

REVIEW OF AGENCY RULES

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

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

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

Proposed Rule Reviews

Texas Health and Human Services Commission

Title 26, Part 1

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

Chapter 110, Hearings Under the Administrative Procedure Act

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

Comments on the review of Chapter 110, Hearings Under the Administrative Procedure Act, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to hhsrulescoordinationoffice@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 110" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published but may be found in Title 26, Part 1, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings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

TRD-202504479

Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: December 9, 2025



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

Chapter 559, Day Activity and Health Services Requirements

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

Comments on the review of Chapter 559, Day Activity and Health Services Requirements, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to hhsrulescoordinationoffice@hhs.texas.gov.

When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 559" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

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

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Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: December 9, 2025



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

Chapter 565, Home and Community-Based (HCS) Program and Community First Choice (CFC) Certification Standards

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

Comments on the review of Chapter 565, Home and Community-Based (HCS) Program and Community First Choice (CFC) Certification Standards, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to hhsrulescoordinationoffice@hhs.texas.gov.

When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 565" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

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

TRD-202504480

Adopted Rule Reviews

Texas Board of Nursing

Title 22, Part 11

In accordance with Government Code §2001.039, the Texas Board of Nursing (Board) filed a notice of intention to review and consider for re-adoption, re-adoption with amendments, or repeal, the following chapters contained in Title 22, Part 11, of the Texas Administrative Code, pursuant to the 2022 rule review plan adopted by the Board at its April 2022 meeting, in the July 4, 2025, issue of the *Texas Register* (50 TexReg 3921).

Chapter 213. Practice and Procedure, §§213.1 - 213.37

Chapter 214. Vocational Nursing Education, §§214.1 - 214.14

Chapter 215. Professional Nursing Education, §§215.1 - 215.14

Chapter 216. Continuing Competency, §§216.1 - 216.11

Chapter 221. Advanced Practice Nurses, §§221.1 - 221.17

Chapter 222. Advanced Practice Registered Nurses with Prescriptive Authority, §§222.1 - 222.12

Chapter 227. Pilot Programs for Innovative Applications to Vocational and Professional Nursing Education, §§227.1 - 227.6

The Board received one comment regarding Chapter 213 and one comment regarding Chapters 221 and 222. A summary of the comments and the Board's response are explained below.

Summary of Comments Regarding Chapter 213 and Agency Response:

Summary of Comment: The Board received a comment from Betty Smith. Ms. Smith is an attorney and partner at Lype, Dest & Smith, a law firm in Austin, Texas. Ms. Smith expressed concerns and objects to the readoption of subsection 213.30(j) which prevents the Board from reconsidering a petition for licensure eligibility for a period of three years following the issuance of a final Board order denying a petition, after a contested case hearing and an administrative law judge's proposal for decision recommending denial.

The commenter objects to a three-year waiting period stating that the rule unfairly penalizes petitioners for exercising their right to a hearing. The commenter argues this requirement discourages due process participation and creates inequity because petitioners who do not request a hearing, who may reapply after only one year. The commenter further states that the rule fails to account for staff-related delays in processing and does not consider material changes in circumstances that could justify earlier reconsideration. Commenter notes that this three-year waiting period was initially described along with a related, since repealed rule (former rule 213.27(f) relating to denials associated with previously licensed individuals) as discretionary and therefore inconsistent with the three-year waiting period still applicable as outlined in 213.30(j).

The commenter suggests the rule be modified to clarify that the three-year reapplication period is discretionary rather than mandatory, to permit earlier reapplication if there is a material change in facts or circumstances and to ensure the rule does not deter petitioners from exercising due process rights.

Agency Response: The Board disagrees with the comments and declines to modify the rule. The Board has the authority to create procedural rules it deems necessary to carry out its public safety mission. The three-year waiting period does not deny a petitioner's due process rights. Rather, the rule promotes efficient use of state resources. Petitioners whom the Board proposes to deny, have a statutory right under Tex. Occ. Code §301.257(e) to proceed to hearing. SOAH hearings consist of an independent third-party administrative law judge (ALJ) who examines and evaluates the evidence regarding grounds of ineligibility and makes legal and factual determinations regarding petitioner's eligibility. The hearing process expends states resources of both the Board and SOAH. The commenter ignores that the rule's limitation is only available after final un-appealed Board Order of denial after a contested case convened in accordance with due process rights. If a petitioner receives an unfavorable ruling, the three-year waiting period prevents them from immediately refiling the same petition. This saves the Board from expending time and taxpayer money on identical or very similar cases in quick succession. The rule promotes finality in administrative decisions. A final determination, especially after a contested case hearing, should have a reasonable lasting effect. The waiting period encourages applicants to fully present their case during the initial hearing, rather than relying on a series of rapid-fire, perfunctory petitions. Further, it ensures that an adequate amount of time has passed for an applicant to demonstrate rehabilitation or changed circumstances.

The Board disagrees that there exists an unreasonable chilling effect on a petitioner's due process rights. Petitioners who pursue a SOAH hearing have already received a full, contested case hearing, the very definition of due process. The rule does not deny petitioners a future hearing but regulates when they can initiate a new proceeding. The initial hearing is the primary forum for due process. The three-year waiting period is a reasonable limitation, not a permanent penalty or suspension of rights. The arguments focusing on anecdotal complaints regarding Staff delays in processing petitions for declaratory orders of eligibility do not provide empirical justification for amendment to the rule.

The Board disagrees that the burden of proof or resource imbalance are grounds for invalidating a rule. The administrative process, with its clear burden of proof, is a neutral arbiter of facts. The preponderance of evidence is not inherently unfair. This standard provides a reasonable level of proof for regulatory action, protective of both parties.

Lastly, the Board declines to modify the rule to clarify that the three-year reapplication period is discretionary, rather than mandatory. The rule language is sufficiently clear, and a previously published, internal interpretation does not legally necessitate an amendment.

Summary of Comments Regarding Chapters 221 and 222 and Agency Response:

Summary of Comment: The Texas Society of Anesthesiologists (TSA) recommended that the Board amend its rules in Chapters 221 and 222 to align with the Texas Medical Board's (TMB) recently adopted office-based anesthesia (OBA) rules in 22 Texas Administrative Code Chapter 173. TSA expressed concern that the Board's rules are inconsistent with TMB's requirements and therefore may not ensure uniform standards of patient care.

As one example, TSA noted that TMB's rules define ketamine as a hypnotic and require facilities to be classified as Level III or higher when intravenous ketamine is administered. TSA stated that the Board's rule at §221.16(a)(2)(B) is inconsistent with the TMB's requirements and could permit intravenous ketamine administration outside of TMB's framework. TSA also cited broader concerns regarding inconsistencies related to physician presence for certain types of anesthesia, oversight

of agents such as ketamine and propofol, informed consent requirements, emergency preparedness standards, and documentation of the delegating physician.

Agency Response: The Board declines to propose amendments to its rules in response to this comment. The Board carefully reviewed the concerns raised by TSA and does not find that Chapters 221 and 222 conflict with the TMB's OBA rules. The example raised by TSA regarding ketamine administration does not create a conflict, as the TMB expressly clarified in its rule adoption preamble that its OBA rules "do not address the use of low-dose ketamine when not administered as an anesthetic agent" (50 TexReg 358, Jan. 10, 2025). As such, IV ketamine, administered in low dose, for a purpose other than anesthesia, is not contemplated by the TMB's OBA rules.

Further, the Board notes that the requirements adopted by the TMB in 22 Texas Administrative Code Chapter 173 operate within the existing statutory framework of the Medical Practice Act regarding physician delegation in office-based anesthesia settings. In its rule adoption preamble, the TMB explained that the new Chapter 173 rules represent no substantive change from the repealed OBA rules with respect to Certified Registered Nurse Anesthetists under state law (50 TexReg 358, January 10, 2025).

The Board also notes that TSA cited a repealed provision of the Texas Medical Disclosure Panel (TMDP) rules at 25 Texas Administrative Code §601.9. The current TMDP disclosure and consent requirements applicable to anesthesia services are codified at 25 Texas Administrative Code §604.5. The Board declines to duplicate requirements already promulgated by the TMDP and applicable to anesthesia services.

With respect to the other concerns raised, TSA did not provide specific examples of direct conflict between the Board's rules and the TMB's rules. The Board finds its current rules appropriately ensure patient safety and align with statutory requirements governing advanced practice registered nurses, including CRNAs. Therefore, no changes are proposed to the rules in response to this comment.

The Board is aware that the TMB held a stakeholder meeting on September 11, 2025, regarding psychotropic ketamine therapy and is considering new or amended rules to clarify regulation of this practice area. The Board is monitoring those developments and will consider rule amendments if future conflicts arise.

The Board has completed its review and has determined that the reasons for originally adopting the above rules continue to exist. The rules were also reviewed to determine whether they were obsolete, whether they reflected current legal and policy considerations and current procedures and practices of the Board, and whether they were in compliance with Texas Government Code Chapter 2001 (Texas Administrative Procedure Act). The Board finds that the rules are not obsolete, reflect current legal and policy considerations, and that the rules are in compliance with the Texas Administrative Procedure Act, but necessary amendments to 22 Texas Administrative Code §213.13 were identified, pursuant to an internal audit, to clarify and align current procedures and practices of the Board. In this issue of the *Texas Register*, the Board proposes those amendments to 22 Texas Administrative Code §213.13 to update the rule section to reflect current procedures and practices.

The Board readopts the rules in Chapters 213, 214, 215, 216, 221, 222, and 227 without changes, pursuant to the Texas Government Code §2001.039 and Texas Occupations Code §301.151, which authorizes the Board to adopt, enforce, and repeal rules consistent with its legislative authority under the Nursing Practice Act. This concludes the rule review of the above Chapters under the 2022 rule review plan adopted by the Board.

TRD-202504431

James W. Johnston
General Counsel
Texas Board of Nursing
Filed: December 5, 2025



Comptroller of Public Accounts

Title 34, Part 1

The Comptroller of Public Accounts adopts the review of Texas Administrative Code, Title 34, Part 1, Chapter 7, concerning Prepaid Higher Education Tuition Program; Chapter 9, concerning Property Tax Administration; Chapter 11, concerning Government Growth Impact Statement; Chapter 12, concerning Economic Growth; Chapter 13, concerning Unclaimed Property Reporting and Compliance; Chapter 14, concerning Texas Bullion Depository; and Chapter 15, concerning Electronic Transfer of Certain Payments to State Agencies. This review is being conducted in accordance with Government Code, §2001.039. The review assessed whether the reasons for adopting the chapters continue to exist.

The comptroller received no comments on the proposed review, which was published in the October 10, 2025, issue of the *Texas Register* (50 TexReg 6690).

Relating to the review of Chapter 7, the comptroller finds that the reasons for adopting Chapter 7 continue to exist and readopts the sections at this time without changes in accordance with the requirements of Government Code, §2001.039.

Relating to the review of Chapter 9, the comptroller finds that the reasons for adopting Subchapter 9 continue to exist and readopts the sections at this time without changes in accordance with the requirements of Government Code, §2001.039. At a later date, Subchapter A, §9.101, and §9.103; Subchapter F, §9.1054 and §9.1058; Subchapter G, §9.2001 and §9.2003; Subchapter H, §§9.3001-9.3005; 9.3008, and 9.3010-9.3015; Subchapter I, §§9.4001, 9.4011, and 9.4033; Subchapter K, §§9.4202, 9.4209, 9.4223, 9.4240, and 9.4244; Subchapter L, §§9.4301-9.4303, 9.4305, 9.4307-9.4309, and 9.4311-9.4315; and Subchapter M, §9.4321 and §9.4323 will be amended in separate rulemakings in accordance with the Texas Administrative Procedure Act.

As a result of the review of Chapter 9, at a later date, the comptroller will propose the repeal of Subchapter H, §9.3009.

Relating to the review of Chapter 11, the comptroller finds that the reasons for adopting Chapter 11 continue to exist and readopts the sections at this time without changes in accordance with the requirements of Government Code, §2001.039.

Relating to the review of Chapter 12, the comptroller finds that the reasons for adopting Chapter 12 continue to exist and readopts the sections at this time without changes in accordance with the requirements of Government Code, §2001.039.

Relating to the review of Chapter 13, the comptroller finds that the reasons for adopting Chapter 13 continue to exist and readopts the sections at this time without changes in accordance with the requirements of Government Code, §2001.039. At a later date, §13.6 and §13.9 will be amended in separate rulemakings in accordance with the Texas Administrative Procedure Act.

Relating to the review of Chapter 14, the comptroller finds that the reasons for adopting Chapter 14 continue to exist and readopts the sections at this time without changes in accordance with the requirements of Government Code, §2001.039.

Relating to the review of Chapter 15, the comptroller finds that the reasons for adopting Chapter 15 continue to exist and readopts the sections at this time without changes in accordance with the requirements of Government Code, §2001.039. At a later date, Subchapter A, §§15.1, 15.4, and 15.6; Subchapter B, §15.21, and Subchapter C, §15.32, and §15.35 will be amended in separate rulemakings in accordance with the Texas Administrative Procedure Act.

This concludes the review of Texas Administrative Code, Title 34, Part 1, Chapter 7, Chapter 9, Chapter 11, Chapter 12, Chapter 13, Chapter 14, and Chapter 15.

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Jenny Burleson
Director, Tax Policy
Comptroller of Public Accounts
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