

REVIEW OF AGENCY RULES

This section contains notices of state agency rule review as directed by the Texas Government Code, §2001.039.

Included here are proposed rule review notices, which invite public comment to specified rules under review; and adopted rule review notices, which summarize public comment received as part of the review. The complete text of an agency's rule being reviewed is available in the *Texas Administrative Code* on the Texas Secretary of State's website.

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the website and printed copies of these notices may be directed to the *Texas Register* office.

Proposed Rule Reviews

Texas Health and Human Services Commission

Title 26, Part 1

The Texas Health and Human Services Commission (HHSC) proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 26, Part 1, of the Texas Administrative Code (TAC):

Chapter 550, Licensing Standards For Prescribed Pediatric Extended Care Centers

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 550, Licensing Standards For Prescribed Pediatric Extended Care Centers, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to hhsrulescoordinationoffice@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 550" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published but may be found in Title 26, Part 1, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings (www.sos.texas.gov).

TRD-202502842

Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: August 12, 2025



The Texas Health and Human Services Commission (HHSC) proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 26, Part 1, of the Texas Administrative Code (TAC):

Chapter 558, Licensing Standards For Home And Community Support Services Agencies

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule con-

tinue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 558, Licensing Standards For Home And Community Support Services Agencies, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to hhsrulescoordinationoffice@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 558" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published but may be found in Title 26, Part 1, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings (www.sos.texas.gov).

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Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: August 12, 2025



The Texas Health and Human Services Commission (HHSC) proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 26, Part 1, of the Texas Administrative Code (TAC):

Chapter 563, Minimum Standards for Narcotic Treatment Programs

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 563, Minimum Standards for Narcotic Treatment Programs, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to hhsrulescoordinationoffice@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 563" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published but may be found in Title 26, Part 1, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings (www.sos.texas.gov).

Adopted Rule Reviews

Texas Education Agency

Title 19, Part 2

The Texas Education Agency (TEA) adopts the review 19 TAC Chapter 101, Assessment, Subchapter AA, Commissioner's Rules Concerning the Participation of English Language Learners in State Assessments; Subchapter CC, Commissioner's Rules Concerning Implementation of the Academic Content Areas Testing Program; Subchapter DD, Commissioner's Rules Concerning Substitute Assessments for Graduation; Subchapter EE, Commissioner's Rules Concerning the Statewide Testing Calendar and UIL Participation; and Subchapter FF, Commissioner's Rules Concerning Diagnostic Assessment, pursuant to Texas Government Code, §2001.039. TEA proposed the review of 19 TAC Chapter 101, Subchapters AA and CC-FF, in the February 28, 2025 issue of the *Texas Register* (50 TexReg 1704).

Relating to the review of 19 TAC Chapter 101, Subchapters AA; CC-EE; and FF, §101.6003, Local Assessments, TEA finds that the reasons for adopting these rules continue to exist and readopts the rules.

TEA finds that the reasons for adopting Subchapter FF, §101.6001, Texas Middle School Diagnostic Reading Assessment, do not continue to exist. House Bill 2, 89th Texas Legislature, Regular Session, 2025, removed Texas Education Code, §28.006(c-1), which required the evaluation in §101.6001.

TEA received no comments related to the review of Subchapters AA and CC-FF.

At a later date, TEA plans to repeal §101.6001.

This concludes the review of Chapter 101.

TRD-202502832
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Filed: August 11, 2025

State Board of Dental Examiners

Title 22, Part 5

The Texas State Board of Dental Examiners (Board) adopts the review of the chapters below in Title 22, Part 5, of the Texas Administrative Code (TAC):

Chapter 110, Sedation and Anesthesia; and

Chapter 113, Requirements for Dental Offices.

Notice of the review of these chapters was published in the May 16, 2025 issue of the *Texas Register* (50 TexReg 2985).

As indicated below, the Board received three written comments in response to the rule review notice of Chapter 110:

(1) The Texas Society of Anesthesiologists (TSA) recommend changing Board rule 110.6(c)(4)(B)(ii), which provides that breath sounds of a non-intubated patient must be continually monitored and evaluated by auscultation and/or end-tidal CO₂. TSA states that the Board rule is not consistent with current ADA standards that require end-tidal CO₂ monitoring for deep sedation or general anesthesia. They note that ADA standards (from 2016) allow the practitioner to not use this monitor when "precluded or invalidated by the nature of the patient, procedure, or equipment." TSA is concerned that this potential exception may lead to patient injury. TSA recommend that for monitoring for general anesthesia or deep sedation (with or without endotracheal tube), the rule should require end-tidal CO₂ monitoring. TSA states this recommendation is consistent with the Texas Medical Board rules and the American Society of Anesthesiologists' standards of monitoring. For patient safety, the standard for monitoring should not differ if the deep sedation or general anesthesia is done in a plastic surgeon's office or a dentist's office.

Board Response: Board rule 110.15(c) (Prevention of and Response to Sedation/Anesthesia Emergencies) provides that a permit holder who is administering sedation/anesthesia for which a Level 4 permit is required, must use capnography during the administration of the sedation/anesthesia. The Board notes that rule 110.6(c)(4)(B)(ii) is not consistent with rule 110.15(c) and plans to further review Chapter 110 and propose changes to correct inconsistencies.

(2) The Texas Dental Association (TDA) does not have any specific recommended changes to Chapter 110 of the Board rules. However, TDA requests the opportunity to collaborate with the Board in its consideration of any comments submitted by other stakeholders that the Board elects to pursue. Additionally, TDA seeks to engage with the Board in the development of any minor revisions intended to enhance the structural clarity of Chapter 110 and to resolve any internal inconsistencies that could create confusion for dentists. Furthermore, TDA requests that the Board not undertake any substantive revisions of Chapter 110 during this rule review process. Instead, TDA urges the Board to conduct a separate comprehensive review that incorporates the 2016 American Dental Association's Guidelines for the Use of Sedation and General Anesthesia by Dentists.

Board Response: The Board agrees that Chapter 110 needs further review and plans to propose changes to include updates and correct inconsistencies.

(3) The Texas Association of Nurse Anesthetists (TxANA) recommend changing Board rules 110.3(b)(4), 110.4(b)(4), 110.5(b)(4), and 110.6(b)(4) which pertain to supervising CRNAs. Specifically, to replace "supervise" with "delegate." TxANA attest that the proposed change would bring the Board rules into harmony with existing state law and provide clarity for dentists and CRNAs regarding the nature of their professional relationships. TxANA provides that attorney general opinions have been issued to clarify supervision requirements, specifically with regards to physician delegation, all largely restating that state law "does not require that a physician directly supervise the CRNA's selection and administration of the anesthesia." Tex. Att'y Gen. Op. No. JC-0117 (1999). TxANA provides that the Texas Medical Board once attempted to impose a supervision requirement through rule, yet that effort ultimately failed. TxANA provides that supervision requirements are important because liability concerns arise from the level of supervision required when delegating to a CRNA. TxANA attests that if a provider is merely delegating to a CRNA, and that CRNA is solely responsible for the anesthesia care, the provider's legal exposure is minimal. However, when a provider is obligated to "supervise" the CRNA, there is concern that they may risk liability claims for alleged inadequate supervision, potentially leading to vicarious liability for the CRNA's actions.

Board Response: The Board is not proposing any changes at this time regarding this issue. The Board notes that Section 258.003 of the Dental Practice Act provides that a delegating dentist is responsible for a dental act performed by the person to whom the dentist delegates the act.

The Board has reviewed Chapters 110 and 113 in accordance with Texas Government Code §2001.039, which requires state agencies to assess, every four years, whether the original reasons for adopting a rule continue to exist. The Board determined that the initial reasons for adopting rules in the chapters continue to exist and readopts Chapters 110 and 113.

This concludes the Board's review of 22 TAC Chapters 110 and 113 as required by the Texas Government Code §2001.039.

TRD-202502865

Lauren Studdard

General Counsel

State Board of Dental Examiners

Filed: August 13, 2025

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