation of a campus for at least two school years preceding the date the school seeks approval.

(d) A public school or open-enrollment charter school located in this state may be approved as a provider by submitting proof of accreditation by the agency and demonstrating the ability to provide services or products to participating children in a manner such that the children are not counted toward the district's or school's average daily attendance.

(e) A higher education provider located in this state may be approved as a provider by submitting proof of a nationally recognized postsecondary accreditation.

(f) A private provider of a prekindergarten or kindergarten program located in this state may be approved as a provider by submitting proof that the provider meets the requirements of Education Code, §29.171;

(g) A private tutor, therapist, or employee of a teaching service located in this state may be approved as a provider by submitting proof that:

(1) the individual providing the service to the child is not required to be discharged or refused to be hired by a school district under Education Code, §22.085, or has engaged in misconduct described by Education Code, §22.093(c)(1), as evidenced by a national criminal history record review completed within the prior two calendar years;

(2) the individual providing the service to the child is not included in the registry under Education Code, §22.092;

(3) if a tutor or employee of a teaching service, that the individual providing the service:

(A) is a current or former educator at a school accredited by the agency or an organization recognized by the agency;

(B) is a current or former educator at a school accredited by an organization recognized by the Texas Private School Accreditation Commission;

(C) is a current or former educator in an instructional capacity at a higher education provider; or

(D) has a current teaching license or instructional accreditation issued by a state, regional, or national certification or accreditation organization; and

(4) if a therapist, the individual providing the service possesses a current, relevant license or accreditation issued by a state, regional, or national certification or accreditation organization.

(h) Other providers or vendors of services or products that qualify as education-related expenses approved under Education Code, §29.359, may be approved at the comptroller's discretion as a provider or vendor by demonstrating that the provider or vendor can offer its services or products through the program's marketplace, exclusive of services and products that are not approved education-related expenses.

(i) Money transferred by the program to a participating child's account may not be used to pay any individual related to the participating child within the third degree by consanguinity or affinity, as determined under Government Code, Chapter 573.

§16.405. Suspension of Program Participation.

(a) A program participant, education service provider, or vendor of educational products shall be suspended from participating in the program at any time the participant, provider, or vendor fails to meet the eligibility requirements or fails to comply with any program requirement or other applicable law.

(b) On suspension of an account under subsection (a) of this section, the comptroller shall notify the participating parent, education service provider, or vendor of educational products in writing both by first-class mail and email that the participant's, provider's, or vendor's right to participate has been suspended and that no purchases or payments may be made on or after the date of suspension. The notification must specify the grounds for the suspension, any corrective action required, and notice that the participant, provider, or vendor has 30 calendar days from the date of the notification to respond and comply with any corrective actions required.

(c) On the expiration of the 30-calendar-day period under subsection (b) of this section, the comptroller shall, at the comptroller's discretion:

(1) remove the participant, education service provider, or vendor of educational products from the program if the participant,

provider, or vendor has failed to respond or fully comply with the required corrective action;

(2) temporarily reinstate the participant, provider, or vendor for 30 calendar days and allow purchases or payments to resume, conditioned on successful performance of additional corrective action; or

(3) reinstate the participant, provider, or vendor for participation in the program if the participant, provider, or vendor has fully complied with the required corrective action.

(d) On the expiration of the 30-calendar-day period under subsection (c)(2) of this section, the comptroller shall:

(1) remove the participant, provider, or vendor from the program if the participant, provider, or vendor has failed to fully comply with the required corrective action; or

(2) reinstate the participant, provider, or vendor for participation in the program if the participant, provider, or vendor has fully complied with the required corrective action.

(e) On removal under this section, the comptroller shall notify the program participant, education service provider, or vendor of educational products and each certified educational assistance organization that facilitates program purchases that the participant, provider, or vendor is no longer eligible to participate in the program. If the comptroller has evidence of fraud or any other substantial violation of law by a participant, provider, or vendor, the comptroller shall notify the appropriate local county or district attorney with jurisdiction over the participant, provider, or vendor.

(f) A decision of the comptroller made under this section is final and not subject to appeal.

§16.406. Approved Education-Related Expenses.

Program money may be used only at an approved provider for the following education-related expenses of a participating child:

(1) tuition and fees paid to a private school, higher education provider, online educational course, or industry-based training program that provides credit towards a high school diploma or industry-based credential;

(2) uniforms required by a private school, higher education provider, or industry-based training program in which the child is enrolled;

(3) textbooks and instructional materials;

(4) fees for classes or other educational services provided by a public school, including an open-enrollment charter school, if the classes or services do not qualify the child to be included in the district's or school's average daily attendance;

(5) costs related to assessment instruments for the child;

(6) fees for educational services provided by a private tutor or teaching service to the child;

(7) fees for educational therapies or services provided to the child to the extent not covered by government benefits or by private insurance or provided by a public school, including an open-enrollment charter school;

(8) costs related to transportation provided to the child by a commercial, fee-for-service provider for travel to and from an education service provider or vendor of educational products;

(9) the cost of computer hardware and software and other technological devices required by a private school in which the child is

enrolled or prescribed by a physician to facilitate the child's education, not to exceed in any year 10 percent of the total amount allocated to the participating child's account for the program year; and

(10) the cost of breakfast or lunch provided by a private school to the child during the school day.

§16.407. Program Administration.

(a) Each program year, the comptroller shall calculate the amount available to fund accounts of participating children based on amounts appropriated and other available program funds.

(b) Each school year that a child participates in the program, as directed by Education Code, §29.361(a)(1), a total amount shall be transferred to the child's program account equal to 85 percent of the estimated statewide average amount of state and local funding per student in average daily attendance for the most recent school year for which that information is available. Subject to the \$30,000 limitation under Education Code, §29.361(b), an additional amount shall be transferred to the account of a child with a disability equal to the amount a school district in which the child would otherwise be enrolled would be entitled to receive for the child calculated based on the child's individualized education program and the provisions of Education Code, Chapter 48, that provide funding based on a child's participation in a school district's special education program under Education Code, Chapter 29, Subchapter A, applicable for the school year preceding the school year in which the child initially enrolls in the program. The amount transferred to the account of a participating child who is not enrolled in a private school that is an approved education service provider may not exceed the \$2,000 limitation specified under Education Code, §29.361(b-1). Any award of additional program funds based on changes in participant status during a school year is subject to the availability of program funds.

(c) No later than July 1 of each program year or as soon thereafter as appropriated funds become available, the comptroller shall make payments to a certified educational assistance organization for each participating child served by the organization equal to at least one-quarter of the total annual amount calculated under subsection (b) of this section for that child. The organization shall immediately deposit the amount received for each child under this subsection into the account established for that child.

(d) No later than October 1 of each program year or as soon thereafter as appropriated funds become available, the comptroller shall make additional payments to a certified educational assistance organization for each participating child served by the organization to the extent necessary to ensure payments for that program year equal to at least one-half of the total annual amount calculated under subsection (b) of this section for that child. The organization shall immediately deposit the amount received for each child under this subsection into the account established for that child.

(e) No later than April 1 of each program year or as soon thereafter as appropriated funds become available, the comptroller shall make additional payments to a certified educational assistance organization for each participating child served by the organization to the extent necessary to ensure payments for that program year equal the total annual amount calculated under subsection (b) of this section for that child. The organization shall immediately deposit the amount received for each child under this subsection into the account established for that child.

(f) A certified educational assistance organization shall not make any amount available to a child's program account prior to:

(1) verifying that the child remains eligible for the program under Education Code, §29.355; and

(2) confirming enrollment at a private school that is an approved education service provider, if applicable.

(g) Program participants may purchase approved education-related expenses for a participating child using a comptroller-approved marketplace accessible through the program's Internet website. To the extent a purchase request is verified to be for an approved education-related expense from a provider in good standing for a participating child in good standing and the total amount of the purchase does not exceed the child's account balance, the certified educational assistance organization serving the child shall approve the purchase and deduct the total amount of the purchase from the child's account.

(h) An approved education service provider or vendor of educational products shall refund to the certified educational assistance organization any payment received for services that are not provided in full or for products that are returned for a refund. Any refund received by the program from a provider or vendor shall be deposited into the account of the participating child to be available for future purchases of approved education-related expenses.

(i) Money remaining in a participating child's account at the end of a program year shall be carried forward to the next program year, provided:

(1) the child remains eligible for the program under Education Code, §29.355;

(2) the participating parent has provided notice under Education Code, §29.356(i)(1), that the child will continue participation in the program for the next program year; and

(3) the program participant has not been declared ineligible for participation in the program under Education Code, §29.364.

(j) On the date a participating child is no longer eligible to participate in the program and any pending payments for approved education-related expenses have been completed, the certified educational assistance organization responsible for the participating child's account shall close the account and any money remaining in the account shall be returned to the comptroller for deposit into the program fund for purposes of the program.

§16.408. Program Participant, Provider, and Vendor Autonomy.

(a) An education service provider or vendor of educational products that receives money distributed under the program is not a recipient of federal financial assistance and may not be considered to be a state actor on the basis of receiving that money.

(b) state agency or state official may not adopt a rule or take other governmental action related to the program and a certified educational assistance organization may not take action that:

(1) limits or imposes requirements that are contrary to the religious or institutional values or practices of an education service provider, vendor of educational products, or program participant; or

(2) limits an education service provider, vendor of educational products, or program participant from freely:

(A) determining the methods or curriculum to educate students;

(B) determining admissions and enrollment practices, policies, and standards;

(C) modifying or refusing to modify the provider's, vendor's, or participant's religious or institutional values or practices, operations, conduct, policies, standards, assessments, or employment practices based on the provider's, vendor's, or participant's religious values or practices; or

(D) exercising the provider's, vendor's, or participant's religious or institutional practices as the provider, vendor, or participant determines.

§16.409. Appeals.

(a) The participating parent of a participating child may appeal decisions made by the program related to that child.

(b) The participating parent must provide the comptroller written notice of appeal under subsection (a) of this section by email or at the physical address for such appeals listed on the program's Internet website within 30 calendar days of the date of the notice of decision to be appealed.

(c) The notice of appeal under subsection (b) of this section must be in a comptroller approved format and must include:

(1) the name of the participating child;

(2) a brief statement of the facts; and

(3) the basis for overturning the decision.

(d) The comptroller may request additional information if needed, and shall respond to the notice of appeal within 30 calendar days after the date the notice and any additional requested information was received by the comptroller with a final decision explaining the basis for the decision. An appeal under this subsection is not a contested case and a decision of the comptroller under this subsection is final and not subject to further appeal.

§16.410. Notice.

(a) Except as otherwise provided in this subchapter, any notice to a program participant required under this subchapter may be provided electronically to the email address provided by the program participant. If notice cannot be sent electronically, the comptroller or certified educational assistance organization shall provide notice by regular United States mail to the mailing address on file for the program participant. It is the responsibility of the participant to maintain up-to-date contact information with the program.

(b) Service of notice required under this subchapter by the comptroller or certified educational assistance organization to a program participant, education service provider, or vendor of educational products is deemed complete and received upon:

(1) the date the notice is sent, if sent by email before 5:00 p.m. Central Standard Time;

(2) the date after the notice is sent, if sent by email after 5:00 p.m. Central Standard Time; or

(3) three business days after the date it is postmarked, if sent by regular United States mail.

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 11, 2025.

TRD-202502835

Victoria North

General Counsel for Fiscal and Agency Affairs

Comptroller of Public Accounts

Earliest possible date of adoption: September 21, 2025

For further information, please call: (512) 475-2220

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 1. TEXAS DEPARTMENT OF PUBLIC SAFETY

CHAPTER 4. COMMERCIAL VEHICLE REGULATIONS AND ENFORCEMENT PROCEDURES

SUBCHAPTER B. REGULATIONS GOVERNING TRANSPORTATION SAFETY

37 TAC §4.13

The Texas Department of Public Safety (the department) proposes amendments to §4.13, concerning Authority to Enforce, Training and Certificate Requirements. The proposed amendments simplify the structure of the rule, add clarifying language for the training and certification of certain state and local enforcement officers, clarifies that commercial vehicle inspection sites are a valid location for an inspection, and makes other conforming changes to reflect the department's practices. The amendments also update §4.13 to align with the Commercial Vehicle Safety Alliance's Operational Policy 4, titled "Inspector Training and Certification," which is adopted by the department, recognized by the Federal Motor Carrier Safety Administration, and located at <https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2021-07/CVSA%20Operational%20Policy%2004%Revised%2004-29-2021.pdf>

Suzy Whittenton, Chief Financial Officer, has determined that for each year of the first five-year period this rule is in effect there will be no fiscal implications for state or local government or local economies.

Ms. Whittenton has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities required to comply with the section as proposed. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed. There is no anticipated negative impact on local employment.

Ms. Whittenton has determined that for each year of the first five-year period the rule is in effect the public benefit anticipated as a result of this rule is efficiency in training officers to enforce the federal commercial motor vehicle regulations and clarify certain certification requirements.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is 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. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create a new regulation. The proposed rulemaking does not expand, limit, or repeal an existing 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 is in effect, the proposed rule should not impact positively or negatively the state's economy.

Comments on this proposal may be submitted to Major Omar Villarreal, Texas Highway Patrol Division, Texas Department of Public Safety, 5805 North Lamar Blvd., Austin, Texas 78752 or by email at Omar.Villarreal@dps.texas.gov. Comments must be received no later than thirty (30) days from the date of publication of this proposal.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Transportation Code, §644.003, which authorizes the department to adopt rules to administer the chapter; §644.051, which authorizes the director to adopt rules regulating the safe transportation of hazardous materials and the safe operation of commercial motor vehicles; and authorizes the director to adopt all or part of the federal safety regulations by reference; and § 644.102, which authorizes the department to establish by rule uniform standards for municipal or county enforcement of the chapter.

Texas Government Code, §411.004(3) and Texas Transportation Code, §§644.003, 644.051, and 644.102 are affected by this proposal.

§4.13. Authority to Enforce, Training and Certificate Requirements.

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

(1) Commercial vehicle inspector--

(A) An officer of the department or a noncommissioned employee of the department who meets the training and certification requirements contained in subsection (c) of this section and is certified by the department;

(B) A municipal police officer from the cities listed in Texas Transportation Code, §644.101, acting within the territory of the municipality, who meets the training and certification requirements contained in subsection (c) of this section and is certified by the department; and

(C) A sheriff or deputy sheriff from the counties listed in Texas Transportation Code, §644.101, acting within the territory of the county, who meets the training and certification requirements contained in subsection (c) of this section and is certified by the department.

(2) CVSA--The Commercial Vehicle Safety Alliance.

(3) NAS--North American Standard.

(4) Operational Policy 4--The Commercial Vehicle Safety Alliance's Operational Policy 4, titled "Inspector Training and Certification."

(b) [(a)] Authority to Enforce.

(1) A commercial vehicle inspector, except for a noncommissioned employee of the department, ~~[An officer of the department]~~ may stop, enter, or detain on a highway, at a commercial vehicle inspection site, or at a port of entry a motor vehicle that is subject to Texas Transportation Code, Chapter 644.

(2) A commercial vehicle inspector who is a non-commissioned employee of the department ~~[that is trained and certified to enforce the federal safety regulations]~~ may stop, enter, or detain at a commercial motor vehicle inspection site~~;~~ or at a port of entry~~;~~ a motor vehicle that is subject to Texas Transportation Code, Chapter 644.

(3) A commercial vehicle inspector ~~[An officer of the department or a non-commissioned employee of the department that is trained and certified to enforce the federal safety regulations]~~ may prohibit the further operation of a vehicle on a highway, at a commercial vehicle inspection site, or at a port of entry if the vehicle or operator of the vehicle is in violation of Texas Transportation Code, Chapter 522, or a federal safety regulation or rule adopted under Texas Transportation Code, Chapter 644, by declaring the vehicle or operator out-of-service using the NAS [North American Standard] CVSA Out-of-Service Criteria as a guideline.

(4) A commercial vehicle inspector who is certified to conduct CVSA Level VI inspections may prohibit the further operation of a vehicle transporting transuranic waste and highway route controlled quantities of radioactive materials on a highway, at a commercial vehicle inspection site, or at a port of entry if the vehicle or operator of the vehicle is in violation of Texas Transportation Code, Chapter 522, or a federal safety regulation or rule adopted under Texas Transportation Code, Chapter 644, by declaring the vehicle or operator out-of-service using the CVSA Level VI Out-of-Service Criteria as guidelines.

[(4) Municipal police officers from cities listed in Texas Transportation Code, §644.10, who meet the training and certification requirements contained in subsection (b) of this section and are certified by the department may stop, enter or detain on a highway or at a port of entry within the municipality a motor vehicle that is subject to Texas Transportation Code, Chapter 644.]

[(5) Sheriffs or deputy sheriffs from counties listed in Texas Transportation Code, §644.10, who meet the training and certification requirements contained in subsection (b) of this section and are certified by the department may stop, enter or detain on a highway or at a port of entry within the county a motor vehicle that is subject to Texas Transportation Code, Chapter 644.]

[(6) A certified peace officer from an authorized municipality or county may prohibit the further operation of a vehicle on a highway or at a port of entry within the municipality or county if the vehicle or operator of the vehicle is in violation of Texas Transportation Code, Chapter 522, or a federal safety regulation or rule adopted under Texas Transportation Code, Chapter 644, by declaring the vehicle or operator out-of-service using the North American Standard Out-of-Service Criteria as a guideline.]

(c) [(b)] Training and Certification Requirements.

(1) A commercial vehicle inspector, before being certified to enforce the Federal Motor Carrier Safety Regulations, ~~[Certain peace officers from the municipalities and counties specified in subsection (a) of this section before being certified to enforce this article]~~ must:

(A) successfully complete the NAS Part A and Part B Roadside Inspection Course [North American Standard Roadside Inspection Course];

(B) successfully complete the Texas Intrastate Roadside Inspection Course (Part C)~~;~~ if initial certification occurs on or after January 1, 2006, or if recertification is required under subsection (e)(4) of this section]; and

(C) participate in an on-the-job training program following completion of the NAS Part A and Part B Roadside Inspection Course [North American Standard Roadside Inspection Course] and the Texas Intrastate Roadside Inspection Course (Part C) with a certified officer and perform the required number and level of inspections as set forth in the current CVSA Operational Policy 4 [a minimum of 32 level I inspections]. These inspections should be completed as soon as practicable, but no later than six months after passing the Texas Intrastate Roadside Inspection Course (Part C) exam [course completion].

(2) A commercial vehicle inspector, before being certified to enforce the Hazardous Materials Regulations, ~~[Certain peace officers from the municipalities and counties specified in subsection (a) of this section and eligible to enforce the Hazardous Materials Regulations]~~ must:

(A) successfully complete the NAS Part A and Part B Roadside Inspection Course and the Texas Intrastate Roadside Inspection Course (Part C) [North American Standard Roadside Inspection Course];

(B) successfully complete the NAS General Hazardous Materials Inspection Course; and

(C) participate in an on-the-job training program following completion of the NAS General Hazardous Materials Inspection Course [this course] with a certified officer and perform the required number and level of inspections as set forth in the current CVSA Operational Policy 4. These inspections must be on vehicles containing non-bulk quantities of hazardous materials [a minimum of 16 level I inspections on vehicles containing non-bulk quantities of hazardous materials]. These inspections should be completed as soon as practicable, but no later than six months after passing the NAS General Hazardous Materials Inspection Course exam [course completion].

(3) A commercial vehicle inspector, before being certified ~~[Certain peace officers from the municipalities and counties specified in subsection (a) of this section and eligible]~~ to enforce the Cargo Tank Inspection ~~[Specification]~~ requirements, must:

(A) successfully complete the NAS Part A and Part B Roadside Inspection Course and the Texas Intrastate Roadside Inspection Course (Part C) [North American Standard Roadside Inspection Course];

(B) successfully complete the NAS General Hazardous Materials Inspection Course;

(C) successfully complete the NAS Cargo Tank Inspection Course; and

(D) participate in an on-the-job training program following completion of the NAS Cargo Tank Inspection Course [this course] with a certified officer and perform the required number and level of inspections as set forth in the current CVSA Operational Policy 4. These inspections must be on vehicles transporting hazardous materials in cargo tanks conforming to the cargo tank inspection standards set forth in the current CVSA Operational Policy 4 [a minimum of 16 level I inspections on vehicles transporting hazardous materials in cargo tanks]. These inspections should be completed as soon as practicable, but no later than six months after passing the NAS Cargo Tank Inspection Course exam [course completion].

(4) A commercial vehicle inspector, before being certified to enforce the Other Bulk Packaging requirements, [Certain peace officers from the municipalities and counties specified in subsection (a) of this section and eligible to enforce the Other Bulk Packaging requirements] must:

(A) successfully complete the NAS Part A and Part B Roadside Inspection Course and the Texas Intrastate Roadside Inspection Course (Part C) [North American Standard Roadside Inspection Course];

(B) successfully complete the NAS General Hazardous Materials Inspection Course;

(C) successfully complete the NAS Cargo Tank Inspection Course; and

(D) successfully complete the NAS Other Bulk Packaging Course.

(5) A commercial vehicle inspector, before being certified to enforce the Passenger Carrying Vehicle Inspection requirements, [Certain peace officers from the municipalities and counties specified in subsection (a) of this section and eligible to enforce the passenger vehicle requirements] must:

(A) successfully complete the NAS Part A and Part B Roadside Inspection Course and the Texas Intrastate Roadside Inspection Course (Part C) [North American Standard Roadside Inspection Course];

(B) successfully complete the NAS Passenger Carrying Vehicle Inspection Course [Passenger Vehicle Inspection Course]; and

(C) participate in an on-the-job training program following completion of the NAS Passenger Carrying Vehicle Inspection Course [this course] with a certified officer and perform the required number and level of inspections as set forth in the current CVSA Operational Policy 4. These inspections must be on passenger carrying vehicles, such as motorcoaches/buses [a minimum of 8 level I or V inspections on passenger vehicles such as motor coaches/buses]. These inspections should be completed as soon as practicable, but no later than six months after passing the NAS Passenger Carrying Vehicle Inspection Course exam [course completion].

(6) A commercial motor vehicle inspector, before being certified to conduct CVSA Level VI inspections on vehicles transporting transuranic waste and highway route-controlled quantities of radioactive materials, must:

(A) successfully complete the NAS Part A and Part B Roadside Inspection Course and the Texas Intrastate Roadside Inspection Course (Part C);

(B) successfully complete the NAS General Hazardous Materials Inspection Course; and

(C) successfully complete the CVSA Level VI Inspection Course.

(7) [(6)] When the training is provided by the department [Texas Department of Public Safety], the department may [shall] collect fees in an amount sufficient to recover from municipalities and counties the cost of certifying its peace officers. The fees shall include:

(A) the per diem costs of the instructors established in accordance with the Appropriations Act regarding in-state travel;

(B) the travel costs of the instructors to and from the training site;

(C) all course fees charged to the department;

(D) all costs of supplies; and

(E) the cost of the training facility, if applicable.

(8) [(7)] A public or private entity desiring to train police officers in the enforcement of the Federal Motor Carrier Safety Regulations must:

(A) submit a schedule of the courses to be instructed;

(B) submit an outline of the subject matter in each course;

(C) submit a list of the instructors and the instructor's [their] qualifications to be used in the training course;

(D) submit a copy of the examination;

(E) submit an estimate of the cost of the course;

(F) receive approval from the director or the director's designee prior to providing the training course;

(G) provide a list of all peace officers attending the training course, including the peace officer's name, rank, agency, social security number, dates of the course, and the examination score; and

(H) receive from each peace officer, municipality, or county the cost of providing the training course(s).

(d) [(e)] Maintaining Certification.

(1) In order to [To] maintain the certification to enforce the Federal Motor Carrier Safety Regulations, a commercial vehicle inspector [conduct inspections and enforce the federal safety regulations, a peace officer] must:

(A) Successfully complete the required annual certification training provided by the department; and

(B) Perform the minimum number of inspections set forth in the current CVSA Operational Policy 4. These inspections must be per calendar year and must be of the inspector's highest certified level [a minimum of 32 Level I inspections per calendar year].

[(C)] If the officer is certified to perform hazardous materials inspections, at least eight inspections (Levels I, H or V) shall be conducted on vehicles containing non-bulk quantities of hazardous materials per calendar year. Level I inspections on vehicles containing non-bulk quantities of hazardous materials may also be used to satisfy the 32 Level I inspections required by subparagraph (B) of this paragraph.]

[(D)] If the officer is certified to perform cargo tank inspections, at least eight inspections (Levels I, H or V) shall be conducted on vehicles transporting hazardous materials in cargo tanks per calendar year. Level I inspections on cargo tank vehicles transporting hazardous materials may also be used to satisfy the 32 Level I inspections required by subparagraph (B) of this paragraph.]

[(E)] If the officer is certified to perform other bulk packaging inspections, the officer can use Level I inspections performed on vehicles transporting hazardous materials in other bulk packaging to satisfy the 32 Level I inspections required by subparagraph (B) of this paragraph. Level I, H or V inspections on vehicles transporting hazardous materials in other bulk packaging may also be used to satisfy the eight inspections required by subparagraph (D) of this paragraph.]

[(F)] If the officer is certified to perform passenger vehicle inspections, at least eight inspections (Levels I or V) shall be conducted on passenger vehicles such as motor coaches/buses per calendar year. Level I inspections on passenger vehicles may also be used to

satisfy the 32 Level I inspections required by subparagraph (B) of this paragraph.]

(2) In order to maintain the certification to enforce the Hazardous Materials Regulations, a commercial vehicle inspector must: [In the event an officer does not meet the requirements of this subsection, his or her certification shall be suspended by the department. Such suspension action will be initiated by the director or the director's designee.]

(A) maintain the certification to enforce the Federal Motor Carrier Safety Regulations; and

(B) perform the minimum number and level of inspections on vehicles containing bulk and/or non-bulk quantities of hazardous materials set forth in the current CVSA Operational Policy 4. These inspections must be per calendar year.

(3) In order to maintain the certification to enforce the Cargo Tank Inspection requirements, a commercial vehicle inspector must: [To be recertified, after suspension, an officer shall pass the applicable examinations which may include the North American Standard Roadside Inspection, the Hazardous Materials Inspection Course, the Cargo Tank Inspection Course, the Other Bulk Packaging Inspection Course, and/or the Passenger Vehicle Inspection Course and repeat the specified number of inspections with a certified officer.]

(A) maintain the certification to enforce the Federal Motor Carrier Safety Regulations;

(B) maintain the certification to enforce the Hazardous Materials Regulations; and

(C) perform the minimum number and level of inspections on vehicles transporting hazardous materials in cargo tanks conforming to the cargo tank inspection standards set forth in the CVSA Operational Policy 4. These inspections must be per calendar year.

(4) In order to maintain the certification to enforce the Other Bulk Packaging requirements, a commercial vehicle inspector must: [Any officer failing any examination, or failing to successfully demonstrate proficiency in conducting inspections after allowing any certification to lapse will be required to repeat the entire training process as outlined in subsection (b) of this section.]

(A) maintain the certification to enforce the Federal Motor Carrier Safety Regulations; and

(B) maintain the certification to enforce the Hazardous Materials Regulations.

(5) In order to maintain the certification to enforce the Passenger Carrying Vehicle Inspection requirements, a commercial vehicle inspector must:

(A) maintain the certification to enforce the Federal Motor Carrier Safety Regulations; and

(B) perform the minimum number and level of inspections on passenger carrying vehicles, such as motorcoaches/buses, as set forth in the current CVSA Operational Policy 4. These inspections must be per calendar year.

(6) In order to maintain the certification to enforce the CVSA Level VI inspections, a commercial vehicle inspector must:

(A) maintain the certification to enforce the Federal Motor Carrier Safety Regulations;

(B) maintain the certification to enforce the Hazardous Materials Regulations; and

(C) successfully complete the required biennial CVSA Level VI recertification training provided by the department.

(e) Inspections Encompassing More Than One Criterion.

(1) Inspections encompassing more than one criterion will not count toward the initial certification of more than one type of inspection.

(2) All inspections encompassing more than one criterion may be used to satisfy multiple maintenance of certification requirements for a commercial vehicle inspector, as applicable.

(3) Both the department and commercial vehicle inspectors will adhere to the "Reference Chart for Calculating Annual Certification," as set forth in the current CVSA Operational Policy 4 when determining how an inspection encompassing more than one criterion satisfies the maintenance of certification requirements.

(f) Decertification.

(1) In the event a commercial vehicle inspector does not meet the requirements of this section, the commercial vehicle inspector's certification will be revoked or rescinded by the department. Such action will be initiated by the director or the director's designee.

(2) To be recertified after a certification is revoked or rescinded, a commercial vehicle inspector must, at the discretion of the director or the director's designee, either successfully recomplete the applicable course(s) or pass the applicable examination(s) which may include the NAS Part A and Part B Roadside Inspection Course, the Texas Intrastate Roadside Inspection Course (Part C), the NAS General Hazardous Materials Inspection Course, the NAS Cargo Tank Inspection Course, the NAS Other Bulk Packaging Inspection Course, the NAS Passenger Carrying Vehicle Inspection Course, and/or the CVSA Level VI Inspection Course, and repeat the specified number of inspections set forth within the current CVSA Operational Policy 4 with a certified officer.

(3) A commercial vehicle inspector who fails any examination or fails to successfully demonstrate proficiency in conducting inspections after allowing any certification to lapse, will be required to repeat the entire training process as outlined 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.

Filed with the Office of the Secretary of State on August 7, 2025.

TRD-202502801

D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Earliest possible date of adoption: September 21, 2025

For further information, please call: (512) 424-5848



CHAPTER 12. COMPASSIONATE-USE/LOW-THC CANNABIS PROGRAM

SUBCHAPTER B. APPLICATION AND RENEWAL

37 TAC §12.11

The Texas Department of Public Safety (the department) proposes amendments to §12.11, concerning Application for

License. The proposed rule amendment implements House Bill 46, 89th Leg., R.S. (2025), by establishing a timeline for reviewing and taking action on a license application and making other conforming changes.

House Bill 46 expands the Texas Compassionate-Use Program by mandating that the department issue 15 dispensing organization licenses; currently, three exist. The bill sets out the timeline with respect to issuing the remaining dispensing organization licenses. Nine new dispensing organizations must be licensed by the department no later than December 1, 2025, from applications submitted before July 1, 2025. Three more dispensing organizations must be licensed by the department no later than April 1, 2026, from applications submitted at any time.

However, House Bill 46 also requires the director to adopt rules to establish a timeline for reviewing and taking action on dispensing organization licenses. Therefore, this rule is amended to establish the timeline applicable to issuing a license after all 15 dispensing organization licenses have been issued in accordance with the timeline established by House Bill 46. The timeline identified in the proposed rule will apply when any one or more of the 15 dispensing organization licenses issued under House Bill 46 is revoked or otherwise vacated and is available to be opened to new license applicants.

Suzy Whittenton, Chief Financial Officer, has determined that for each year of the first five-year period this rule is in effect there will be no fiscal implications for state or local government or local economies.

Ms. Whittenton has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities required to comply with the section as proposed. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed. There is no anticipated negative impact on local employment.

Ms. Whittenton has determined that for each year of the first five-year period the rule is in effect the public benefit anticipated as a result of this rule will be the effective implementation of legislation and greater clarity, consistency, and transparency in the administration of the Compassionate-Use Program.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is 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. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create a new regulation. The

proposed rulemaking does not expand, limit, or repeal an existing 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 is in effect, the proposed rule should not impact positively or negatively the state's economy.

Comments on the proposal may be submitted to Amanda Contrino, Regulatory Services Division, Department of Public Safety, P.O. Box 4087, MSC-0240, Austin, Texas 78773-0240, or by email to RSD.Rule.Comments@dps.texas.gov. Email submission only is preferred. Comments must be received no later than thirty (30) days from the date of publication of this proposal.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Health and Safety Code, §487.052, which requires the director to adopt rules necessary for the administration and enforcement of Texas Health and Safety Code, Chapter 487; §487.104(f), which requires the director to adopt rules to establish a timeline for reviewing and taking action on an application submitted; and House Bill 46, 89th Leg., R.S. (2025).

Texas Government Code, §411.004(3); Texas Health and Safety Code, §487.052; and §487.104(f) are affected by this proposal.

§12.11. Application for License.

(a) Application for license as a dispensing organization may only be made in the manner determined by the department.

(1) The department will provide public notice on its website and in the *Texas Register* of an open application period when one or more of the fifteen statutorily authorized dispensing organization licenses become available to be issued.

(2) The department will provide an open application period of at least 90 days from the date of providing public notice.

(3) The department will complete its review of applications within 180 days of the close of the application period. Upon completion of the department's review of all applications, the department will notify the selected applicant(s) of the department's conditional approval of the application under subsection (c) of this section.

(b) A complete application must include the items detailed in this subsection, in a manner determined by the department:

(1) Proof of ownership and current status in the manner required by the department, including but not limited to a current Certificate of Existence or Certificate of Authority from the Texas Office of the Secretary of State and a Certificate of Good Standing from the Texas Comptroller of Public Accounts;

(2) All application fees required under §12.14 of this title (relating to Application and Licensing Fees and Method of Payment);

(3) Names, dates of birth, addresses, and all other information required by the department necessary to verify the identity of all directors, owners, managers, members, and employees of the applicant;

(4) Criminal history disclosure of all convictions and deferred adjudications for each individual listed on the application as directors, owners, managers, members, and employees of the dispensing organization;

(5) Complete registration applications for all directors, owners, managers, members, and employees submitted in the manner approved by the department and in compliance with §12.12 of this title (relating to Application for Registration);

(6) Proof of commercial general liability insurance coverage against claims of liability for damage to property of third parties and for personal injuries to third parties, including bodily injury, property damage, and product liability, with limits of:

- (A) \$1,000,000 each occurrence;
- (B) \$2,000,000 General Aggregate limit; and
- (C) \$1,000,000 Product Liability.

(7) Evidence of the qualifications detailed in this paragraph as determined at the time of the required onsite inspection, in the manner determined by the department:

(A) The technical and technological ability to cultivate, process, and/or dispense low-THC cannabis, evidenced by experience in the areas of:

(i) Cultivation, analytical organic chemistry and micro-biology, [s] and analytical laboratory methods; and

(ii) Patient education, [and] interaction, and the handling of confidential information including familiarity with the requirements of the Health Insurance Portability and Accountability Act (HIPAA).

(B) The ability to secure the premises, resources, and employees necessary to operate as a dispensing organization, evidenced by:

(i) Descriptions of all properties applicant proposes to utilize to cultivate, process, store, and dispense low-THC cannabis, including ownership information for the properties;

(ii) The address and description of any satellite location that will be used by the applicant for secure storage of low-THC cannabis;

(iii) [(iv)] Descriptions of the methods proposed for the cultivation, processing, storing, and dispensing of low-THC cannabis;

(iv) [(v)] Descriptions of the types and locations of worker safety equipment and plans and procedures for complying with federal Occupational Safety and Health Administration (OSHA) regulations for workplace safety;

(v) [(vi)] A list of current and proposed staff, including [s] position, duties, and responsibilities, and an organizational chart illustrating the supervisory structure of the dispensing organization;

(vi) [(v)] Description of the applicant's proposed testing laboratory[s] and description of the proposed testing protocols and methods;

(vii) [(vi)] A proposal establishing the ability to secure premises reasonably located to allow patient access through existing infrastructure; and

(viii) [(vii)] Department approved acknowledgments executed by the applicant's directors, owners, managers, members, and employees indicating familiarity with the federal laws governing marihuana [marijuana] and its interstate transportation.

(C) The ability to maintain accountability of all raw materials, finished products, and any by-products to prevent diversion or unlawful access to or possession of these substances, evidenced by:

(i) Floor plan of each facility or proposed floor plans for proposed facilities, including:

(I) Locking options for all means of ingress and egress consistent with life safety requirements;

(II) Alarm systems;

(III) Video surveillance;

(IV) Name, layout, and function of each room;

and

(V) Storage, including safes and vaults.

(ii) Diversion prevention procedures;

(iii) Emergency management plan;

(iv) System for tracking source plant material throughout cultivation, processing, storing, and dispensing;

(v) Inventory control system as required by §12.8 of this title (relating to Inventory Control System);

(vi) Policies and procedures for recordkeeping;

(vii) Electronic vehicle tracking systems;

(viii) Vehicle security systems;

(ix) Methods of screening and monitoring employees;

(x) Employee qualifications and experience with chain of custody or other tracking mechanisms;

(xi) Waste disposal plan;

(xii) Recall procedures for any product that has a reasonable probability of causing adverse health consequences based on a testing result, patient reaction, or other reason; and

(xiii) Access to specialized resources or expertise regarding data collection, security, and tracking.

(D) Infrastructure reasonably located to dispense low-THC cannabis to registered patients, evidenced by:

(i) Map showing the location of the applicant's proposed dispensing facilities with streets, [s] property lines, [s] buildings, [s] parking areas, [s] outdoor areas [s] if applicable, [s] fences, [s] security features, [s] fire hydrants [s] if applicable, [s] and access to water and sanitation systems;

(ii) Floor plan of the actual or proposed building or buildings where dispensing activities will occur showing areas designed to protect patient privacy and areas designed for retail sales [s] with proposed hours of operation;

(iii) HIPAA compliant computer network utilized by all facilities;

(iv) Identifying descriptions of any vehicles to be used to transport product; and

(v) Description of all communication systems.

(E) The financial ability to maintain operations for two (2) years from the date of application, evidenced by:

(i) Applicant's business organization [s] and corporate structure if applicable;

(ii) List of all owners of any non-corporate applicant [s] or all shareholders of a corporate applicant;

(iii) All individuals and entities with control over the applicant;

(iv) Projected two (2) year budget; and

(v) Description of available assets sufficient to support the dispensing organization activities.

(c) Subsequent to the submission of all information and documentation required by subsection (b)(1) - (6) of this section and the conditional approval of the application, the department will conduct an onsite inspection to confirm applicant's compliance with the requirements of subsection (b)(7) of this section and of this chapter generally. The applicant must pass the inspection prior to licensure. Failure to pass the inspection will result in notification of the basis for the failure. Failure to address the basis for the failure within sixty (60) days of notice may result in the denial of the application[.] pursuant to §12.15 of this title (relating to Denial of Application for License). Upon request of the applicant, the department may extend the period to address the basis for the failure for one (1) additional thirty (30) day period.

[(d) Failure of an applicant to submit all information and documentation required by subsection (b)(1) - (6) of this section will result in notification of the deficiency. Applicant will have ninety (90) days from the date of notice to address the deficiency. Upon request of the applicant, the department may extend the period to address the deficiency for one (1) additional ninety (90) day period. If an applicant fails to provide all required application materials, or fails to respond to a request by the department for additional information necessary to process the application, the application will be terminated. Following the termination of an application, a new application, including a new application fee, must be submitted.]

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 7, 2025.

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D. Phillip Adkins

General Counsel

Texas Department of Public Safety

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For further information, please call: (512) 424-5848



SUBCHAPTER C. COMPLIANCE AND ENFORCEMENT

37 TAC §12.23

The Texas Department of Public Safety (the department) proposes amendments to §12.23, concerning Revocation. The proposed rule amendment implements House Bill 46, 89th Leg., R.S. (2025), by authorizing revocation for a dispensing organization license for failing to begin dispensing low-THC cannabis within 24 months of license issuance or failing to continue dispensing low-THC cannabis during the term of the license.

Suzy Whittenton, Chief Financial Officer, has determined that for each year of the first five-year period this rule is in effect there will be no fiscal implications for state or local government or local economies.

Ms. Whittenton has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities required to comply with the section as proposed. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed. There is no anticipated negative impact on local employment.

Ms. Whittenton has determined that for each year of the first five-year period the rule is in effect the public benefit anticipated as a result of this rule will be the effective implementation of leg-

islation and greater clarity, consistency, and transparency in the administration of the Compassionate-Use Program.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is 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. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create a new regulation. The proposed rulemaking does not limit or repeal an existing regulation but does expand an existing 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 is in effect, the proposed rule should not impact positively or negatively the state's economy.

Comments on the proposal may be submitted to Amanda Contrino, Regulatory Services Division, Department of Public Safety, P.O. Box 4087, MSC-0240, Austin, Texas 78773-0240, or by email to RSD.Rule.Comments@dps.texas.gov. Email submission only is preferred. Comments must be received no later than thirty (30) days from the date of publication of this proposal.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Health and Safety Code, §487.052, which requires the director to adopt rules necessary for the administration and enforcement of Texas Health and Safety Code, Chapter 487; §487.1045(b), which requires the director to adopt rules to revoke the license of a dispensing organization that does not dispense low-THC cannabis within the time required by this section or that discontinues dispensing low-THC cannabis during the term of the license and to monitor whether a dispensing organization is using a license issued to dispense low-THC cannabis; and House Bill 46, 89th Leg., R.S. (2025).

Texas Government Code, §411.004(3); Texas Health and Safety Code, §487.052; and §487.1045(b) are affected by this proposal.

§12.23. Revocation.

(a) The department may revoke a license or registration if the licensee or registrant:

(1) Is found to have performed a regulated function prior to issuance of the license or registration;

(2) Misrepresents a material fact in any application to the department or any other information filed pursuant to the Act or this chapter;

(3) Prepares or submits to the department false, incorrect, incomplete or misleading forms or reports on multiple occasions;

(4) Performs a regulated function while suspended;

(5) Exhibits a pattern of misconduct evidenced by previous violations for which previous suspensions have been inadequate to affect compliance;

(6) Is convicted of a disqualifying felony or misdemeanor offense pursuant to §12.3 of this title (relating to Criminal History Disqualifiers);

(7) Violates §§481.120, 481.121, 481.122, or 481.125 of the Texas Health and Safety Code; [ø]

(8) Fails to begin dispensing low-THC cannabis within 24 months of license issuance or fails to continue dispensing low-THC cannabis during the term of the license; or

(9) [(8)] Submits to the department a payment that is dishonored, reversed, or otherwise insufficient or invalid.

(b) Following notification of the violation, the licensee or registrant will be provided with thirty (30) days to address the violation or request a hearing by submitting the request electronically through the department's website or as otherwise determined by the department. If a hearing is requested, the department will schedule a hearing before SOAH.

(c) An [Except as provided in subsection (b) of this section, an] individual whose [certificate of] registration has been revoked may not be relicensed or reregistered earlier than two (2) years from the date of revocation.

(d) An individual whose registration has been revoked for a dishonored or reversed payment, as provided under subsection (a)(9) [(a)(8)] of this section may reapply at any time. Approval of the application is contingent upon receipt of payment of the full amount due, including any additional processing fees resulting from the prior dishonored or reversed payment. The department may dismiss a pending revocation proceeding based on a dishonored or reversed payment upon receipt of payment of the full amount due, including any additional processing fees resulting from the prior dishonored or reversed payment.

(e) Other than as provided in subsection (d) of this section, an organization or individual whose license or registration has been revoked must follow the applicable procedures pursuant to §12.11 or §12.12 of this title (relating to Application for License and Application for Registration, respectively) for new applications.

(f) For purposes of subsection (a)(8) of this section, a licensee fails to begin dispensing low-THC cannabis within 24 months of license issuance or fails to continue dispensing low-THC cannabis during the term of the license if the licensee:

(1) Does not continuously cultivate, process, and produce low-THC cannabis in a manner consistent with the level of demand for the licensee's product; or

(2) Does not promptly and accurately fill prescriptions.

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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D. Phillip Adkins

General Counsel

Texas Department of Public Safety

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For further information, please call: (512) 424-5848



SUBCHAPTER D. SECURITY

37 TAC §12.35

The Texas Department of Public Safety (the department) proposes new §12.35, concerning Security of Satellite Locations. The proposed rule implements House Bill 46, 89th Leg., R.S. (2025), by establishing security requirements for dispensing organization satellite locations if approved by the department.

Suzy Whittenton, Chief Financial Officer, has determined that for each year of the first five-year period this rule is in effect there will be no fiscal implications for state or local government or local economies.

Ms. Whittenton has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities required to comply with the section as proposed. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed. There is no anticipated negative impact on local employment.

Ms. Whittenton has determined that for each year of the first five-year period the rule is in effect the public benefit anticipated as a result of this rule will be the effective implementation of legislation and greater clarity, consistency, and transparency in the administration of the Compassionate-Use Program.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is 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. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does create a new regulation. The proposed rulemaking does not expand, limit, or repeal an existing 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 is in effect, the proposed rule should not impact positively or negatively the state's economy.

Comments on the proposal may be submitted to Amanda Contrino, Regulatory Services Division, Department of Public Safety,

P.O. Box 4087, MSC-0240, Austin, Texas 78773-0240, or by email to RSD.Rule.Comments@dps.texas.gov. Email submission only is preferred. Comments must be received no later than thirty (30) days from the date of publication of this proposal.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Health and Safety Code, §487.052, which requires the director to adopt rules necessary for the administration and enforcement of Texas Health and Safety Code, Chapter 487; §487.1035(d), which requires the director to adopt rules regarding the design and security requirements for satellite locations; and House Bill 46, 89th Leg., R.S. (2025).

Texas Government Code, §411.004(3); Texas Health and Safety Code, §487.052; and §487.1035(d) are affected by this proposal.

§12.35. Security of Satellite Locations.

(a) A dispensing organization that has been approved by the department to operate a satellite location must establish and maintain effective controls and procedures to prevent unauthorized access, theft, or diversion of any low-THC cannabis product to be dispensed at a satellite location. The dispensing organization must:

(1) Establish a floor plan and a security plan to be submitted to the department for pre-approval;

(2) Designate an enclosed locked area within the satellite location where low-THC cannabis product is stored that provides reasonably adequate security against theft and diversion; and

(3) Designate an individual, or a limited number of individuals, with responsibility for and with the authority to enter or control entry into the enclosed locked area where low-THC cannabis product is stored.

(b) During the regular course of business activities, and except as provided by subsection (c) of this section, a dispensing organization may not allow access to the facility's low-THC cannabis product storage area by unauthorized individuals or to the public. Only a licensee, director, owner, manager, member, or registered employee may access the enclosed locked area where low-THC cannabis product is stored. A dispensing organization must limit access to the low-THC cannabis product storage area to the minimum number of individuals or employees necessary for the licensee's activities.

(c) When unregistered individuals, whether employees, contractors, business guests, visitors, or maintenance or other service providers not regulated under Texas Health and Safety Code, Chapter 487 or this chapter, are present in or pass through regulated premises, the unregistered individuals must be continuously escorted by a registrant. Unregistered individuals must be provided a visitor's badge reflecting the individual's name and the date of issuance. All ingress and egress by unregistered individuals must be recorded in a daily log. The log must include the full name of each unregistered individual entering the regulated premises, the time of arrival, the time of departure, and the purpose of the visit. The requirements of this subsection do not apply to representatives of the department or other law enforcement agencies of this state who tour the facility as part of the representative's official duties.

(d) Satellite locations must have an alarm system capable of continuously monitoring the regulated premises for fire and intrusion by means of camera recording, door switches, motion sensors, and fire and smoke detectors. The system must have the capability of immediately alerting local law enforcement of a fire at any time, of a security breach during non-business hours, and of being manually activated by staff during business hours. The camera monitoring system must be ca-

pable of recording at least 90 days of footage to an external hard drive at a minimum resolution of 720 x 350, with camera coverage of all regulated areas, including all ingress or egress areas, and the building exterior. Point of sale areas, if applicable, must have a camera placed in a manner to provide visual identification of any patient or legal guardian seeking to fill a prescription for low-THC cannabis. Exterior lighting must be sufficient to support camera monitoring. The system must comply with local city or county alarm permitting requirements. The system must be capable of continuous function upon total power loss for a minimum period of five (5) minutes.

(e) A dispensing organization may not store or sell products at a satellite location that are not approved by the department under the Texas Compassionate Use Program.

(f) All low-THC cannabis product stored at the satellite location must be secured in a locked restricted access area, unless in the process of being dispensed to a patient.

(g) Any pick-up location previously approved by the department must meet the minimum satellite facility safety requirements as determined by the department 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.

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D. Phillip Adkins

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CHAPTER 14. SCHOOL BUS SAFETY STANDARDS

SUBCHAPTER D. SCHOOL BUS SAFETY STANDARDS

37 TAC §§14.51 - 14.54

(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 figure in 37 TAC §14.52 is not included in the print version of the Texas Register. The figure is available in the on-line version of the August 22, 2025, issue of the Texas Register.)

The Texas Department of Public Safety (the department) proposes amendments to §§14.51 - 14.54, concerning School Bus Safety Standards. The proposed amendments update the rules to reflect the equipment specifications for 2025 model school buses operating in the State of Texas, modify language so that it is consistent with the statutory framework, including removing references to private schools, and update references to required forms. Additional non-substantive changes have been made to improve clarity and readability.

Suzy Whittenton, Chief Financial Officer, has determined that for each year of the first five-year period these rules are in effect there may be fiscal implications for local government, but not for state government. The 2025 model equipment specifications adds illuminated bus signs to the front and rear roof

caps of the school bus which are estimated to cost \$1,350 per bus. The equipment specifications also increase the capacity of the wheelchair lift mechanism and platform from 800 pounds to 1,000 pounds, which manufacturers began implementing in 2015, and is estimated to cost \$200 per bus. These additional specifications are required only for 2025 model school buses, and no retrofitting of any school bus purchased or acquired prior to the effective date of this proposal is required.

Ms. Whittenton has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities required to comply with this proposal. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed. There is no anticipated negative impact on local employment.

Ms. Whittenton has determined that for each year of the first five-year period the rules are in effect the public benefit anticipated as a result of these rules will be improved public safety.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is 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. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create a new regulation. The proposed rulemaking does expand an existing regulation. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years the proposed rules are in effect, the proposed rules should not impact positively or negatively the state's economy.

Comments on the proposal may be submitted to Christie Hebert, School Bus Transportation Program, Texas Department of Public Safety, P.O. Box 4087, Austin, Texas 78773-0525, (512) 424-7396. Comments must be received no later than thirty (30) days from the date of publication of this proposal.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Education Code, §34.002, which authorizes the department to adopt safety standards for school buses; Texas Transportation Code, §547.101(a), which authorizes the department to adopt rules necessary to administer the chapter; §547.102, which authorizes the department to adopt safety standards and specifications for school bus equipment; and §547.7015, which authorizes the department to adopt rules

governing the design, color, lighting, and other equipment, construction and operation of a school bus for the transportation of school children.

Texas Government Code, §411.004(3); Texas Education Code, §34.002; and Texas Transportation Code, §547.101(a), §547.102, and §547.7015 are affected by this proposal.

§14.51. Applicability.

(a) This subchapter is applicable to all school districts and county transportation systems that own, operate, rent, contract or lease school buses and those commercial transportation companies which contract with a public school or county transportation system to transport public school students in school buses.

(b) In this subchapter, the term "school district" also means an open enrollment charter school authorized by the Texas Education Code, Chapter 12, Subchapters D and E that is providing transportation according to Texas Education Code, §34.003.

~~[(c) A private school, defined as a non-profit entity that provides elementary or secondary education that incorporates an adopted curriculum designed to meet basic educational goals and which conducts formal reviews and documentation of student progress, must only comply with §14.52 of this title (relating to Texas School Bus Specifications) and §14.53 of this title (relating to Purchases of Used School Buses) as applicable.]~~

§14.52. Texas School Bus Specifications.

(a) All school districts must purchase or use school buses from school bus chassis and body manufacturers that [shall] certify to the department, in the form of a letter, that all school buses offered for sale to or in use by school districts [the public school systems] in Texas meet or exceed all standards, specifications, and requirements as specified in the department's publication Texas School Bus Specifications. The department hereby adopts the Texas School Bus Specifications for 2025 [2018] Model School Buses. Previously published Texas School Bus Specifications remain in effect for earlier model year school buses until the department repeals these publications.

Figure: 37 TAC §14.52(a)

[Figure: 37 TAC §14.52(a)]

(b) All school districts must purchase or use multifunction school activity buses from school bus chassis and body manufacturers that [shall] certify to the department, in the form of a letter, that all multifunction school activity buses offered for sale to or in use by school districts [the public school systems] in Texas meet or exceed all federal standards, specifications, and requirements of a multifunction school activity bus as specified in the Title 49, Code of Federal Regulations, Part 571.

(1) A multifunction school activity bus may be painted any color except National School Bus Glossy Yellow.

(2) A multifunction school activity bus cannot be used for home to school or school to home transportation. Before delivery of a multifunction school activity bus, the manufacturer must place a label in the direct line of site of the driver while seated in the driver's seat stating: 'This vehicle is not to be used for home to school or school to home transportation.'

(c) Any new school bus found out of compliance with the specifications that were in effect in Texas on the date the vehicle was manufactured will be placed out of service by the vehicle's owner until it is brought into compliance with the applicable specifications.

§14.53. Purchases of Used School Buses.

(a) Used school buses purchased or operated by a school district ~~[public school system]~~ in Texas shall meet or exceed all Federal and State requirements for public school buses that were in effect in Texas on the date the vehicle was manufactured. Prior to the sale, the dealer selling the used school bus must provide the buyer (school district) with:

(1) Documentation of the dealer's general distinguishing number ~~[their "Dealer General Distinguishing Number" which is]~~ required by Texas Transportation Code, §503.029.

(2) Documentation of the original manufacturing state of the school bus ~~[what state the used school bus was originally manufactured]~~.

(3) A copy of the original manufacturing specifications for the school bus ~~[was originally manufactured to]~~.

(4) Documentation of all modifications ~~[that were]~~ made to each school bus to bring it into compliance with Texas School Bus Specifications in effect ~~[that were in place]~~ on the original date of manufacture ~~[date the school bus was originally manufactured]~~.

(b) School ~~[Public school]~~ districts or contractors must notify the department in writing within 30 days of purchasing any used school bus. The notification must include:

(1) The date of purchase and delivery.

(2) The name of the dealer and the dealer's general distinguishing number for the seller of the used school bus ~~[General Distinguishing Number from whom the used school bus was purchased]~~.

(3) Who manufactured the school bus, date of manufacture, and to which states' specifications the school bus was manufactured.

(c) Used school buses purchased by school districts that were not originally manufactured to Texas specifications at the time the school bus was manufactured may be inspected by the department to verify compliance with the applicable federal and state specifications.

(d) Any used school bus, as described in subsection (a) of this section, found out of compliance with the specifications that were in effect in Texas on the date the vehicle was manufactured will be placed out of service by the vehicle's owner until it is brought into compliance with the applicable specifications.

~~[(e) A private school must comply with this subsection except for requirements to report the purchase of a used school bus to the department.]~~

§14.54. School Bus Emergency Evacuation Training.

(a) School districts and charter schools are ~~[will be]~~ responsible for developing the school bus emergency evacuation training curriculum based on the most recent edition of the National School Transportation Specifications and Procedures, as adopted by the National Congress on School Transportation, or a similar school transportation safety manual.

(b) For purposes of conducting school bus emergency evacuation training, the term "fall" is ~~[shall be]~~ defined as July 1 to December 31.

(c) School districts and charter schools are encouraged to make a good faith effort to ensure that all students, teachers, and appropriate staff receive the school bus emergency evacuation training at least once each school year.

(d) Reporting Requirements.

(1) A record of each school bus emergency evacuation training session conducted must be submitted on [a] form SBT-7 titled "Reporting of School Bus Evacuation Training" ~~[prescribed by the department that is]~~ available at: <https://www.dps.texas.gov/internetforms/home/index> ~~[the following internet web site address: <http://www.txdps.state.tx.us/forms>]~~. ~~[All information requested on the form must be completed.]~~ The ~~[completed]~~ form must be filled out completely and submitted via mail ~~[mailed]~~ to School Bus Transportation, Texas Department of Public Safety, P.O. Box 4087, Austin, Texas 78773-0525 or electronically [submitted via electronic mail] to sbt@dps.texas.gov ~~[sbt@txdps.state.tx.us]~~.

(2) Reports must be submitted within 30 days following the completion of each training session ~~[not later than the 30th day after the date each training session is completed]~~.

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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D. Phillip Adkins

General Counsel

Texas Department of Public Safety

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