

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 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 371. MEDICAID AND OTHER HEALTH AND HUMAN SERVICES FRAUD AND ABUSE PROGRAM INTEGRITY

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Office of Inspector General (OIG), adopts in the Texas Administrative Code, Title 1, Part 15, Chapter 371 amendments to §371.1, concerning Definitions; §371.3, concerning Purpose and Authority; §371.31, concerning Federal Felony Match; §371.1011, concerning Recommendation Criteria; §371.1305, concerning Preliminary Investigation; §371.1613, concerning Informal Resolution Process; §371.1663, concerning Managed Care; §371.1669, concerning Self-Dealing; and §371.1709, concerning Payment Hold.

The amendments to §§371.1, 371.3, 371.31, 371.1011, 371.1305, 371.1613, 371.1663, 371.1669, and 371.1709 are adopted without changes to the proposed text as published in the November 8, 2024, issue of the *Texas Register* (49 TexReg 8797). These rules will not be republished.

BACKGROUND AND JUSTIFICATION

House Bill 4611, 88th Legislature, Regular Session, 2023, made certain non-substantive revisions to Subtitle I, Title 4, Texas Government Code, which governs HHSC, Medicaid, and other social services as part of the legislature's ongoing statutory revision program. The amendments are necessary to update citations in the rules to reflect changes in the organization of the Texas Government Code sections that become effective on April 1, 2025. The proposed amendments update the affected citations to the Texas Government Code and revise Texas Administrative Code references.

COMMENTS

The 31-day comment period ended December 9, 2024.

During this period, OIG did not receive comments regarding the proposed amendments to the rules.

SUBCHAPTER B. OFFICE OF INSPECTOR GENERAL

1 TAC §§371.1, 371.3, 371.31

STATUTORY AUTHORITY

The amendments are 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; Texas Government Code §531.033, which requires the Executive Commissioner of HHSC to adopt rules necessary to carry out the commission's duties under Chapter 531; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas, to administer Medicaid funds, and to adopt rules necessary for the proper and efficient regulations of the Medicaid program; and Texas Government Code §531.102, which provides that the Executive Commissioner of HHSC shall work in consultation with the HHSC OIG whenever the executive commissioner is required by law to adopt a rule.

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 February 19, 2025.

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Karen Ray

Chief Counsel

Texas Health and Human Services Commission

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For further information, please call: (512) 221-7320



SUBCHAPTER E. PROVIDER DISCLOSURE AND SCREENING

1 TAC §371.1011

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; Texas Government Code §531.033, which requires the Executive Commissioner of HHSC to adopt rules necessary to carry out the commission's duties under Chapter 531; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas, to administer Medicaid funds, and to adopt rules necessary for the proper and efficient regulations of the Medicaid program; and Texas Government Code §531.102, which provides that the Executive Commissioner of HHSC shall work in consultation

with the HHSC OIG whenever the executive commissioner is required by law to adopt a rule.

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. INVESTIGATIONS

1 TAC §371.1305

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; Texas Government Code §531.033, which requires the Executive Commissioner of HHSC to adopt rules necessary to carry out the commission's duties under Chapter 531; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas, to administer Medicaid funds, and to adopt rules necessary for the proper and efficient regulations of the Medicaid program; and Texas Government Code §531.102, which provides that the Executive Commissioner of HHSC shall work in consultation with the HHSC OIG whenever the executive commissioner is required by law to adopt a rule.

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 G. ADMINISTRATIVE ACTIONS AND SANCTIONS

DIVISION 1. GENERAL PROVISIONS

1 TAC §371.1613

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; Texas Government Code §531.033, which requires the Executive Commissioner of HHSC to adopt rules necessary to carry out the commission's duties under Chapter 531; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas, to administer Medicaid funds, and to adopt rules necessary for the proper and efficient regulations of the Medicaid program; and Texas Government Code §531.102, which provides that the Executive Commissioner of HHSC shall work in consultation with the HHSC OIG whenever the executive commissioner is required by law to adopt a rule.

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) 221-7320



DIVISION 2. GROUNDS FOR ENFORCEMENT

1 TAC §371.1663, §371.1669

STATUTORY AUTHORITY

The amendments are 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; Texas Government Code §531.033, which requires the Executive Commissioner of HHSC to adopt rules necessary to carry out the commission's duties under Chapter 531; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas, to administer Medicaid funds, and to adopt rules necessary for the proper and efficient regulations of the Medicaid program; and Texas Government Code §531.102, which provides that the Executive Commissioner of HHSC shall work in consultation with the HHSC OIG whenever the executive commissioner is required by law to adopt a rule.

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) 221-7320



DIVISION 3. ADMINISTRATIVE ACTIONS AND SANCTIONS

1 TAC §371.1709

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; Texas Government Code §531.033, which requires the Executive Commissioner of HHSC to adopt rules necessary to carry out the commission's duties under Chapter 531; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas, to administer Medicaid funds, and to adopt rules necessary for the proper and efficient regulations of the Medicaid program; and Texas Government Code §531.102, which provides that the Executive Commissioner of HHSC shall work in consultation with the HHSC OIG whenever the executive commissioner is required by law to adopt a rule.

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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Karen Ray
Chief Counsel
Texas Health and Human Services Commission
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For further information, please call: (512) 221-7320



CHAPTER 377. CHILDREN'S ADVOCACY PROGRAMS

SUBCHAPTER B. STANDARDS OF OPERATION FOR LOCAL COURT-APPOINTED VOLUNTEER ADVOCATE PROGRAMS

1 TAC §377.107, §377.113

The Texas Health and Human Services Commission (HHSC) adopts amendments to §377.107, concerning Contract with Statewide Volunteer Advocate Organization, and §377.113, concerning Local Volunteer Advocate Program Administration.

The amendments are adopted without changes to the proposed text as published in the November 8, 2024, issue of the *Texas Register* (49 TexReg 8810). The rules will not be republished.

BACKGROUND AND JUSTIFICATION

The amendments are necessary to comply with House Bill (H.B.) 474, 88th Legislature, Regular Session, 2023, which amends Texas Family Code §264.603 and §264.604, which requires HHSC to include in the contract measurable goals and objectives for the number of active and inactive volunteers in the Court Appointed Volunteer Advocate Program, and to ensure the statewide volunteer advocate organization adopts a grievance process for complaints regarding negligence or misconduct by a volunteer advocate.

COMMENTS

The 31-day comment period ended December 9, 2024.

During this period, HHSC received a comment regarding the proposed rules from one commenter, Texas CASA, Inc. A summary of the comment relating to the rules and HHSC's responses follows.

Comment: The comment requests a change to the way inactive volunteers are counted and measured. The commenter wants to separate active and inactive volunteers and remove the requirement for measurable goals and objectives for inactive volunteers.

Response: HHSC disagrees and declines to revise the rule in response to this comment. H.B. 474, codified in Texas Family Code §264.603(a), requires measurable goals and objectives for both active and inactive volunteers. Goals and objectives for active volunteers may vary from the goals and objectives of inactive volunteers.

STATUTORY AUTHORITY

The amendments are 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 Family Code §264.609, which authorizes the Executive Commissioner of HHSC to adopt rules governing the Court Appointed Volunteer Advocate Program.

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 February 18, 2025.

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Karen Ray
Chief Counsel
Texas Health and Human Services Commission
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For further information, please call: (512) 460-0992



TITLE 7. BANKING AND SECURITIES

PART 1. FINANCE COMMISSION OF TEXAS

CHAPTER 2. RESIDENTIAL MORTGAGE
LOAN ORIGINATORS REGULATED BY
THE OFFICE OF CONSUMER CREDIT
COMMISSIONER
SUBCHAPTER A. APPLICATION
PROCEDURES

7 TAC §2.102

The Finance Commission of Texas (commission) adopts the amendments to §2.102 (relating to Registration with Nationwide Mortgage Licensing System and Registry) in 7 TAC Chapter 2, concerning Residential Mortgage Loan Originators Regulated by the Office of Consumer Credit Commissioner.

The commission adopts the amendments to §2.102 without changes to the proposed text as published in the December 27, 2024, issue of the *Texas Register* (49 TexReg 10451). The rule will not be republished.

The commission did not receive any official comments on the proposed amendments.

The rule at §2.102 relates to procedures for an individual to register with the NMLS system as a residential mortgage loan originator (RMLO). In general, the purpose of the adopted rule changes to 7 TAC §2.102 is to remove language providing that certain entities are not required to register with NMLS, in order to support efforts to migrate license groups to NMLS.

The Office of Consumer Credit Commissioner (OCCC) distributed an early precomment draft of proposed changes to interested stakeholders for review, and then held a stakeholder webinar regarding the rule changes. During the webinar, the OCCC answered questions from stakeholders about the rule changes. The OCCC appreciates the input provided by stakeholders. The OCCC did not receive any written precomments on the rule text draft.

The Nationwide Multistate Licensing System (NMLS) is an online platform used by state financial regulatory agencies to manage licenses, including license applications and renewals. State agencies created NMLS in 2008. The federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 explains that the purposes of NMLS include increasing uniformity and reducing regulatory burden. Federal SAFE Act, 12 USC §5101. Each state currently uses NMLS for licensing individual RMLOs, and 59 state agencies use the system for licensing mortgage companies. See NMLS, Q1 2024 Mortgage Industry Report (June 2024). NMLS is managed by the Conference of State Bank Supervisors and is subject to ongoing modernization efforts and enhancements.

Under Texas Finance Code, §14.109, the OCCC is authorized to require use of NMLS for certain license and registration types. During calendar year 2025, the OCCC intends to begin a phased process of migrating license groups from ALECS (the OCCC's current licensing platform) to NMLS. The OCCC believes that moving to NMLS will improve the user experience of the licensing system and promote efficiency. This is particularly true for entities that hold licenses with the OCCC and with another state agency, because these entities will be able to manage multiple licenses through NMLS.

Currently, the rule at §2.102 describes procedures for an individual to register with NMLS as an RMLO. Current §2.102(b)

states: "Entities licensed or applying for a license with the OCCC to make, transact, or negotiate residential mortgage loans are not required to register with NMLS."

Adopted amendments to §2.102 remove current subsection (b). This change will support the OCCC's efforts to migrate license groups to NMLS. This change is consistent with the OCCC's authority under Texas Finance Code, §14.109, to require use of the NMLS system for certain license and registration types. Other adopted amendments throughout §2.102 renumber other subsections accordingly.

The rule amendments are adopted under Texas Finance Code, §11.304, which authorizes the commission to adopt rules necessary to supervise the OCCC and ensure compliance with Texas Finance Code, Chapter 14 and Title 4. In addition, Texas Finance Code, §180.004, authorizes the commission to implement rules necessary to comply with Texas Finance Code, Chapter 180, and to carry out the intentions of the federal Secure and Fair Enforcement for Mortgage Licensing Act. Also, Texas Finance Code, §180.061, authorizes the commission to adopt rules establishing requirements for licensing through NMLS.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapters 14 and 180.

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 February 21, 2025.

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Matthew Nance

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Finance Commission of Texas

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PART 7. STATE SECURITIES BOARD

**CHAPTER 115. SECURITIES DEALERS AND
AGENTS**

**7 TAC §§115.1 - 115.6, 115.8 - 115.11, 115.16, 115.21, 115.22,
115.24**

The Texas State Securities Board adopts amendments to §115.1, concerning General Provisions; §115.2, concerning Application Requirements; §115.3, concerning Examination; §115.4, concerning Evidences of Registration; §115.5, concerning Minimum Records; §115.6, concerning Registration of Persons with Criminal Backgrounds; §115.8, concerning Fee Requirements; §115.9, concerning Post-Registration Reporting Requirements; §115.10, concerning Supervisory Requirements; §115.11, concerning Finder Registration and Activities; §115.16, concerning Use of Senior-Specific Certifications and Professional Designations, §115.22, concerning Electronic Submission of Forms and Fees; and adopts new §115.24, concerning Adoption by Reference of Conduct Rules. The Board also adopts amendments to §115.21, concerning System Addressing Suspected Financial Exploitation of Vulnerable

Customers Pursuant to the Texas Securities Act, Section 45, which includes renaming the caption of the section to read "System Addressing Suspected Financial Exploitation of Vulnerable Customers Pursuant to the Texas Securities Act, Chapter 4004, Subchapter H."

The proposals were published in the November 8, 2024, issue of the *Texas Register* (49 TexReg 8814), and corrected in the December 20, 2024, issue of the *Texas Register* (49 TexReg 10440). The amendment to §115.1 was adopted with changes to the published proposal and will be republished. The change consisted of amending §115.1(a)(2)(A)(vi) and (vii) to move the "and" connector from the end of (A)(vi) to the end of (A)(vii), which is necessary due to the addition of new (A)(viii). The new rule §115.24 and the amendments to §§115.2 - 115.6, 115.8 - 115.11, 115.16, 115.21, and 115.22 were adopted without changes and will not be republished.

The rules in 7 TAC Chapter 115 govern securities dealers and agents. The purpose of the adoption of a new rule and amendments to thirteen rules in this chapter is to implement changes pursuant to the agency's periodic review of its rules. These changes improve the readability, consistency, and clarity of the rules in this chapter, and ensure the rules are current, accurate, and conform to the codified version of the Texas Securities Act (Act), which promotes transparency and efficient regulation.

The references to sections of the Act in §§115.1, 115.3 - 115.5, 115.8, 115.16, and 115.21 are updated to refer to the correct sections in the codified version of the Act in the Texas Government Code. The codification was adopted by HB 4171, 86th Legislature, 2019 Regular Session, and became effective January 1, 2022 (HB 4171).

Sections 115.3 and 115.5 are amended to replace the references in those sections to the term "Securities and Exchange Commission" with the term "SEC." SEC is a defined term in §107.2, concerning Definitions.

Section 115.5 is amended to abbreviate a cite to the Code of Federal Regulations found in subsection (a). CFR is a defined term in §107.2, concerning Definitions.

Section 115.1 is amended to add "or 'in this state'" to subsection (a)(8) to conform the definition of "within this state" to language used in the codified Act and to delete redundant language in subsection (b)(2)(D) that is also contained in subsection (d). In addition, subsection (c)(2) is amended to correct a cross reference.

Section 115.3 is amended to replace the reference to "North American Securities Administrators Association" with the term "NASAA" in subsection (a)(1). NASAA is a defined term in §107.2, concerning Definitions. In addition, subsection (b)(4) is amended to update the names of two NASAA examinations.

Amendments to §§115.3(c)(3)(D), 115.5(b)(13), and 115.6(g) are made to remove or update outdated language.

Section 115.5 is amended to abbreviate a reference to "Central Registration Depository" as "CRD" for consistency.

An additional amendment to §115.1 relates to the definition of a dealer's branch office. The definition of a dealer's "branch office" set forth in §115.1(a)(2) is amended to incorporate and recognize a rule adopted by the Financial Industry Regulatory Authority (FINRA) that establishes a new designated location category referred to as a "residential supervisory location" (or RSL). Dealer firms that are members of FINRA may designate certain locations where they do business as an RSL instead

of a "branch office," if the firm and location meet specified criteria and conditions set forth in FINRA rules. Texas locations that are designated by dealers registered in Texas as RSLs under FINRA rules are excluded from the definition of a dealer's "branch office." This change reduces compliance costs and administrative burdens for dealers because it results in registered dealers no longer needing to make a branch office notice filing with the agency for locations that are RSLs, which locations are treated under the rules as non-branch locations.

Section 115.2 is reorganized, and a cross reference to §115.22 is added to §115.2 to improve consistency and readability of provisions governing application requirements. In addition, subsection (d) is amended to allow the agency registration staff the option to notify applicants by email (which is a faster and more reliable delivery method) rather than by certified mail of automatic withdrawal of applications that have been pending for more than 90 days. This change facilitates the internal processing of registration applications by reducing the use of staff resources. References to "certificate of formation" which is the name of the form used by the Texas Secretary of State for formation documents filed with it, are added to the respective lists of formation or organization documents (including articles of incorporation, partnership agreements, articles of association, and charters) found in §115.2(a)(2)(A), as well as in §115.5(e)(5), for clarity and to improve accuracy.

Section 115.3 is amended to add new subsection (c)(5)(A) and (c)(5)(B) to recognize and grant waivers of examination or re-examination requirements for certain classes of applicants who are participating in FINRA's Maintaining Qualifications Program (MQP) or NASAA's Exam Validity Extension Program (EVEP) and meet other requirements. Section 115.3 is also amended to add subsection (c)(5)(C) to recognize and grant waivers of examination requirements for applicants who have received an examination waiver from FINRA.

The amendments to §115.3(c) provide greater coordination with other securities regulators and reduce the application processing time for eligible applicants and compliance costs for their firms. Waivers will be processed with more consistency, uniformity, and transparency.

In addition to the amendments to §115.3(c), §115.3(d) is amended to update the rule to more accurately reflect the Texas securities law examination process, and to specifically direct applicants with questions about the process to the Registration Division for information, which increases transparency. This subsection is also amended to impose a one-week waiting period to retake the examination for applicants who failed the exam to provide and encourage more time to study prior to retaking the exam.

Section 115.8, which relates to fee requirements, is amended to remove an incorrect reference in subsection (a) to fees for officers and partners of a securities dealer, to update the reference to the agency's website, and to clarify that persons seeking information on fee requirements may contact the Registration Division of the agency.

Section 115.9, which sets out events that a registered dealer or agent must report to the Securities Commissioner after registration, is amended in subsection (a)(3) to clarify that misdemeanor offense actions that are listed in §115.6(c) of this chapter must be reported. In addition, §115.9(a)(6) is amended to clarify that registered entities must notify the Commissioner of changes in legal status of their entities. These amendments apprise deal-

ers and agents of their obligations under the Act which promotes transparency.

Section 115.10, which relates to supervisory requirements of dealers, is amended to incorporate and recognize FINRA's Remote Inspections Pilot Program (RIPP). Former subsection (c) which governed internal inspections of dealers, is now divided into two paragraphs, with new subsection (c)(1) including the language in former subsection (c) with slight amendments and additions, and new subsection (c)(2) being new language that addresses the RIPP and its participants. This change clarifies that dealers registered in Texas that are participating in the RIPP will be in compliance with §115.10(c) if they conduct their internal inspections programs in compliance with FINRA rules. Through this amendment, greater coordination among securities regulators is achieved, and administrative burdens for firms are reduced which reduces compliance costs. Dealers are also notified of required content for their supervisory systems which improves their ability to carry out their supervisory duties.

Section 115.11(a) is amended to remind and inform finder applicants that finders by the definition set forth in §115.1(a)(9) are not permitted to register in other capacities. In addition, §115.11(f) is amended to correct a cross reference and to remove an outdated reference to filings being in paper form.

Section 115.21 is renamed to refer to the applicable section of the codified Act.

Section 115.22 is revised to add a reference to finder registration in subsection (b) for clarification that finder applicants may submit documents electronically, and to remove an unneeded reference to dealers and agents in §115.22(c).

New rule §115.24 adopts by reference an SEC rule governing dealer conduct referred to as the SEC Regulation Best Interest (or Regulation BI). The new rule also adopts by reference other fair practice, ethical standard, or conduct rules promulgated by FINRA, the SEC, the United States Commodity Futures Trading Commission (CFTC), or any self-regulatory organization approved by the SEC or the CFTC. Regulation BI established and standardized a "best interest" standard of conduct for FINRA dealers and their agents when recommending securities transactions or investment strategies to retail investors. Activities and practices that do not comply with the requirements of Regulation BI or the other conduct rules enumerated in the adopted rule, may constitute bases for denials, suspensions, or revocations of the registrations of dealers or agents. A related change amends §115.5, concerning Minimum Records, requiring additional related recordkeeping requirements to verify compliance with new rule §115.24. Since Regulation BI went into effect, agency staff have used this standard for guidance as to what conduct constitutes an inequitable practice under the Act involving retail investors of dealers or agents registered in Texas. The new rule appraises dealers and agents of their obligations under the Act and of the types of activities or practices which may result in sanctions under the Act. The rule allows the Securities Commissioner the flexibility to assess administrative fines against violators of these requirements, which furthers the Board's mission to protect Texas investors. Greater coordination with other securities regulators is also achieved.

The Board received five public comment letters regarding the rulemaking in Chapter 115. One letter was from the corporate office of LPL Financial, a registered broker-dealer firm. A second letter was from 365 of LPL's financial professionals in Texas. The other three support letters were from securities industry trade

groups: Financial Planning Association (FPA), Insured Retirement Institute (IRI), and the Securities Industry and Financial Markets Association (SIFMA). The commenters all expressed general support for the proposals. The Board appreciates the support expressed by these commenters.

LPL Financial and SIFMA submitted comment letters strongly supporting the proposal to amend §115.1 to incorporate and recognize FINRA's RSL rule, along with the other proposed rule-making. SIFMA commented that the proposal will enable firms to maintain qualified talent in essential positions without sacrificing compliance, security, or investor protection, and commended the Board for recognizing the value of the FINRA rule and quickly seeking to incorporate it into Texas' own regulations. The Board appreciates the support for this change.

LPL Financial and SIFMA strongly supported the proposal to amend §115.3 relating to waivers from examination requirements. LPL and SIFMA both believe the proposal is important for preserving their diverse pipelines of talent, by encouraging professionals who have departed the industry to return to the sector when life circumstances permit. The Board appreciates the support for this change.

LPL Financial and SIFMA also strongly supported the proposal to amend §115.10 to recognize the FINRA RIPP rule. SIFMA specifically commented that the proposal will enable Texas firms to participate in the RIPP without fear of violating Texas' supervisory requirements. Recognizing the RIPP, SIFMA states, will help industry retain its workforce and help demonstrate that technology can be used to perform required inspections of certain lower-risk locations remotely. Similarly, LPL stated that the RIPP will show that remote inspections are equally as effective as on-site inspections for low-risk branches. The Board appreciates the support for this change.

LPL Financial, SIFMA, the FPA, the IRI, and the financial professionals at LPL strongly supported the proposed new rule §115.24 to adopt Regulation BI and other conduct rules by reference. FPA expressed its strong support for the Board's commitment to harmonize federal and state securities laws and stated that the proposal will protect Texas retirement savers' and other retail consumers' interests while ensuring that its members are able to operate their businesses under a streamlined and effective regulatory regime. LPL appreciated the Board's approach to working with the industry during the rule review and drafting period to ensure that stakeholder comments are thoughtfully considered, which has resulted in a proposal that would further strengthen investor protections, create predictability, and streamline operations and compliance requirements. They also appreciated that Texas is "sensibly" adopting SEC rules by reference rather than using "misaligned language unique to the state," and also expressed that adoption by reference would remove any ambiguity about variations between state and federal securities laws. The Board appreciates the support for this new rule.

SIFMA specifically noted that the proposal ensures retail customers in Texas get the protection and benefits of this heightened standard while also giving the Board additional authority to address situations where a registered firm or professional falls short of this standard. It particularly appreciated that the language incorporates an existing national standard that is "working well" and noted that with many firms doing business in multiple states, a "single, uniform standard provides consistency, makes compliance efforts more efficient, and ensures client choice." The Board appreciates the commenters' support and feedback for this change.

FPA requested that the Board consider adopting a rule that would specifically prohibit registered professionals that are not dually registered with the agency as investment advisers or investment adviser representatives from using the words "advisor" or "adviser" in their names or titles. By way of background the SEC requested comments on whether it should adopt a rule prohibiting this activity as part of its request for comments on the Regulation BI proposal. The comments received in response to the SEC's request were mixed--some in support and others that opposed having a separate rule prohibiting the use of titles. After consideration the SEC ultimately determined that having a separate rule prohibiting titles was inadvisable and not needed for various reasons, including that Regulation BI's capacity disclosure obligation covered this activity. In addition to the SEC declining to adopt such a rule, NASAA has not yet adopted a model rule on this issue.

The Board agrees with the SEC that a separate rule on titling is not needed and inadvisable, as among other reasons, there are other potentially legitimate uses of these titles by registrants that are not dually registered as investment advisers. For these reasons the Board appreciates the suggestion of a new rule but declines to implement the recommended change. Staff will continue to monitor this issue and if staff recommends it, the Board may reconsider the need for a titling rule in the future.

This concludes the description of the public comments and the Board's responses.

The new rule and amendments are adopted under the authority of the Texas Government Code (TGC), §4002.151, as adopted by HB 4171, 86th Legislature, 2019 Regular Session, effective January 1, 2022. Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Texas Securities Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. In addition, the amendments to §115.3 are adopted under the authority of TGC §4004.151. Section 4004.151 of the Act provides the Board with authority to waive examination requirements for any applicant or class of applicants.

The adopted new section and amendments affect the following sections of the Texas Securities Act: TGC Chapter 4004, Subchapters A - D, and F - G. The adopted amendment to §115.21 affects Chapter 4004, Subchapter H of the Act. The adopted amendment to §115.22 also affects TGC §4006.001 of the Act. The adopted amendment to §115.1 also affects TGC §4007.052 of the Act. The adopted amendments to §115.5 and §115.21 and adopted new rule §115.24 affect TGC §4007.105. Finally, the adopted amendment to §115.5 and adopted new rule §115.24 also affect TGC §4007.106. Statutes affected by adopted amendments to §§115.4, 115.8, and 115.16: none.

§115.1. General Provisions.

(a) Definitions. Words and terms used in this chapter are also defined in §107.2 of this title (relating to Definitions). The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Applicant--A person who submits an application for registration as a dealer or an agent.

(2) Branch office--Any location where one or more agents of a dealer regularly conduct the business of effecting any transactions in, or inducing or attempting to induce the purchase or sale of, any security, or that is held out as such.

(A) This definition excludes:

(i) any location that is established solely for customer service and/or back office type functions where no sales activities are conducted and that is not held out to the public as a branch office;

(ii) any location that is the agent's primary residence, provided that:

(I) only one agent, or multiple agents who reside at that location and are members of the same immediate family, conduct business at the location;

(II) the location is not held out to the public as an office and the agent does not meet with customers at the location;

(III) neither customer funds nor securities are handled at that location;

(IV) the agent is assigned to a designated branch office, and such designated branch office is reflected on all business cards, stationery, advertisements, and other communications to the public by such agent;

(V) the agent's correspondence and communications with the public are subject to the dealer's supervision;

(VI) electronic communications (e.g., e-mail) are made through the dealer's electronic system;

(VII) all orders are entered through the designated branch office or an electronic system established by the dealer that is reviewable at the branch office;

(VIII) written supervisory procedures pertaining to supervision of sales activities conducted at the residence are maintained by the dealer; and

(IX) a list of the residence locations are maintained by the dealer;

(iii) any location, other than a primary residence, that is used for securities business for less than 30 business days in any one calendar year, provided the dealer complies with the provisions of clause (ii)(II) - (VIII) of this subparagraph;

(iv) any office of convenience, where agents occasionally and exclusively by appointment meet with customers, which is not held out to the public as an office;

(v) any location that is used primarily to engage in non-securities activities and from which the agent(s) effects no more than 25 securities transactions in any one calendar year; provided that any advertisement or sales literature identifying such location also sets forth the address and telephone number of the location from which the agent(s) conducting business at the non-branch locations are directly supervised;

(vi) the floor of a registered national securities exchange where a dealer conducts a direct access business with public customers;

(vii) a temporary location established in response to the implementation of a business continuity plan; and

(viii) a location identified and designated with FINRA by the registered dealer as a residential supervisory location (RSL) in accordance with FINRA Rule 3110.19, and which location has been provided to FINRA in accordance with FINRA Rule 3110.19(d).

(B) Notwithstanding the exclusions in subparagraph (A) of this paragraph, any location other than an RSL that meets the requirements of §115.1(a)(2)(A)(viii) that is responsible for supervising the activities of persons associated with the dealer at one or more non-branch locations of the dealer is considered to be a branch office.

(C) The term "business day" shall not include any partial business day provided that the agent spends at least four hours on such business day at his or her designated branch office during the hours that such office is normally open for business.

(3) Supervisor--The person named by a dealer to supervise the activities of a branch office and registered as an agent with the Securities Commissioner.

(4) Control--The possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person or company, whether through the ownership of voting securities, by contract, or otherwise.

(5) In this state--As used in the Texas Securities Act, §§4001.052, 4001.056, 4004.051, and 4004.101, has the same meaning as the term "within this state" as defined in §107.2 of this title and paragraph (8) of this subsection.

(6) FINRA--The Financial Industry Regulatory Authority, created through the consolidation of NASD and the member regulation, enforcement, and arbitration functions of the New York Stock Exchange.

(7) Officer--A president, vice president, secretary, treasurer, or principal financial officer, comptroller, or principal accounting officer, or any other person occupying a similar status or performing similar functions with respect to any organization or entity, whether incorporated or unincorporated.

(8) Within this state or in this state--

(A) A person is a "dealer" who engages "within this state" or "in this state" in one or more of the activities set out in the Texas Securities Act, §4001.056 or §4004.051, if either the person or the person's agent is present in this state or the offeree/purchaser or the offeree/purchaser's agent is present in this state at the time of the particular activity. A person can be a dealer in more than one state at the same time.

(B) Likewise, a person is an "agent" who engages "within this state" or "in this state" in one or more of the activities set out in the Texas Securities Act, §4001.052 or §4004.101, whether by direct act or through subagents except as otherwise provided, if either the person or the person's agent is present in this state or the offeree/purchaser or the offeree/purchaser's agent is present in this state at the time of the particular activity. A person can be an agent in more than one state at the same time.

(C) Offers and sales can be made by personal contact, mail, telegram, telephone, wireless, electronic communication, or any other form of oral or written communication.

(9) Finder--An individual who receives compensation for introducing an accredited investor to an issuer or an issuer to an accredited investor solely for the purpose of a potential investment in the securities of the issuer, but does not participate in negotiating any of the terms of an investment and does not give advice to any such parties regarding the advantages or disadvantages of entering into an investment, and conducts this activity in accordance with §115.11 of this title (relating to Finder Registration and Activities). Note that an individual registered as a finder is not permitted to register in any other capacity; however, a registered general dealer is allowed to engage in finder activity without separate registration as a finder.

(10) Texas crowdfunding portal--Any person registered as a Texas dealer pursuant to §115.19 of this title (relating to Texas Crowdfunding Portal Registration and Activities) or §115.20 of this title (relating to Texas Crowdfunding Portal Registration and Activities of Small Business Development Entities).

(b) Registration requirements of dealers, issuers, and agents, and notice filings for branch offices.

(1) Requirements of registration or notice filing.

(A) No dealer, issuer, or agent of a dealer or issuer shall sell or offer for sale any securities within this state without first being registered as a dealer or agent, or exempt from registration.

(B) Each branch office in Texas must make a notice filing to become designated as a branch office of a dealer. A registered officer, partner, or agent must be named as supervisor.

(2) Persons not required to register as an agent.

(A) Registration as an agent is not required for a person, associated with a dealer registered in Texas, who effects a transaction pursuant to the Securities Exchange Act of 1934, §15(i)(3), (15 U.S.C. Sec. 78o(i)(3)), provided such person is:

(i) not ineligible to register with this state for any reason other than such a transaction; and

(ii) registered with a registered securities association and at least one other state.

(B) For purposes of this paragraph, a person is "ineligible to register with this state," if the person:

(i) has been convicted of a securities-related felony; or

(ii) has been convicted of a theft-related felony.

(C) For purposes of this paragraph, a "registered securities association" is one currently recognized as such by the SEC pursuant to the Securities Exchange Act of 1934, §15A.

(c) Types of registrations.

(1) General registration. A general registration is a registration to deal in all categories of securities, without limitation

(2) Restricted registration. The restricted registrations are as follows:

(A) The Securities Commissioner recognizes the specialized knowledge examinations administered by FINRA as restricted registration categories. The registration of an applicant passing a specialized knowledge examination in lieu of the general securities examination pursuant to §115.3(b) of this chapter (relating to Examination) is restricted to and effective only for conducting the business and securities activities and effecting transactions associated with the specialized examination.

(B) Additional restricted registration categories include:

(i) registration to deal exclusively in the sale of interests (other than interests in limited partnerships) in oil, gas, and mining leases, fees, or titles or contracts relating thereto;

(ii) registration to deal exclusively in real estate syndication interests and/or condominium securities, including interests in real estate limited partnerships;

(iii) registration to deal exclusively in sales of securities to the dealer's own employees;

- (iv) registration for an issuer to deal exclusively in its own securities;
- (v) registration to act exclusively as a finder;
- (vi) registration to act exclusively as a Texas crowd-funding portal; and
- (vii) registration with other restrictions which the Securities Commissioner may impose based upon the facts.

(3) In restricted registrations, the evidence of registration shall indicate that the holder thereof is entitled to act as a dealer only in the specified issue or category of securities.

(d) Prohibition on fraud and availability of an exemption from registration. The Texas Securities Act prohibits fraud or fraudulent practices in dealing in any manner in any securities whether or not the person engaging in fraud or fraudulent practices is required to be registered. The Agency has jurisdiction to investigate and bring enforcement actions to the full extent authorized in the Texas Securities Act with respect to fraud or deceit, or unlawful conduct by a dealer or agent in connection with transactions involving securities in Texas. However, the registration requirements detailed in this chapter do not apply to dealers and agents that are exempt from registration as such pursuant to the Texas Securities Act, Chapter 4005, Subchapter A, or by Board rule pursuant to the Texas Securities Act, §4004.001 or §4005.024, contained in Chapter 109 or 139 of this title.

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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Travis J. Iles

Securities Commissioner

State Securities Board

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For further information, please call: (512) 305-8303



CHAPTER 116. INVESTMENT ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES

7 TAC §§116.1 - 116.6, 116.8, 116.9, 116.15, 116.16, 116.21

The Texas State Securities Board adopts amendments to §116.1, concerning General Provisions; §116.2, concerning Application Requirements; §116.3, concerning Examination; §116.4, concerning Evidences of Registration; §116.5, concerning Minimum Records; §116.6, concerning Registration of Persons with Criminal Backgrounds; §116.8, concerning Fee Requirements; §116.9, concerning Post-Registration Reporting Requirements; and §116.16, concerning Use of Senior-Specific Certifications and Professional Designations. The Board also adopts amendments to §116.15, concerning Advertising Restrictions, which includes renaming the caption of the section to read "Adoption by Reference of Investment Adviser Marketing Rules." Additionally, the Board adopts amendments to §116.21, concerning System Addressing Suspected Financial Exploitation of Vulnerable Customers Pursuant to the Texas Securities

Act, Section 45, which also includes renaming the caption of the section to read "System Addressing Suspected Financial Exploitation of Vulnerable Customers Pursuant to the Texas Securities Act, Chapter 4004, Subchapter H."

The proposals were published in the November 8, 2024, issue of the *Texas Register* (49 TexReg 8822), and corrected in the December 20, 2024, issue of the *Texas Register* (49 TexReg 10440). The amendment to §116.3 was adopted with changes to the published proposal and will be republished. The change consisted of removing the quotations from "CIMA" in subsection (c)(2)(E) for consistency with how the professional designations in subsection (c)(2)(B) - (F) of this section are abbreviated. The amendments to §§116.1, 116.2, 116.4 - 116.6, 116.8, 116.9, 116.15, 116.16, and 116.21 were adopted without changes and will not be republished.

The rules in 7 TAC Chapter 116 govern investment advisers and investment adviser representatives. The purpose of the amendments to eleven rules in this chapter is to implement changes pursuant to the agency's periodic review of its rules. These changes improve the readability, consistency, and clarity of the rules in this chapter, and ensure the rules are current, accurate, and conform to the codified version of the Texas Securities Act (Act), which promotes transparency and efficient regulation.

The references to sections of the Act in §§116.1, 116.3, 116.4, 116.8, 116.16, and 116.21 are updated to refer to the correct sections in the codified version of the Act in the Texas Government Code. The codification was adopted by HB 4171, 86th Legislature, 2019 Regular Session, and became effective January 1, 2022, (HB 4171).

Sections 116.1 and 116.2 are amended to replace the references in those sections to the term "Securities and Exchange Commission" with the term "SEC." SEC is a defined term in §107.2, concerning Definitions.

Section 116.1 is amended to add references to "solicitor" in subsection (b) for clarification and to delete redundant language in subsection (b)(2)(D) that is also contained in §116.1(d). A reference to the Form U4 is added to subsection (b)(2)(C) for accuracy and consistency, and a reference to "notice filed" with the Securities Commissioner is added for clarity and accuracy.

Section 116.2 is also amended to replace the reference to "North American Securities Administrators Association" with the term "NASAA" in subsection (a)(1). NASAA is a defined term in §107.2, concerning Definitions. Section 116.2(a) is also amended to abbreviate Financial Industry Regulatory Authority to "FINRA," which is a defined term in §107.2, concerning Definitions. In addition, §116.3(b)(1) is amended to update the names of two NASAA examinations.

A cross reference to §116.22 is added to §116.2 to improve consistency and readability of provisions governing application requirements. Subsection (d) is amended to allow the agency registration staff the option to notify applicants by email (which is a faster and more reliable delivery method) rather than by certified mail of automatic withdrawal of applications that have been pending for more than 90 days. This change facilitates the internal processing of registration applications by reducing the use of staff resources. References to "certificate of formation" which is the name of the form used by the Texas Secretary of State for formation documents filed with it, are also added to the respective lists of formation of organization documents (including articles of incorporation, partnership agreements, articles of as-

sociation, and charters) found in §116.2(a)(2)(A), as well as in §116.5(b)(3), for clarity and to improve accuracy.

Section 116.3(b)(2) is also amended to reflect that the Form U-10 is no longer in use by FINRA. In addition, §116.3 is also amended to add new subsection (c)(3)(A) and (c)(3)(B) to recognize and grant waivers of examination or reexamination requirements for certain classes of applicants who are participating in FINRA's Maintaining Qualifications Program (MQP) or NASAA's Exam Validity Extension Program (EVEP) and meet other requirements. Section 116.3 is also amended to add subsection (c)(3)(C) to recognize and grant waivers of examination requirements for applicants who have received an examination waiver from FINRA.

The amendments to §116.3(c) provide greater coordination with other securities regulators and reduce the application processing time for eligible applicants and compliance costs for their firms. Waivers will be processed with more consistency, uniformity, and transparency.

In addition to the amendments to §116.3(c), §116.3(d) is amended to update the rule to more accurately reflect the Texas securities law examination process, and to specifically direct applicants with questions about the process to the Registration Division for information, which increases transparency. This subsection is also amended to impose a one-week waiting period to retake the examination for applicants who failed the exam to provide and encourage more time to study prior to retaking the exam.

Section 116.3 includes certain waivers from examination requirements for investment adviser applicants who have one or more of five different professional designations found in subsection (c)(2)(B) - (F). The former rule required these organizations to submit changes in their certification programs to the Securities Commissioner. The section is amended in subsection (c)(3) to remove this requirement which is no longer needed because a NASAA project group which monitors these programs has assumed this responsibility. This group, which maintains a list of eligible professional designations, has recently replaced a designation which is no longer active with a new eligible designation. In light of this change the section is also amended in subsection (c)(2)(E) to replace the reference to the inactive "CIC" designation with the new "CIMA" designation and update the reference to another designation located in subsection (c)(2)(F).

Section 116.8, which relates to fee requirements, is also amended to remove an incorrect reference in subsection (a) to fees for officers and partners of an investment adviser, to update the reference to the agency's website, and to clarify that persons seeking information on fee requirements may contact the Registration Division of the agency.

Section 116.9, which sets out events that a registered investment adviser or investment adviser representative must report to the Securities Commissioner after registration, is amended in paragraph (a)(3) to clarify that misdemeanor offense actions that are listed in §116.6(c) of this chapter must be reported. In addition, §116.9(a)(6) is amended to clarify that registered entities must notify the Commissioner of changes in legal status of their entities. These amendments apprise investment advisers and investment adviser representatives of their obligations under the Act which promotes transparency.

Section 116.15, which was last amended in 2001, prohibits investment advisers registered in Texas from using testimonials in their advertisements and includes other advertising restrictions,

mirroring (but not adopting by reference) SEC rules governing advertising that were in effect when the rule was adopted. The SEC Marketing Rule, which regulates how investment advisers registered with the SEC (SEC RIAs) may advertise their services, was amended in 2020, with a final compliance date of November 4, 2022. In addition to replacing the prior version of the SEC Marketing Rule, the SEC also rescinded the former SEC Cash Solicitation Rule (formerly found at 17 CFR §275.206(4)-3) and moved those disclosure and other regulatory requirements that also apply to persons who act as solicitors for SEC RIAs from that rescinded rule to the new SEC Marketing Rule. However, these new and updated rules for solicitation activities are less stringent and have been relaxed compared to the prohibitions and restrictions that were set forth in the former Cash Solicitation Rule.

The changes to these two SEC rules represented a broad, sweeping change in how the SEC regulates direct and indirect advertising and marketing activities, including solicitation activities, of SEC RIAs, including the SEC RIAs doing business in Texas. The SEC rules have always prohibited advertising practices that are untrue, misleading, or deceptive. The new SEC rules relax prohibitions on certain types of practices, now allowing among other things, the use of endorsements or testimonials with certain safeguards. The SEC rules also improve investor confidence and transparency by providing clearer guidelines concerning permitted marketing practices and by increasing disclosure requirements to investors.

During the rule review of Chapter 116 the agency received two comment letters from the regulated industry requesting that §116.15 be amended to remove the current advertising restrictions in the section and instead harmonize it with the more flexible new and updated SEC Marketing Rule. The staff and Board agreed with the comments. In response, this section is renamed and amended to adopt by reference the current SEC rules concerning marketing practices, while removing the existing regulatory restrictions in that section. This amendment puts advisers registered in Texas on a more level playing field with the SEC RIAs doing business in Texas because they now have the option to use testimonials and endorsements in their marketing and advertising as long as they otherwise comply with other applicable rules in Chapter 116. It also conforms rules relating to marketing practices to model rules which adopt the SEC advertising rules by reference which have been adopted by other state securities regulators. The amendment however does not change the registration requirements applicable to solicitors set forth in §116.1(b)(A).

A related adoption amends the investment adviser recordkeeping requirements in §116.5 to require investment advisers to create and keep records to verify compliance with SEC Marketing Rule requirements.

The amendments to §116.15 and §116.5 further the mission of the Board and the purposes of the Act by maximizing coordination with federal and other states' securities laws and administration by harmonizing the Board rules with SEC rules so that the same advertising rules are applicable under the Act as well as SEC rules. The amendments also further the Board's mission and Act's purposes to minimize regulatory burdens on Texas investment advisers, while ensuring that investors are adequately protected by ensuring they can make informed decisions.

Section 116.21 is also renamed to refer to the applicable section of the codified Act.

The Board received four public comment letters regarding the rulemaking in Chapter 116. One letter was from the corporate office of LPL Financial, a registered broker-dealer firm. A second letter was from 365 of LPL's financial professionals in Texas. The other two support letters were from securities industry trade groups: Investment & Wealth Institute (IWI) and the Securities Industry and Financial Markets Association (SIFMA). LPL Financial, LPL's financial professionals, and SIFMA expressed general support for the proposals, while IWI noted its specific support for the addition of the CIMA designation in §116.3 to the list of certifications granted a waiver from the examination requirements for registration as an investment adviser representative. The Board appreciates the support expressed by these commenters.

LPL Financial and SIFMA strongly supported the proposal to amend §116.3 relating to waivers from examination requirements. LPL and SIFMA both believe the proposal is important for preserving their diverse pipelines of talent, by encouraging professionals who have departed the industry to return to the sector when life circumstances permit.

The Board appreciates the support for this change.

Related to the amendment in §116.15 to adopt by reference the SEC Marketing Rule, LPL Financial noted that the "SEC's Marketing Rule provided important clarity for investment advisers when marketing their services and subsequent state adoption removes ambiguity around previous guidance for advertising services." The Board appreciates this comment on the amendment.

This concludes the description of the public comments and the Board's responses.

The amendments are adopted under the authority of the Texas Government Code (TGC), §4002.151, as adopted by HB 4171. Section 4002.151 provides the Board with the authority to adopt rules as necessary to implement the provisions of the Act, including rules governing registration statements, applications, notices, and reports; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. In addition, the amendments to §116.3 are also adopted under the authority of TGC, §4004.151 of the Act. Section 4004.151 provides the Board with authority to waive examination requirements for any applicant or class of applicants. Finally, the amendments to §116.1 are also adopted under the authority of TGC, §4004.001 of the Act. Section 4004.001 provides the Board with the authority to prescribe new dealer, agent, investment adviser, or investment adviser representative registration exemptions by rule.

The adopted amendments affect the following sections of the Texas Securities Act: TGC Chapter 4004, Subchapters B - F, and H. The adopted amendments to §§116.1, 116.2, 116.4, 116.5, 116.9, 116.15, and 116.16 also affect TGC Chapter 4007, Subchapter B of the Act. The adopted amendments to §§116.1, 116.5, 116.9, 116.15, and 116.16 also affect TGC §4007.105 and §4007.106 of the Act.

§116.3. Examination.

(a) Requirement. To determine the applicant's qualifications and competency to engage in the business of rendering investment advice, the State Securities Board requires written examinations. Applicants must make a passing score on any required examination.

(b) Examinations accepted.

(1) Each applicant for registration as an investment adviser or investment adviser representative must pass:

(A) the NASAA Uniform Investment Adviser Law Examination (Series 65); or

(B) the following combination of examinations:

(i) a general securities representative examination as described in §115.3(b)(2) of this title (relating to Examination) or a limited examination as described in §115.3(b)(3) of this title; and

(ii) the NASAA Uniform Combined State Law Examination (Series 66), the Uniform Investment Advisers State Law Examination (Series, 65, as it existed and was administered on or before December 31, 1999), or an examination of the Texas Securities Act Administered by this Agency.

(2) The examinations (except the Texas Securities Act examination) listed in paragraph (1) of this subsection are administered by FINRA.

(c) Waivers of examination requirements.

(1) All persons who were registered in Texas on August 23, 1963, are not required to take any examinations.

(2) A full waiver of the examination requirements of the Texas Securities Act, §4004.151, is granted by the Board to the following classes of persons:

(A) a person who was registered as an investment adviser or investment adviser representative on or before December 31, 1999, provided the person has maintained a registration as an investment adviser or investment adviser representative with any state securities administrator that has not lapsed for more than two years from the date of the last registration;

(B) applicants who are certified by the CFA Institute, or its predecessors, the Association for Investment Management and Research, the Financial Analysts Federation, or the Institute of Chartered Financial Analysts, to be chartered financial analysts (CFA);

(C) applicants who are certified by the Certified Financial Planner Board of Standards, Inc., to use the mark "CERTIFIED FINANCIAL PLANNER" (CFP);

(D) applicants who are designated by the American Institute of Certified Public Accountants as accredited personal financial specialists (PFS);

(E) applicants who are designated by the Investment & Wealth Institute as Certified Investment Management Analysts (CIMA);

(F) applicants who are designated by the American College of Financial Services as chartered financial consultants (ChFC);

(G) a person who completed the required examinations, but whose registration has lapsed for more than two years and who has been continually employed in a securities-related position with an entity which was not required to be registered; and

(H) a person who completed the required examinations and whose registration with another state securities regulator has not lapsed for more than two years.

(3) The following classes of persons are granted a partial waiver by the Board of the examination requirements of §4004.151 of the Act and subsection (a) of this section:

(A) NASAA Exam Validity Extension Program ("EVEP"). Applicants who previously took and passed the NASAA qualification examinations accepted in subsection (b) of this section whose registration with another state securities regulator has not lapsed for more than five years who have participated in the EVEP and

have maintained compliance with the EVEP requirements are granted a waiver of the NASAA qualification examination requirements of this section.

(B) FINRA Maintaining Qualifications Program ("MQP"). Applicants whose registration with FINRA and with another state securities regulator have not lapsed for more than five years, who have participated in the MQP and maintained compliance with the MQP requirements are granted a waiver of the corresponding appropriate FINRA qualifying examinations requirement(s) in this section.

(C) FINRA Examination Waivers. Applicants who have received a waiver of any examination requirement(s) by FINRA, are granted a waiver of the corresponding examination requirement(s) in this section.

(D) Successful participation in the MQP shall not extend to the Series 65 or Series 66 for purposes of investment adviser representative registration.

(4) A partial waiver of the examination requirements of the Texas Securities Act, §4004.151, is granted by the Board to solicitor applicants. Such persons are required to pass only an examination on state securities law.

(5) The Securities Commissioner in his or her discretion is authorized by the Board to grant full or partial waivers of the examination requirements of the Texas Securities Act, §4004.151.

(d) Texas securities law examination.

(1) The fee for each filing of a request to take the Texas securities law examination is \$35. An admission letter issued by the Board is required for all entrants. The examination is given at the main office of the State Securities Board in Austin and at the Agency's branch offices.

(2) While taking the examination on the Texas Securities Act, each applicant may use an unmarked copy of the Texas Securities Act as it is printed and distributed by the State Securities Board. No other reference materials are allowed to be used by applicants during the examination.

(3) The passing score for all applicants on the examination on the Texas Securities Act is 70%. An applicant who fails the examination on the Texas Securities Act may request to retake the examination no sooner than after one week from the date of the examination. The applicant must bring his or her application up to date before retaking an examination.

(4) Disability accommodations. The Texas securities law examination shall be administered to applicants with disabilities in compliance with the Americans with Disabilities Act of 1990, as amended ("ADA").

(A) Any applicant with a disability who wishes to request disability accommodations must submit to the Securities Commissioner a Form 133.3, ADA Accommodations Request Form, that has been completed and signed by the applicant and includes supporting documentation from a licensed or certified health professional appropriate for diagnosing and treating the disability, at least 60 days prior to the examination. A prior history of receiving disability accommodations, without demonstration of a current need, will not necessarily warrant approval of disability accommodations.

(B) The Securities Commissioner may request additional documentation to substantiate a request for disability accommodations.

(C) Documentation shall not be older than three years from the date of submission.

(D) All medical records provided to the Securities Commissioner are confidential under the Health Insurance Portability and Accountability Act ("HIPAA").

(E) The Securities Commissioner is not required to approve every request for disability accommodations or to provide every accommodation or service requested. The Securities Commissioner is not required to grant a request for disability accommodations if doing so would fundamentally alter the measurement of knowledge or the measurement of skill intended to be tested by the Texas securities law examination, would affect the security of the examination, or would create an undue financial or administrative burden.

(F) Once disability accommodations have been granted, they may not be altered during the examination unless prior approval of the Securities Commissioner is obtained.

(5) Information about taking the examination and how to apply to take the examination in Austin or at an Agency branch office is available on the Agency's website located at www.ssb.texas.gov or by contacting the Registration Division of the State Securities Board.

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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Travis J. Iles

Securities Commissioner

State Securities Board

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For further information, please call: (512) 305-8303



TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 61. SCHOOL DISTRICTS

SUBCHAPTER BB. COMMISSIONER'S

RULES ON REPORTING REQUIREMENTS

19 TAC §61.1028

The Texas Education Agency adopts the repeal of §61.1028, concerning reporting of bus collisions. The repeal is adopted without changes to the proposed text as published in the December 6, 2024 issue of the *Texas Register* (49 TexReg 9863) and will not be republished. The adopted repeal relocates the existing requirements to proposed new 19 TAC §103.1231. The adopted new rule includes an update to remove the requirement related to the color of a multifunction school activity bus to align with statute.

REASONED JUSTIFICATION: Section 61.1028 requires school districts and open-enrollment charter schools to report bus collisions. The adopted repeal of §61.1028 moves the existing language to proposed new §103.1231. The relocation is necessary due to a comprehensive reorganization of 19 TAC Chapter 61.

Adopted new §103.1231 has been updated to align the definition of "multifunction school activity bus" with Texas Transportation Code, §541.201, by removing the requirement related to color.

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began December 6, 2024, and ended January 6, 2025. No public comments were received.

STATUTORY AUTHORITY. The repeal is adopted under Texas Education Code, §34.015, which requires school districts to annually report to the Texas Education Agency the number of collisions in which the district's buses are involved. The agency is required to adopt rules determining the information to be reported.

CROSS REFERENCE TO STATUTE. The repeal implements Texas Education Code, §34.015.

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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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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For further information, please call: (512) 475-1497



CHAPTER 103. HEALTH AND SAFETY SUBCHAPTER CC. COMMISSIONER'S RULES CONCERNING SAFE SCHOOLS

19 TAC §103.1231

The Texas Education Agency adopts new §103.1231, concerning reporting of bus collisions. The new section is adopted without changes to the proposed text as published in the December 6, 2024, issue of the *Texas Register* (49 TexReg 9862) and will not be republished. The adopted new section relocates existing requirements from 19 TAC §61.1028. The new section includes an update to remove the requirement related to the color of a multifunction school activity bus to align with statute.

REASONED JUSTIFICATION: Adopted new §103.1231 moves existing language from 19 TAC §61.1028, which requires school districts and open-enrollment charter schools to report bus collisions. The relocation is necessary due to a comprehensive reorganization of 19 TAC Chapter 61.

Proposed new §103.1231 includes an update from the existing rule to align the definition of "multifunction school activity bus" with Texas Transportation Code, §541.201, by removing the requirement related to color.

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began December 6, 2024, and ended January 6, 2025. No public comments were received.

STATUTORY AUTHORITY. The new section is adopted under Texas Education Code, §34.015, which requires school districts to annually report to the Texas Education Agency the number of collisions in which the district's buses are involved. The agency is required to adopt rules determining the information to be reported.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code, §34.015.

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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Director, Rulemaking

Texas Education Agency

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Proposal publication date: December 6, 2024

For further information, please call: (512) 475-1497



PART 7. STATE BOARD FOR EDUCATOR CERTIFICATION

CHAPTER 228. REQUIREMENTS FOR EDUCATOR PREPARATION PROGRAMS

The State Board for Educator Certification (SBEC) adopts amendments to 19 Texas Administrative Code (TAC) §§228.2, 228.6, 228.33, 228.67, 228.73, and 228.103, concerning requirements for educator preparation programs (EPPs). The amendments are adopted without changes to the proposed text as published in the October 18, 2024 issue of the *Texas Register* (49 TexReg 8457) and will not be republished. The adopted amendments would further clarify requirements and definitions as applicable to support EPPs and candidates in the successful implementation of these rules.

REASONED JUSTIFICATION: The SBEC rules in 19 TAC Chapter 228, Requirements for Educator Preparation Programs, establish the requirements for EPPs in the preparation of candidates for Texas educator certification.

As a follow-up to the July 2024 SBEC meeting discussion on proposed changes to the new Chapter 228 rules, Texas Education Agency (TEA) staff completed additional work on draft proposed rule changes and conducted a stakeholder meeting on August 9, 2024. The information from the August stakeholder meeting informed the final version of proposed rules to be presented for the Board's review and action at the September SBEC meeting.

The following is a description of the adopted amendments to Chapter 228.

Subchapter A. General Guidance

§228.2. Definitions.

The adopted new definition of *extracurricular activities* mirrors the language of the definition of this term established in 19 TAC Chapter 76, Extracurricular Activities, Subchapter AA, Commissioner's Rules. In addition, defining the term in this manner pro-

vides EPPs and candidates with additional clarity and support around the types of activities that should be considered acceptable to meet preparation program requirements.

The adopted new definition of *Legacy Chapter 228* rules provides a reference to the EPP rules that were in effect on August 31, 2024, and ensures that EPPs and candidates have a place to anchor their use of those rules as they support candidates who began their preparation prior to September 1, 2024, through the rest of the preparation and certification process.

The adopted amendment to the definition of *school day* acknowledges that school days may be extended for some subject areas that have duties outside of the regular school day and strikes the reference to clinical teaching and allows guidance on meeting those requirements to be addressed in §228.67, Clinical Teaching.

Some definitions in this section are renumbered due to the addition of two new definitions in adopted §228.2(26) and §228.2(37).

§228.6. Implementation Date.

The adopted amendment to §228.6, Implementation Date, creates new paragraphs (1) and (2) to more formally codify the implementation structures understood in the field. These additions to the rules provide clarification and consistency to support EPPs with candidates admitted prior to September 1, 2024.

Adopted new §228.6(1)(A) reinforces the expectation for candidates who have not started their clinical experience prior to September 1, 2024, to comply with the current rules in Chapter 228, Subchapter E, Educator Candidate Experiences.

Adopted new §228.6(1)(B) establishes a clear deadline to ensure that EPPs and candidates completing requirements under the Legacy Chapter 228 rules do so by August 31, 2026.

Adopted new §228.6(2) reinforces for EPPs and candidates that anyone admitted into an EPP on or after September 1, 2024, is subject to all requirements in this chapter.

Subchapter D. Required Educator Coursework and Training

§228.33. Preparation Program Coursework and/or Training for All Certification Classes.

A technical edit to §228.33(d)(3) strikes the outdated rule reference that was repealed in February 2024 and replaces it with an updated reference to the alternative rules, Part 1, Chapter 2, Subchapter J, Rule §2.204 (relating to Approval of Distance Education Courses and Programs for Public Institutions).

Subchapter E. Educator Candidate Experiences

§228.67. Clinical Teaching.

A technical edit to §228.67(a) changes the introductory rule text from "A candidate for initial certification" to "A candidate seeking initial certification" for clarity.

The adopted amendment to §228.67(b)(1) changes the time spent in the subject area of the certificate sought from 4 hours per day to a total of 280 hours across the clinical teaching experience and provides flexibility for candidates to complete the remaining 210 clinical teaching hours in other aspects of an educator's duties.

The adopted amendment to §228.67(b)(3) adds "medical" and strikes "illness" to more broadly represent things that could impact a candidate's ability to complete the required total number of clinical teaching hours.

The adopted amendment to §228.67(c) changes the time spent in the subject area of an additional certificate area sought by the candidate that cannot be taught concurrently with the primary certificate area sought from 5 hours per week to a total of 70 hours during the clinical teaching experience, providing flexibility to candidates and EPPs to structure the clinical teaching experience as needed and still comply with requirements.

§228.73. Internship.

The adopted amendment to §228.73(h) further clarifies that subsection (g)(2)-(6) outlines the applicable options under which an EPP should cease with providing additional support to a candidate and proceed with the required steps to deactivate the candidate's intern or probationary certificate.

Subchapter F. Support for Candidates During Required Clinical Experiences

§228.103. Formal Observations for Candidates in Residency Assignments.

The adopted change to §228.103(a) clarifies that an EPP must provide the first formal observation with the first six weeks of all residency assignments. This change restores the original intent of the requirements for formal observations specific to candidates in residency assignments.

SUMMARY OF COMMENTS AND RESPONSES: The public comment period on the proposal began October 18, 2024, and ended November 18, 2024. The SBEC also provided an opportunity for registered oral and written comments on the proposal at the December 6, 2024 meeting's public comment period in accordance with the SBEC board operating policies and procedures. The following public comments were received on the proposal.

Comment: One commenter from an EPP recommended that the SBEC adopt the revisions to include definitions for "extracurricular" and "school day."

Response: The SBEC agrees.

Comment: A Texas administrator requested that Texas principal candidates not be required to take both the 368 Performance Assessment for School Leaders (PASL) and the 268 examination. The commenter stated that the video requirement component of the 368 PASL can be an insincere exercise for administrators who may work in a central administrative role, and that this component should not be a requirement to gain principal certification. The commenter noted that only one test is required for superintendent certification and recommended a similar pathway for principals.

Response: This comment is outside the scope of the rulemaking. TEA staff contacted this commenter directly and positively resolved the commenter's concerns specific to the transfer of out-of-state certification to Texas.

The State Board of Education (SBOE) took no action on the review of the amendments to §§228.2, 228.6, 228.33, 228.67, 228.73, and 228.103 at the January 31, 2025 SBOE meeting.

SUBCHAPTER A. GENERAL GUIDANCE

19 TAC §228.2, §228.6

STATUTORY AUTHORITY. The amendments are adopted under Texas Education (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator,

educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031, which authorizes the State Board for Educator Certification (SBEC) to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to adopt rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2)-(4), which requires the SBEC to adopt rules that specify the classes of educator certificates to be issued, including emergency certificates; the period for which each class of educator certificate is valid; and the requirements for the issuance and renewal of an educator certificate; TEC, §21.044, which authorizes the SBEC to adopt rules specifying what each educator is expected to know and be able to do, particularly with regard to students with disabilities, establishing the training requirements a person must accomplish to obtain a certificate, or enter an internship, and specifying the minimum academic qualifications required for a certificate. It also sets requirements for training, coursework and qualifications that the SBEC is required to include; TEC, §21.0441, which requires the SBEC to set admission requirements for candidates entering educator preparation programs (EPPs), and specifies certain requirements that must be included in the rules; TEC, §21.0442(c), which requires the SBEC to create an abbreviated EPP for a person seeking certification in trade and industrial workforce training with a minimum of 80 hours of classroom instruction in certain specified topics; TEC, §21.0443, which requires the SBEC to set standards for approval and renewal of approval for EPPs, sets certain requirements for approval and renewal, and requires that the SBEC review each program at least every five years; TEC, §21.045(a), which requires the SBEC to create an accountability system for EPPs based on the results of certification examinations, teacher appraisals, student achievement, compliance with the requirements for candidate support, and the results of a teacher satisfaction survey; TEC, §21.0452, which requires the SBEC to make information about EPPs available to the public through its internet website and gives the SBEC authority to require any person to give information to the Board for this purpose; TEC, §21.0453, which sets requirements for information that EPPs must provide candidates and gives the SBEC rulemaking authority to implement the provision and ensure that EPPs give candidates accurate information; TEC, §21.0454, which gives the SBEC rulemaking authority to set risk factors to determine the Board's priorities in conducting monitoring, inspections, and compliance audits and sets out certain factors that must be included among the factors; TEC, §21.0455, which gives the SBEC rulemaking authority to establish a process for a candidate for teacher certification to direct a complaint against an EPP to the agency, requires that EPPs notify candidates of the complaints process, states that the SBEC must post the complaint process on its website, and states that the SBEC has no authority to resolve disputes over contractual or commercial issues between programs and candidates; TEC, §21.046(b), which requires the SBEC to allow outstanding teachers to substitute approved experience and professional training for part of the educational requirements in lieu of classroom hours; TEC, §21.046(c), which requires the SBEC to ensure that principal candidates are of the highest caliber and that there is a multi-level screening process, along

with assessment programs, and flexible internships to determine whether a candidate has the necessary skills for success; TEC, §21.048(a), which requires the SBEC to prescribe comprehensive certification examinations for each class of certificate issued by the Board; TEC, §21.0485, which states that to be eligible for certification to teach students with visual impairments, a person must complete all coursework required for that certification in an approved EPP or alternative EPP, perform satisfactorily on required certification exams, and satisfy other requirements established by the SBEC; TEC, §21.0487(c), which requires the SBEC to adopt rules related to approval of EPPs to offer the Junior Reserve Officer Training Corps (JROTC) teacher certification and to recognize applicable military training and experience and prior employment by a school district as a JROTC instructor to support completion of certification requirements; TEC, §21.0489(c), which sets out the requirements for Early Childhood certification; TEC, §21.04891, which sets out the requirements for the Bilingual Special Education certification; TEC, §21.049(a), which requires the SBEC to adopt rules providing for EPPs as an alternative for traditional preparation programs; TEC, §21.0491, which requires the SBEC to create a probationary and standard trade and industrial workforce training certificate; TEC, §21.050(a), which requires an applicant for teacher certification to have a bachelor's degree in a relevant field; TEC, §21.050(b), which requires the SBEC to include hours of field-based experience in the hours of coursework required for certification and allows the Board to require additional credit hours for certification in bilingual education, English as a second language, early childhood education, or special education; and TEC, §21.050(c), which exempts people who receive a bachelor's degree while receiving an exemption from tuition and fees under TEC, §54.363, from having to participate in field-based experiences or internships as a requirement for educator certification; and TEC, §21.051, which requires that candidates complete at least 15 hours of field-based experiences in which the candidate is actively engaged in instructional or educational activities under supervision involving a diverse student population at a public-school campus or an approved private school, allows 15 hours of experience as a long-term substitute to count as field-based experience, and gives the SBEC rulemaking authority related to field-based experiences; and Texas Occupations Code (TOC), §55.007, which requires all state agencies that issue licenses or certifications to credit military experience toward the requirements for the license or certification.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §§21.003(a), 21.031; 21.041(b)(1)-(4); 21.044; 21.0441; 21.0442(c); 21.0443; 21.045(a); 21.0452, 21.0453; 21.0454; 21.0455; 21.046(b) and(c); 21.048(a); 21.0485; 21.0487(c); 21.0489(c); 21.04891; 21.049(a); 21.0491; 21.050(a)-(c); and 21.051; and the Texas Occupations Code, §55.007.

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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Cristina De La Fuente-Valadez
Director, Rulemaking
State Board for Educator Certification
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For further information, please call: (512) 748-5051



SUBCHAPTER D. REQUIRED EDUCATOR COURSEWORK AND TRAINING

19 TAC §228.33

STATUTORY AUTHORITY. The amendment is adopted under Texas Education (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031, which authorizes the State Board for Educator Certification (SBEC) to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to adopt rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2)-(4), which requires the SBEC to adopt rules that specify the classes of educator certificates to be issued, including emergency certificates; the period for which each class of educator certificate is valid; and the requirements for the issuance and renewal of an educator certificate; TEC, §21.044, which authorizes the SBEC to adopt rules specifying what each educator is expected to know and be able to do, particularly with regard to students with disabilities, establishing the training requirements a person must accomplish to obtain a certificate, or enter an internship, and specifying the minimum academic qualifications required for a certificate. It also sets requirements for training, coursework and qualifications that the SBEC is required to include; TEC, §21.0441, which requires the SBEC to set admission requirements for candidates entering educator preparation programs (EPPs), and specifies certain requirements that must be included in the rules; TEC, §21.0442(c), which requires the SBEC to create an abbreviated EPP for a person seeking certification in trade and industrial workforce training with a minimum of 80 hours of classroom instruction in certain specified topics; TEC, §21.0443, which requires the SBEC to set standards for approval and renewal of approval for EPPs, sets certain requirements for approval and renewal, and requires that the SBEC review each program at least every five years; TEC, §21.045(a), which requires the SBEC to create an accountability system for EPPs based on the results of certification examinations, teacher appraisals, student achievement, compliance with the requirements for candidate support, and the results of a teacher satisfaction survey; TEC, §21.0452, which requires the SBEC to make information about EPPs available to the public through its internet website and gives the SBEC authority to require any person to give information to the Board for this purpose; TEC, §21.0453, which sets requirements for information that EPPs must provide candidates and gives the SBEC rulemaking authority to implement the provision and ensure that EPPs give candidates accurate information; TEC, §21.0454, which gives the SBEC rulemaking authority to set risk factors to determine the Board's priorities in

conducting monitoring, inspections, and compliance audits and sets out certain factors that must be included among the factors; TEC, §21.0455, which gives the SBEC rulemaking authority to establish a process for a candidate for teacher certification to direct a complaint against an EPP to the agency, requires that EPPs notify candidates of the complaints process, states that the SBEC must post the complaint process on its website, and states that the SBEC has no authority to resolve disputes over contractual or commercial issues between programs and candidates; TEC, §21.046(b), which requires the SBEC to allow outstanding teachers to substitute approved experience and professional training for part of the educational requirements in lieu of classroom hours; TEC, §21.046(c), which requires the SBEC to ensure that principal candidates are of the highest caliber and that there is a multi-level screening process, along with assessment programs, and flexible internships to determine whether a candidate has the necessary skills for success; TEC, §21.048(a), which requires the SBEC to prescribe comprehensive certification examinations for each class of certificate issued by the Board; TEC, §21.0485, which states that to be eligible for certification to teach students with visual impairments, a person must complete all coursework required for that certification in an approved EPP or alternative EPP, perform satisfactorily on required certification exams, and satisfy other requirements established by the SBEC; TEC, §21.0487(c), which requires the SBEC to adopt rules related to approval of EPPs to offer the Junior Reserve Officer Training Corps (JROTC) teacher certification and to recognize applicable military training and experience and prior employment by a school district as a JROTC instructor to support completion of certification requirements; TEC, §21.0489(c), which sets out the requirements for Early Childhood certification; TEC, §21.04891, which sets out the requirements for the Bilingual Special Education certification; TEC, §21.049(a), which requires the SBEC to adopt rules providing for EPPs as an alternative for traditional preparation programs; TEC, §21.0491, which requires the SBEC to create a probationary and standard trade and industrial workforce training certificate; TEC, §21.050(a), which requires an applicant for teacher certification to have a bachelor's degree in a relevant field; TEC, §21.050(b), which requires the SBEC to include hours of field-based experience in the hours of coursework required for certification and allows the Board to require additional credit hours for certification in bilingual education, English as a second language, early childhood education, or special education; and TEC, §21.050(c), which exempts people who receive a bachelor's degree while receiving an exemption from tuition and fees under TEC, §54.363, from having to participate in field-based experiences or internships as a requirement for educator certification; and TEC, §21.051, which requires that candidates complete at least 15 hours of field-based experiences in which the candidate is actively engaged in instructional or educational activities under supervision involving a diverse student population at a public-school campus or an approved private school, allows 15 hours of experience as a long-term substitute to count as field-based experience, and gives the SBEC rulemaking authority related to field-based experiences; and Texas Occupations Code (TOC), §55.007, which requires all state agencies that issue licenses or certifications to credit military experience toward the requirements for the license or certification.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§21.003(a), 21.031; 21.041(b)(1)-(4); 21.044; 21.0441; 21.0442(c); 21.0443; 21.045(a); 21.0452, 21.0453; 21.0454; 21.0455; 21.046(b)

and(c); 21.048(a); 21.0485; 21.0487(c); 21.0489(c); 21.04891; 21.049(a); 21.0491; 21.050(a)-(c); and 21.051; and the Texas Occupations Code, §55.007.

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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Cristina De La Fuente-Valadez

Director, Rulemaking

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For further information, please call: (512) 748-5051



SUBCHAPTER E. EDUCATOR CANDIDATE CLINICAL EXPERIENCES

19 TAC §228.67, §228.73

STATUTORY AUTHORITY. The amendments are adopted under Texas Education (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031, which authorizes the State Board for Educator Certification (SBEC) to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to adopt rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2)-(4), which requires the SBEC to adopt rules that specify the classes of educator certificates to be issued, including emergency certificates; the period for which each class of educator certificate is valid; and the requirements for the issuance and renewal of an educator certificate; TEC, §21.044, which authorizes the SBEC to adopt rules specifying what each educator is expected to know and be able to do, particularly with regard to students with disabilities, establishing the training requirements a person must accomplish to obtain a certificate, or enter an internship, and specifying the minimum academic qualifications required for a certificate. It also sets requirements for training, coursework and qualifications that the SBEC is required to include; TEC, §21.0441, which requires the SBEC to set admission requirements for candidates entering educator preparation programs (EPPs), and specifies certain requirements that must be included in the rules; TEC, §21.0442(c), which requires the SBEC to create an abbreviated EPP for a person seeking certification in trade and industrial workforce training with a minimum of 80 hours of classroom instruction in certain specified topics; TEC, §21.0443, which requires the SBEC to set standards for approval and renewal of approval for EPPs, sets certain requirements for approval and renewal, and requires that the SBEC review each program at least every five years; TEC, §21.045(a), which requires the SBEC to create an accountability system for EPPs based on the

results of certification examinations, teacher appraisals, student achievement, compliance with the requirements for candidate support, and the results of a teacher satisfaction survey; TEC, §21.0452, which requires the SBEC to make information about EPPs available to the public through its internet website and gives the SBEC authority to require any person to give information to the Board for this purpose; TEC, §21.0453, which sets requirements for information that EPPs must provide candidates and gives the SBEC rulemaking authority to implement the provision and ensure that EPPs give candidates accurate information; TEC, §21.0454, which gives the SBEC rulemaking authority to set risk factors to determine the Board's priorities in conducting monitoring, inspections, and compliance audits and sets out certain factors that must be included among the factors; TEC, §21.0455, which gives the SBEC rulemaking authority to establish a process for a candidate for teacher certification to direct a complaint against an EPP to the agency, requires that EPPs notify candidates of the complaints process, states that the SBEC must post the complaint process on its website, and states that the SBEC has no authority to resolve disputes over contractual or commercial issues between programs and candidates; TEC, §21.046(b), which requires the SBEC to allow outstanding teachers to substitute approved experience and professional training for part of the educational requirements in lieu of classroom hours; TEC, §21.046(c), which requires the SBEC to ensure that principal candidates are of the highest caliber and that there is a multi-level screening process, along with assessment programs, and flexible internships to determine whether a candidate has the necessary skills for success; TEC, §21.048(a), which requires the SBEC to prescribe comprehensive certification examinations for each class of certificate issued by the Board; TEC, §21.0485, which states that to be eligible for certification to teach students with visual impairments, a person must complete all coursework required for that certification in an approved EPP or alternative EPP, perform satisfactorily on required certification exams, and satisfy other requirements established by the SBEC; TEC, §21.0487(c), which requires the SBEC to adopt rules related to approval of EPPs to offer the Junior Reserve Officer Training Corps (JROTC) teacher certification and to recognize applicable military training and experience and prior employment by a school district as a JROTC instructor to support completion of certification requirements; TEC, §21.0489(c), which sets out the requirements for Early Childhood certification; TEC, §21.04891, which sets out the requirements for the Bilingual Special Education certification; TEC, §21.049(a), which requires the SBEC to adopt rules providing for EPPs as an alternative for traditional preparation programs; TEC, §21.0491, which requires the SBEC to create a probationary and standard trade and industrial workforce training certificate; TEC, §21.050(a), which requires an applicant for teacher certification to have a bachelor's degree in a relevant field; TEC, §21.050(b), which requires the SBEC to include hours of field-based experience in the hours of coursework required for certification and allows the Board to require additional credit hours for certification in bilingual education, English as a second language, early childhood education, or special education; and TEC, §21.050(c), which exempts people who receive a bachelor's degree while receiving an exemption from tuition and fees under TEC, §54.363, from having to participate in field-based experiences or internships as a requirement for educator certification; and TEC, §21.051, which requires that candidates complete at least 15 hours of field-based experiences in which the candidate is actively engaged in instructional or educational activities under supervision involving a diverse

student population at a public-school campus or an approved private school, allows 15 hours of experience as a long-term substitute to count as field-based experience, and gives the SBEC rulemaking authority related to field-based experiences; and Texas Occupations Code (TOC), §55.007, which requires all state agencies that issue licenses or certifications to credit military experience toward the requirements for the license or certification.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §§21.003(a), 21.031; 21.041(b)(1)-(4); 21.044; 21.0441; 21.0442(c); 21.0443; 21.045(a); 21.0452, 21.0453; 21.0454; 21.0455; 21.046(b) and(c); 21.048(a); 21.0485; 21.0487(c); 21.0489(c); 21.04891; 21.049(a); 21.0491; 21.050(a)-(c); and 21.051; and the Texas Occupations Code, §55.007.

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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Cristina De La Fuente-Valadez

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State Board for Educator Certification

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For further information, please call: (512) 748-5051



SUBCHAPTER F. SUPPORT FOR CANDIDATES DURING REQUIRED CLINICAL EXPERIENCES

19 TAC §228.103

STATUTORY AUTHORITY. The amendment is adopted under Texas Education (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; TEC, §21.031, which authorizes the State Board for Educator Certification (SBEC) to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; TEC, §21.041(b)(1), which requires the SBEC to adopt rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; TEC, §21.041(b)(2)-(4), which requires the SBEC to adopt rules that specify the classes of educator certificates to be issued, including emergency certificates; the period for which each class of educator certificate is valid; and the requirements for the issuance and renewal of an educator certificate; TEC, §21.044, which authorizes the SBEC to adopt rules specifying what each educator is expected to know and be able to do, particularly with regard to students with disabilities, establishing the training requirements a person must accomplish to obtain a certificate, or enter an internship, and specifying the minimum academic qualifications required for a certificate. It also sets

requirements for training, coursework and qualifications that the SBEC is required to include; TEC, §21.0441, which requires the SBEC to set admission requirements for candidates entering educator preparation programs (EPPs), and specifies certain requirements that must be included in the rules; TEC, §21.0442(c), which requires the SBEC to create an abbreviated EPP for a person seeking certification in trade and industrial workforce training with a minimum of 80 hours of classroom instruction in certain specified topics; TEC, §21.0443, which requires the SBEC to set standards for approval and renewal of approval for EPPs, sets certain requirements for approval and renewal, and requires that the SBEC review each program at least every five years; TEC, §21.045(a), which requires the SBEC to create an accountability system for EPPs based on the results of certification examinations, teacher appraisals, student achievement, compliance with the requirements for candidate support, and the results of a teacher satisfaction survey; TEC, §21.0452, which requires the SBEC to make information about EPPs available to the public through its internet website and gives the SBEC authority to require any person to give information to the Board for this purpose; TEC, §21.0453, which sets requirements for information that EPPs must provide candidates and gives the SBEC rulemaking authority to implement the provision and ensure that EPPs give candidates accurate information; TEC, §21.0454, which gives the SBEC rulemaking authority to set risk factors to determine the Board's priorities in conducting monitoring, inspections, and compliance audits and sets out certain factors that must be included among the factors; TEC, §21.0455, which gives the SBEC rulemaking authority to establish a process for a candidate for teacher certification to direct a complaint against an EPP to the agency, requires that EPPs notify candidates of the complaints process, states that the SBEC must post the complaint process on its website, and states that the SBEC has no authority to resolve disputes over contractual or commercial issues between programs and candidates; TEC, §21.046(b), which requires the SBEC to allow outstanding teachers to substitute approved experience and professional training for part of the educational requirements in lieu of classroom hours; TEC, §21.046(c), which requires the SBEC to ensure that principal candidates are of the highest caliber and that there is a multi-level screening process, along with assessment programs, and flexible internships to determine whether a candidate has the necessary skills for success; TEC, §21.048(a), which requires the SBEC to prescribe comprehensive certification examinations for each class of certificate issued by the Board; TEC, §21.0485, which states that to be eligible for certification to teach students with visual impairments, a person must complete all coursework required for that certification in an approved EPP or alternative EPP, perform satisfactorily on required certification exams, and satisfy other requirements established by the SBEC; TEC, §21.0487(c), which requires the SBEC to adopt rules related to approval of EPPs to offer the Junior Reserve Officer Training Corps (JROTC) teacher certification and to recognize applicable military training and experience and prior employment by a school district as a JROTC instructor to support completion of certification requirements; TEC, §21.0489(c), which sets out the requirements for Early Childhood certification; TEC, §21.04891, which sets out the requirements for the Bilingual Special Education certification; TEC, §21.049(a), which requires the SBEC to adopt rules providing for EPPs as an alternative for traditional preparation programs; TEC, §21.0491, which requires the SBEC to create a probationary and standard trade and industrial workforce training certificate; TEC, §21.050(a), which requires an applicant for

teacher certification to have a bachelor's degree in a relevant field; TEC, §21.050(b), which requires the SBEC to include hours of field-based experience in the hours of coursework required for certification and allows the Board to require additional credit hours for certification in bilingual education, English as a second language, early childhood education, or special education; and TEC, §21.050(c), which exempts people who receive a bachelor's degree while receiving an exemption from tuition and fees under TEC, §54.363, from having to participate in field-based experiences or internships as a requirement for educator certification; and TEC, §21.051, which requires that candidates complete at least 15 hours of field-based experiences in which the candidate is actively engaged in instructional or educational activities under supervision involving a diverse student population at a public-school campus or an approved private school, allows 15 hours of experience as a long-term substitute to count as field-based experience, and gives the SBEC rulemaking authority related to field-based experiences; and Texas Occupations Code (TOC), §55.007, which requires all state agencies that issue licenses or certifications to credit military experience toward the requirements for the license or certification.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§21.003(a), 21.031; 21.041(b)(1)-(4); 21.044; 21.0441; 21.0442(c); 21.0443; 21.045(a); 21.0452, 21.0453; 21.0454; 21.0455; 21.046(b) and(c); 21.048(a); 21.0485; 21.0487(c); 21.0489(c); 21.04891; 21.049(a); 21.0491; 21.050(a)-(c); and 21.051; and the Texas Occupations Code, §55.007.

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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Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

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For further information, please call: (512) 748-5051



CHAPTER 234. MILITARY SERVICE MEMBERS, MILITARY SPOUSES, AND MILITARY VETERANS

19 TAC §§234.1, 234.3, 234.5, 234.7

The State Board for Educator Certification (SBEC) adopts amendments to 19 Texas Administrative Code (TAC) §§234.1, 234.3, 234.5, and 234.7, concerning military service members, military spouses, and military veterans. The amendments are adopted without changes to the proposed text as published in the October 18, 2024 issue of the *Texas Register* (49 TexReg 8465) and will not be republished. The amendments add language specific to the Servicemembers Civil Relief Act (SCRA), allowing the portability of licenses for active-duty military service members or the spouse of a military service member, and provide technical edits to clarify existing language, alphabetize

definitions, and remove duplicative language where necessary. The amendments expand the number of individuals eligible to become certified educators in Texas.

REASONED JUSTIFICATION: The SBEC rules in 19 TAC Chapter 234 consolidate all military-related provisions into one chapter for all members of the military community (i.e., military service members, military spouses, and military veterans) and related individuals subject to these provisions through statute (military veterans, peace officers, fire protection personnel, emergency medical services personnel, and qualified instructors for the Community College of the Air Force).

At the July 2024 SBEC meeting, Texas Education Agency (TEA) staff provided SBEC with an overview of the provisions of the chapter as well as proposed technical edits to alphabetize, re-number, and strike duplicative information. TEA staff also discussed the addition of language added to the SCRA by the U.S. Congress to allow service members and the spouses of military service members to use their professional licenses and certificates when they relocate due to military orders.

The following is a description of the adopted amendments.

§234.1. *Purpose.*

The adopted amendment to 19 TAC §234.1 incorporates technical edits and adds new subsection (c) related to the SCRA to incorporate the federally mandated Veterans Auto and Education Improvement Act of 2022 (H.R. 7939), which allows a military service member or the spouse of a military service member to use their license and certificates in certain circumstances when they relocate to another state due to military orders.

§234.3. *Definitions.*

The adopted amendment to 19 TAC §234.3 alphabetizes and re-numbers definitions relevant to effective implementation of this chapter.

§234.5. *Certification of Military Service Members, Military Spouses, and Military Veterans.*

The adopted amendment to 19 TAC §234.5 makes the following technical edits for clarification: in subsection (b), adds the phrase "Following completion of the review of credentials,"; strikes the phrase "As soon as practicable after the issuance of a one-year certificate"; strikes the phrase "in writing or by email" to more accurately reflect the current process of placing the results of an educator's credentials review in his or her online certification account for access and review; adds text to include the temporary certificate; and strikes subsection (c) because it is duplicative and re-letters the subsequent subsections.

§234.7. *Renewal and Continuing Education Requirements for Military Service Members, Military Spouses, and Military Veterans.*

The adopted amendment to 19 TAC §234.7 strikes subsection (d) since there is not a time limit imposed on any individual related to certificate renewal.

SUMMARY OF COMMENTS AND RESPONSES: The public comment period on the proposal began October 18, 2024, and ended November 18, 2024. The SBEC also provided an opportunity for registered oral and written comments on the proposal at the December 6, 2024 meeting's public comment period in accordance with the SBEC board operating policies and procedures. No public comments were received on the proposal.

The State Board of Education (SBOE) took no action on the review of the amendments to §§234.1, 234.3, 234.5, and 234.7 at the January 31, 2025 SBOE meeting.

STATUTORY AUTHORITY. The amendments are adopted under Texas Education Code (TEC), §21.041(b)(2), which requires the State Board for Educator Certification (SBEC) to adopt rules that specify the classes of educator certificates to be issued, including emergency certificates; TEC, §21.041(b)(4), which requires the SBEC to adopt rules that specify the requirements for the issuance and renewal of an educator certificate; TEC, §21.044(a), which requires the SBEC to adopt rules establishing training requirements a person must accomplish to obtain a certificate, enter an internship, or enter an induction-year program; TEC, §21.0444, which requires the SBEC to adopt rules for issuing a temporary certification to teach career and technology education for certain military service members and first responders; TEC, §21.052(b-1), which requires the SBEC to adopt rules to establish procedures to establish residency and expedite processing of certification applications submitted by a military veteran or military spouse; TEC, §21.052(c), which states the SBEC can specify the term of a temporary certificate issued under this subsection; TEC, §21.052(d-1), which requires the SBEC to issue a three-year temporary certificate to eligible military spouses of active-duty service members; TEC, §21.052(f), which requires the SBEC to maintain an Internet website that outlines the procedures for military community members to obtain certification in Texas; TEC, §21.052(i), which defines active-duty service, lists the branches of the United States armed forces, and confirms the members of the military community eligible for processes established to certify educators from outside the state; TEC, §21.0525, which requires the SBEC to adopt rules for issuing a temporary teaching certificate for certain persons with experience as instructors for the Community College of the Air Force; TEC, §21.054, which requires the SBEC to adopt rules establishing a process for identifying continuing education courses and programs that fulfill educators' continuing education requirements; and TEC, §21.458(a-2), which specifies that a school district shall assign a mentor teacher to a classroom teacher who has been issued a temporary certificate to teach career and technology education under TEC, §21.0444, for at least two years; and Texas Occupations Code (TOC), §55.001, which defines key terms and identifies the individuals relevant to the processing and support of members of the military community; TOC, §55.002, which provides clarification and guidelines for implementing fee exemptions for members of the military community; TOC, §55.003, which states military service members are eligible to receive a two-year extension of time to complete requirements for license renewal; TOC, §55.004(a)-(c), which requires state agencies to adopt rules for issuance of licensure to members of the military community and provides alternatives to become eligible for licensure; TOC, §55.004(d), which requires state agencies to adopt rules to allow military service members to use the same options as military spouses to meet the residency and other state-specific requirements for licensure; TOC, §55.0041, which requires state agencies to establish a process to identify jurisdictions that have licensing requirements that are substantially equivalent to the requirements for the license in this state and to verify that the member or spouse is licensed in good standing in such a jurisdiction; TOC, §55.005(a), which requires a state agency that issues a license must do so no later than 30 days following the date that a military service member, military veteran, or military spouse applies for licensure; TOC, §55.006, which requires state agencies to determine renewal

requirements for expedited licenses issued to members of the military community; TOC, §55.007, which provides state agencies authority to credit verified military service, training, or education toward licensing requirements; TOC, §55.008, which authorizes state agencies to credit verified relevant military service, training, or education relevant to the occupation toward the apprenticeship requirements for licensure; TOC, §55.009, which confirms state agencies that issue licensure shall waive license application and examination fees paid to the state for applicable members of the military community; and TOC, §55.010, which requires state agencies to prominently post notification of licensure provisions for military service members, military veterans, and military spouses on the home page of the agency's website.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§21.041(b)(2) and (4); 21.044(a); 21.0444, 21.052(b-1), (c), (d-1), (f), and (i); 21.0525, 21.054; and 21.458(a-2), and Texas Occupations Code, §§55.001; 55.002; 55.003; 55.004(a)-(c); 55.004(d), 55.0041, 55.005(a), 55.006; 55.007; 55.008; 55.009; and 55.010.

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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Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

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For further information, please call: (512) 748-5051

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TITLE 22. EXAMINING BOARDS

PART 5. STATE BOARD OF DENTAL EXAMINERS

CHAPTER 102. FEES

22 TAC §102.1

The State Board of Dental Examiners (Board) adopts this amendment to 22 TAC §102.1, concerning fees without changes to the proposal as published in the December 13, 2024, issue of the *Texas Register* (49 TexReg 10094) and will not be re-published. The adopted amendment includes a \$100.00 fee for applicants who apply to become a Board approved continuing education course provider.

No comments were received regarding adoption of this rule.

This rule is adopted under Texas Occupations Code §254.001(a), which gives the Board authority to adopt rules necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety, and Texas Occupations Code §254.004, which directs the Board to establish reasonable and necessary fees sufficient to cover the cost of administering the Board's duties.

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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Lauren Studdard
General Counsel
State Board of Dental Examiners
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For further information, please call: (737) 363-2333



CHAPTER 108. PROFESSIONAL CONDUCT SUBCHAPTER D. MOBILE DENTAL FACILITIES

22 TAC §108.42

The State Board of Dental Examiners (Board) adopts this amendment to 22 TAC §108.42, concerning obtaining a permit. The amendment is adopted without changes to the proposed text as published in the December 6, 2024, issue of the *Texas Register* (49 TexReg 9866) and will not be republished. The adopted amendment removes the requirement that a mobile dental facility or portable dental unit must have a lead apron with thyroid shield when x-rays are made. The American Academy of Oral and Maxillofacial Radiology (AAOMR) recently issued guidelines titled "Patient shielding during dentomaxillofacial radiography" where the AAOMR recommended discontinuing the use of lead aprons and thyroid shields when making x-rays. The Board held a stakeholder meeting on September 27, 2024, where a majority of stakeholders stated that Board rules should be amended to remove requiring the use of lead aprons and thyroid shields based on the AAOMR guidelines.

The Texas Academy of General Dentistry (TAGD) provided a written comment in support of adoption of the rule as proposed. TAGD states that the amendment aligns with current research and best practices by organizations, including the AAOMR. The Board agrees with the comment, and no changes to the rule were made as a result of the comment.

This rule is adopted under Texas Occupations Code §254.001(a), which gives the Board authority to adopt rules necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

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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Lauren Studdard
General Counsel
State Board of Dental Examiners
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For further information, please call: (737) 363-2333



CHAPTER 111. STANDARDS FOR PRESCRIBING CONTROLLED SUBSTANCES AND DANGEROUS DRUGS

22 TAC §111.1

The State Board of Dental Examiners (Board) adopts this amendment to 22 TAC §111.1, concerning additional continuing education requirements. The amendment is adopted without changes to the proposed text as published in the December 6, 2024, issue of the *Texas Register* (49 TexReg 9867) and will not be republished. The adopted amendment removes subsections (a) and (b)(1) because they are no longer in effect. The current continuing education requirement regarding controlled substances is found in paragraph (1) of this amended rule and in 22 TAC §104.1(2)(B). The adopted amendment also updates the name of the title for 22 TAC §104.1.

No comments were received regarding adoption of this rule.

This rule is adopted under Texas Occupations Code §254.001(a), which gives the Board authority to adopt rules necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

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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Lauren Studdard
General Counsel
State Board of Dental Examiners
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For further information, please call: (737) 363-2333



CHAPTER 113. REQUIREMENTS FOR DENTAL OFFICES

22 TAC §113.2

The State Board of Dental Examiners (Board) adopts this amendment to 22 TAC §113.2, concerning x-ray laboratories. The amendment is adopted without changes to the proposed text as published in the December 6, 2024, issue of the *Texas Register* (49 TexReg 9868) and will not be republished. The adopted amendment removes the requirement that dental patients must be protected by a lead apron with thyroid collar. The American Academy of Oral and Maxillofacial Radiology (AAOMR) recently issued guidelines titled "Patient shielding

during dentomaxillofacial radiography" where the AAOMR recommended discontinuing the use of lead aprons and thyroid shields when making x-rays. The Board held a stakeholder meeting on September 27, 2024, where a majority of stakeholders stated that Board rules should be amended to remove requiring the use of lead aprons and thyroid shields based on the AAOMR guidelines.

The Texas Academy of General Dentistry (TAGD) provided a written comment in support of adoption of the rule as proposed. TAGD states that the amendment aligns with current research and best practices by organizations, including the AAOMR. The Board agrees with this comment, and no changes to the rule were made as a result of the comment.

This rule is adopted under Texas Occupations Code §254.001(a), which gives the Board authority to adopt rules necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

Legal counsel for the Board has reviewed the adopted rule and has found it to be within the Board's authority to adopt.

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-202500670

Lauren Studdard

General Counsel

State Board of Dental Examiners

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For further information, please call: (737) 363-2333



CHAPTER 114. EXTENSION OF DUTIES OF AUXILIARY PERSONNEL--DENTAL ASSISTANTS

22 TAC §114.12

The State Board of Dental Examiners (Board) adopts this amendment to 22 TAC §114.12, concerning continuing education for registered dental assistants. The amendment is adopted with changes to the proposed text as published in the December 6, 2024, issue of the *Texas Register* (49 TexReg 9869) and will be republished. The adopted amendment updates the rule to reflect that dental assistant registrations have a biennial renewal cycle.

At its February 21, 2025 meeting, the Board voted not to adopt the portion of the proposed amendment that would require registered dental assistants to complete two hours of continuing education in the laws and regulations of the Board. The Board agreed with stakeholders that the requirement could create barriers for registered dental assistants. Instead, the Board tasked staff to look into whether the renewal application for registered dental assistants can include an attestation that they have read the laws and regulations of the Board.

The Texas Academy of General Dentistry (TAGD) provided a written comment in opposition of adoption of the rule as proposed pertaining to the requirement that registered dental assistants must take at least two hours of continuing education in the laws and regulations of the Board. TAGD states that ultimately it is the dentist's responsibility to ensure that office operations comply with state laws and regulations. TAGD believes dental assistants' continuing education hours would be better utilized on topics that enhance their clinical skills and support their daily responsibilities. The Board believes the requirement could create barriers for registered dental assistants, and decided not to adopt the requirement.

LaNisha Eskridge, RDA, provided a written comment in opposition of adoption of the rule as proposed pertaining to the requirement that registered dental assistants must take at least two hours of continuing education in the laws and regulations of the Board. Ms. Eskridge states that the amendment would create a financial burden for registered dental assistants, who are the lowest paid members of the dental team. She states the amendment would add to the shortage of dental assistants by requiring additional regulations and may cause dental assistants to leave the field or not consider becoming a dental assistant. She also states that the amendment would not allow dental assistants to renew or retain their registration if the jurisprudence assessment is not passed. The Board agrees the requirement could create barriers for registered dental assistants, and decided not to adopt the requirement.

The Texas Dental Assistants Association (TDAA) provided a written comment in opposition of adoption of the rule as proposed pertaining to the requirement that registered dental assistants must take at least two hours of continuing education in the laws and regulations of the Board. TDAA states the amendment would essentially quadruple the CE requirement of jurisprudence for dental assistants in comparison to dentists and hygienists, who take the jurisprudence assessment every four years. The financial burden would be more for the RDA, who is the lowest paid member of the dental team. TDAA also states that the amendment could create possible job loss if a dental assistant confronts an employer on a delegated duty in question, and exacerbate the shortage of dental assistants by adding additional requirements. There is a limited availability of dental assistant CE courses in jurisprudence, and the Board should maintain control over any material aimed at educating the dental assistant in matters of Texas laws or Board rules and regulations, as it does for dentists and hygienists with the jurisprudence assessment. The Board agrees the requirement could create barriers for registered dental assistants, and decided not to adopt the requirement.

This rule is adopted under Texas Occupations Code §254.001(a), which gives the Board authority to adopt rules necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

§114.12. *Continuing Education for Certificate Holders.*

(a) To renew a certificate of registration issued under this chapter, a dental assistant must complete twelve (12) hours of continuing education biennially in areas covering dental assistant duties. At least six (6) of these twelve (12) hours must be clinical continuing education.

(b) A dental assistant may fulfill the continuing education requirement through board-approved self-study, interactive computer

courses, or lecture courses. All continuing education must be offered by providers approved under 22 Texas Administrative Code §104.2.

(c) As a prerequisite to the renewal of a dental assistant's certificate of registration, a course in human trafficking prevention approved by the executive commissioner of the Texas Health and Human Services Commission must be completed.

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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Lauren Studdard
General Counsel
State Board of Dental Examiners
Effective date: March 13, 2025
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For further information, please call: (737) 363-2333



PART 6. TEXAS BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

CHAPTER 133. LICENSING FOR ENGINEERS

The Texas Board of Professional Engineers and Land Surveyors (Board) adopts amendments without changes to 22 Texas Administrative Code, Chapter 133, regarding Licensing for Engineers, specifically §§133.11, Types of Licenses; 133.26, Applications for Texas Licensure by License Holders in Another Jurisdiction; and 133.69, Waiver of Examinations. The amendments were originally published in the January 3, 2025, issue of the *Texas Register* (50 TexReg 19) and will not be republished.

REASONED JUSTIFICATION FOR RULE ADOPTION

Texas Occupations Code §1001.311 authorizes the Board to license an applicant that is not a resident of the State of Texas if the applicant holds a license issued by another jurisdiction and has met substantially equivalent licensure requirements to those in Texas. The Board is adopting rules to clearly set the procedure and requirements for licensure for applicants from other US states and territories, as well as international applicants licensed in a country that has a licensure agreement with Texas.

The adopted rules amend §133.11 to clarify which rules relate to standard and temporary licenses and amend §133.69 to clarify the duration of time a reciprocal applicant must be licensed in the other jurisdiction prior to requesting a waiver of the PE examination.

The adopted rules create a new section §133.26 that sets out the streamlined requirements for applicants from international and US jurisdictions (states or territories) that are currently licensed in those jurisdictions.

PUBLIC COMMENTS

Pursuant to §2001.029 of the Texas Government Code, the Board gave all interested persons a reasonable opportunity to

provide oral and/or written commentary concerning the adoption of the rules. The 30-day public comment period began on January 3, 2025, and ended February 2, 2025. The Board received no comments from the public.

SUBCHAPTER B. PROFESSIONAL ENGINEER LICENSES

22 TAC §133.11

STATUTORY AUTHORITY

The amendments are adopted pursuant to Texas Occupations Code §§1001.201 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state. In addition, §1001.311 allow for the licensure of nonresidents.

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-202500598
Lance Kinney
Executive Director
Texas Board of Professional Engineers and Land Surveyors
Effective date: March 10, 2025
Proposal publication date: January 3, 2025
For further information, please call: (512) 440-7723



SUBCHAPTER C. PROFESSIONAL ENGINEER LICENSE APPLICATION REQUIREMENTS

22 TAC §133.26

STATUTORY AUTHORITY

The amendments are adopted pursuant to Texas Occupations Code §§1001.201 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state. In addition, §1001.311 allow for the licensure of nonresidents.

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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Lance Kinney
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For further information, please call: (512) 440-7723



SUBCHAPTER G. EXAMINATIONS

22 TAC §133.69

STATUTORY AUTHORITY

The amendments are adopted pursuant to Texas Occupations Code §§1001.201 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state. In addition, §1001.311 allow for the licensure of nonresidents.

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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Lance Kinney
Executive Director
Texas Board of Professional Engineers and Land Surveyors
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TITLE 25. HEALTH SERVICES

PART 11. CANCER PREVENTION AND RESEARCH INSTITUTE OF TEXAS

CHAPTER 703. GRANTS FOR CANCER PREVENTION AND RESEARCH

25 TAC §703.13, §703.26

The Cancer Prevention and Research Institute of Texas ("CPRIT" or "the Institute") adopts the amendments to 25 Texas Administrative Code §703.13 and §703.26 without changes to the proposed amendments as published in the December 6, 2024, issue of the *Texas Register* (49 TexReg 9888); therefore, the rules will not be republished.

Reasoned Justification

The amendment to § 703.13(b) increases the grant recipient audit threshold from \$750,000 to \$1 million. The amendment harmonizes CPRIT's administrative rules with recent changes to the Texas Grant Management Standards (TxGMS) published by the Comptroller of Public Accounts.

The amendment to § 703.26(e) adds the following as an allowable expense for grant recipients, "Reimbursements to em-

ployees for their out-of-pocket health insurance premium or other health care expenses which are not made through an employer-sponsored plan established under Section 105 of the Internal Revenue Code." For these expenses to be considered fringe benefits that are reimbursable from CPRIT grant funds, the employer must have an established health reimbursement arrangement program under Section 105 of the Internal Revenue Code. Thus, this amendment clarifies that CPRIT program standards for reimbursements conform to other relevant laws.

Lastly, the non-substantive, technical amendment to § 703.26(b) replaces an outdated reference to the Uniform Grant Management Standards (UGMS) with a reference to TxGMS.

Summary of Public Comments and Staff Recommendation

CPRIT received no public comments regarding the proposed amendments to §§ 703.13 and 703.26. CPRIT staff recommends moving forward with adoption of the amendments.

The rule changes are adopted under the authority of the Texas Health and Safety Code Annotated, § 102.108, which provides the Institute with broad rule-making authority to administer the chapter, including rules for awarding grants.

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 February 20, 2025.

TRD-202500647
Heidi McConnell
Deputy Executive Officer / Chief Operating Officer
Cancer Prevention and Research Institute of Texas
Effective date: March 12, 2025
Proposal publication date: December 6, 2024
For further information, please call: (512) 463-3190



TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 745. LICENSING

SUBCHAPTER C. OPERATIONS THAT ARE EXEMPT FROM REGULATION

DIVISION 2. EXEMPTIONS FROM REGULATION

26 TAC §745.117

The Texas Health and Human Services Commission (HHSC) adopts an amendment to §745.117, concerning Exemptions for Programs of Limited Duration.

The amendment to §745.117 is adopted with changes to the proposed text as published in the October 25, 2024, issue of the *Texas Register* (49 TexReg 8542). This rule will be republished.

BACKGROUND AND JUSTIFICATION

The amendment is necessary to implement Section 115 of House Bill (H.B.) 4559, 88th Legislature, Regular Session,

2023. This section of H.B. 4559 amended a requirement in Texas Human Resources Code (HRC) §42.041, which identifies certain programs that meet the definition of "child-care facility" in HRC §42.002(3) that are exempt from requiring a license under HRC Chapter 42. HRC §42.041(b)(3) includes an exemption for a program that provides short-term child care that meets certain requirements in connection with a shopping center, business or other activity. In turn, HRC §42.041(g) limits the number of hours a week that a certain type of program that meets this exemption language may operate. H.B. 4559 amended the requirements in HRC Section 42.041(g). Prior to the effective date of H.B. 4559, HRC Section 42.041(g) limited a program exempt under HRC Section 42.041(b)(3) to providing a maximum of 15 hours per week of childcare to an individual child if the program (1) provides child-care so that a person may attend an educational class provided by a nonprofit entity and (2) is located in a county that has a population of 800,000 and on an international border. H.B. 4559 amended the population requirement so that the limits in subsection (g) apply if the program is located in a county with a municipality with a population of at least 500,000. Accordingly, HHSC Child Care Regulation (CCR) is adopting amended §745.117 to reflect the amended statutory language.

COMMENTS

The 31-day comment period ended November 25, 2024. During this period, HHSC received one comment regarding the proposed rule from one commenter representing a licensed child-care center, Tomorrow's Promise Montessori Schools. A summary of the comment relating to the rule and the response from HHSC follows.

Comment: Regarding §745.117, one commenter stated the Boys and Girls Clubs, public schools, and charter schools that offer after-school programs and summer camps, and Mother's Day Out programs should be held to the same standards as licensed child-care programs. The commenter specifically mentioned standards related to screen time, supervision, background checks, and health and safety.

Response: HHSC appreciates the comment but declines to revise the rule. This comment is unrelated to the subject of the amendment that HHSC proposed in this packet, which is to make rule language consistent with statutory language that relates specifically to the exemption codified in HRC §42.041(b)(3). The program types referenced in this comment are either subject to regulation (for example, an after-school program at a public school is subject to regulation under Chapter 744, Minimum Standards for School-Age and Before or After-School Programs) or relate to a different exemption in HRC §42.041(b).

In addition, HHSC made minor editorial changes to the rule title at §745.117 to replace the question format with a statement and clarify wording.

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 §531.033, which requires the Executive Commissioner to adopt rules necessary to carry out the duties of HHSC under Chapter 531 of Texas Government Code. In addition, HRC §42.042(a) requires HHSC to adopt rules to carry out the requirements of Chapter 42 of HRC.

§745.117. *Programs of Limited Duration Exempt from Regulation by Child Care Regulation (CCR).*

The following programs of limited-duration are exempt from CCR regulation:

Figure: 26 TAC §745.117

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 February 18, 2025.

TRD-202500589

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: March 10, 2025

Proposal publication date: October 25, 2024

For further information, please call: (512) 438-3269



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 6. TEXAS DEPARTMENT OF CRIMINAL JUSTICE

CHAPTER 159. SPECIAL PROGRAMS

37 TAC §159.1

The Texas Board of Criminal Justice (board) adopts amendments to §159.1, concerning Substance Abuse Felony Punishment Facilities Eligibility Criteria, without changes to the proposed text as published in the December 27, 2024, issue of the *Texas Register* (49 TexReg 10493). The rule will not be republished. The adopted amendments remove reference to an outdated document, update the title of a referenced document, and revise language to align with current verbiage and clarify eligibility requirements.

No comments were received regarding the amendments.

The amendments are adopted under Texas Government Code §492.013, which authorizes the board to adopt rules; §493.009, which establishes guidelines for substance abuse felony punishment facilities, and Texas Code of Criminal Procedure art. 42A.303, which establishes guidelines for a substance abuse felony program.

Cross Reference to Statutes: 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.

Filed with the Office of the Secretary of State on February 21, 2025.

TRD-202500662

Stephanie Greger
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Effective date: March 13, 2025
Proposal publication date: December 27, 2024
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CHAPTER 163. COMMUNITY JUSTICE ASSISTANCE DIVISION STANDARDS

37 TAC §163.21

The Texas Board of Criminal Justice (board) adopts amendments to §163.21, concerning Administration, without changes to the proposed text as published in the December 27, 2024, issue of the *Texas Register* (49 TexReg 10494). The rule will not be republished. The adopted amendments revise "continuum of sanctions" to "progressive sanctions" throughout; remove the *Human Resources* category from the policies and procedures that shall be included in the administrative manual maintained by the Community Supervision and Corrections Department (CSCD) director; revise the *Standards* category of the administrative manual; revise language referencing an application process to specify a proposal; add language to state documentation of training hours shall be maintained at the CSCD and available on request; and make grammatical and formatting updates.

No comments were received regarding the amendments.

The amendments are adopted under Texas Government Code §492.013, which authorizes the board to adopt rules; and §509.003, which authorizes the board to adopt reasonable rules establishing standards and procedures for the TDCJ Community Justice Assistance Division.

Cross Reference to Statutes: 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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37 TAC §163.35

The Texas Board of Criminal Justice (board) adopts amendments to §163.35, concerning Supervision, without changes to the proposed text as published in the December 27, 2024, issue of the *Texas Register* (49 TexReg 10500). The rule will not be republished. The adopted amendments revise "rule" to "section" throughout; revise the definition of "direct supervision"; and make grammatical and formatting updates.

No comments were received regarding the amendments.

The amendments are adopted under Texas Government Code §492.013, which authorizes the board to adopt rules; and §509.003, which authorizes the board to adopt reasonable rules establishing standards and procedures for the TDCJ Community Justice Assistance Division.

Cross Reference to Statutes: 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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Stephanie Greger
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Effective date: March 13, 2025
Proposal publication date: December 27, 2024
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37 TAC §163.41

The Texas Board of Criminal Justice (board) adopts amendments to §163.41, concerning Medical and Psychological Information, without changes to the proposed text as published in the December 27, 2024, issue of the *Texas Register* (49 TexReg 10502). The rule will not be republished. The adopted amendments update the reference to model policy guidelines with the corresponding Texas Health and Safety Code and remove the website address.

No comments were received regarding the amendments.

The amendments are adopted under Texas Government Code §492.013, which authorizes the board to adopt rules; and §509.003, which authorizes the board to adopt reasonable rules establishing standards and procedures for the TDCJ Community Justice Assistance Division.

Cross Reference to Statutes: 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.

Filed with the Office of the Secretary of State on February 21, 2025.

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Effective date: March 13, 2025
Proposal publication date: December 27, 2024
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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 15. TEXAS VETERANS COMMISSION

CHAPTER 452. ADMINISTRATION GENERAL PROVISIONS

40 TAC §452.2

The Texas Veterans Commission ("Commission") adopts amendment to rule Title 40 of the Texas Administrative Code, Part 15, Chapter 452, Administration General Provisions, §452.2, Advisory Committees. The amendment is adopted without changes to the text as published in the November 29, 2024, issue of the *Texas Register* (49 TexReg 9735) and will not be republished.

The adopted amendment updates the rule to remove references to the following advisory committees, which the Commissioners voted to abolish at the last Commission meeting: the Veteran Services Advisory Committee and the Veterans County Service Officer Advisory Committee.

The Commission received no comments regarding the proposed new rules.

The amendment of the rule is authorized under Texas Government Code §434.010, granting the Commission the authority to establish rules, and Texas Government Code §434.017, granting the Commission the authority to establish rules governing the award of grants by the Commission.

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 February 19, 2025.

TRD-202500644
Kirstin Erickson
General Counsel
Texas Veterans Commission
Effective date: March 11, 2025
Proposal publication date: November 29, 2024
For further information, please call: (512) 463-0663



40 TAC §452.9, §452.10

The Texas Veterans Commission ("Commission") adopts two new rules in Chapter 452 of Title 40, Part 15 of the Texas Administrative Code, §452.9 and §452.10. These new sections are adopted without changes to the proposed text as published in the November 29, 2024, issue of the *Texas Register* at (49 TexReg 9737) and will not be republished.

The first adopted new rule describes how the agency's employee sick leave pool is administered in accordance with Texas Government Code Chapter 661. The new rule complies with Texas Government Code §661.002(c), which requires state agencies to adopt rules and prescribe procedures for administering the agency's employee sick leave pool.

The second adopted new rule establishes procedures for administering the agency's family leave pool in accordance with Texas

Government Code §661.022, which requires state agencies to adopt rules and prescribe procedures for operating the family leave pool.

The Commission received no public comments regarding the proposed new rules.

The rules are authorized under Texas Government Code §434.010, granting the commission the authority to establish rules; Texas Government Code §661.002(c), which requires state agencies to adopt rules and prescribe procedures relating to the administration of the agency's sick leave pool; and Texas Government Code §661.022, which requires state agencies to adopt rules and prescribe procedures relating to the operation of a family leave pool.

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 February 19, 2025.

TRD-202500645
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General Counsel
Texas Veterans Commission
Effective date: March 11, 2025
Proposal publication date: November 29, 2024
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CHAPTER 463. VETERAN VERIFICATION LETTER

40 TAC §§463.1 - 463.4

The Texas Veterans Commission ("Commission") adopts the repeal of Title 40, Texas Administrative Code, Part 15, Chapter 463, relating to the Veteran Verification Letter. This repeal is adopted without changes to the proposed text as published in the November 29, 2024, issue of the *Texas Register* (49 TexReg 9739) and will not be republished.

The adopted repeal is to remove a rule that is not required by statute. The requirements contained in the rule may instead be outlined in Texas Veterans Commission procedures.

The Commission received no public comments regarding the proposed new rules.

The rule repeal is adopted under Texas Government Code §434.010 which authorizes the commission to establish rules it considers necessary for its administration. No other statutes, articles, or codes are affected by this proposal.

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 February 19, 2025.

TRD-202500643

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Effective date: March 11, 2025
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