

ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 370. HUMAN TRAFFICKING RESOURCE CENTER

26 TAC §370.1

The executive commissioner of the Texas Health and Human Services Commission (HHSC) adopts an amendment to §370.1, concerning Human Trafficking Prevention Training Requirements.

Section 370.1 is adopted without changes to the proposed text as published in the June 26, 2026, issue of the *Texas Register* (51 TexReg 4104). This rule will not be republished.

BACKGROUND AND JUSTIFICATION

The amendment is necessary to comply with House Bill (HB) 742, HB 754, and HB 1778, 89th Legislature, Regular Session, 2025, which requires HHSC to include medical assistants, first responders, and tattoo or body piercing studio employees, to the list of professions required to take HHSC-approved human trafficking prevention training.

HB 742 and HB 754 amended Texas Health and Safety Code (HSC) Chapter 763 to require human trafficking prevention training for first responders and medical assistants, respectively. HB 1778 added HSC §146.0075 to require each employee of a tattoo studio or body piercing studio to complete human trafficking prevention training.

COMMENTS

The 31-day comment period ended July 27, 2026.

HHSC received comments regarding the proposed rule from four commenters. HHSC received comments from The American Association of Medical Assistants, the Texas Society of Medical Assistants, UT Southwestern Medical Center, and one individual. A summary of comments relating to the rule and HHSC's responses follows.

Comment: A commenter supported the addition of "resources to support victims" in §370.1(a)(2)(D) and suggested that HHSC distinguish between short-term and long-term resources in the rule.

Response: HHSC declines to make the suggested change in the rule but will consider making this distinction regarding resources in the Human Trafficking Prevention Training Standards.

Comment: A commenter supported the addition of required human trafficking prevention training for medical assistants and

would like to submit a course the commenter has developed for medical assistants to HHSC for review and approval.

Response: HHSC acknowledges the comment. No changes were made to the rule in response to this comment.

Comment: A commenter supported the addition of the new professions to the human trafficking prevention training requirement. They also commended HHSC on its use of plain language and appreciated the low implementation burden of the amended rule.

Response: HHSC acknowledges the comment. No changes were made to the rule in response to this comment.

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, and Texas Health and Safety Code Chapters 146 and 763, which authorize the executive commissioner of HHSC to adopt rules governing the Human Trafficking Resource Center.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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TITLE 28. INSURANCE

PART 1. TEXAS DEPARTMENT OF INSURANCE

CHAPTER 11. HEALTH MAINTENANCE ORGANIZATIONS

The commissioner of insurance adopts amendments to 28 TAC §§11.202, 11.301, 11.302, 11.501 - 11.504, 11.506, 11.701, 11.901, 11.902, 11.1402, 11.1604, and 11.2503 and the repeal of 28 TAC §11.505. These sections concern health maintenance organizations (HMOs). The amendments to §§11.202,

11.302, 11.501, 11.503, 11.506, 11.901, 11.1402, 11.1604, and 11.2503 and the repeal of §11.505 are adopted without changes to the proposed text published in the May 8, 2026 issue of the *Texas Register* (51 TexReg 3058). These sections will not be republished. The amendments to §§11.301, 11.502, 11.504, and 11.701 are adopted with nonsubstantive changes to the proposed text. Section 11.902 is adopted with changes to the proposed text that include revisions in response to public comment. Sections 11.301, 11.502, 11.504, 11.701, and 11.902 will be republished.

REASONED JUSTIFICATION. The amendments and repeal are necessary to implement the following legislation:

- House Bill 388, 89th Legislature, 2025, requires health plans to use a uniform coordination of benefits questionnaire that is adopted by TDI.
- House Bill 2221, 89th Legislature, 2025, repeals certain provisions in Insurance Code Chapter 541, concerning unlawful rebates and inducements, and replaces them with similar provisions in new Chapter 1702.
- House Bill 3211, 89th Legislature, 2025, establishes new contracting requirements for vision care plans.
- Senate Bill 493, 89th Legislature, 2025, prohibits certain pharmacy benefit manager contract provisions.
- Senate Bill 896, 89th Legislature, 2025, extends the period during which a newborn child is automatically covered and the deadline to enroll a newborn child into coverage.
- Senate Bill 926, 89th Legislature, 2025, expands provisions related to health plans that use steering or tiering to encourage enrollees to use certain network physicians and providers.
- Senate Bill 1236, 89th Legislature, 2025, expands requirements for pharmacy benefit network contracts.

Separate adoption orders amend sections in 28 TAC Chapters 3 and 26 to implement the previously referenced legislation. The adopted amendments are also published in this issue of the *Texas Register*. In a separate proposal published in the May 29, 2026 issue of the *Texas Register* (51 TexReg 3679), TDI proposed amendments to 28 TAC §3.3704 to implement SB 926. TDI also adopted by reference LHL 138 (Patient Health Plan Coverage Form) and LHL139 (Enrollee's Other Health Plan Coverage Form), which contain two versions of a uniform coordination of benefits questionnaire, effective January 1, 2026, in 28 TAC Chapter 3, Subchapter V, to implement HB 388. TDI has proposed amendments to 28 TAC Chapter 21 to implement provisions in HB 2221 and SB 1236, and the proposal was published in the July 31, 2026 issue of the *Texas Register* (51 TexReg 4991).

The amendments to §§11.202, 11.301, 11.302, 11.501 - 11.504, 11.701, and 11.1604, and the repeal of §11.505 are also necessary to update HMO filing rules to align with filing requirements for life, health, and HMO products in 28 TAC Chapter 3, Subchapter A. Historically, HMO filing requirements were addressed exclusively in Chapter 11. However, in 2025, TDI modernized the rules in Chapter 3, Subchapter A, and expanded the scope to include all HMO filings that are filed with TDI's Life and Health Division through the NAIC's System for Electronic Rates and Forms Filing (SERFF) after an HMO receives a certificate of authority. The amendments and repeal remove provisions that duplicate or conflict with the provisions in 28 TAC Chapter 3, Subchapter A. Because of the reorganization of §11.301, cross-references

in other sections of Chapter 11 are amended to conform to the reorganized subsections and paragraphs.

These amendments will further the goals of Government Code Chapter 465 to ensure that TDI's rules are clear, concise, and consistent. The adopted amendments and repeal are described in the following paragraphs.

Section 11.202. The amendments to §11.202 delete subsection (i), which requires each item in an application for a certificate of authority to be identified by a unique form number. This requirement is no longer necessary. Form numbers are needed only for filings made in SERFF, and applicable requirements are contained in 28 TAC Chapter 3, Subchapter A. The deletion of subsection (i) conforms to the amendments to §11.301.

Section 11.301. The amendments to §11.301 modify the filing requirements to conform to changes previously adopted in 28 TAC Chapter 3, Subchapter A, which broadly address filing requirements for life, health, and HMO products and remove the need for most HMO-specific filing requirements. As part of these amendments, provisions throughout the section are reorganized into subsections, renumbered paragraphs, and redesignated subparagraphs.

To improve readability, amendments to newly designated subsection (a) add statutory citations that are currently included in paragraph (1) and remove language addressing filings for preapproval or for information only, as those filing types are addressed in subsequent subsections. Cross-references to paragraphs (4) and (5) are revised to instead reference newly designated subsections (c) and (d) to reflect the section's reorganization. A sentence related to paper and electronic filings is deleted since other references in the section delineating such filing methods are also removed.

Paragraph (1) and subparagraph (A) are redesignated as subsection (b) and the catchline is modified to remove the words "and format," consistent with other changes to the subsection. To improve readability, the references to statutory citations that require filings for approval are moved to subsection (a). References to statutes and rules specifying the information that must be contained for a filing to be considered complete are reorganized into new paragraphs (1) - (3) in new subsection (b). New paragraph (4) adds a reference to filing rules in 28 TAC Chapter 3, Subchapter A, regarding submission requirements for life, health, and HMO products. Subparagraphs (B) - (E), related to filing format and methods, are deleted. Because almost all filings are made electronically, the provisions for paper filings are not necessary. The references to filing methods are unnecessary because they are addressed in newly designated subsections (c) and (d).

Paragraphs (2) and (3), related to form numbers, certification and transmittal forms, supporting documentation, and filing fees, are deleted because similar provisions are contained in 28 TAC Chapter 3, Subchapter A. Since form numbers are not required for filings outside the scope of 28 TAC Chapter 3, Subchapter A, and as previously discussed, the amendment makes a conforming amendment to §11.202 to remove a reference to paragraph (2).

Paragraph (4) is redesignated as subsection (c). References to submissions through SERFF are replaced with a reference to 28 TAC Chapter 3, Subchapter A, which requires electronic submission through SERFF. A nonsubstantive change is made to the proposed text of redesignated subsection (c)(1)(C) to delete an extraneous "and" at the end of the subparagraph.

Paragraph (5) is redesignated as subsection (d). The catchline and the paragraph are expanded to include filings for review because some filings, such as the schedule of charges, are classified as rate filings subject to review under 28 TAC Chapter 3, Subchapter A. To avoid duplication with filing requirements in 28 TAC Chapter 3, Subchapter A, the requirement for accompanying documents is removed. References to SERFF submissions are replaced with a reference to 28 TAC Chapter 3, Subchapter A, which requires electronic submission through SERFF. Non-substantive changes are made to the proposed text of redesignated subsection (d) by deleting the word "and" at the end of subparagraph (1)(B) and adding the word "and" to the end of paragraph (2).

Paragraph (6) is redesignated as subsection (e).

Paragraph (7) is redesignated as subsection (f) and updated to align with 28 TAC Chapter 3, Subchapter A. The catchline is revised to reference "requests for corrections" instead of "pending." Internal cross-references are updated to conform with organizational changes throughout the section. Subparagraph (C), which addresses holding a filing in a pending status, is deleted, since a corresponding requirement is not found in Insurance Code Chapter 1271 or in the filing rules in 28 TAC Chapter 3, Subchapter A. Redesignated paragraph (3) is revised to add a reference to 28 TAC §3.23 and to indicate that if an HMO has not addressed TDI's request for corrections or additional information within 10 business days, TDI may consider the filing withdrawn from review. This aligns with 28 TAC §3.23(c)(3) and replaces the current provision, stating that after 15 calendar days, the HMO may withdraw the filing before the end of the review period.

Section 11.302. The amendments to §11.302(b)(4) revise a reference to §11.301 to conform to proposed amendments to that section.

Section 11.501. The amendments to §11.501 remove outdated filing fee provisions in subsection (b) and replace them with references to the filing requirements in 28 TAC Chapter 3, Subchapter A. Subsection (c), regarding matrix filing fees, is deleted.

Section 11.502. The amendments to §11.502 modify subsection (a) to revise the reference to §11.301 to conform to the amendments reorganizing that section and add a reference to filing requirements in 28 TAC Chapter 3, Subchapter A. A nonsubstantive change to the proposed text of subsection (a) adds "of this title" in the reference to 28 TAC Chapter 3, Subchapter A.

Section 11.503. The amendments to §11.503 revise subsection (a) to add a reference to filing requirements contained in 28 TAC Chapter 3, Subchapter A. Subsection (c) is amended to remove a reference to §11.505, which is repealed. To avoid duplication with provisions in 28 TAC §3.23 and §11.301, subsections (d) - (f) are deleted.

Section 11.504. The amendments to §11.504 revise subsection (a)(1) to add a reference to filing requirements in 28 TAC Chapter 3, Subchapter A, and revise subsection (a)(3) to implement HB 2221 by adding a reference to new Insurance Code Chapter 1702. Subsection (a)(1) as proposed is changed to correct the heading in the reference to Insurance Code Chapter 1271 by adding the word "Organizations." Subsection (a)(3) as proposed is changed to correct a reference to Insurance Code Chapter 1702 by removing "Insurance Code Chapter" and changing the word "Of" to lowercase.

Section 11.505. The repeal of §11.505 avoids duplication with filing requirements in 28 TAC Chapter 3, Subchapter A.

Section 11.506. The amendments to §11.506(b)(8)(D)(iii) and (v) implement SB 896 by expanding required coverage for newborn children from 31 days to 60 days following birth and by extending the deadline to notify the HMO.

Section 11.701. The amendments to §11.701 add a reference in subsection (a) to the filing requirements in 28 TAC Chapter 3, Subchapter A. New subsection (c) is added to reference requirements for major medical rate filings in 28 TAC Chapter 3, Subchapter F, which implements Insurance Code Chapter 1698. Subsection (a) as proposed is changed to correct a punctuation error in the new reference by adding a comma after "Subchapter A," and to correct a reference to the heading for 28 TAC Chapter 3, Subchapter A, by adding an "s" to the term "Filing."

Section 11.901. The amendments to §11.901 implement legislation related to health plan contracting. An amendment to subsection (b)(12) implements HB 388 by adding a requirement of consistency with new Insurance Code §1203.153, with regard to the mandate for a contracted physician or provider to retain records on a patient's other health plan coverage. This change will require the inclusion of the coordination of benefits questionnaire with these records. New subsection (h) is added to implement SB 1236 by requiring that a contract between an HMO and a pharmacy or pharmacist comply with pharmacy benefits contracting standards in Insurance Code Chapter 1369.

Section 11.902. Subsection (a)(7) is redesignated as (a)(8), and new subsection (a)(7) is added to implement HB 3211 by prohibiting HMO conduct that violates Insurance Code §1451.1545 or §1451.157. New subsection (a)(9) is added to implement SB 493 by prohibiting conduct that violates Insurance Code §1451.155.

Subsection (b) is amended to implement SB 926 by adding a reference to Insurance Code §843.322. To avoid duplicating the statute, subparagraphs (A) - (D) of paragraph (3) are deleted.

In response to public comment, subsection (b) as proposed has been changed to align with corresponding rule text in 28 TAC §3.3704(e) in a separate TDI rule proposal published in the May 29, 2026 issue of the *Texas Register* (51 TexReg 3679). These revisions include:

- applying the provisions in subsection (b) to an HMO that encourages an enrollee to obtain care from a particular "physician or provider," consistent with the terminology in §843.322, rather than "provider, as defined in Insurance Code Chapter 1458";
- replacing "do so in a manner that complies" with "comply"; and
- deleting paragraphs (1) - (3).

Nonsubstantive revisions correct minor errors in the proposal. Subsection (a)(6) has been revised to remove the extraneous word "or" at the end of the paragraph and to correct a reference to the heading for Insurance Code §1451.156 to read "Certain Conduct Prohibited." Subsection (b) as proposed has been changed to correct a reference to Insurance Code §843.322 by replacing the word "and" with "or" in the heading.

Section 11.1402. An amendment to §11.1402 implements HB 3211 by adding new subsection (e) to require vision care plans specifically to comply with Insurance Code §1451.1545.

Section 11.1604. An amendment to §11.1604 revises a reference in paragraph (2) to §11.301 to conform to amendments to that section.

Section 11.2503. An amendment to §11.2503(d) implements HB 2221 by adding a citation to Insurance Code Chapter 1702.

The sections also include nonsubstantive editorial and formatting changes to conform them to the agency's current style and to improve the rule's clarity. These changes appear throughout the amended sections and include correcting the style of statutory citations; adding headings to cited statutes and rules; updating cross-references to other rules; updating terminology; and making other grammatical, punctuational, and formatting changes to reflect TDI's current drafting style and plain language preferences.

SUMMARY OF COMMENTS AND AGENCY RESPONSE. TDI provided an opportunity for public comment on the rule proposal for a period that ended on June 8, 2026.

Commenters: TDI received written comments from two commenters. No commenters spoke at the public hearing on the proposal held on June 1, 2026. The commenters in support of the proposal with changes were the Texas Medical Association and the Texas Hospital Association.

Comment. One commenter supports TDI's proposed amendments to §11.506(b)(8)(iii) to implement SB 896 relating to health coverage of newborn children and requests TDI's guidance on two recent cases in which coverage is being denied for newborns whose mothers are listed as dependents on their parents' health insurance coverage. The commenter also supports TDI's proposed amendments to §11.901(h) to implement SB 1236 relating to requirements for pharmacy benefit network contracts.

Agency Response. TDI appreciates the commenter's support. Concerns about a violation of health insurance law or regulation can be reported via the complaint submission process described on TDI's website.

Comment. One commenter suggests expanding §11.902(b) by adding a reference to Insurance Code Chapter 1460 because such reference would aid in compliance efforts, as Insurance Code Chapter 1460 applies in many of the scenarios covered by Insurance Code §843.322 and §1458.101(i). The commenter also notes differences between §11.902(b) and a corresponding rule proposed in 28 TAC §3.3704(e) and recommends that the rules be consistent.

Both commenters express concern that the statement "violations of fiduciary duty will be determined by TDI based on an assessment of the HMO's conduct," implies that violations of the fiduciary duty imposed in Insurance Code §843.322(b) are subject to TDI's discretion, and recommend that the rule specifically list what the statute prohibits and provide more specific compliance and enforcement provisions. The commenters assert that the rule must restate the examples of fiduciary duty violations listed in Insurance Code §843.322(d) and the prohibitions stated in Insurance Code §843.322(c) and (e). One of the commenters also argues that the rule must apply the examples in Insurance Code §843.322(d) to the fiduciary duty imposed under Insurance Code §1458.101(i) in order to avoid a loophole from enforcement of Insurance Code §1458.101.

Agency Response. In response to the comments, TDI has changed §11.902 as proposed to align with corresponding rule text proposed in 28 TAC §3.3704(e), including removal of the statement "violations of fiduciary duty will be determined by TDI

based on an assessment of the HMO's conduct." TDI declines to add an express reference to Insurance Code Chapter 1460 because some circumstances governed under Insurance Code §843.322 may not be subject to Insurance Code Chapter 1460. For example, a health plan might steer patients to a higher value site of service, like an ambulatory surgical center or a hospital system with lower costs.

TDI does not agree that it is necessary to restate the examples and prohibitions stated in Insurance Code §843.322 (c) - (e). Restating the statute makes rules longer and introduces the need for future rulemaking if the statute changes. TDI also declines to add enforcement provisions, because, as the commenter notes, the Insurance Code already gives TDI broad authority to enforce the law. In addition to retrospective reviews in response to complaints, TDI's prospective review of health plan documents provides an opportunity to identify violations, and TDI's form review checklists reflect SB 926. TDI's removal of the "assessment" sentence may alleviate the commenters' concern about confusion around the scope of TDI's discretionary authority.

TDI also declines to amend the rule to expressly apply the Insurance Code §843.322 examples to the fiduciary duty imposed under Insurance Code §1458.101(i). Due to similarities between the two fiduciary duty statutes, TDI may reasonably interpret the provisions similarly, and practically, it is likely that TDI will consider the Insurance Code §843.322 examples to also be violations of Insurance Code §1458.101(i) in a specific enforcement case. However, the two provisions are separate and distinct statutes, and as the commenter noted, SB 926 did not add the Insurance Code §843.322 examples to Insurance Code §1458.101.

SUBCHAPTER C. APPLICATION FOR CERTIFICATE OF AUTHORITY

28 TAC §11.202

STATUTORY AUTHORITY. The commissioner adopts amendments to §11.202 under Insurance Code §§843.080, 843.151, and 36.001.

Insurance Code §843.080 authorizes the commissioner to adopt reasonable rules that the commissioner considers necessary for the proper administration of Insurance Code Chapter 843 to require an HMO, after receiving its certificate of authority, to submit modifications or amendments for the commissioner's approval or information.

Insurance Code §843.151 authorizes the commissioner to adopt reasonable rules to implement various parts of the Insurance Code as applicable to HMOs and to ensure that enrollees have adequate access to health care services.

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.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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SUBCHAPTER D. REGULATORY REQUIREMENTS FOR AN HMO AFTER ISSUANCE OF CERTIFICATE OF AUTHORITY

28 TAC §11.301, §11.302

STATUTORY AUTHORITY. The commissioner adopts amendments to §11.301 and §11.302 under Insurance Code §§843.080, 843.151, and 36.001.

Insurance Code §843.080 provides that the commissioner may adopt reasonable rules that the commissioner considers necessary for the proper administration of Insurance Code Chapter 843 to require an HMO, after receiving its certificate of authority, to submit modifications or amendments for the commissioner's approval or information.

Insurance Code §843.151 authorizes the commissioner to adopt reasonable rules to implement various parts of the Insurance Code and to ensure adequate access to health care services.

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.

§11.301. Filing Requirements.

(a) Filings required. Consistent with Insurance Code §843.080, concerning Modification or Amendment of Application Information, and Insurance Code Chapter 1271, Subchapter C, concerning Commissioner Approval, after the commissioner issues an HMO's certificate of authority, the HMO is required to file with the commissioner any items specified in §11.204 of this title (relating to Contents) that the HMO has deleted, amended, or revised as outlined in subsections (c) and (d) of this section and any items specified in §11.302 of this title (relating to Service Area Expansion or Reduction Applications). These requirements include filing changes made necessary by federal or state law or regulations.

(b) Completeness of filings. The department will not accept a filing for review until the filing is complete. An application to modify an approved application for a certificate of authority is considered complete when all information that is applicable and reasonably necessary for the department to make a final determination has been filed, including information required by:

- (1) this section;
- (2) §11.302 of this title;
- (3) Subchapter T of this chapter (relating to Quality of Care); and
- (4) Chapter 3, Subchapter A, of this title (relating to Submission Requirements for Filings and Departmental Actions Related to Such Filings).

(c) Filings requiring approval. After issuance of a certificate of authority, each HMO must file with the commissioner, using the

method specified below, a written request to implement or modify the following operations or documents and receive the commissioner's approval before putting the modifications into effect:

- (1) as provided in Chapter 3, Subchapter A, of this title:

(A) evidence of coverage filings, as described in §11.501 of this title (relating to Contents of the Evidence of Coverage);

(B) a description and a map of the service area, with key and scale, which must identify the county or counties or portions of counties to be served;

(C) the written description of health care plan terms and conditions made available to any current or prospective group contract holder and current or prospective enrollee of the HMO, including the member handbook for all plans other than Children's Health Insurance Program (CHIP) plans in compliance with the requirements of Insurance Code §843.201, concerning Disclosure of Information About Health Care Plan Terms, and §11.1600 of this title (relating to Information to Prospective and Current Contract Holders and Enrollees);

(D) any material change in the HMO's emergency care procedures;

(E) any material change in network configuration; and

(F) if a material change in the network configuration results in the HMO's inability to comply with the network adequacy standards described in §11.1607 of this title (relating to Accessibility and Availability Requirements), an access plan that complies with that section;

- (2) as provided in §7.201 of this title (relating to Forms Filings):

(A) the form of all contracts described in §11.204(14)(A), (C), (D), and (E) of this title, including any amendments to those contracts and prior notification of the cancellation of any management contracts in §11.204(14)(E) of this title;

(B) the form of all contracts or subcontracts between affiliated physician and provider groups with the individual members of the groups providing health care services to the HMO's enrollees described in §11.204(14)(B) of this title, including any amendments to those contracts;

(C) any new or revised loan agreements or amendments documenting loans made by the HMO to any affiliated person or to any medical or other health care physician or provider, whether providing services currently, previously, or potentially in the future, and any guarantees of any affiliated person's, physician's, or provider's obligations to any third party;

(D) any agreement by which an affiliate agrees to handle an HMO's investments under §11.806 of this title (relating to Investment Management by Affiliate Corporation);

(E) any change in the physical address of the books and records described in §11.205 of this title (relating to Additional Documents to be Available for Review);

(F) any change to any of the requirements for guarantees under §11.810 of this title (relating to Guarantee from a Sponsoring Organization);

(G) any insurance contracts or amendments, guarantees, or other protection against insolvency, including the stop-loss or reinsurance agreements, if changing the carrier or description of coverage, between the HMO and affiliates, as described in §11.204(16) of this title; and

(H) modifications to any type of affiliate compensation arrangements, such as compensation based on fee-for-service arrangements, risk-sharing arrangements, or capitated risk arrangements, made to physicians and providers in exchange for the provision of, or the arrangement to provide health care services to, enrollees, including any financial incentives for physicians and providers;

(3) as provided in §11.203(a) of this title, a copy of any proposed amendment to basic organizational documents, bylaws, rules, or any similar document regulating the conduct of the internal affairs of the applicant and, if the approved amendment must be filed with the secretary of state, a certified copy of the amendment with the file mark of the secretary of state; and

(4) as provided in Chapter 11, Subchapter B, of this title (relating to Name Application Procedure), any name or assumed name on a form, as specified in §11.105 of this title (relating to Use of the Term "HMO," Service Marks, Trademarks, Assumed Name).

(d) Filings for review or information. Material filed under this subsection is not to be considered approved but may be subject to review for compliance with Texas law and consistency with other HMO documents. Within 30 days of the effective date, an HMO must file with the commissioner, for review or information, deletions and modifications to the following previously approved or filed operations and documents:

(1) as provided in Chapter 3, Subchapter A, of this title:

(A) the formula or method for calculating the schedule of charges as specified in Chapter 11, Subchapter H, of this title (relating to Schedule of Charges);

(B) any modification of drug coverage under Insurance Code §1369.0541, concerning Modification of Drug Coverage Under Plan;

(C) the member handbook for CHIP plans, together with a certification from the HMO that the handbook has been approved by the Texas Health and Human Services Commission and a copy of the document approving the handbook;

(D) a copy of the form of any new contract or subcontract or any substantive change to previously filed copies of forms of all contracts between the HMO and any physician or provider described in §11.204(14)(B) of this title, and copies of forms of all contracts between the HMO and an insurer or group hospital service corporation to offer indemnity benefits, whether used with all contracts or on an individual basis. All copies of amended contracts must be marked to indicate revisions. In addition, the HMO must answer all questions listed on the HMO certification and transmittal form;

(E) a copy of the executed agreement between the HMO and any delegated entities and delegated networks as defined in §11.2602 of this title (relating to Definitions); and

(F) any change in the quality assurance program, including the peer review program, as required by Insurance Code §843.082(1), concerning Requirements for Approval of Application, or §843.102, concerning Health Maintenance Organization Quality Assurance, with descriptions of arrangements for sharing pertinent medical records between physicians and providers contracting or subcontracting under §11.204(14)(B) of this title with the HMO and ensuring the records' confidentiality;

(2) as provided in §7.201 of this title, a copy of any notice of cancellation of fidelity bonds, new fidelity bonds, or amendments to fidelity bonds, for officers and employees, including notarized certification by the corporate secretary or corporate president that the material

is true, accurate, and complete, as described in §11.204(7) and (14)(D) of this title; and

(3) as provided in §11.203(a) of this title:

(A) a list of officers and directors and a biographical data sheet for each person listed on the officers and directors page under Insurance Code §843.078(b), concerning Contents of Application, and biographical data forms in §11.204(5)(A), (B), and (C) of this title; and

(B) any change of the certificate of authority for a domestic or foreign HMO and, if a foreign HMO, a certified copy of the certificate of authority and power of attorney.

(e) Approval period. Any modification for which the commissioner's approval is required may be considered approved, unless it is disapproved within 30 days from the date the filing is determined by the department to be complete. The commissioner may postpone the action for a period not to exceed 30 days, as necessary for proper consideration. The department will notify the HMO in writing if it postpones a decision on a modification.

(f) Approval, disapproval, and requests for corrections.

(1) Filings requiring approval under subsection (c)(1)(A) - (C) of this section will be approved or disapproved in writing within the period set forth in subsection (e) of this section unless, before the department's issuance of notice of proposed negative action under §1.704(a) of this title (relating to Summary Procedure; Notice), the HMO has been contacted by the department regarding corrections or additional information necessary for commissioner's approval, and files a written consent to waive the approval period with the department.

(2) The department may waive the approval period on its receipt of the HMO's written consent.

(3) Consistent with §3.23 of this title (relating to Acceptance, Rejection, and Disposition of Filings), if the HMO has not addressed the department's request for corrections or additional information within 10 business days, then the department may consider the filing withdrawn from review.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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For further information, please call: (512) 656-6777



SUBCHAPTER F. EVIDENCE OF COVERAGE

28 TAC §§11.501 - 11.504, 11.506

STATUTORY AUTHORITY. The commissioner adopts amendments to §§11.501 - 11.504 and §11.506 under Insurance Code §§843.151, 1271.004, 1501.010, 1702.006, and 36.001.

Insurance Code §843.151 authorizes the commissioner to adopt reasonable rules to implement various parts of the Insurance

Code as applicable to HMOs, including Insurance Code Chapter 1271, and ensure that enrollees have adequate access to health care services.

Insurance Code §1271.004 authorizes the commissioner to adopt rules necessary to implement the section.

Insurance Code §1501.010 directs the commissioner to adopt rules necessary to implement Insurance Code Chapter 1501.

Insurance Code §1702.006 authorizes the commissioner to adopt reasonable rules necessary to implement Insurance Code Chapter 1702.

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.

§11.502. Filing Requirements for Evidence of Coverage Filed as Part of an Application for a Certificate of Authority.

(a) The filing and formatting requirements of §11.301 of this title (relating to Filing Requirements) and Chapter 3, Subchapter A, of this title (relating to Submission Requirements for Filings and Departmental Actions Related to Such Filings) apply to an evidence of coverage when filed as part of the application for a certificate of authority.

(b) During the review period, an applicant must submit each new page or form reflecting any revisions.

(c) No later than the 10th calendar day after approval or issuance of a certificate of authority, an HMO must file a clean, final version of the evidence of coverage with revisions and a copy of the original version of the evidence of coverage showing the new or revised text as redlined. The submission must include:

(1) an explanation that the evidence of coverage was submitted as part of the application for a certificate of authority and is being submitted in compliance with subsection (c) of this section;

(2) a certification that the forms are without deviation and are the exact final evidence of coverage versions that resulted in approval of the certificate of authority application; and

(3) the final version of an approved service area description and map as attached to the evidence of coverage, with key and scale, which must identify the county or counties or portions of counties to be served.

(d) Any discrepancy in content between the final document to be issued and the approved version is grounds for revocation of a certificate of authority.

§11.504. Disapproval of Evidence of Coverage.

(a) If the department disapproves any portion of an evidence of coverage, the department will specify the reason for the disapproval. The department may disapprove any form or withdraw any previous approval if a form:

(1) fails to meet the requirements of Insurance Code Chapter 1271, concerning Benefits Provided by Health Maintenance Organizations; Evidence of Coverage; Charges; this chapter; Chapter 3, Subchapter A, of this title (relating to Submission Requirements for Filings and Departmental Actions Related to Such Filings); or other applicable statutes and regulations;

(2) does not properly describe the services and benefits;

(3) contains any statements that are unclear, untrue, unjust, unfair, inequitable, misleading, or deceptive or that violate Insurance Code Chapters 541, concerning Unfair Methods of Competition and

Unfair or Deceptive Acts or Practices; 542, concerning Processing and Settlement of Claims; 543, concerning Prohibited Practices Related to Policy or Certificate of Membership; 544, concerning Prohibited Discrimination; 547, concerning False Advertising by Unauthorized Insurers; or 1702, concerning Regulation of Certain Trade Practices, or any other applicable laws or regulations;

(4) provides services or benefits that are too restrictive to achieve the form's purpose;

(5) fails to attain a reasonable degree of readability, simplicity, and conciseness;

(6) provides services or benefits or contains other provisions that would endanger the solvency of the issuing HMO; or

(7) is contrary to the laws or policies of this state.

(b) If the department disapproves a form, the HMO may file a written request for a hearing on the matter under Insurance Code §1271.102, concerning Procedures for Approval of Form of Evidence of Coverage or Group Contract; Withdrawal of Approval.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 21, 2026.

TRD-202604069

Jessica Barta

General Counsel

Texas Department of Insurance

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For further information, please call: (512) 656-6777



28 TAC §11.505

STATUTORY AUTHORITY. The commissioner adopts the repeal of §11.505 under Insurance Code §843.151 and §36.001.

Insurance Code §843.151 authorizes the commissioner to adopt reasonable rules to implement various parts of the Insurance Code as applicable to HMOs and ensure adequate access to health care services.

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.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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General Counsel

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SUBCHAPTER H. SCHEDULE OF CHARGES

28 TAC §11.701

STATUTORY AUTHORITY. The commissioner adopts amendments to §11.701 under Insurance Code §§843.151, 1271.253, 1698.051, and 36.001.

Insurance Code §843.151 authorizes the commissioner to adopt reasonable rules to implement various parts of the Insurance Code as applicable to HMOs, including Insurance Code Chapter 1271, and to ensure that enrollees have adequate access to health care services.

Insurance Code §1271.253 provides that the commissioner may require the submission of any relevant information the commissioner considers necessary in determining whether to approve or disapprove a filing under Insurance Code Chapter 1271, Subchapter F.

Insurance Code §1698.051 requires that the commissioner by rule establish a process under which the commissioner will review individual and small group health benefit plan rates and rate changes for compliance with Insurance Code Chapter 1698 and other applicable state and federal laws, including 42 USC §§300gg, 300gg-94, and 18032(c) and those sections' implementing regulations, including rules establishing geographic rating areas.

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.

§11.701. Schedule of Charges Must be Filed Before Use.

(a) No schedule of charges, formula, or method for calculating the schedule of charges may be used until a copy of the formula or method for calculating the schedule of charges with supporting documentation has been filed with the commissioner, as required by §11.703 of this title (relating to Filings and Supporting Documentation) and consistent with Chapter 3, Subchapter A, of this title (relating to Submission Requirements For Filings and Departmental Actions Related to Such Filings).

(b) The schedule of charges must include all charges made for group, conversion, or individual coverage.

(c) Any applicable schedule of charges must comply with the requirements under Chapter 3, Subchapter F, of this title (relating to Rate Review for Health Benefit Plans).

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Texas Department of Insurance

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SUBCHAPTER J. PHYSICIAN AND PROVIDER CONTRACTS AND ARRANGEMENTS

28 TAC §11.901, §11.902

STATUTORY AUTHORITY. The commissioner adopts amendments to §11.901 and §11.902 under Insurance Code §§843.151, 4151.006, and 36.001.

Insurance Code §843.151 authorizes the commissioner to adopt reasonable rules to implement various parts of the Insurance Code as applicable to HMOs and ensure that enrollees have adequate access to health care services.

Insurance Code §4151.006 authorizes the commissioner to adopt rules that are fair, reasonable, and appropriate to augment and implement Insurance Code Chapter 4151, including rules establishing required contract provisions.

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.

§11.902. Prohibited Actions.

(a) An HMO may not:

(1) require a physician to use a hospitalist for a hospitalized patient by contract under Insurance Code §843.320, concerning Use of Hospitalist;

(2) refuse to contract with a nurse first assistant to be part of a provider network or refuse to reimburse a nurse first assistant under Insurance Code §843.3045, concerning Nurse First Assistant;

(3) require a physician to use the services of a nurse first assistant as defined by Occupations Code §301.354, concerning Nurse First Assistants; Assisting at Surgery by Other Nurses;

(4) refuse to contract with a podiatrist licensed by the Texas Department of Licensing and Regulation who joins the professional practice of a contracted physician or provider under Insurance Code §843.319, concerning Certain Required Contracts;

(5) refuse a request to identify a physician assistant or advanced practice registered nurse as a provider in the HMO's network under Insurance Code §843.312, concerning Physician Assistants and Advanced Practice Nurses;

(6) employ an optometrist or therapeutic optometrist to provide a vision care product or service, pay an optometrist or therapeutic optometrist for a service not provided, or restrict or limit an optometrist's or therapeutic optometrist's choice of sources or suppliers of services or materials under Insurance Code §1451.156, concerning Certain Conduct Prohibited;

(7) engage in conduct that violates Insurance Code §1451.1545, concerning Participation in Vision Care Plan; Effect on Other Plans, or §1451.157, concerning Vision Plan Conduct;

(8) contract with a dentist to limit the fee the dentist may charge for a service that is not a covered service under Insurance Code §843.3115, concerning Contracts with Dentists; or

(9) engage in conduct that violates Insurance Code §4151.155, concerning Certain Disclosures and Communications by Pharmacist or Pharmacy Protected.

(b) An HMO that encourages an enrollee to obtain a health care service from a particular physician or provider must comply with

the requirements of the Insurance Code, including the fiduciary duty imposed by Insurance Code §843.322, concerning Incentives to Use Certain Physicians or Providers, and Insurance Code §1458.101(i), concerning Contract Requirements, to act only for the primary benefit of the enrollee or contract holder.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Jessica Barta

General Counsel

Texas Department of Insurance

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SUBCHAPTER O. ADMINISTRATIVE PROCEDURES

28 TAC §11.1402

STATUTORY AUTHORITY. The commissioner adopts amendments to §11.1402 under Insurance Code §843.151 and §36.001.

Insurance Code §843.151 authorizes the commissioner to adopt reasonable rules to implement various parts of the Insurance Code as applicable to HMOs and ensure that enrollees have adequate access to health care services.

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.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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SUBCHAPTER Q. OTHER REQUIREMENTS

28 TAC §11.1604

STATUTORY AUTHORITY. The commissioner adopts amendments to §11.1604 under Insurance Code §§843.151, 844.004, and 36.001.

Insurance Code §843.151 authorizes the commissioner to adopt reasonable rules to implement various parts of the Insurance Code as applicable to HMOs and ensure that enrollees have adequate access to health care services.

Insurance Code §844.004 directs the commissioner to adopt rules to implement Insurance Chapter 844.

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.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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SUBCHAPTER Z. POINT-OF-SERVICE RIDERS

28 TAC §11.2503

STATUTORY AUTHORITY. The commissioner adopts amendments to §11.2503 under Insurance Code §1702.006 and §36.001.

Insurance Code §1702.006 authorizes the commissioner to adopt reasonable rules necessary to implement Insurance Code Chapter 1702.

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.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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For further information, please call: (512) 656-6777



CHAPTER 26. EMPLOYER-RELATED HEALTH BENEFIT PLAN REGULATIONS

The commissioner of insurance adopts amendments to 28 TAC §26.9 and §26.305, concerning small employer and large employer health benefit plans. The amendments implement Senate Bill 896, 89th Legislature, 2025. The amendments are adopted without changes to the proposed text published in the May 8, 2026 issue of the *Texas Register* (51 TexReg 3081). The sections will not be republished.

REASONED JUSTIFICATION.

The amendments to §26.9 and §26.305 are necessary to implement SB 896, which expands the coverage period for newborn children under small and large employer health plans subject to Insurance Code Chapter 1501. SB 896 extends the end date of the mandatory coverage period from the 32nd day to the 61st day after a child's birth, and extends the deadline for an enrollee to notify the health plan and pay any additional premium from the 31st day to the 60th day after the date of birth.

Separate adoption orders amend or repeal sections in 28 TAC Chapters 3 and 11 to implement multiple bills, including SB 896. The adopted amendments and repeal are also published in this issue of the *Texas Register*.

The adopted amendments are described in the following paragraphs.

Section 26.9. Amendments to §26.9(a)(4) replace a reference to newborn coverage termination on the 32nd day after birth with the 61st day after birth and replace references to a 31-day premium payment deadline with a 60-day payment deadline.

Section 26.305. An amendment to §26.305 replaces the reference in subsection (f) to newborn coverage termination on the 32nd day after birth with the 61st day after birth. Subsection (f)(2) is amended by replacing the references to a 31-day premium payment deadline with a 60-day payment deadline.

The amendments also include nonsubstantive editorial and formatting changes to conform the sections to TDI's current drafting style and plain language preferences and to improve the rule's clarity. These changes appear throughout the amended sections and include nonsubstantive text edits, including replacing the word "must" with "may," replacing the word "nonpayment" with "no payment," deleting the word "an" to correct an error, and corrections to punctuation. The amendments will further the goals of Government Code Chapter 465 to ensure that TDI's rules are clear, concise, and consistent.

SUMMARY OF COMMENTS. TDI provided an opportunity for public comment on the rule proposal for a period that ended on June 8, 2026.

Commenters: TDI received written comments from one commenter. No commenters spoke at the public hearing on the proposal held on June 1, 2026. The commenter in support of the proposal was the Texas Hospital Association.

Comment. One commenter supports TDI's proposed amendments to §26.9 and §26.305 to implement SB 896 relating to health coverage of newborn children and requests TDI's guidance on two recent cases in which coverage is being denied for newborns whose mothers are listed as dependents on their parents' health insurance coverage.

Agency Response. TDI appreciates the commenter's support. Concerns about a violation of health insurance law or regulation can be reported via the complaint submission process described on TDI's website.

SUBCHAPTER A. DEFINITIONS, SEVERABILITY, AND SMALL EMPLOYER HEALTH REGULATIONS

28 TAC §26.9

STATUTORY AUTHORITY. The commissioner adopts amendments to §26.9 under Insurance Code §1501.010(1) and §36.001.

Insurance Code §1501.010(1) directs the commissioner to adopt rules necessary to implement Insurance Code Chapter 1501.

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.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 21, 2026.

TRD-202604075

Jessica Barta

General Counsel

Texas Department of Insurance

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For further information, please call: (512) 656-6777



SUBCHAPTER C. LARGE EMPLOYER HEALTH INSURANCE REGULATIONS

28 TAC §26.305

STATUTORY AUTHORITY. The commissioner adopts amendments to §26.305 under Insurance Code §1501.010(1) and §36.001.

Insurance Code §1501.010(1) directs the commissioner to adopt rules necessary to implement Insurance Code Chapter 1501.

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.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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TRD-202604076

Jessica Barta

General Counsel

Texas Department of Insurance

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For further information, please call: (512) 656-6777

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 13. TEXAS COMMISSION ON FIRE PROTECTION

CHAPTER 439. EXAMINATIONS FOR CERTIFICATION

SUBCHAPTER A. EXAMINATIONS FOR ON-SITE DELIVERY TRAINING

37 TAC §439.19

The Texas Commission on Fire Protection (Commission) adopts an amendment to 37 TAC §439.19(b), concerning Number of Test Questions, without changes to the proposed text as published in the July 17, 2026, issue of the *Texas Register* (51 TexReg 4687). The rule will not be republished.

JUSTIFICATION FOR RULE ACTION

The Commission adopts this amendment to enhance flexibility in the fire protection personnel certification process by revising the examination chart in §439.19(b). The amendment creates additional combination examination options for the Basic Structure Fire Suppression curriculum, allowing candidates greater flexibility in the certification pathway. The amendment also consolidates the separate Basic Fire Inspector I and Basic Fire Inspector II examinations into a single Basic Fire Inspector examination, streamlining the inspection certification pathway. The chart has been reformatted to reflect these structural changes, improving clarity and usability for training facilities and candidates.

HOW THE RULE WILL FUNCTION

As adopted, §439.19(b) provides additional combination examination options for the Basic Structure Fire Suppression curriculum and combines the Basic Fire Inspector I and Basic Fire Inspector II examinations into a single Basic Fire Inspector examination. The revised chart reflects the number of exam questions, the maximum possible number of pilot questions, and the time allowed for each examination and sectional examination option.

SUMMARY OF COMMENTS

The Commission did not receive any comments regarding adoption of this amendment.

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §419.008(a), which authorizes the Commission to adopt rules for the administration of its statutory responsibilities.

No other statutes, articles, or codes are affected by this adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 25, 2026.

TRD-202604174

Mike Wisko
Agency Chief
Texas Commission on Fire Protection
Effective date: October 15, 2026
Proposal publication date: July 17, 2026
For further information, please call: (512) 936-3812

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TITLE 43. TRANSPORTATION

PART 1. TEXAS DEPARTMENT OF TRANSPORTATION

CHAPTER 2. ENVIRONMENTAL REVIEW OF TRANSPORTATION PROJECTS

SUBCHAPTER I. MEMORANDUM OF UNDERSTANDING WITH THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

43 TAC §§2.302 - 2.306, 2.308

The Texas Department of Transportation (department) adopts amendments to §§2.302 - 2.306, and 2.308 concerning Memorandum Of Understanding With The Texas Commission On Environmental Quality. The amendments to §§2.302 - 2.306, and 2.308 are adopted without changes to the proposed text as published in the July 10, 2026 issue of the *Texas Register* (51 TexReg 4537) and will not be republished.

EXPLANATION OF ADOPTED AMENDMENTS

Transportation Code, §201.607, requires the department to adopt a memorandum of understanding (MOU) with each state agency that has responsibilities for the protection of the natural environment or for the preservation of historic or archeological resources. Transportation Code, §201.607, also requires the department to adopt the MOU and all revisions to it by rule and to periodically evaluate and revise the MOU. The department has evaluated its MOU with the Texas Commission on Environmental Quality (TCEQ) adopted in 2019 and finds it necessary to make various changes to Chapter 2, Subchapter I, of the department's rules.

Amendments to §2.302, Authority, consist of some minor grammatical revisions.

Amendments to §2.303, Definitions, remove an outdated and unnecessary definition of "transportation enhancement." They also make some minor grammatical revisions.

Amendments to §2.304, Responsibilities, consist of a minor grammatical revision.

Amendments to §2.305, Coordination during Environmental Review Process, clarify that certain water quality-related information is required to be included in an environmental impact statement or environmental assessment only if a project is within five miles and drains to an impaired assessment unit. They also remove outdated language regarding a "Tier II 401 certification," which is no longer used by TCEQ. They also clarify the existing language regarding TxDOT's consideration of comments made by TCEQ after the comment deadline. They also make some minor grammatical revisions.

Amendments to §2.306, Exchange of Air Quality Information, clarify the existing language regarding air quality information to be provided by TCEQ to TxDOT upon TxDOT's request. The proposed rule language refers to "the counties included in any of the state's non-attainment areas, including nonattainment classifications and current design values for these areas." This is more accurate than the existing rule language, which refers to "the location and severity of conditions in non-attainment areas."

Amendments to §2.308, Review of MOU, revise the existing rule language regarding future reviews of the MOU every five years to specify that there would be no need for a rule revision if, at the end of a five-year interval, TxDOT and TCEQ were to agree that no changes to the MOU are needed.

COMMENTS

The General Land Office provided its determination that the rule amendments are consistent with Coastal Management Program goals and enforceable priorities. No other comments on the proposed amendments were received.

STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, §201.607, requiring the department to have an MOU with TCEQ and to adopt it by rulemaking.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, §§201.604, 201.607, and 201.752.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 24, 2026.

TRD-202604155

James Kirk

Deputy General Counsel

Texas Department of Transportation

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For further information, please call: (512) 416-3001



CHAPTER 9. CONTRACT AND GRANT MANAGEMENT

SUBCHAPTER C. CONTRACTING FOR ARCHITECTURAL, ENGINEERING, AND SURVEYING SERVICES

43 TAC §9.32

The Texas Department of Transportation (department) adopts the amendments to §9.32 concerning Selection Processes, Contract Types, Selection Types, and Projected Contracts. The amendments to §9.32 are adopted without changes to the proposed text as published in the July 10, 2026 issue of the *Texas Register* (51 TexReg 4541) and will not be republished.

EXPLANATION OF ADOPTED AMENDMENTS

The department's rules currently limit the terms of indefinite deliverable contracts procured for architectural, engineering, or surveying services using the federal selection process (federal ID contracts) to not more than five years, in accordance with 23 CFR §172.9(a)(3)(i). In practice, the Federal Highway Administration (FHWA) allows the department to extend certain federal ID contracts past a five-year term, after formal FHWA concurrence, which is currently requested by letter. FHWA has recommended that the department transition to a documented notification process instead of individual letters. The process will be defined in the department's manual, PEPS Contracting: Project Management for the Project Manager, which has been approved by the FHWA, as required by 23 CFR §172.5(c).

This rule change allows certain federally procured contracts to extend past five years, therefore, providing the department with more flexibility to complete projects.

Amendments to §9.32, Selection Processes, Contract Types, Selection Types, and Projected Contracts, add an exception to the five-year contracting period limit, which would permit the department to grant an extension more than five years with concurrence of the FHWA. Additionally, it delegates the approval to extend the four-year period to issue work authorizations to the executive director.

COMMENTS

No comments on the proposed amendments were received.

STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Government Code, Chapter 2254, Subchapter A and Transportation Code, §223.041.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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James Kirk

Deputy General Counsel

Texas Department of Transportation

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For further information, please call: (512) 416-2037



CHAPTER 25. TRAFFIC OPERATIONS

SUBCHAPTER A. GENERAL

43 TAC §25.3

The Texas Department of Transportation (department) adopts the repeal of §25.3, concerning the installation of pay telephones. The repeal of §25.3 is adopted without changes to the

proposed text as published in the July 10, 2026 issue of the *Texas Register* (51 TexReg 4545) and will not be republished.

EXPLANATION OF ADOPTED AMENDMENTS

Section 25.3, Installation of Pay Telephones, was adopted in 1976 and has not been amended. With the widespread use of cell phones, pay telephone usage has all but disappeared. All pay phones that were installed under this section have been removed. The department and the Texas Regulatory Efficiency Office have agreed that this section should be repealed because it is no longer necessary.

COMMENTS

No comments on the proposed repeal were received.

STATUTORY AUTHORITY

The repeal is adopted under Transportation Code, §201.101, which provides the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the department.

CROSS REFERENCE TO STATUTE

None.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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James Kirk

Deputy General Counsel

Texas Department of Transportation

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For further information, please call: (512) 416-3200



CHAPTER 31. PUBLIC TRANSPORTATION

The Texas Department of Transportation (department) adopts the repeal of §§31.3, 31.16, and 31.57; new §31.3 and §31.57; and amendments to §§31.30, 31.31, 31.36, 31.40, and 31.43 - 31.50, all concerning the policies and procedures followed by the department in the administration of state and federal public transportation grant funds. The repeal of §§31.3, 31.16, and 31.57; new §31.57; and amendments to §§31.30, 31.31, 31.36, 31.40, and 31.43 - 31.49 are adopted without changes to the proposed text as published in the July 10, 2026 issue of the *Texas Register* (51 TexReg 4546) and will not be republished. New §31.3 and amendments to §31.50 are adopted with changes to the proposed text as published in the July 10, 2026 issue of the *Texas Register* (51 TexReg 4546) and will be republished.

EXPLANATION OF ADOPTED AMENDMENTS, REPEALS, AND ENACTMENTS

This rulemaking is necessary to respond to recent changes to federal public transportation program requirements and state grant management standards. Additionally, the Texas Regulatory Efficiency Office (TREO), in its Regulatory Efficiency Review of the department, recommended several changes to the definitions in §31.3; this rulemaking updates and streamlines

the department's rules, addresses TREO's recommendations, removes obsolete program references, and amends language governing the allocation of funding for federal 5310 and 5339 grant programs.

Repeal of §31.3, Definitions, and enactment of new §31.3, Definitions, is necessary due to extensive amendments to align with federal definitions, to streamline and clarify language, and to remove outdated definitions.

Repeal of §31.16, Section 5309 Grant Program, is necessary because the department is no longer responsible for administering the Section 5309 program beginning with the Moving Ahead for Progress in the 21st Century (MAP-21) Act. Section 5309 program funds received prior to MAP-21 have been expended and all federal grants the department administers are closed.

Amendments to §31.30, Section 5339 Grant Program, update Federal Transit Administrations (FTA) Circular references and clarify that funds remaining, unobligated, or returned after the initial distribution of program funds through the established formula may be used by the department in accordance with federal requirements.

Amendments to §31.31, Section 5310 Grant Program, include clarifications, reorganization, and an update to the award process. Subsection (c) is amended to clarify the department's role and oversight responsibilities as the designated recipient for all §5310 funds. Subsection (d) is amended to update terminology and streamline the definitions of eligible subrecipients and alternate eligible subrecipients. Subsection (e) is amended to specify that the department will determine eligible expenses for federal reimbursement and match ratios in accordance with the applicable FTA Circular and that all expenses require department concurrence. Subsection (f) is amended to remove outdated language concerning local funding requirements. It is replaced with language establishing how the department will distribute §5310 program funds in a fair and equitable manner within the state in accordance with federal requirements. To maximize efficient use of available funds and streamline the award process, the department is moving to a competitive process for awarding funds rather than a formula allocation, as permitted by FTA program guidance. With this change, the language in subsection (g) regarding the allocation formula is no longer needed and is replaced with language moved from subsection (i) regarding public outreach. Subsection (h) is amended to update and clarify application requirements. Subsections (i), (j), and (k) are deleted as the language is no longer needed under the new competitive award process.

Amendments to §31.36, Section 5311 Grant Program, update FTA Circular references.

Amendments to §31.40, Public Involvement, remove references to obsolete federal programs under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA LU).

Amendments to §31.43, Contracting Requirements, streamline language by referencing the Texas Grant Management Standards.

Amendments to §31.44, Procurement Requirements, streamline language by referencing the Texas Grant Management Standards and update regulatory references. New subsection (b)(1)(C) adds a reference to the micro-purchase requirements in the Texas Grant Management Standards. New subsection (b)(1)(D) clarifies that formal solicitations must be conducted

when procuring services requiring a professional license. New subsection (c)(1)(D) requires the subrecipient to provide to the department the determination that a winning bidder is a responsible entity. Existing subsection (c)(1)(D) is redesignated as (c)(1)(E).

Throughout §§31.45, Accounting and Financial Recordkeeping Requirements, 31.46, Reimbursement Procedures, 31.47, Audit and Project Close-Out Standards, and 31.49, Transportation Needs of Clients of Health and Human Service Agencies and Coordination of Services, "contractor" is replaced with "subrecipient" to clarify requirements.

Amendments to §31.48, Project Oversight, streamline language regarding the collection of transit data from subrecipients and strike references to obsolete federal programs.

Amendments to §31.50, Record Keeping and Inventory Requirements, clarify that an accurate inventory is required to be maintained for all capital assets funded in whole or in part by state or federal funding, not just vehicles.

Repeal of §31.57, Disposition, and enactment of new §31.57, Disposition, is necessary because of extensive amendments and reorganization. The section is significantly streamlined by referencing existing federal requirements for disposition of property and ensuring consistency between state and federal requirements.

COMMENTS

No comments on the proposed amendments, new sections, or repeal were received.

SUBCHAPTER A. GENERAL

43 TAC §31.3

STATUTORY AUTHORITY

The repeal is adopted under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §456.022, which authorizes the commission to adopt rules necessary to allocate state funding among eligible public transportation providers and §455.002, authorizing the department to receive grants from a governmental source for use in performing the department's public transportation functions.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Texas Transportation Code, Chapters 455 and 456

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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43 TAC §31.3

STATUTORY AUTHORITY

The new section is adopted under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §456.022, which authorizes the commission to adopt rules necessary to allocate state funding among eligible public transportation providers and §455.002, authorizing the department to receive grants from a governmental source for use in performing the department's public transportation functions.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Texas Transportation Code, Chapters 455 and 456

§31.3. Definitions.

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

(1) Allocation--A preliminary distribution of grant funds representing the maximum amount to be made available to an entity during the fiscal year, subject to the entity's completion of and compliance with all application requirements, rules, and regulations applicable to the specific funding program.

(2) Authority--A metropolitan transit or regional transportation authority created under Transportation Code, Chapter 451 or 452; a city transit department created under Transportation Code, Chapter 453, by a municipality having a population of not less than 200,000 at the time of its creation; or a coordinated county authority created under Transportation Code, Chapter 460.

(3) Commission--The Texas Transportation Commission.

(4) Department--The Texas Department of Transportation.

(5) Designated recipient--Has the meaning assigned by 49 U.S.C. §5302.

(6) Director--The director of the Public Transportation Division.

(7) Equipment--Has the meaning assigned by 49 CFR §625.5.

(8) Executive director--The executive director of the department.

(9) FTA--The Federal Transit Administration of the United States Department of Transportation.

(10) Fiscal year--The State's fiscal year.

(11) Large urban transit district--A local governmental entity or political subdivision of the state that provides and coordinates public transportation within an urbanized area with a population greater than or equal to 200,000 in accordance with Transportation Code, Chapter 458. The term includes urban transportation providers under Transportation Code, Chapter 456, that received state money through the department on September 1, 1994. The term does not include an authority.

(12) Metropolitan Planning Organization (MPO)--Has the meaning assigned by 23 U.S.C. §134.

(13) Nonprofit organization--Has the meaning assigned by the latest edition of FTA Circular 5010.1.

(14) Public transportation--Has the meaning assigned by the latest edition of FTA Circular 5010.1.

(15) Real property--Has the meaning assigned by the latest edition of FTA Circular 5010.1.

(16) Ridership--The number of passengers who board public transportation vehicles. A passenger is counted each time the passenger boards a vehicle even though the passenger might be on the same journey.

(17) Rural area--Has the meaning assigned by the latest edition of FTA Circular 5010.1.

(18) Rural transit district--Has the meaning assigned by Transportation Code, §458.001.

(19) Senior--Has the meaning assigned by 49 U.S.C. §5302.

(20) Small urban transit district--A local governmental entity or political subdivision of the state that provides and coordinates public transportation within an urbanized area with a population less than 200,000 in accordance with Transportation Code, Chapter 458. The term includes urban transportation providers under Transportation Code, Chapter 456, that received state money through the department on September 1, 1994. The term does not include an authority.

(21) Subrecipient--An entity that receives state or federal transportation funding from or through the department, rather than directly from FTA or another funding source.

(22) Urban transit district--A local governmental entity or political subdivision of the state that provides and coordinates public transportation within an urbanized area in accordance with Transportation Code, Chapter 458. An urban transit district is either small or large, as defined in this Section.

(23) Urbanized area--Has the meaning assigned by 49 CFR §673.5.

(24) U.S. DOT--United States Department of Transportation.

(25) Vehicle miles--The miles a vehicle travels while in revenue service, plus deadhead miles. This definition excludes miles a vehicle travels for charter service, school bus service, operator training, or maintenance testing.

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SUBCHAPTER C. FEDERAL PROGRAMS

43 TAC §31.16

STATUTORY AUTHORITY

The repeal is adopted under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §456.022, which authorizes the commission to adopt rules necessary to allocate state funding among eligible public transportation providers and §455.002, authorizing the department to receive grants from a governmental source for use in performing the department's public transportation functions.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

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43 TAC §§31.30, 31.31, 31.36

STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §456.022, which authorizes the commission to adopt rules necessary to allocate state funding among eligible public transportation providers and §455.002, authorizing the department to receive grants from a governmental source for use in performing the department's public transportation functions.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

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SUBCHAPTER D. PROGRAM ADMINISTRATION

43 TAC §§31.40, 31.43 - 31.49

STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §456.022, which authorizes the commission to adopt rules necessary to allocate state funding among eligible public transportation providers and §455.002, authorizing the department to receive grants from a governmental source for use in performing the department's public transportation functions.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

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SUBCHAPTER E. PROPERTY MANAGEMENT STANDARDS

43 TAC §31.50, §31.57

STATUTORY AUTHORITY

The amendment and new rule are adopted under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §456.022, which authorizes the commission to adopt rules necessary to allocate state funding among eligible public transportation providers and §455.002, authorizing the department to receive grants from a governmental source for use in performing the department's public transportation functions.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Texas Transportation Code, Chapters 455 and 456

§31.50. *Recordkeeping and Inventory Requirements.*

(a) Purpose. To protect the public investment in real property and equipment purchased in whole or in part with state or federal public transportation funds administered by the department, subrecipients shall comply with the standards described in this section.

(b) Property records. The subrecipient shall maintain records that include:

- (1) a description of the property;
- (2) a serial number or other identification number; Passages with "Accountable executive";
- (3) the source of the property;
- (4) who holds title;
- (5) the acquisition date and cost of the property;
- (6) the percentage of state and the percentage of federal participation in the cost of the property;
- (7) the location, use, and condition of the property; and
- (8) any ultimate disposition data, including the date of disposal and sale price of the property.

(c) Inventory. The subrecipient shall cooperate with department representatives in performing at least once every two years a physical inventory of all real property and equipment, as defined in §31.3 of this chapter, purchased in whole or in part with state or federal capital funds administered by the department. However, during the time period between these physical inventories, the subrecipient shall promptly notify the department in writing of all changes in the status of that real property and equipment in order that department records may be kept current. On or before November 1 of each year the subrecipient shall provide the department with an accurate inventory of capital assets funded in whole or in part by state or federal funds administered by the department. Property shall remain on the department's and subrecipient's inventories until such time as the property is formally disposed of in accordance with the requirements outlined in §31.57 of this subchapter. Notwithstanding the foregoing, the subrecipient shall, where applicable, be bound by, and shall comply with, the inventory requirements specified in 2 C.F.R Part 200 and Part 1201, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

(d) Control system. The subrecipient must develop a control system to ensure adequate safeguards to prevent loss, damage, or theft of the property. The subrecipient shall investigate any loss, damage, or theft.

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43 TAC §31.57

STATUTORY AUTHORITY

The repeal is adopted under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the

work of the department, and more specifically, Transportation Code, §456.022, which authorizes the commission to adopt rules necessary to allocate state funding among eligible public transportation providers and §455.002, authorizing the department to receive grants from a governmental source for use in performing the department's public transportation functions.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Texas Transportation Code, Chapters 455 and 456

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