

# 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 1. ADMINISTRATION

### PART 2. TEXAS ETHICS COMMISSION

#### CHAPTER 18. GENERAL RULES CONCERNING REPORTS

##### 1 TAC §§18.21, 18.23 - 18.26

The Texas Ethics Commission (the Commission) adopts the repeal of §§18.21, 18.23, 18.24, 18.25 and 18.26 of Chapter 18, Title 1 of the Texas Administrative Code, regarding the administrative waivers of statutory civil penalties for late filing of statements and reports. The repeals are adopted without changes to the proposed text as published in the May 5, 2023, issue of the *Texas Register* (48 TexReg 2265). The rules will not be republished.

The Commission seeks to simplify the rules and streamline the processing of requests for waiver or reduction of civil penalties for late reports assessed through the "administrative process." The rules as currently constructed are overly complicated. The complexity makes it difficult and time-consuming for staff to process waiver requests. The complexity also makes it difficult for the regulated community to understand their rights under the rules. The Commission believes the rules need to change substantially for the Commission to timely process waiver requests. These repeals are adopted along with new Ethics Commission Rules §§18.21, 18.24, 18.25 and 18.26, which are submitted separately.

No public comments were received on these repealed rules.

The repeal of these rules is adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code, and Chapters 305, 571, and 572 of the Government Code.

The repeal of these rules affects Title 15 of the Election Code, and Chapters 305, 571, and 572 of the Government Code.

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 Ethics Commission

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For further information, please call: (512) 463-5800

##### 1 TAC §§18.21, 18.24 - 18.26

The Texas Ethics Commission (the Commission) adopts new Texas Ethics Commission Rules in Chapter 18. Specifically, the Commission adopts new rules §18.21, regarding Jurisdiction to Consider Waiver Request, §18.24, regarding General Guidelines for Administrative Waiver or Reduction of Statutory Civil Penalties, §18.25, regarding Administrative Waiver or Reduction of Certain Statutory Civil Penalties, and §18.26, regarding Administrative Waiver or Reduction of Statutory Civil Penalties in Excess of \$500. New §18.21 and §18.24 are adopted without changes to the proposed text as published in the May 5, 2023, issue of the *Texas Register* (48 TexReg 2265) and will not be republished. New §18.25 and §18.26 are adopted with changes to the proposed text and will be republished.

The Commission seeks to simplify the rules and streamline the processing of requests for waiver or reduction of civil penalties for late reports assessed through the administrative process. The rules as currently constructed are overly complicated. The complexity makes it difficult and time-consuming for staff to process waiver requests. The complexity also makes it difficult for the regulated community to understand their rights under the rules. The Commission believes the rules need to change substantially for the Commission to timely process waiver requests. These new rules are submitted along with the repeal of 1 TAC §§18.21, 18.23, 18.24, 18.25 and 18.26, which is submitted separately. The rules preserve the right to appeal the determination of a waiver or reduction under the rules to the Commission.

No public comments were received on these new rules.

The new rules are adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code, and Chapters 305, 571, and 572 of the Government Code.

The adoptions affect Title 15 of the Election Code, and Chapters 305, 571, and 572 of the Government Code.

*§18.25. Administrative Waiver or Reduction of Certain Statutory Civil Penalties.*

(a) The executive director shall apply this section to a late report subject to a statutory civil penalty of not more than \$500.

(b) The executive director shall use the following chart to determine the level of waiver or reduction of a civil penalty under this section:

Figure: 1 TAC §18.25(b)

*§18.26. Administrative Waiver or Reduction of Statutory Civil Penalties in Excess of \$500.*

(a) The executive director shall apply this section to a late report subject to a statutory civil penalty in excess of \$500.

(b) The executive director shall use the following chart to determine the level of waiver or reduction of a civil penalty under this section:

Figure: 1 TAC §18.26(b)

(c) For purposes of using the chart in subsection (b) of this section:

(1) where the chart identifies a dollar amount, that is the amount of the reduced or waived penalty; and

(2) where the chart identifies a percentage, that is the percentage by which the penalty is reduced.

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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### 1 TAC §18.31

The Texas Ethics Commission (the Commission) adopts amendments to Texas Ethics Commission rules in Chapter 18. Specifically, the Commission amends §18.31, regarding Adjustments to Reporting Thresholds. The amendment is adopted without changes to the proposed text as published in the August 11, 2023, issue of the *Texas Register* (48 TexReg 4341). The rule will not be republished.

Section 571.064(b) of the Government Code requires the Commission to annually adjust reporting thresholds upward to the nearest multiple of \$10 in accordance with the percentage increase for the previous year in the Consumer Price Index for Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor. The laws under the Commission's authority that include reporting thresholds are Title 15 of the Election Code (campaign finance law), Chapter 305 of the Government Code (lobby law), Chapter 572 of the Government Code (personal financial statements), Chapters 302 and 303 of the Government Code (speaker election, governor for a day, and speaker's reunion day ceremony reports), and section 2155.003 of the Government Code (reporting requirements applicable to the comptroller).

The Commission first adopted adjustments to reporting thresholds in 2019, which were effective on January 1, 2020. These new adjustments, if adopted, will be effective on January 1, 2024, to apply to contributions and expenditures that occur on or after that date. The thresholds contained in the statutes listed in Figures 1 through 5 of 18.31 are also referenced in numerous Commission rules. Those rules have been amended to direct filers to the charts in Rule 18.31; amendments to these rules have been submitted concurrently with this proposal.

No public comments were received on this amended rule.

The amended rule is adopted under Texas Government Code Section 571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code, Chapters 302, 303, 305, 572, and section 2155.003 of the Government Code. The amended rule affects Title 15 of the Election Code, Chapters 302, 303, 305, 572, and section 2155.003 of the Government Code.

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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## CHAPTER 20. REPORTING POLITICAL CONTRIBUTIONS AND EXPENDITURES

The Texas Ethics Commission adopts amendments to Texas Ethics Commission rules in Chapter 20, Texas Administrative Code (TAC). Specifically, the Commission adopts amendments to §20.62, regarding Reporting Staff Reimbursement, and §20.65, regarding Reporting No Activity; §20.217, regarding Modified Reporting, §20.219, regarding Content of Candidate's Sworn Report of Contributions and Expenditures, §20.220, regarding Additional Disclosure for the Texas Comptroller of Public Accounts, and §20.221, regarding Special Pre-Election Report by Certain Candidates; §20.275, regarding Exception from Filing Requirement for Certain Local Officeholders, and §20.279, regarding Contents of Officeholder's Sworn Report of Contributions and Expenditures, §20.301, regarding Thresholds for Campaign Treasurer Appointment, §20.303, regarding Appointment of Campaign Treasurer, §20.313, regarding Converting to a General-Purpose Committee, §20.329, regarding Modified Reporting, §20.331, regarding Contents of Specific-Purpose Committee Sworn Report of Contributions and Expenditures, and §20.333, regarding Special Pre-Election Report by Certain Specific-Purpose Committees; §20.401, regarding Thresholds for Appointment of Campaign Treasurer by a General-Purpose Committee, §20.405, regarding Campaign Treasurer Appointment for a General-Purpose Committee, §20.431 regarding Monthly Reporting, §20.433 regarding Contents of General-Purpose Committee Sworn Report of Contributions and Expenditures, §20.434, regarding Alternate Reporting Requirements for General-Purpose Committees, and §20.435, regarding Special Pre-Election Reports by Certain General-Purpose Committees; §20.553, regarding County Executive Committee Accepting Contributions or Making Expenditures Under Certain Amount, and §20.555, regarding County Executive Committee Accepting Contributions or Making Expenditures That Exceed Certain Amount. The amendments are adopted without changes to the proposed text as published in the August 11, 2023, issue of the *Texas Register* (48 TexReg 4342). The rules will not be republished.

Section 571.064(b) of the Texas Government Code requires the Commission to annually adjust reporting thresholds upward to the nearest multiple of \$10 in accordance with the percentage increase for the previous year in the Consumer Price Index for Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor. The laws under the Commission's authority that include reporting thresholds are Title 15 of the Election Code (campaign finance law), Chapter 305 of the Government Code (lobby law), Chapter 572 of the Government Code (personal financial statements), Chapters 302 and 303 of the Government Code (speaker election, governor for a day, and speaker's reunion day ceremony reports), and section 2155.003 of the Government Code (reporting requirements applicable to the comptroller).

These amended rules direct filers to the reporting thresholds adjusted by amendments to Figures 1 through 5 in Commission Rule 18.31, which has been submitted concurrently with this adoption.

No public comments were received on these amended rules.

## SUBCHAPTER B. GENERAL REPORTING RULES

### 1 TAC §20.62, §20.65

The amendments are adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code, and Texas Government Code §571.064, which requires the Commission to annually adjust reporting thresholds in accordance with that statute.

The amended rules affect Title 15 of the Election Code.

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 C. REPORTING REQUIREMENTS FOR A CANDIDATE

### 1 TAC §§20.217, 20.219 - 20.221

The amendments are adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code, Texas Government Code §571.064, which requires the Commission to annually adjust reporting thresholds in accordance with that statute; and Texas Government Code §2155.003, which requires the Commission to adopt rules to implement that section.

The amended rules affect Title 15 of the Election Code.

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. REPORTING REQUIREMENTS FOR AN OFFICEHOLDER WHO DOES NOT HAVE A CAMPAIGN TREASURER APPOINTMENT ON FILE

### 1 TAC §20.275, §20.279

The amendments are adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code, and Texas Government Code §571.064, which requires the Commission to annually adjust reporting thresholds in accordance with that statute.

The amended rules affect Title 15 of the Election Code.

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 E. REPORTS BY A SPECIFIC-PURPOSE COMMITTEE

### 1 TAC §§20.301, 20.303, 20.313, 20.329, 20.331, 20.333

The amendments are adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code, and Texas Government Code §571.064, which requires the Commission to annually adjust reporting thresholds in accordance with that statute.

The amended rules affect Title 15 of the Election Code.

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 F. REPORTING RE-  
QUIREMENT FOR A GENERAL PURPOSE  
COMMITTEE**

**1 TAC §§20.401, 20.405, 20.431, 20.433 - 20.435**

The amendments are adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code, and Texas Government Code §571.064, which requires the Commission to annually adjust reporting thresholds in accordance with that statute.

The amended rules affect Title 15 of the Election Code.

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 I. RULES APPLICABLE TO A  
POLITICAL PARTY'S COUNTY EXECUTIVE  
COMMITTEE**

**1 TAC §§20.553, §20.555**

The amendments are adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code, and Texas Government Code §571.064, which requires the Commission to annually adjust reporting thresholds in accordance with that statute.

The amended rules affect Title 15 of the Election Code.

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**CHAPTER 22. RESTRICTIONS ON  
CONTRIBUTIONS AND EXPENDITURES**

**1 TAC §§22.1, 22.6, 22.7**

The Texas Ethics Commission adopts an amendment to Texas Ethics Commission rules in Chapter 22. Specifically, the Commission adopts amendments to §22.1, regarding Certain Campaign Treasurer Appointments Required before Political Activity Begins, §22.6, regarding Reporting Direct Campaign Expenditures, and §22.7, regarding Contribution from Out-of-State Committee. The amendments are adopted without changes to the proposed text as published in the August 11, 2023, issue of the *Texas Register* (48 TexReg 4356). The rules will not be republished.

Section 571.064(b) of the Texas Government Code requires the Commission to annually adjust reporting thresholds upward to the nearest multiple of \$10 in accordance with the percentage increase for the previous year in the Consumer Price Index for Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor. The laws under the Commission's authority that include reporting thresholds are Title 15 of the Election Code (campaign finance law), Chapter 305 of the Government Code (lobby law), Chapter 572 of the Government Code (personal financial statements), Chapters 302 and 303 of the Government Code (speaker election, governor for a day, and speaker's reunion day ceremony reports), and section 2155.003 of the Government Code (reporting requirements applicable to the comptroller).

These amended rules direct filers to the reporting thresholds adjusted by amendments to Figures 1 through 5 in Commission Rule 18.31, which has been submitted concurrently with this adoption.

No public comments were received on these amended rules.

The amendments are adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code, and Texas Government Code §571.064, which requires the Commission to annually adjust reporting thresholds in accordance with that statute.

The amended rules affect Title 15 of the Election Code.

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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## CHAPTER 34. REGULATION OF LOBBYISTS SUBCHAPTER B. REGISTRATION REQUIRED

### 1 TAC §34.41, §34.43

The Texas Ethics Commission adopts an amendment to Texas Ethics Commission rules in Chapter 34. Specifically, the Commission adopts amendments to §34.41, regarding Expenditure Threshold, and §34.43, regarding Compensation and Reimbursement Threshold. The amendments are adopted without changes to the proposed text as published in the August 11, 2023, issue of the *Texas Register* (48 TexReg 4357). The rules will not be republished.

Section 571.064(b) of the Texas Government Code requires the Commission to annually adjust reporting thresholds upward to the nearest multiple of \$10 in accordance with the percentage increase for the previous year in the Consumer Price Index for Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor. The laws under the Commission's authority that include reporting thresholds are Title 15 of the Election Code (campaign finance law), Chapter 305 of the Government Code (lobby law), Chapter 572 of the Government Code (personal financial statements), Chapters 302 and 303 of the Government Code (speaker election, governor for a day, and speaker's reunion day ceremony reports), and section 2155.003 of the Government Code (reporting requirements applicable to the comptroller).

These amended rules direct filers to the reporting thresholds adjusted by amendments to Figures 1 through 5 in Commission Rule 18.31, which has been submitted concurrently with this adoption.

No public comments were received on these amended rules.

The amendments are adopted under Texas Government Code §571.062, which authorizes the commission to adopt rules to administer Chapter 305 of the Election Code; Texas Government Code §305.003, which authorizes the Commission to determine by rule the amount of expenditures made or compensation received over which a person is required to register as a lobbyist; and Texas Government Code §571.064, which requires the Commission to annually adjust reporting thresholds in accordance with that statute.

The amended rules affect Chapter 305 of the Government Code.

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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## PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

### CHAPTER 351. COORDINATED PLANNING AND DELIVERY OF HEALTH AND HUMAN SERVICES

#### SUBCHAPTER B. ADVISORY COMMITTEES DIVISION 1. COMMITTEES

##### 1 TAC §351.823

The Texas Health and Human Services Commission (HHSC) adopts an amendment to §351.823, concerning the e-Health Advisory Committee. The amendment to §351.823 is adopted with changes to the proposed text as published in the July 14, 2023, issue of the *Texas Register* (48 TexReg 3790). The rule will be republished.

#### BACKGROUND AND JUSTIFICATION

The e-Health Advisory Committee (eHAC) was established in 2016 by the HHSC Executive Commissioner, under the authority of Texas Government Code §531.012. This statute requires the HHSC Executive Commissioner to establish and maintain advisory committees; establish rules for the operation of advisory committees; and for advisory committees to provide recommendations to the executive commissioner and the Texas Legislature.

The eHAC advises the HHSC Executive Commissioner and Health and Human Services (HHS) agencies on strategic planning, policy, rules, and services related to the use of health information technology, health information exchange systems, telemedicine, telehealth, and home telemonitoring services. Members meet approximately four times per year in Austin, at the discretion of the eHAC Chair.

Texas Administrative Code Title 1, Part 15, §351.823(i), currently sets the committee's abolishment date on December 31, 2023. In an eHAC meeting held June 6, 2022, committee members voted to recommend amending the committee rule to extend the eHAC for four additional years so the committee can continue to advise on issues related to health information technology and exchange systems, as well as teleservices. A recommendation to extend the committee by four years was also included in the committee's biennial report to the agency in December 2022 (<https://www.hhs.texas.gov/sites/default/files/documents/hhs-ehac-report-dec-2023.pdf>). In response, HHSC proposed to amend §351.823 to extend this committee for two years, from December 31, 2023, to December 31, 2025.

Additional amendments to §351.823 reorganize and format the rule to ensure its consistency with other agency advisory committee rules established under Texas Government Code §531.012.

#### COMMENTS

The 31-day comment period ended August 14, 2023.

During this period, HHSC received comments regarding the proposed rule from four commenters, including the Texas Association of Health Plans, Quest Diagnostics, and the Texas e-Health Alliance. Following is a summary of comments relating to the amendment to §351.823 and HHSC's responses.

**Comment:** The Chief Executive Officer at the Texas Association of Health Plans (TAHP) communicated support of a two-year extension of eHAC. TAHP communicated, "eHAC has played critical roles in recommending Texas Medicaid Medical Policy updates to the definition of telemedicine to ensure new technologies could be effectively used during the pandemic, worked to ensure that Texas' health data standards do not deviate from national standards, and improved access to remote patient monitoring for Texas' most vulnerable patients." TAHP expressed belief that, "eHAC serves an important role in furthering [TAHP's] goals by examining the ways health information technology and exchange systems can deliver cost-effective and efficient telemedicine, telehealth, and home telemonitoring services."

**Response:** This comment supports HHSC's proposal for a two-year extension of the eHAC and the agency will make no revisions to the rule.

**Comment:** The Chief Executive Officer at the Texas e-Health Alliance and the Vice-President and General Manager at Quest Diagnostics' Southwest Region proposed a four-year extension of the committee, opposing HHSC's proposed two-year extension. Both entities supported a four-year extension with further justification by stating:

"...particularly after the pandemic, a four-year extension will ensure that the issues discussed at eHAC continue to be seen as critical components of the agency's mission and that stakeholders will be able to rely on the committee as a resource and a place where they can provide input."

"A four-year extension...will allow the eHAC to better absorb and respond to the e-health related legislation that passes each session."

Both entities also noted a four-year extension would be consistent with extensions for other committees.

**Response:** The agency appreciates the comments but declines to make revisions to the rule. The agency prefers to extend the committee for two years and believes an extension until December 31, 2025, enables the committee to continue advising on issues related to health information technology and exchange systems, as well as teleservices. A two-year extension will also allow HHSC the opportunity to evaluate the eHAC and assess the agency's committee needs.

**Comment:** The agency received an email referencing this rule project, but the body of the email received contained no text.

**Response:** The Rules Coordination Office alerted the sender but received no response. No revision to the rule is made in response to this email.

HHSC made an edit to subsection (g)(2) for clarification and updated a sentence that stated that, "[a] member serves no more than two consecutive terms..." to "[a] member may serve up to two consecutive terms...."

#### STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner

of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.012(c)(1), which requires the Executive Commissioner to adopt rules consistent with Texas Government Code Chapter 2110 to govern an advisory committee's report requirements.

#### §351.823. *e-Health Advisory Committee.*

(a) **Statutory authority.** The e-Health Advisory Committee (committee) is established under Texas Government Code §531.012 and is subject to §351.801 of this division (relating to Authority and General Provisions).

(b) **Purpose.** The committee advises the Texas Health and Human Services Commission (HHSC) Executive Commissioner and Health and Human Services system agencies (HHS agencies) on strategic planning, policy, rules, and services related to the use of health information technology, health information exchange systems, telemedicine, telehealth, and home telemonitoring services.

(c) **Tasks.** The committee:

(1) advises HHS agencies on the development, implementation, and long-range plans for health care information technology and health information exchange, including the use of electronic health records, computerized clinical support systems, health information exchange systems for exchanging clinical and other types of health information, and other methods of incorporating health information technology in pursuit of greater cost-effectiveness and better patient outcomes in health care and population health;

(2) advises HHS agencies on incentives for increasing health care provider adoption and usage of an electronic health record and health information exchange systems;

(3) advises HHS agencies on the development, use, and long-range plans for telemedicine, telehealth, and home telemonitoring services, including consultations, reimbursements, and new benefits for inclusion in Medicaid telemedicine, telehealth, and home telemonitoring programs;

(4) makes recommendations to HHS agencies through regularly scheduled meetings and verbal or written recommendations communicated to HHSC staff assigned to the committee;

(5) performs other tasks consistent with its purpose as requested by the Executive Commissioner; and

(6) adopts bylaws to guide the operation of the committee.

(d) **Reporting Requirements.**

(1) No later than December 1 of each even-numbered year, the committee files a written report with the HHSC Executive Commissioner and the Texas Legislature covering the meetings and activities not covered in its most recent report filed with the HHSC Executive Commissioner and Texas Legislature through September 30 of the even-numbered year the report is due to be filed. The report includes:

(A) a list of the meeting dates;

(B) the members' attendance records;

(C) a brief description of actions taken by the committee;

(D) a description of how the committee accomplished its tasks;

(E) a summary of the status of any rules that the committee recommended to HHSC;

(F) a description of activities the committee anticipates undertaking in the next fiscal year;

(G) recommended amendments to this section;

(H) any policy recommendations; and

(I) the costs related to the committee, including the cost of HHSC staff time spent supporting the committee's activities and the source of funds used to support the committee's activities.

(2) No later than December 1 of each odd-numbered year, the committee submits to the HHSC Executive Commissioner an informational briefing memorandum describing the committee's costs, accomplishments, and areas of focus that covers October 1 of the preceding year through September 30 of the odd-numbered year the informational briefing memorandum is due to be filed.

(c) Meetings.

(1) Open meetings. The committee complies with the requirements for open meetings under Texas Government Code Chapter 551, as if it were a governmental body.

(2) Frequency. The committee will meet at least three times a year at the call of the presiding officer.

(3) Quorum. A majority of members constitutes a quorum.

(f) Membership.

(1) The committee is composed of no more than 24 members appointed by the HHSC Executive Commissioner. In selecting members to serve on the committee, HHSC considers the applicants' qualifications, background, and interest in serving.

(2) The committee includes representatives of HHS agencies, other state agencies, and other health and human services stakeholders concerned with the use of health information technology, health information exchange systems, telemedicine, telehealth, and home telemonitoring services. The committee comprises the following voting and non-voting ex officio members:

(A) Voting members representing the following categories:

(i) at least one representative from the Texas Medical Board;

(ii) at least one representative from the Texas Board of Nursing;

(iii) at least one representative from the Texas State Board of Pharmacy;

(iv) at least one representative from the Statewide Health Coordinating Council;

(v) at least one representative of a managed care organization;

(vi) at least one representative of the pharmaceutical industry;

(vii) at least one representative of a health science center in Texas;

(viii) at least one expert on telemedicine;

(ix) at least one expert on home telemonitoring services;

(x) at least one representative of consumers of health services provided through telemedicine;

(xi) at least one Medicaid provider or child health plan program provider;

(xii) at least one representative from the Texas Health Services Authority established under Texas Health and Safety Code Chapter 182;

(xiii) at least one representative of a local or regional health information exchange; and

(xiv) at least one representative with expertise related to the implementation of electronic health records, computerized clinical support systems, and health information exchange systems for exchanging clinical and other types of health information.

(B) Non-voting ex officio members representing the following categories:

(i) at least two non-voting ex officio representatives from HHSC; and

(ii) at least one non-voting ex officio representative from the Texas Department of State Health Services.

(3) When appointing members, the HHSC Executive Commissioner considers the cultural, ethnic, and geographic diversity of Texas, including representation from at least 6 of the 11 Public Health Regions as defined by the Texas Department of State Health Services in accordance with Texas Health and Safety Code §121.007.

(4) Members are appointed for staggered terms so that the terms of half of the members expire on December 31st of each year. Regardless of the term limit, a member serves until the member's replacement has been appointed. This ensures sufficient, appropriate representation.

(A) If a vacancy occurs, the HHSC Executive Commissioner appoints a person to serve the unexpired portion of that term.

(B) Except as may be necessary to stagger terms, the term of each member is two years. A member may apply and be appointed for a second two-year term, which may be served consecutively or nonconsecutively.

(C) This section does not apply to non-voting ex officio members, who serve at the pleasure of the HHSC Executive Commissioner.

(g) Officers. The committee selects from its members the presiding officer and an assistant presiding officer.

(1) The presiding officer serves until July 1st of each even-numbered year. The assistant presiding officer serves until July 1 of each odd-numbered year.

(2) A member may serve up to two consecutive terms as presiding officer or assistant presiding officer.

(3) A member whose term has expired is not eligible to serve in the officer role of chair or vice chair once another person has been appointed to fill the member's position on the committee.

(h) Required Training. Each member must complete training on relevant statutes and rules, including this section; §351.801 of this subchapter; Texas Government Code §531.012; Texas Government Code Chapters 551, 552, and 2110; the HHS Ethics Policy, and other relevant HHS policies. Training will be provided by HHSC.

(i) Travel Reimbursement. Unless permitted by the current General Appropriations Act, members of the committee are not paid to participate in the committee nor reimbursed for travel to and from meetings.

(j) Date of abolition. The committee is abolished and this section expires on December 31, 2025.

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) 239-8300



## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### PART 5. TEXAS BOARD OF PARDONS AND PAROLES

#### CHAPTER 146. REVOCATION OF PAROLE OR MANDATORY SUPERVISION

##### 37 TAC §146.6, §146.8

The Texas Board of Pardons and Paroles adopts amendments to 37 TAC Chapter 146, Revocation of Parole or Mandatory Supervision, §146.6 and §146.8. The rules are adopted with changes to the proposed text as published in the August 11, 2023, issue of the *Texas Register* (46 TexReg 4383). The changes were made to accurately denote the revisions made by the 88th Legislature in SB 374 to Government Code, Section 508.282(a). The rules will be republished.

The amendments are adopted to reflect the changes made by the 88th Legislature in SB 374 to Government Code, Section 508.282(a) regarding the time for the parole panel, board designee, or department to dispose of the charges against an inmate or person described by Government Code, Section 508.281(a), and to also provide edits for uniformity and consistency throughout the rules.

No public comments were received regarding adoption of these amendments.

The amended rules are adopted under Texas Government Code Sections 508.036(b), 508.0441(a)(5), 508.045(c), 508.281, 508.2811, and 508.283. Section 508.036(b) requires the Board to adopt rules relating to the decision-making processes used by the Board and parole panels. Section 508.0441(a)(5) vests the Board with the authority to determine the continuation, modification, and revocation of parole or mandatory supervision. Section 508.045(c) provides parole panels with the authority to conduct parole revocation and mandatory supervision revocation hearings; and to grant, deny, or revoke parole or mandatory supervision. Sections 508.281 and 508.2811 relate to hearings to determine violations of the releasee's parole or mandatory supervision. Sections 508.282 and 508.283 concern deadlines and sanctions for parole revocation and mandatory supervision revocation hearings.

##### §146.6. Scheduling of Preliminary Hearing.

(a) Upon request, the Board or the Board's scheduling staff shall schedule a preliminary hearing unless:

(1) more than fourteen calendar days have elapsed from the time the warrant is executed; or

(2) information has not been presented to the Board or the Board's scheduling staff that the releasee was served with the following:

(A) notice of the right to a preliminary hearing and that its purpose is to determine whether there is probable cause or reasonable belief to believe the releasee has committed a parole violation;

(B) written notice of the allegations of parole violation against the releasee;

(C) notice of the right to full disclosure of the evidence;

(D) notice that releasee has the opportunity to be heard in person and to present witnesses and documentary evidence;

(E) notice that the releasee has the right to confront and cross-examine adverse witnesses unless the Hearing Officer specifically finds good cause for not allowing confrontation of the witness;

(F) notice that the case will be heard by a parole panel or designee of the Board;

(G) notice that the releasee has the opportunity to waive in writing the right to either or both of the preliminary and revocation hearings, with the additional understanding that, if the releasee waives the revocation hearing, the Board will in all probability revoke; and

(H) notice that the releasee has the right to retain an attorney and the conditional right to an appointed attorney.

(b) For the purposes of subsection (a)(1) of this section, a warrant is executed if:

(1) the releasee is arrested only on a charge that the releasee has committed a violation of a condition of parole or mandatory supervision and is not charged before the 91st day with the commission of an offense; or

(2) the sheriff having custody of the releasee notifies the division that the releasee has discharged the sentence or that the prosecutor has dismissed the charge under Article 32.02, Code of Criminal Procedure.

(c) If the Board or the Board's scheduling staff receives a request for a preliminary hearing later than the fourteenth calendar day following the provisions described in subsection (a)(1) of this section, the Board or the Board's scheduling staff shall require the requestor to provide an explanation of the delay.

##### §146.8. Scheduling of Revocation Hearings.

(a) Upon request, the Board or the Board's scheduling staff shall schedule a revocation hearing unless information has not been presented to the Board or the Board's scheduling staff that the releasee was served with the following:

(1) notice of the right to a revocation hearing and that its purpose is to make a final evaluation of any contested relevant facts and consideration of whether the facts as determined warrant revocation of parole;

(2) written notice of the allegations of parole violation against the releasee;

(3) notice of the right to full disclosure of the evidence against the releasee;



(4) notice that releasee has the opportunity to be heard in person and to present witnesses and documentary evidence;

(5) notice that the releasee has the right to confront and cross-examine adverse witnesses unless the Hearing Officer specifically finds good cause for not allowing confrontation of the witness;

(6) notice that releasee has an opportunity to be heard and to show that he did not violate the conditions, or if the releasee did, that circumstances in mitigation suggest that the violation does not warrant revocation;

(7) notice that the case will be heard by a parole panel or designee of the Board;

(8) notice that the releasee has the opportunity to waive in writing the right to either or both of the preliminary and revocation hearings, with the additional understanding that, if the releasee waives the revocation hearing, the Board will in all probability revoke; and

(9) notice that the releasee has the right to retain an attorney and the conditional right to an appointed attorney.

(b) If the releasee is not entitled to a preliminary hearing and requests a revocation hearing, the Board or the Board's scheduling staff shall schedule a revocation hearing unless:

(1) more than fourteen calendar days have elapsed from the time that the warrant is executed; or

(2) information has not been presented to the Board or the Board's scheduling staff that the releasee was served with the following:

(A) notice of the right to a revocation hearing and that its purpose is to make a final evaluation of any contested relevant facts and consideration of whether the facts as determined warrant revocation of parole;

(B) written notice of the claimed allegations of parole violation against the releasee;

(C) notice of the right to full disclosure of the evidence;

(D) notice that releasee has the opportunity to be heard in person and to present witnesses and documentary evidence;

(E) notice that the releasee has the right to confront and cross-examine adverse witnesses unless the Hearing Officer specifically finds good cause for not allowing confrontation of the witness;

(F) notice that releasee has an opportunity to be heard and to show that he did not violate the conditions, or if the releasee did, that circumstances in mitigation suggest that the violation does not warrant revocation;

(G) notice that the case will be heard by a parole panel or designee of the Board;

(H) notice that the releasee has the opportunity to waive in writing the right to either or both of the preliminary and revocation hearings, with the additional understanding that, if the releasee waives the revocation hearing, the Board will in all probability revoke; and

(I) notice that the releasee has the right to retain an attorney and the conditional right to an appointed attorney.

(c) If the Board or the Board's scheduling staff receives a request for a revocation hearing later than the fourteenth calendar day following the provisions described in subsection (b)(1) of this section, the Board or the Board's scheduling staff shall require the requestor to provide an explanation of the delay.

(d) For the purposes of subsection (b)(1) of this section, a warrant is executed if:

(1) the releasee is arrested only on a charge that the releasee has committed a violation of a condition of parole or mandatory supervision and is not charged before the 91st day with the commission of an offense; or

(2) the sheriff having custody of the releasee notifies the division that the releasee has discharged the sentence or that the prosecutor has dismissed the charge under Article 32.02, Code of Criminal Procedure.

(e) In cases under subsection (d) of this section, a revocation hearing shall be held within a reasonable time.

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) 406-5478

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