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THE GOVERNOR

As required by Government Code, §2002.011(4), the *Texas Register* publishes executive orders issued by the Governor of Texas. Appointments and proclamations are also published. Appointments are published in chronological order. Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 463-1828.

Appointments

Appointments for March 11, 2025

Appointed to the Family and Protective Services Council for a term to expire February 1, 2031, Tymothy L. Belseth of Pflugerville, Texas (replacing Cortney L. Jones of Austin, whose term expired).

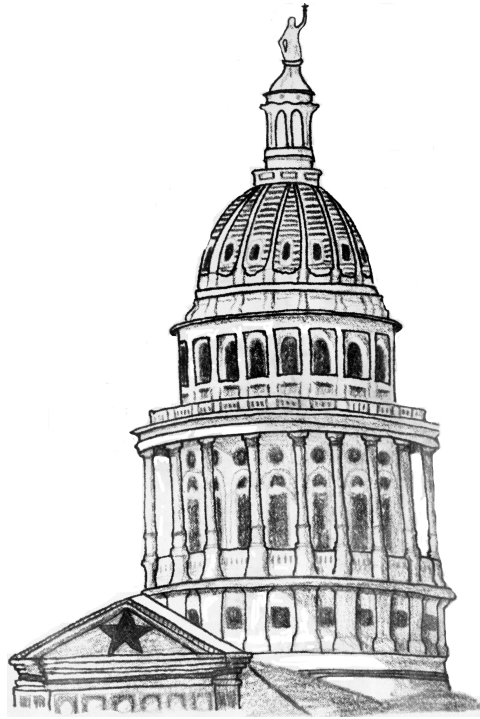
Appointed to the Family and Protective Services Council for a term to expire February 1, 2031, Julie M. Krawczyk of Garland, Texas (Ms. Krawczyk is being reappointed).

Appointed to the Family and Protective Services Council for a term to expire February 1, 2031, Enrique Mata of El Paso, Texas (Mr. Mata is being reappointed).

Greg Abbott, Governor

TRD-202500870





THE ATTORNEY GENERAL

The *Texas Register* publishes summaries of the following: Requests for Opinions, Opinions, and Open Records Decisions.

An index to the full text of these documents is available on the Attorney General's website at <https://www.texas.attorneygeneral.gov/attorney-general-opinions>. For information about pending requests for opinions, telephone (512) 463-2110.

An Attorney General Opinion is a written interpretation of existing law. The Attorney General writes opinions as part of his responsibility to act as legal counsel for the State of Texas. Opinions are written only at the request of certain state officials. The Texas Government Code indicates to whom the Attorney General may provide a legal opinion. He may not write legal opinions for private individuals or for any officials other than those specified by statute. (Listing of authorized requestors: <https://www.texasattorneygeneral.gov/attorney-general-opinions>.)

Requests for Opinions

RQ-0585-KP

Requestor:

The Honorable B.D. Griffin
Montgomery County Attorney
501 North Thompson, Suite 300
Conroe, Texas 77301

Re: Interpretation and application of the Open Meetings Act to members of a home-rule city council (RQ-0585-KP)

Briefs requested by April 7, 2025

For further information, please access the website at www.texasattorneygeneral.gov or call the Opinion Committee at (512) 463-2110.

TRD-202500848
Justin Gordon
General Counsel
Office of the Attorney General
Filed: March 11, 2025



Opinions

Opinion No. KP-0485

The Honorable Donna Campbell, M.D.
Chair, Senate Committee on Nominations
Texas State Senate
Post Office Box 12068
Austin, Texas 78711-2068

Re: Relating to the rights of a mentally incapacitated person who is a ward of a guardianship to represent themselves in civil or criminal matters (RQ-0545-KP)

S U M M A R Y

A court with probate jurisdiction may establish a guardianship for an incapacitated person who is substantially unable to perform certain essential functions because of a mental condition. The court may appoint a guardian with either full or limited authority over the ward's person, the ward's estate, or the ward's person and estate. The court order appointing a guardian provides evidence of the scope of the guardian's

powers and duties. A ward retains all rights and powers not specifically granted to a guardian by the appointing court.

The Sixth Amendment to the United States Constitution provides criminal defendants a limited right to self-representation and its assertion requires waiver of the right to assistance of counsel. While a court with probate jurisdiction must determine whether a ward is mentally incapacitated, a ward seeking to proceed pro se may assert the right to self-representation in the trial court conducting criminal proceedings. The trial court then determines whether the ward is competent to conduct trial proceedings on his own behalf and whether waiver of the right to counsel is voluntary, knowing, and intelligent.

Guardians may be authorized by a court with probate jurisdiction to hire counsel to defend a ward in civil litigation because assertion of the right to defend oneself in that context does not require the waiver of other rights.

A court with probate jurisdiction may not authorize non-attorney guardians to proceed pro se on a ward's behalf. A non-attorney guardian that represents a ward in litigation could be found to have engaged in the unauthorized practice of law. An attorney that assists non-attorney guardians in performing an activity that constitutes the unauthorized practice of law violates the Texas Disciplinary Rules of Professional Conduct.

Opinion No. KP-0486

Ms. Laura Lee Brock, CPA
Clay County Auditor
214 North Main
Henrietta, Texas 76365

Re: Whether, using certain grant funds, a county's hiring of an administrative assistant to work in a dual role for the county judge and the prosecuting attorney constitutes a conflict of interest (RQ-0548-KP)

S U M M A R Y

Neither the dual-officeholding prohibition in Article XVI, subsection 40(a) of the Texas Constitution nor the common-law incompatibility doctrine prohibits one person from working in a "dual role" as an administrative assistant for a county judge and a prosecuting attorney.

The question whether the dual employment results in a violation of the Disciplinary Rules of Professional Conduct for attorneys, the Code of Judicial Conduct for judges, Due Process, or a local policy or regulation requires the resolution of fact questions, which is beyond the scope of an Attorney General opinion.

Opinion No. KP-0487

The Honorable Sean B. Galloway

Andrews County Attorney

121 N.W. Avenue A

Andrews, Texas 79714

Re: Whether a county commissioner may simultaneously serve as chief of the local fire department (RQ-0551-KP)

S U M M A R Y

Article XVI, subsection 40(a) of the Texas Constitution does not bar a person from simultaneously serving as a county commissioner and a fire chief of a volunteer fire department in the same county. A court would likely conclude the common-law doctrine of incompatibility also does not bar such dual service.

Opinion No. KP-0488

The Honorable Bob Hall

Chair, Senate Committee on Administration

Texas State Senate

Post Office Box 12068

Austin, Texas 78711-2068

Re: Whether a vote by the board of a school district or governing body of an open-enrollment charter school affirming the existing policy to

permit a chaplain to be hired by or volunteer at a school complies with the Eighty-eighth Legislature's Senate Bill 763 (RQ-0553-KP)

S U M M A R Y

Section 3 of Senate Bill 763, enacted by the Eighty-eighth Legislature, directs the board of trustees of a school district and governing body of an open-enrollment charter school to vote on whether to authorize employee or volunteer chaplains. The term "chaplain" refers to the official, substantive title for a particular position with a school district or open-enrollment charter school. The support, services, and programs authorized must be related to the individual's role as a school chaplain.

Ultimately, a school board or charter governing body does not comply with Section 3 by voting on whether to authorize hiring certain individuals for "any position" or "any open position" but does comply by voting on whether to authorize hiring "for a school chaplain position."

For further information, please access the website at www.texasattorneygeneral.gov or call the Opinion Committee at (512) 463-2110.

TRD-202500849

Justin Gordon

General Counsel

Office of the Attorney General

Filed: March 11, 2025



PROPOSED RULES

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

Symbols in proposed rule text. Proposed new language is indicated by underlined text. [~~Square brackets and strikethrough~~] indicate existing rule text that is proposed for deletion. “(No change)” indicates that existing rule text at this level will not be amended.

TITLE 16. ECONOMIC REGULATION

PART 9. TEXAS LOTTERY COMMISSION

CHAPTER 401. ADMINISTRATION OF STATE LOTTERY ACT

The Texas Lottery Commission (Commission or TLC) proposes amendments to 16 TAC §401.158 (Suspension or Revocation of License), §401.160 (Standard Penalty Chart), and §401.355 (Restricted Sales). The purpose of the proposed amendments is to promote and ensure integrity, security, honesty, and fairness in the operation and administration of the Texas Lottery by prohibiting the use of lottery ticket courier services that, by any remote means, such as telephone, Internet application, or mobile application, accept and fulfill, for a fee or compensation, orders to purchase lottery tickets on behalf of another person not present to effect an in-person sale (couriers). The TLC intends to exercise this authority through administrative enforcement proceedings to revoke the lottery ticket sales agent license of a retailer that works in concert with a courier, whether under a common ownership arrangement or otherwise.

Robert Tirloni, Lottery Operations Director, has determined that for each year of the first five years the proposed amendments will be in effect, the anticipated public benefits are the promotion of the integrity, security, honesty, and fairness of the Texas Lottery, and helping to ensure that Texas Lottery retailers will clearly understand that their license will be revoked for knowingly selling lottery tickets to, working with, or otherwise assisting couriers, which will result in enhanced protection of the public from potential crime and other harms.

Sergio Rey, Chief Financial Officer, has determined that for each year of the first five years the proposed amendments will be in effect, there will be no significant fiscal impact for state or local governments as a result of the proposed amendments. There will be no adverse effect on rural communities or local or state employment. Those retailers that are small- or micro-businesses whose licenses will be revoked for not abiding by these amendments will be negatively impacted. The Commission is aware of eight licensed retailers that are small businesses, as defined in the Texas Government Code §2006.001(2), that will be negatively impacted by the amendments (out of over 21,000 retailers statewide), and has determined there is no legal and feasible alternative to reduce the negative impact on these retailers and continue to achieve the purpose of the proposed amendments. The impact to small- or micro-business retailers who properly conduct business under a retailer license will vary based on the customer response to their localities. This impact is unquantifiable.

Pursuant to Texas Government Code §2001.0221, the Commission provides the following Government Growth Impact Statement for the proposed amendments. For each year of the first five years the proposed amendments will be in effect, Sergio Rey, Chief Financial Officer, has determined the following:

- (1) The proposed amendments do not create or eliminate a government program.
- (2) Implementation of the proposed amendments does not require the creation of new employee positions or the elimination of existing employee positions.
- (3) Implementation of the proposed amendments does not require an increase or decrease in future legislative appropriations to the Commission.
- (4) The proposed amendments do not require an increase or decrease in fees paid to the Commission.
- (5) The proposed amendments do create new regulations.
- (6) The proposed amendments expand an existing regulation.
- (7) The proposed amendments do not increase or decrease the number of individuals subject to the rule's applicability.
- (8) The proposed amendments do not positively or adversely affect this state's economy.

The Commission requests comments on the proposed amendments from any interested person. Comments may be submitted to Bob Biard, General Counsel, by mail at Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630; by facsimile at (512) 344-5189; or by email at legal.input@lottery.state.tx.us. Comments must be received within 30 days after publication of this proposal in the *Texas Register* to be considered. The Commission will also hold a public hearing to receive comments on this proposal at 10:00 a.m. on April 3, 2025, at 1801 Congress Ave., George H. W. Bush Building, 4th Floor, Board Room 4.300, Austin, Texas 78701.

SUBCHAPTER B. LICENSING OF SALES AGENTS

16 TAC §401.158, §401.160

These amendments are proposed under Texas Government Code §466.015(c)(15)(A), which authorizes the Commission to adopt rules to promote and ensure the integrity, security, honesty, and fairness of the operation and administration of the lottery; and §467.102, which authorizes the Commission to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction.

This proposal is intended to implement Texas Government Code, Chapter 466.

§401.158. *Suspension or Revocation of License.*

(a) (No change.)

(b) Without limiting the commission's ability to consider factors listed in §401.153(b) of this title as grounds for suspension or revocation of a license issued under this subchapter, the commission may also suspend or revoke a license for reasons including, but not limited to, any of the following:

(1) - (26) (No change.)

(27) licensee sells tickets over the telephone or Internet, [~~internet~~] or via mail order sales; or establishes or promotes a group purchase or pooling arrangement under which tickets are purchased on behalf of the group or pool and any prize is divided among the members of the group or pool, and the licensee intentionally or knowingly:

(A) uses any part of the funds solicited or accepted for a purpose other than purchasing tickets on behalf of the group or pool; or

(B) retains a share of any prize awarded as compensation for establishing or promoting the group purchase or pooling arrangement;

(28) - (40) (No change.)

(41) licensee fails to pay the full amount of money owed to the commission after a nonsufficient funds transfer or non-transfer of funds to the commission's account (revocation only); [~~or~~]

(42) licensee knowingly sells tickets to, works with, or otherwise assists a lottery ticket courier service (revocation only); or

(43) [(42)] licensee has violated a provision of the State Lottery Act, Government Code, Chapter 466, or a commission rule adopted under the State Lottery Act.

(c) For purposes of this chapter, the term "lottery ticket courier service" means a service that, by any remote means, such as telephone, Internet application, or mobile application, accepts and fulfills, for a fee or compensation, orders to purchase lottery tickets on behalf of another person not present to effect an in-person sale.

§401.160. *Standard Penalty Chart.*

(a) - (g) (No change.)

(h) Standard Penalty Chart.

Figure: 16 TAC §401.160(h)
~~Figure: 16 TAC §401.160(h)~~

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 5, 2025.

TRD-202500797

Bob Biard

General Counsel

Texas Lottery Commission

Earliest possible date of adoption: April 20, 2025

For further information, please call: (512) 344-5392



SUBCHAPTER E. RETAILER RULES

16 TAC §401.355

These amendments are proposed under Texas Government Code §466.015(c)(15)(A), which authorizes the Commission

to adopt rules to promote and ensure the integrity, security, honesty, and fairness of the operation and administration of the lottery; and §467.102, which authorizes the Commission to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction.

This proposal is intended to implement Texas Government Code, Chapter 466.

§401.355. *Restricted Sales.*

(a) Retailers shall not sell lottery tickets via the Internet [~~internet~~] or by mail, phone, fax, or other similar method of communications. Retailers shall not sell a lottery ticket or any other document evidencing a right, privilege, or share in a lottery ticket from another jurisdiction by any means.

(b) Retailers shall not knowingly sell tickets to, work with, or otherwise assist a lottery ticket courier service.

(c) [~~(b)~~] Retailers shall not sell tickets to persons under the age of 18. Any ticket purchased by or sold to an individual under the age of 18 years shall be void and the prize otherwise payable on the ticket is treated as an unclaimed prize under Texas Government Code §466.408.

(d) [~~(c)~~] Retailers shall not sell a ticket or pay a lottery prize to another person that the retailer knows is:

(1) an officer or an employee of the commission;

(2) an officer, member, or employee of a lottery operator;

(3) an officer, member, or employee of a contractor or subcontractor that is excluded by the terms of its contract from playing lottery games;

(4) the spouse, child, brother, sister, or parent of a person described by paragraph (1), (2), or (3) of this subsection who resides within the same household as that person.

(e) [~~(d)~~] Retailers shall not sell tickets from a game after the game's closing date.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 5, 2025.

TRD-202500798

Bob Biard

General Counsel

Texas Lottery Commission

Earliest possible date of adoption: April 20, 2025

For further information, please call: (512) 344-5392



TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 55. DATA GOVERNANCE AND REPORTING THROUGH AN AUTOMATED SYSTEM

19 TAC §55.1001

The Texas Education Agency (TEA) proposes new §55.1001, concerning Public Education Information Management System (PEIMS) data and reporting standards. The proposed new sec-

tion would relocate existing standards from 19 TAC §61.1025 with no changes to the content of the rule.

BACKGROUND INFORMATION AND JUSTIFICATION: Proposed new §55.1001 would move existing language from 19 TAC §61.1025, which relates to PEIMS data and reporting standards. The relocation is necessary due to a comprehensive reorganization of 19 TAC Chapter 61. No changes from the existing rule are proposed.

FISCAL IMPACT: Terri Hanson, associate commissioner for data and business, has determined that for the first five-year period the proposal is in effect, there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would create a new regulation to relocate existing standards.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not expand, limit, or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Ms. Hanson has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be allowing for TEA rules to be reorganized. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins March 21, 2025, and ends April 21, 2025. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received

by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on March 21, 2025. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_\(TAC\)/Proposed_Commissioner_of_Education_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/).

STATUTORY AUTHORITY. The new section is proposed under Texas Education Code (TEC), §48.008, which establishes the Public Education Information Management System (PEIMS), a system school districts shall use to report information to the agency; and TEC, §48.009, which specifies certain required reporting by school districts through PEIMS.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code, §48.008 and §48.009.

§55.1001. Public Education Information Management System (PEIMS) Data and Reporting Standards.

(a) Data submissions. The Public Education Information Management System (PEIMS) consists of all data submitted by school districts, charter schools, campuses, and other educational organizations and entities to the Texas Education Agency (TEA).

(b) Standards. Data standards, established by the commissioner of education under Texas Education Code (TEC), §48.008, shall be used by school districts and charter schools to submit information required for the legislature and the TEA to perform their legally authorized functions. Data standards shall be published annually in official TEA publications. These publications shall be widely disseminated and include:

(1) descriptions of the data collections and submission requirements;

(2) descriptions of data elements and the codes used to report them, which include the number of reported incidents of bullying, including cyberbullying, that have occurred at each campus; the number of reported incidents of cyberbullying at each campus; and pregnancy as a reason a student withdraws from or otherwise no longer attends public school;

(3) detailed responsibilities of school districts, education service centers, and the TEA in connection with the data submission processes, including each deadline for submission and resubmission; and

(4) descriptions of the data submission requirements, including submission record layout specifications and data edit specifications.

(c) External review process. The commissioner shall establish a policy advisory group that provides oversight of data collections and reporting standards policies. The policy advisory group membership shall be composed of representatives of school districts, charter schools, education service centers, state government, and educational associations. Subcommittees consisting of technical experts and representatives from user groups may be established by the commissioner to provide timely and impartial reviews of requested changes or additions to TEA data collections and reporting standards. The procedure for adding, deleting, or modifying data elements described in paragraphs (1)-(5) of this subsection provides consistency in updates to the data and reporting standards. The commissioner may approve changes to the data and reporting standards outside this process if necessary to expedite implementation of data collections and reporting.

(1) Prepare proposal. A written proposal is prepared to add, delete, or modify data elements. The proposal provides justification for

the data collection, determination of data availability, and definitions of critical attributes and required analyses of requested data elements.

(2) Conduct research. Survey a sampling of districts to update and refine cost estimates, assess district burden, and determine any benefits from a pilot of the data collection.

(3) Solicit feedback. The subcommittee(s) established by the commissioner and other appropriate TEA committees review proposals and make formal, written recommendations to the policy advisory group. The policy advisory group reviews proposals and committee recommendations and makes recommendations to the commissioner for approval, modification, or rejection of the proposed changes.

(4) Collect data. Data standards and software made available to districts online are updated annually, implementing changes to data submissions requirements.

(5) Reevaluate data requirements. All data elements are reviewed by the commissioner-appointed subcommittee(s) and policy advisory group on a three-year cycle as part of an ongoing sunset process. The sunset process is designed to ensure that data standards meet the requirements specified in TEC, §48.008(c)(1)-(3) and (d).

(d) Internal review process. The commissioner shall establish and determine the membership of a TEA committee that provides oversight of the TEA data collections and reporting policies. The commissioner shall also establish a TEA subcommittee that reviews data collections and reporting standards according to the requirements specified in TEC, §48.008(c)(1)-(3) and (d). The subcommittee is also responsible for maintaining data collections at the TEA. The procedure for adding, deleting, or modifying data elements described in subsection (c)(1)-(5) of this section provides consistency in updates to data and reporting standards. The commissioner may approve changes to data and reporting standards outside this process if necessary to expedite implementation.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 10, 2025.

TRD-202500836

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: April 20, 2025

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



CHAPTER 61. SCHOOL DISTRICTS

SUBCHAPTER BB. COMMISSIONER'S RULES ON REPORTING REQUIREMENTS

19 TAC §61.1025

The Texas Education Agency (TEA) proposes the repeal of §61.1025, concerning Public Education Information Management System (PEIMS) data and reporting standards. The proposed repeal would relocate the existing standards to proposed new 19 TAC §55.1001 with no changes to the content of the rule.

BACKGROUND INFORMATION AND JUSTIFICATION: Section 61.1025 outlines data and reporting standards for PEIMS. The proposed repeal of §61.1025 would move the existing language

to proposed new §55.1001. The relocation is necessary due to a comprehensive reorganization of 19 TAC Chapter 61.

FISCAL IMPACT: Terri Hanson, associate commissioner for data and business, has determined that for the first five-year period the proposal is in effect, there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would repeal an existing regulation to relocate the standards.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand or limit an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Ms. Hanson has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be allowing for TEA rules to be reorganized. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins March 21, 2025, and ends April 21, 2025. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on March 21, 2025. A form for submitting public comments is available on the TEA website at https://tea.texas.gov/About_TEA/Laws_and_Rules/Com-

missioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/.

STATUTORY AUTHORITY. The repeal is proposed under Texas Education Code (TEC), §48.008, which establishes the Public Education Information Management System (PEIMS), a system school districts shall use to report information to the agency; and TEC, §48.009, which specifies certain required reporting by school districts through PEIMS.

CROSS REFERENCE TO STATUTE. The repeal implements Texas Education Code, §48.008 and §48.009.

§61.1025. *Public Education Information Management System (PEIMS) Data and Reporting Standards.*

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 10, 2025.

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Texas Education Agency

Earliest possible date of adoption: April 20, 2025

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



CHAPTER 100. CHARTERS
SUBCHAPTER AA. COMMISSIONER'S
RULES CONCERNING OPEN-ENROLLMENT
CHARTER SCHOOLS
DIVISION 3. COMMISSIONER ACTION,
PERFORMANCE MONITORING, AND
INTERVENTION

19 TAC §§100.1033, 100.1035, 100.1037, 100.1039

The Texas Education Agency (TEA) proposes new §100.1033 and amendments to §§100.1035, 100.1037, and 100.1039, concerning commissioner action, performance monitoring, and intervention for open-enrollment charter schools. The revisions would establish performance frameworks for charter schools established under Texas Education Code (TEC), Chapter 12, Subchapter G, including adult charter schools and adult charter schools in correctional facilities, by defining evaluation criteria in the new Adult Charter School Performance Framework (ACSPF) Manual. The manual would tie charter amendments, renewals, and expansions to these performance standards, including enrollment caps and discretionary renewal. The proposed revisions would also update existing rules regarding expansion and renewal to reference the new performance frameworks.

BACKGROUND INFORMATION AND JUSTIFICATION: The proposed revisions would add new §100.1033 to specify performance frameworks for Subchapter G charter schools and amend §§100.1035, 100.1037, and 100.1039 to include information relevant to Subchapter G charter schools.

New §100.1033(a) would be added to establish performance frameworks for adult charter schools, including adult charter schools in correctional facilities. It would provide the foundation

for creating the ACSPF Manual, detailing the timeframe for updates, performance domains, criteria for assigning performance levels, and indicators used to evaluate academic, operational, and governance performance.

New §100.1033(b) would be added to detail the measures the ACSPF Manual would include for Subchapter G charter schools. It would also encompass performance domains that evaluate academic growth, career readiness, one-year post-graduation outcomes, longitudinal postsecondary results, longitudinal wage and career growth, and operational performance.

New §100.1033(c) would be added to outline the performance levels for charter schools in the ACSPF report according to the criteria defined in the ACSPF Manual. These criteria include academic, financial, operational, and governance indicators.

The proposed amendment to §100.1035(b)(3) would add language to include Subchapter G charter schools, incorporating their performance under §100.1033 into the evaluation criteria for charter amendment requests.

The proposed amendment to §100.1035(c)(1)(B) would insert language that establishes a deadline for when expansion requests must be submitted for Subchapter G charter schools.

The proposed amendment to §100.1035(5)(A)(i) would add language that grants the commissioner of education authority to approve expansion amendment requests related to increasing maximum allowable enrollment, with a specific limitation that Subchapter G charter schools cannot exceed an enrollment cap of 2,000 students.

The proposed amendment to §100.1037(d)(2)(A) would insert language that requires the commissioner to consider the results of a Subchapter G charter school's annual evaluation under the ACSPF Manual when evaluating a petition for discretionary renewal.

The proposed amendment to §100.1037 would add new subsection (f) to specify the criteria, requirements, or special conditions Subchapter G charter schools must meet to qualify for renewal.

New §100.1037(f)(1) would be added to clarify the process for discretionary renewal. This change would allow adult high school charters to submit petitions for discretionary renewal, which must be evaluated through the discretionary renewal process. Under this new paragraph, these schools would not be eligible to apply for expedited renewal.

New §100.1037(f)(2) would be added to establish the criteria for discretionary renewal. It would clarify the standard by which the commissioner will evaluate petitions for discretionary renewal. The overall evaluation process would be based on the academic performance criteria outlined in the ACSPF Manual.

New §100.1037(f)(3) would clarify the commissioner's authority to revoke a Subchapter G charter school's charter if the charter school's adult education program fails to meet the minimum performance standards established in the ACSPF for three consecutive school years after the second year of operation.

The proposed amendment to §100.1039(3)(F) would insert language specifying that Subchapter G charter schools must meet the performance measures outlined in the ACSPF or risk revocation of their charter.

FISCAL IMPACT: Marian Schutte, deputy associate commissioner for authorizing, has determined that for the first five-year period the proposal is in effect, there are no additional costs

to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: TEA staff assessed the Government Growth Impact Statement for the proposed rule-making. During the first five years the proposed rulemaking would be in effect, it would create a new regulation and expand existing regulations by establishing standards for evaluating the performance of Subchapter G charter schools, including adult charter schools and adult charter schools in correctional facilities.

The proposal would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not limit or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Ms. Schutte has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to create clear performance frameworks and evaluation criteria for Subchapter G charter schools, including adult charter schools and adult charter schools in correctional facilities, ensuring accountability and consistent quality standards that meet the needs of adult learners and workforce readiness. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would introduce data and reporting responsibilities for authorized Subchapter G adult high school charter schools. This framework would expand upon the existing Charter School Performance Framework by incorporating additional metrics specifically tailored to the performance and accountability standards for adult high school programs. Schools would be required to submit annual data through various collection methods, including survey tools and school-provided data, ensuring comprehensive reporting at the district level. Compliance with this mandatory reporting would be grounded in legal mandates such as TEC, §12.262, with data informing state oversight and decision-making processes.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not

require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins March 21, 2025, and ends April 21, 2025. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on March 21, 2025. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_\(TAC\)/Proposed_Commissioner_of_Education_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/).

STATUTORY AUTHORITY. The new section and amendments are proposed under Texas Education Code (TEC), §12.262, which requires the commissioner, working alongside the advisory committee established under TEC, §12.254, to develop and adopt an accountability framework. This framework must establish standards to evaluate the performance of adult education programs operating under charters granted under TEC, Chapter 12, Subchapter G; and TEC, §12.265, which requires the commissioner to adopt rules necessary to administer the program under TEC, Chapter 12, Subchapter G, including rules to implement and administer TEC, §12.262, and allows the commissioner to establish maximum number of students who may be enrolled in an adult education program under TEC, Subchapter G.

CROSS REFERENCE TO STATUTE. The new section and amendments implement Texas Education Code, §12.262 and §12.265.

§100.1033. Performance Frameworks for Subchapter G Charter Schools.

(a) The performance of an adult high school charter school program will be measured annually against criteria set forth in the Adult Charter School Performance Framework (ACSPF) Manual established under Texas Education Code (TEC), §12.262. The ACSPF Manual also contains the framework for a school located in a correctional facility, as that term is defined by Texas Penal Code, §1.07. Notwithstanding substantial modifications to the framework, the manual will be updated annually to reflect the requirements and data sources for each indicator.

(b) The ACSPF Manual will include measures for Subchapter G charter schools and include performance domains that measure:

- (1) academic growth;
- (2) career readiness;
- (3) one-year post-graduation and longitudinal postsecondary outcomes;
- (4) longitudinal wage and career growth; and
- (5) operational performance.

(c) The assignment of performance levels Tier 1, Tier 2, or Tier 3 for charter schools on the ACSPF report is based on specific criteria described in the ACSPF Manual, which include:

- (1) Academic Indicators: the charter school's performance on academic growth, career readiness, one-year post-graduation and longitudinal postsecondary outcomes, and longitudinal wage and career growth;
- (2) Financial Indicator: the charter school's overall financial rating as assigned under TEC, Chapter 39, Subchapter D;

(3) Operational Indicators, which evaluate each charter school's compliance with educational, operational, safety, and reporting requirements as required by federal law, state law, state rules or regulations, and/or the charter contract, including those outlined in TEC, Chapter 12, and this chapter; and

(4) Governance Indicators, which evaluate each charter school's compliance with state law and state rules or regulations with governance requirements, including those outlined in TEC, Chapter 12, and this chapter.

§100.1035. *Charter Amendment.*

(a) Subject to the requirements of this section, the terms of an open-enrollment charter may be revised with the consent of the charter holder by expansion or non-expansion amendment as approved by the commissioner of education.

(b) Information relevant to all amendment requests.

(1) Filing of amendment request. Prior to implementation, the charter holder shall file a request, in the form prescribed, with the Texas Education Agency (TEA) division responsible for charter schools.

(2) Board resolution. The request must be attached to a written resolution adopted by the governing body of the charter holder and signed by a majority of the members indicating approval of the requested amendment.

(3) Relevant information considered. As directed by the commissioner, a charter holder requesting an amendment shall submit current information required by the prescribed amendment form, as well as any other information requested by the commissioner. In considering the amendment request, the commissioner may consider any relevant information concerning the charter holder, including its performance on the Charter School Performance Frameworks (CSPF) adopted by rule in §100.1031 of this title (relating to Performance Frameworks for Subchapters D and E Charter Schools) and §100.1033 of this title (relating to Performance Frameworks for Subchapter G Charter Schools); student and other performance; compliance, staff, financial, and organizational data; and other information.

(4) Best interest of students. The commissioner may approve an amendment only if the charter holder meets all applicable requirements, and only if the commissioner determines that the amendment is in the best interest of students. The commissioner may consider the performance of all charters operated by the same charter holder in the decision to finally grant or deny an amendment.

(5) Conditional approval. The commissioner may grant the amendment without condition or may require compliance with such conditions and/or requirements as may be in the best interest of students.

(6) Required forms and formats. The TEA division responsible for charter schools may develop and promulgate, from time to time, forms or formats for requesting charter amendments under this section. If a form or format is promulgated for a particular type of amendment, it must be used to request an amendment of that type.

(7) Ineligibility. The commissioner will not consider any amendment that is submitted by a charter holder that has been notified by the commissioner of the commissioner's intent to allow the expiration of the charter or intent to revoke the charter. This subsection does not limit the commissioner's authority to accept the surrender of a charter.

(c) Expansion amendments.

(1) Timeline for submission. A charter holder may submit a request for approval for an expansion amendment:

(A) up to 36 months before the date on which the expansion will be effective; and

(B) no later than the first day of March before the school year for which the expansion will be effective or no later than June 30 of each year for which the expansion will be effective for Subchapter G charter schools.

(2) Notification.

(A) Upon receipt of an expansion amendment request by a charter holder, the TEA division responsible for charter schools will notify the following:

(i) the superintendent and the board of trustees of each school district from which the proposed open-enrollment charter school or campus is likely to draw students, as defined in §100.1013 of this title (relating to Notification of Charter Application); and

(ii) each member of the legislature that represents the geographic area to be served by the proposed school or campus, as defined in §100.1013 of this title.

(B) To be considered a school district for purposes related to land development standards, licensing, zoning, and various purposes and services, a charter school must meet the notification requirements as outlined in §100.1209 of this title (relating to Municipal Ordinances).

(C) Should a change in the location of a campus be approved after notification but prior to opening, the commissioner of education or the commissioner's designee is required to notify as required by subparagraph (A) of this paragraph based on the zip code of the new location.

(3) Expansion types. A charter holder of an open-enrollment charter may submit, as described by this section, a request for approval for either:

(A) expedited expansion; or

(B) discretionary expansion.

(4) Expedited expansion amendments. An expedited expansion amendment allows for the establishment of a new charter campus under Texas Education Code (TEC), §12.101(b-4).

(A) In order to submit an expedited expansion amendment, the charter school must meet the following requirements:

(i) an accreditation status of Accredited;

(ii) currently has at least 50% of its student population in grades assessed under TEC, Chapter 39, Subchapter B, or has had at least 50% of the students in the grades assessed enrolled in the school for at least three years;

(iii) is currently evaluated under the standard accountability procedures for evaluation under TEC, Chapter 39, and received a district rating in the highest or second highest performance rating category under TEC, Chapter 39, Subchapter C, for three of the last five ratings;

(iv) at least 75% of the campuses rated under the charter school also received a rating in the highest or second highest performance rating category in the most recent ratings; and

(v) no campus received a rating in the lowest performance rating category in the most recent ratings.

(B) Unless the commissioner provides written notice that the charter holder does not meet the requirements outlined in TEC, §12.101(b-4), within 60 days of the date the charter holder submits a completed expedited expansion amendment, the amendment is considered enacted. If the commissioner denies the amendment, the commissioner must identify the legal and factual basis for denial, including the specific criteria under TEC, §12.101(b-4), that was not met.

(5) Discretionary expansion amendments. A discretionary expansion amendment permits commissioner-approved changes to the terms of an open-enrollment charter school related to expansion.

(A) Discretionary expansion amendment types. There are three types of discretionary amendments.

(i) Maximum enrollment. The commissioner may approve an expansion amendment request seeking to increase maximum allowable enrollment. For Subchapter G charter schools, the maximum enrollment may not exceed more than 2,000 students.

(ii) Grade span. The commissioner may approve an expansion amendment request seeking to extend the grade levels it serves only if it is accompanied by appropriate educational plans for the additional grade levels in accordance with Chapter 74, Subchapter A, of this title (relating to Required Curriculum), and such plan has been reviewed and approved by the charter governing board.

(iii) Adding a campus or site. The commissioner may approve an expansion amendment request seeking to add a new campus or site under a campus only if it meets the following criteria:

(I) the charter holder has operated at least one charter school campus in Texas for a minimum of three consecutive years; and

(II) a new site under an existing campus will be located within 25 miles of the campus with which it is associated.

(B) Board certification. Before voting to request a discretionary expansion amendment, the charter holder governing board must certify that they have considered a business plan and has determined by majority vote of the board that the growth proposed is financially prudent relative to the financial and operational strength of the charter school and includes such a statement in the board resolution. The commissioner may request submission of the business plan, which must be comprised of the following components:

(i) a statement discussing the need for the expansion;

(ii) a statement discussing the current and projected financial condition of the charter holder and charter school;

(iii) an unaudited statement of financial position for the current fiscal year;

(iv) an unaudited statement of financial activities for the current fiscal year;

(v) an unaudited statement of cash flows for the current fiscal year;

(vi) a pro forma budget that includes the costs of operating the charter school, including the implementation of the expansion amendment;

(vii) a statement or schedule that identifies the assumptions used to calculate the charter school's estimated Foundation School Program revenues;

(viii) a statement discussing the use of debt instruments to finance part or all of the charter school's incremental costs;

(ix) a statement discussing the incremental cost of acquiring additional facilities, furniture, and equipment to accommodate the anticipated increase in student enrollment;

(x) a statement discussing the incremental cost of additional on-site personnel and identifying the additional number of full-time equivalents that will be employed;

(xi) the required statement that the growth proposed is financially prudent relative to the financial and operational strength of the charter school;

(xii) there are no instances of nepotism, conflicts of interest, or revelations in criminal history checks that deemed any board member or employee ineligible to serve as reported in the Governance Reporting Forms submitted to TEA for the previous three years; and

(xiii) the charter holder meets all other requirements applicable to expansion amendment requests and other amendments.

(C) Requirements. The commissioner may approve a discretionary expansion amendment only if:

(i) the expansion will be effective no earlier than the start of the fourth full school year at the affected charter school. This restriction does not apply if the affected charter school has a district rating of an A, B, or C and is operated by a charter holder that operates multiple charter campuses and all of that charter holder's most recent campus ratings of an A, B, or C;

(ii) the charter school has an accreditation status of Accredited;

(iii) the most recent district rating for the charter school is an A, B, or C;

(iv) the most recent district financial accountability rating for the charter school in the Financial Integrity Rating System of Texas for charter schools is "satisfactory" as defined by §100.1001(9) of this title (relating to Definitions);

(v) a charter holder that operates multiple charter campuses meets the criteria in subclause (I) or (II) of this clause. When calculating the percentages described, campuses that receive a 'Not Rated' rating shall not be included in the calculation.

(I) At least 90% of the campuses that receive an accountability rating are rated as an A, B, or C.

(II) If 75-89% of campuses that receive an accountability rating under the charter school are rated as an A, B, or C, the charter holder must provide additional information with the expansion request; and

(vi) the most recent designation for the charter school under the CSPF is "Tier 1" or "Tier 2" as defined by §100.1031 of this title.

(D) Discretionary expansion amendment determination timeline. Notice of the commissioner's decision regarding a discretionary expansion amendment will be made within 60 calendar days of the date the charter holder submits a completed amendment request. The notice of the commissioner's determination may be sent electronically.

(6) High-quality campus designation. A high-quality campus designation is a separate designation and must be requested prior to the opening of a new campus associated with an approved expansion amendment. Charter holders of charter schools that receive high-quality campus designation from the commissioner will be eligible to par-

ticipate in the charter school program competitive grant process when federal funding for the Texas charter school program is available.

(A) The commissioner may approve a high-quality campus designation for a charter only if:

(i) the charter holder meets all requirements applicable to an expansion amendment set forth in this section and has operated at least one charter school campus in Texas for a minimum of five consecutive years;

(ii) the charter school has been evaluated under the accountability rating system established in §97.1001 of this title (relating to Accountability Rating System), has an accreditation status of Accredited, is currently evaluated under the standard accountability procedures, currently has an "A" or "B" rating at the local education agency level, and has an "A" or "B" rating in the previous two years in which ratings were issued with each campus that received a rating and operated under the charter also receiving an "A" or "B" rating as defined by §100.1001(8) of this title in the most recent state accountability ratings;

(iii) no charter campus has been identified for federal interventions in the most current report;

(iv) the charter school is not under any sanction imposed by TEA authorized under TEC, Chapter 39; Chapter 97, Subchapter EE, of this title (relating to Accreditation Status, Standards, and Sanctions); or federal requirements;

(v) is rated "Tier 1" in the most recent CSPF and meets the requirements of federal law and TEC, §12.111(a)(3) and (4);

(vi) the charter holder completes an application approved by the commissioner;

(vii) the amendment complies with all requirements of this paragraph; and

(viii) the commissioner determines that the designation is in the best interest of students.

(B) In addition to the requirements of subparagraph (A) of this paragraph, the commissioner may approve a high-quality campus designation only if the campus with the proposed designation:

(i) satisfies each element of the definition of a public charter school as set forth in federal law, including:

(I) admits students on the basis of a lottery, consistent with Elementary and Secondary Education Act, §4303(c)(3)(A), if more students apply for admission than can be accommodated; or

(II) in the case of a school that has an affiliated charter school (such as a school that is part of the same network of schools), automatically enrolls students who are enrolled in the immediate prior grade level of the affiliated charter school and, for any additional student openings or student openings created through regular attrition in student enrollment in the affiliated charter school and the enrolling school, admits students on the basis of a lottery as described in subclause (I) of this clause;

(ii) is separate and distinct from the existing charter school campus(es) established under the open-enrollment charter school with a separate facility and county-district-campus number; and

(iii) holds a valid charter contract issued by TEA.

(C) In making the findings required by subparagraph (B)(i) and (iii) of this paragraph, the commissioner shall consider:

(i) the terms of the open-enrollment charter school as a whole, as modified by the high-quality campus designation; and

(ii) whether the campus with the proposed designation shall be established and recognized as a separate school under Texas law.

(D) Failure to meet any standard or requirement for high-quality campus designation or agreed to in a performance agreement shall mean the immediate termination of any federal charter school program grant and/or any waiver exempting a charter from some of the expansion amendment requirements that may have been granted to a charter holder as a result of the high-quality campus designation.

(E) Notice of the commissioner's decision regarding a high-quality campus designation will be made within 60 calendar days of the date the charter holder submits a completed request. The notice of the commissioner's determination may be sent electronically.

(d) Non-expansion amendment. A non-expansion amendment permits changes to the terms of an open-enrollment charter school not related to expansion.

(1) Timeline for submission. All non-expansion amendments may be filed with the commissioner at any time throughout the year.

(2) Non-expansion amendment types. A non-expansion amendment is either material or non-material.

(A) Material non-expansion amendments include changes to the terms of an open-enrollment charter, including the following: relocation of a campus, campus or charter dormancy, closing or returning an active campus or site, charter holder governance, articles of incorporation, corporate bylaws, management company, admission and enrollment policy, shared services cooperatives or shared services agreements, and curriculum programs not already approved by TEA.

(i) Relocation amendment. A material non-expansion amendment to relocate solely permits a charter holder to relocate an existing campus or site to an alternate address while serving the same students and grade levels without a significant disruption to the delivery of the educational services. The alternate address of the relocation shall not be in excess of 25 miles from the existing campus address.

(ii) Material charter language change. Any material non-expansion amendment that requires changes to charter language shall set forth the text and page references in electronic format of the current open-enrollment charter language to be changed, and the text proposed as the new open-enrollment charter language.

(B) Non-material non-expansion amendments include changes to the terms of an open-enrollment charter, including the following: charter holder name, charter school (district) name, charter campus name, grade levels served on a campus, campus start date change, closing or returning a dormant campus or site, and fiscal year change.

(C) Any non-expansion amendment not identified in subparagraph (A) or (B) of this paragraph is subject to commissioner determination as material or non-material.

(D) The following timelines apply to non-expansion amendment requests.

(i) Charter holders that submit material non-expansion requests will receive notice of the commissioner's decision within 60 calendar days of a completed amendment request.

(ii) Charter holders that submit non-material non-expansion requests may proceed with the request 30 calendar days af-

ter the date the charter holder submits a completed amendment request unless otherwise notified by the commissioner.

§100.1037. Renewal of an Open-Enrollment Charter.

(a) Petition for renewal.

(1) A charter holder of an open-enrollment charter may submit, as described by this section, a petition for:

- (A) expedited renewal; or
- (B) discretionary renewal.

(2) A petition for renewal of the charter must be submitted on the date provided by the Texas Education Agency (TEA) annually, prior to the expiration of the charter contract.

(3) A petition for renewal must be in the form provided by TEA and shall include all information and documentation required by the form.

(4) If a charter holder fails to submit a timely and sufficient petition for renewal of an open-enrollment charter, the existing charter may expire at the end of its term.

(b) Expedited renewal. If a charter holder submits the petition for expedited renewal, the commissioner of education will approve or deny the expedited renewal not later than the 30th day after the date of the charter holder submission. A charter holder may submit a petition for expedited renewal if:

(1) the charter holder has been assigned the highest or second highest performance rating under Texas Education Code (TEC), Chapter 39, Subchapter C, for the three preceding school years;

(2) the charter holder has been assigned a financial performance accountability rating under TEC, Chapter 39, Subchapter D, indicating financial performance that is satisfactory or better for the three preceding school years; and

(3) no campus operating under the charter has been assigned an unacceptable performance rating under TEC, Chapter 39, Subchapter C, for the three preceding school years or such a campus has been closed.

(c) Expiration. Notwithstanding any other law and in accordance with TEC, §12.1141(e), a determination by the commissioner of education under this subsection is final and may not be appealed. The commissioner may not renew the charter and must allow the charter to expire if:

(1) the charter holder has been assigned the unacceptable performance rating under TEC, Chapter 39, Subchapter C, for any three of the five preceding school years;

(2) the charter holder has been assigned a financial accountability performance rating under TEC, Chapter 39, Subchapter D, indicating financial performance that is lower than satisfactory for any three of the five preceding school years;

(3) the charter holder has been assigned any combination of the ratings described by paragraph (1) or (2) of this subsection for any three of the five preceding school years. For purposes of determining a combination, a school that earned a financial and academic rating as described in paragraphs (1) and (2) of this subsection in the same year will count once; or

(4) any campus operating under the charter has been assigned an unacceptable performance rating under TEC, Chapter 39, Subchapter C, for the three preceding school years and such a campus, and if applicable, all sites associated with the campus, has not been closed.

(d) Discretionary renewal.

(1) A charter holder may submit a petition for discretionary renewal if it:

- (A) does not qualify to submit the petition for expedited renewal; or
- (B) is not subject to an expiration under subsection (c) of this section.

(2) In evaluating the petition for discretionary renewal, the commissioner shall consider:

(A) the results of the charter's annual evaluation under the performance framework set forth in the Charter School Performance Framework (CSPF) Manual established under TEC, §12.1181, or the results of the charter's annual evaluation under the performance framework set forth in the Adult Charter School Performance Framework (ACSPF) Manual established under TEC, §12.262; and

(B) the criteria described under §100.1039 of this title (relating to Standards for Discretionary Renewal).

(e) Special rules for alternative education accountability (AEA) charters. The following provisions apply to the renewal of the charter of an open-enrollment charter school that is registered under the TEA AEA procedures for evaluation under TEC, Chapter 39.

(1) Discretionary renewal of AEA charters. An AEA charter may submit the petition for discretionary renewal and the petition must be considered under the discretionary renewal process. An AEA charter may not submit a petition for expedited renewal.

(2) Academic criteria for discretionary renewal of AEA charters.

(A) In considering a petition for discretionary renewal by an AEA charter such as a dropout recovery school or a school providing education within a residential treatment facility, the commissioner shall use academic criteria as outlined in the CSPF Manual established under TEC, §12.1181, that is appropriate to measure the specific goals of the school.

(B) For purposes of this subsection, the commissioner shall designate as a dropout recovery school an open-enrollment charter school or a campus of an open-enrollment charter school that:

(i) serves students in Grades 9-12 and has an enrollment of which at least 60% of the students are 16 years of age or older as of September 1 of the school year as reported for the fall semester Public Education Information Management System submission or applies for and receives designation as a dropout recovery school in accordance with commissioner rule; and

(ii) meets the eligibility requirements for and is registered under alternative education accountability procedures adopted by the commissioner.

(3) Expiration of AEA charters. The commissioner may not renew and must allow an AEA charter to expire if the charter holder has been assigned a financial accountability performance rating under TEC, Chapter 39, Subchapter D, indicating financial performance that is lower than satisfactory for any three of the five preceding school years.

(f) Special rules for adult high school charter school program charters. The following provisions apply to the renewal of the charter of an adult high school charter school authorized under TEC, Chapter 12, Subchapter G.

(1) Discretionary renewal of adult high school charter school charters. An adult high school charter school may submit the petition for discretionary renewal, and the petition must be considered under the discretionary renewal process. An adult high school charter school may not submit a petition for expedited renewal.

(2) Academic criteria for discretionary renewal of adult high school charter school program charters. In considering a petition for discretionary renewal by an adult high school charter school, the commissioner shall use academic criteria as outlined in the ACSFP Manual established under TEC, §12.262.

(3) Revocation of adult high school charter school charters. The commissioner may revoke a charter to operate an adult education program if the charter's adult education program fails to meet the minimum performance standards established in the ACSFP adopted by rule in §100.1033 of this title (relating to Performance Frameworks for Subchapter G Charter Schools) for three consecutive school years after the second year of operation.

(g) [(f)] Notice and content of renewal decision or determination.

(1) Expedited renewal decision. Not later than the 30th day after the submission of a petition for expedited renewal, the commissioner shall provide written notice to the charter holder of the commissioner's decision to grant or deny the petition. If the expedited renewal is denied, the notice shall include an explanation of the factual and legal basis for the decision, a description of the legally relevant factors considered, an explanation of why the result reached is reasonable, and a description of the procedures to seek a review of the decision.

(2) Discretionary renewal decision. Not later than the 90th day after the submission of a petition for discretionary renewal, the commissioner shall provide written notice to the charter holder of the commissioner's decision to grant or deny the petition. If the discretionary renewal is denied, the notice shall include an explanation of the factual and legal basis for the decision, a description of the legally relevant factors considered, an explanation of why the result reached is reasonable, and a description of the procedures to seek a review of the determination.

(3) Expiration determination. The commissioner shall provide written notice to the charter holder of the commissioner's determination that the charter must expire. In the event a charter holder that meets the criteria for expiration submits a petition for renewal, the commissioner, not later than the 90th day after the submission, shall provide written notice to the charter holder of the commissioner's decision to deny the petition. Determinations made by the commissioner are final and may not be appealed. The notice shall include an explanation of the factual and legal basis for the determination, a description of the legally relevant factors considered, and an explanation of why the result reached is reasonable.

(4) Delivery and effective date of notice. The commissioner shall provide written notice electronically to the charter holder. Notice is effective on the sent date of the electronic notification.

(h) [(g)] Appeal of renewal decisions and determinations. A decision by the commissioner to deny the petition for an expedited renewal or the petition for a discretionary renewal is subject to review by the State Office of Administrative Hearings under an arbitrary and capricious or clearly erroneous standard as described under Chapter 157, Subchapter EE, Division 4, of this title (relating to State Office of Administrative Hearings Arbitrary and Capricious or Clearly Erroneous Review).

(i) [(h)] Use of ratings and data. The following provisions apply to the petition for renewal or expiration under this section.

(1) If a rating is not issued during one or more of the preceding school years, then the term "three preceding school years" means the most recent three school years during which a rating was issued, and the term "three of the five preceding school years" means three out of the most recent five school years during which a rating was issued, not to exceed more than the six most recent years.

(2) A rating that does not meet the criteria for "academically acceptable" as defined by §100.1001(8) of this title (relating to Definitions) shall not be considered the highest or second highest academic performance rating for purposes of this section.

(3) For purposes of renewal or expiration under this section, the term "unacceptable performance" means an unacceptable academic performance rating as defined by §100.1001(8) of this title.

(4) For purposes of renewal under this section, the term "financial performance lower than satisfactory" means a financial performance rating as defined by §100.1001(9) of this title.

(j) [(i)] Conflict of rule. Except as provided by subsection (c) of this section, a contract term that conflicts with any rule in Part 2 of this title (relating to Texas Education Agency) is superseded by the rule to the extent that the rule conflicts with the contract term.

(k) [(j)] Conditional approval. Notwithstanding any other rule in Part 2 of this title, the commissioner may require, as a condition of renewal, that the charter holder amend a contract under TEC, §12.114(a), to correct any ambiguities, defects, or other infirmities.

§100.1039. Standards for Discretionary Renewal.

Criteria for discretionary renewal. The following criteria shall be considered by the commissioner of education during the discretionary renewal process. The commissioner may non-renew a charter contract based on any of the following.

(1) Academic:

(A) assignment of an "academically unacceptable" rating as defined in §100.1001(8) of this title (relating to Definitions);

(B) failure to meet academic performance standards for students not measured in the accountability system;

(C) unsatisfactory academic performance of subpopulations; and

(D) failure to meet program requirements for special populations, including, but not limited to, special education, bilingual/English as a second language, and career and technical education.

(2) Financial:

(A) failure to use state funds for purposes for which a school district may use local funds under Texas Education Code (TEC), §45.105(e);

(B) failure to hold state funds in trust for the benefit of the students of the charter school;

(C) failure to satisfy generally acceptable accounting standards of fiscal management;

(D) failure to resolve a lien, levy, or other garnishment within 30 days;

(E) existence of a Foundation School Program (FSP) allotment subject to a warrant hold and that warrant has not been removed within 30 days;

(F) failure to timely file annual financial report required under TEC, §44.008;

(G) existence of an annual financial report containing adverse, qualified, or disclaimed opinion(s);

(H) assignment of a lower than satisfactory financial performance rating as defined in §100.1001(9) of this title;

(I) submission of attendance accounting data resulting in an overallocation from the FSP;

(J) existence of the following interested transactions:

(i) failure to comply with Local Government Code, Chapter 171;

(ii) failure to record and report on the governance reporting forms all financial transactions between charter school and non-charter activities of charter holder; and

(iii) failure to timely and accurately record and report on the governance reporting forms all financial transactions required in the governance reporting form;

(K) failure to post all financial information, including the salary of the chief executive officer (CEO), annual financial statement, most current annual financial report, and approved budget, on the charter school's website;

(L) payment of salaries of the CEO and/or other administrative position(s) that exceed reasonable fair market value for the services provided. Fair market value shall be based on size of school, individual's education, prior salary history, job duties actually performed, and what a typical person with similar skills, experience, and job duties would earn;

(M) renting or purchasing property for amounts in excess of fair market value;

(N) loss of eligibility to participate in the child nutrition program for more than 30 days;

(O) charter holder being imminently insolvent as defined by this chapter;

(P) failure to conduct fiscal management, including, but not limited to, the loss of financial records or a material non-compliance with State Board of Education or commissioner accounting requirements and failure to comply with the Financial Accountability System Resource Guide adopted under §109.41 of this title (relating to Financial Accountability System Resource Guide); and

(Q) failure to comply with applicable purchasing requirements, including Local Government Code, Chapter 271, if applicable.

(3) Operational:

(A) Governance:

(i) failure to timely file accurate and complete governance reporting forms;

(ii) non-compliance with required charter board training;

(iii) failure to timely and accurately report board training in the annual financial report;

(iv) failure to maintain verification of criminal history check/fingerprinting;

(v) failure to maintain verification of compliance with reporting requirements of the Secretary of State, the Texas Family Code, the Texas Open Meetings Act, the Texas Public Information

Act, government and local records, applicability of public purchasing and contracting, and conflicts of interest and nepotism;

(vi) allowing a person with a criminal record to be employed or serve as a volunteer, officer, or board member in violation of TEC, Chapters 12 and 22;

(vii) failure of an employee or officer of the charter school to report child abuse or neglect as required by the Texas Family Code, Chapter 261;

(viii) failure to disclose and report all conflict of interest and nepotistic relationships to the Texas Education Agency (TEA) in the applicable minutes of the charter holder's corporate records;

(ix) failure to submit to the Secretary of State a listing of all current members of the charter holder, the articles of incorporation, the by-laws, assumed name, and any other matter of the corporate business required to be reported to the Secretary of State; and

(x) failure to maintain the 501(c)(3) status of the charter holder at all times;

(B) Complaints: failure to timely respond to and correct any complaints as directed by TEA;

(C) Property and campus operations (campuses of charter holders that provide instructional services within residential detention, treatment, or adjudication facilities are not subject to clauses (ii) and (iii) of this subparagraph):

(i) operation of any campus that does not meet the definition of a campus according to §100.1001(6)(B) of this title and that does not serve a minimum of 100 students as reflected in the Public Education Information Management System (PEIMS) fall snapshot;

(ii) failure of the charter holder to serve a minimum of 100 students, as reflected in the PEIMS fall snapshot, unless a lower number is declared and approved in the charter contract or approved by the commissioner;

(iii) failure to document and fully disclose any step transactions in the purchase or sale of property; and

(iv) failure to ensure that all charter holder buildings used for educational purposes have a valid certificate of occupancy for educating children;

(D) Activity fees and volunteer requirements:

(i) requiring any activity fees or any compulsory fees that are not authorized by TEC, §11.158, or other law; and

(ii) requiring any parental involvement, donation, or volunteerism as a condition of enrollment or continued enrollment;

(E) Management contracts:

(i) charter holder board allowing any entity to exercise control or ultimate responsibility for the school, including the academic performance, financial accountability, or operational viability;

(ii) charter holder board not retaining or exercising ultimate responsibility for the management of the charter school without regard to execution of a management contract with a charter management organization (CMO);

(iii) failure to timely file a current copy of the executed management contract, including any and all amendments, with TEA;

(iv) failure of the board of directors of the charter holder to ensure that both the charter holder and CMO are compliant

with all the rules applicable to charter schools, including, but not limited to:

- (I) financial accounting;
- (II) record retention;
- (III) health, safety, and welfare of students;
- (IV) educational program accountability;
- (V) Texas Open Meetings Act;
- (VI) Texas Public Information Act; and
- (VII) policies, procedures, and legal requirements found in state and federal laws/guidelines and the charter contract; and

(v) failure to comply with requirements in §100.1155 of this title (relating to Substantial Interest in Management Company; Restrictions on Serving) prohibiting a board member from having a substantial interest in the CMO; and

(F) Charter school performance framework: failure to satisfy applicable performance framework measures as prescribed in the Charter School Performance Framework Manual established under TEC, §12.1181 or Adult Charter School Performance Framework established under TEC, §12.262.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 10, 2025.

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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



TITLE 22. EXAMINING BOARDS

PART 15. TEXAS STATE BOARD OF PHARMACY

CHAPTER 281. ADMINISTRATIVE PRACTICE AND PROCEDURES

SUBCHAPTER A. GENERAL PROVISIONS

22 TAC §281.2

The Texas State Board of Pharmacy proposes amendments to §281.2, concerning Definitions. The amendments, if adopted, correct the chapter range in the definition of the Act.

Daniel Carroll, Pharm.D., Executive Director/Secretary, has determined that, for the first five-year period the rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. Dr. Carroll has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will be clear and correct regulations. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local

or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.

For each year of the first five years the proposed amendments will be in effect, Dr. Carroll has determined the following:

- (1) The proposed amendments do not create or eliminate a government program;
- (2) Implementation of the proposed amendments does not require the creation of new employee positions or the elimination of existing employee positions;
- (3) Implementation of the proposed amendments does not require an increase or decrease in the future legislative appropriations to the agency;
- (4) The proposed amendments do not require an increase or decrease in fees paid to the agency;
- (5) The proposed amendments do not create a new regulation;
- (6) The proposed amendments do not limit or expand an existing regulation;
- (7) The proposed amendments do not increase or decrease the number of individuals subject to the rule's applicability; and
- (8) The proposed amendments do not positively or adversely affect this state's economy.

Written comments on the amendments may be submitted to Eamon D. Briggs, Deputy General Counsel, Texas State Board of Pharmacy, 1801 Congress Avenue, Suite 13.100, Austin, Texas, 78701-1319, FAX (512) 305-8061. Comments must be received by 5:00 p.m., April 29, 2025.

The amendments are proposed under §§551.002 and 554.051 of the Texas Pharmacy Act (Chapters 551 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 569, Texas Occupations Code.

The amendments are proposed under §§551.002 and 554.051 of the Texas Pharmacy Act (Chapters 551 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 569, Texas Occupations Code.

§281.2. Definitions.

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

- (1) Act--The Texas Pharmacy Act, Chapters 551 - 569 [551 - 566], Texas Occupations Code, as amended.
- (2) Administrative law judge--A judge employed by the State Office of Administrative Hearings.
- (3) Agency--The Texas State Board of Pharmacy, and its divisions, departments, and employees.
- (4) Administrative Procedure Act (APA)--Government Code, Chapter 2001, as amended.

(5) Board--The Texas State Board of Pharmacy.

(6) Confidential address of record--The home address required to be provided by each individual, who is a licensee, registrant, or pharmacy owner and where service of legal notice will be sent. The address is confidential, as set forth in §555.001(d) of the Act, and not subject to disclosure under the Public Information Act.

(7) Contested case--A proceeding, including but not restricted to licensing, in which the legal rights, duties, or privileges of a party are to be determined by the board after an opportunity for adjudicative hearing.

(8) Diversion of controlled substances--An act or acts which result in the distribution of controlled substances from legitimate pharmaceutical or medical channels in violation of the Controlled Substances Act or rules promulgated pursuant to the Controlled Substances Act or rules relating to controlled substances promulgated pursuant to this Act.

(9) Diversion of dangerous drugs--An act or acts which result in the distribution of dangerous drugs from legitimate pharmaceutical or medical channels in violation of the Dangerous Drug Act or rules promulgated pursuant to the Dangerous Drug Act or rules relating to dangerous drugs promulgated pursuant to this Act.

(10) Executive director/secretary--The secretary of the board and executive director of the agency.

(11) License--The whole or part of any agency permit, certificate, approval, registration, or similar form of permission required by law.

(12) Licensee--Any individual or person to whom the agency has issued any permit, certificate, approved registration, or similar form of permission authorized by law.

(13) Licensing--The agency process relating to the granting, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license.

(14) Official act--Any act performed by the board pursuant to a duty, right, or responsibility imposed or granted by law, rule, or regulation.

(15) Person--An individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.

(16) President--The president of the Texas State Board of Pharmacy.

(17) Presiding Officer--The president of the Texas State Board of Pharmacy or, in the president's absence, the highest ranking officer present at a board meeting.

(18) Publicly available address of record--The alternate address required to be provided by each licensee, registrant, or pharmacy owner, which will be released to the public, as set forth in §555.001(d) of the Act, and is subject to disclosure under the Public Information Act.

(A) The alternate address must be a business address or other alternate address, such as the home address of the individual's relative, where mail can be received on a regular basis.

(B) A pharmacy must provide the physical address of the pharmacy to be used for this purpose.

(19) Quorum--A majority of the members of the board appointed and serving on the board.

(20) State Office of Administrative Hearings (SOAH)--The agency to which contested cases are referred by the Texas State Board of Pharmacy.

(21) Sample--A prescription drug which is not intended to be sold and is intended to promote the sale of the drug.

(22) Texas Public Information Act--Government Code, Chapter 552.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 7, 2025.

TRD-202500825

Daniel Carroll, Pharm.D.

Executive Director

Texas State Board of Pharmacy

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For further information, please call: (512) 305-8084



CHAPTER 291. PHARMACIES

SUBCHAPTER A. ALL CLASSES OF PHARMACIES

22 TAC §291.9

The Texas State Board of Pharmacy proposes amendments to §291.9, concerning Prescription Pick Up Locations. The amendments, if adopted, allow a pharmacist or pharmacy to deliver prescription drugs by means of a contract carrier and certain prescription drugs by use of unmanned aircraft systems.

Daniel Carroll, Pharm.D., Executive Director/Secretary, has determined that, for the first five-year period the rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. Dr. Carroll has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will be to improve medication access, delivery choice, and health outcomes for Texas citizens. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.

For each year of the first five years the proposed amendments will be in effect, Dr. Carroll has determined the following:

(1) The proposed amendments do not create or eliminate a government program;

(2) Implementation of the proposed amendments does not require the creation of new employee positions or the elimination of existing employee positions;

(3) Implementation of the proposed amendments does not require an increase or decrease in the future legislative appropriations to the agency;

(4) The proposed amendments do not require an increase or decrease in fees paid to the agency;

(5) The proposed amendments do not create a new regulation;

(6) The proposed amendments do limit an existing regulation;

(7) The proposed amendments do not increase or decrease the number of individuals subject to the rule's applicability; and

(8) The proposed amendments would have a de minimis impact on this state's economy.

Written comments on the amendments may be submitted to Eamon D. Briggs, Deputy General Counsel, Texas State Board of Pharmacy, 1801 Congress Avenue, Suite 13.100, Austin, Texas, 78701-1319, FAX (512) 305-8061. Comments must be received by 5:00 p.m., April 29, 2025.

The amendments are proposed under §§551.002 and 554.051 of the Texas Pharmacy Act (Chapters 551 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 569, Texas Occupations Code.

§291.9. *Prescription Pick Up Locations.*

(a) No person, firm, or business establishment may have, participate in, or permit an arrangement, branch, connection or affiliation whereby prescriptions are solicited, collected, picked up, or advertised to be picked up, from or at any location other than a pharmacy which is licensed and in good standing with the board.

(b) A pharmacist or pharmacy by means of its employee or by use of a common or contract carrier [(e.g., U.S. Mail)], at the request of the patient, may:

(1) pick up prescription orders at the:

(A) office or home of the prescriber;

(B) residence or place of employment of the person for whom the prescription was issued; or

(C) hospital or medical care facility in which the patient is receiving treatment; and

(2) deliver prescription drugs to the:

(A) office of the prescriber if the prescription is:

(i) for a dangerous drug; or

(ii) for a single dose of a controlled substance that is for administration to the patient in the prescriber's office;

(B) residence of the person for whom the prescription was issued;

(C) place of employment of the person for whom the prescription was issued, if the person is present to accept delivery; or

(D) hospital or medical care facility in which the patient is receiving treatment.

(c) A pharmacist or pharmacy by use of unmanned aircraft systems (i.e., "drones"), at the request of a patient or patient's agent, may deliver prescription drugs, excluding controlled substances, sterile compounded preparations, or drugs requiring storage below a "cool" temperature as defined by §291.15 of this title (relating to Storage of Drugs), to the residence of the person for whom the prescription was issued.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Daniel Carroll, Pharm.D.

Executive Director

Texas State Board of Pharmacy

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For further information, please call: (512) 305-8084



22 TAC §291.12

The Texas State Board of Pharmacy proposes amendments to §291.12, concerning Delivery of Prescription Drugs. The amendments, if adopted, allow and specify requirements for delivery of prescription drugs by contract carriers and unmanned aircraft systems.

Daniel Carroll, Pharm.D., Executive Director/Secretary, has determined that, for the first five-year period the rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. Dr. Carroll has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will be to improve medication access, delivery choice, and health outcomes for Texas citizens. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.

For each year of the first five years the proposed amendments will be in effect, Dr. Carroll has determined the following:

(1) The proposed amendments do not create or eliminate a government program;

(2) Implementation of the proposed amendments does not require the creation of new employee positions or the elimination of existing employee positions;

(3) Implementation of the proposed amendments does not require an increase or decrease in the future legislative appropriations to the agency;

(4) The proposed amendments do not require an increase or decrease in fees paid to the agency;

(5) The proposed amendments do not create a new regulation;

(6) The proposed amendments do limit an existing regulation;

(7) The proposed amendments do not increase or decrease the number of individuals subject to the rule's applicability; and

(8) The proposed amendments would have a de minimis impact on this state's economy.

Written comments on the amendments may be submitted to Eamon D. Briggs, Deputy General Counsel, Texas State Board of Pharmacy, 1801 Congress Avenue, Suite 13.100, Austin, Texas 78701-1319, FAX (512) 305-8061. Comments must be received by 5:00 p.m., April 29, 2025.

The amendments are proposed under §§551.002 and 554.051 of the Texas Pharmacy Act (Chapters 551 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 569, Texas Occupations Code.

§291.12. *Delivery of Prescription Drugs.*

(a) Applicability. This section applies to the delivery of prescription drugs by a pharmacy licensed by the board as a Class A, Class A-S, Class E, or Class E-S pharmacy.

(b) Definitions.

(1) Common carrier--A person or entity who holds out to the general public a willingness to provide transportation of property from place to place for compensation in the normal course of business.

(2) Contract carrier--A person or entity who provides to industrial customers, pursuant to the terms of a bilateral agreement, the transportation of property for compensation in the normal course of business.

(c) [(b)] Delivery by common or contract carrier. A pharmacy may deliver prescription drugs by use of a common or contract carrier [(e.g., U.S. Mail)] as provided in §291.9 of this title (relating to Prescription Pick Up Locations) on request of the patient or patient's agent. [Common carrier means a person or entity who holds out to the general public a willingness to provide transportation of property from place to place for compensation in the normal course of business.] A pharmacy that delivers prescription drugs by use of a common or contract carrier providing a same-day courier service is not subject to subsection (b) of this section and shall comply with subsection (c) of this section.

(1) Standards. The pharmacy shall ensure that all prescription drugs are delivered to the patient or patient's agent in accordance with nationally recognized standards, such as those of the manufacturer or the United States Pharmacopeia. The pharmacy is responsible for any problems in the delivery of a prescription drug by a contract carrier.

(2) Packaging. The pharmacy shall ensure that prescription drugs are packaged in commercially available tamper evident packaging.

(3) Temperature. The pharmacy shall ensure that any prescription drug delivered by a common or contract carrier is packaged in a manner that maintains a temperature range appropriate for the drug. This may include, without limitation, use of temperature tags, time temperature strips, insulated packaging, gel ice packs, or a combination of these as necessary.

(4) Irregularity in delivery. The pharmacy shall provide a method by which a patient or patient's agent can notify the pharmacy as to any irregularity in the delivery of the patient's prescription, to include but not be limited to:

- (A) timeliness of delivery;
- (B) condition of the prescription drug upon delivery;
- (C) failure to receive the proper prescription drug.

(5) Refusal to deliver. The pharmacy shall refuse to deliver by common or contract carrier a prescription drug which in the professional opinion of the dispensing pharmacist may be clinically compromised by delivery by common or contract carrier.

(d) [(e)] Delivery by pharmacy employee or common or contract carrier providing a same-day courier service. A pharmacy may deliver prescription drugs by means of its employee or a common or contract carrier providing a same-day courier service as provided in §291.9 of this title on request of the patient or patient's agent.

(1) Standards. The pharmacy is responsible for any problems in the delivery of the prescription drug.

(2) Temperature. The prescription drug shall be maintained within the temperature range allowed by the United States Pharmacopeia or recommended by the manufacturer until the delivery has been received by the patient or patient's agent.

(e) Delivery by unmanned aircraft systems (i.e., "drones"). A pharmacy may deliver prescription drugs, excluding controlled substances, sterile compounded preparations, or drugs requiring storage below a "cool" temperature as defined by §291.15 of this title (relating to Storage of Drugs), by use of a common or contract carrier providing an unmanned aircraft system delivery service as provided in §291.9 of this title on request of the patient or patient's agent.

(1) Standards. Unmanned aircraft systems shall maintain appropriate federal registration and comply with all state and federal laws and rules. The pharmacy shall ensure that all prescription drugs are delivered to the patient or patient's agent in accordance with nationally recognized standards, such as those of the manufacturer or the United States Pharmacopeia. The pharmacy is responsible for any problems in the delivery of the prescription drug.

(2) The pharmacist-in-charge is responsible for developing written policies and procedures regarding prescription drug delivery in accordance with this subsection to be used by pharmacy personnel to include, but not be limited to, the following:

- (A) training pharmacy personnel engaged in preparing and packaging prescription drugs for delivery;
- (B) packaging prescription drugs for delivery;
- (C) verification of the correct recipient and delivery address;
- (D) maintaining the confidentiality of prescription records;
- (E) secure transfer of prescription drugs from the pharmacy;
- (F) provision of patient counseling;
- (G) remediation of errors in delivery or adverse events;
- and
- (H) recordkeeping.

(3) Packaging. The pharmacy shall ensure that prescription drugs are packaged in commercially available tamper evident packaging.

(4) Temperature. The prescription drug shall be maintained within the temperature range allowed by the United States Pharmacopeia or recommended by the manufacturer until the delivery has been received by the patient or patient's agent.

(5) Records. The pharmacy shall document each change in the chain of custody of a prescription drug, including departure of the prescription drug from the pharmacy, transfer to the person or entity fulfilling delivery, and delivery to the patient.

(6) Confirmation of presence at residence. The pharmacy shall receive confirmation from the patient or patient's agent that the patient or patient's agent is present at the residence before unmanned aircraft system delivery is initiated.

(7) Security. The pharmacy must ensure that delivery is made to a reasonably secure location at the patient's residence that minimizes the opportunity for unauthorized access to prescription drugs and confidential prescription records.

(f) [(d)] All deliveries. A pharmacy that delivers prescription drugs by common or contract carrier, [or] by pharmacy employee or [by a] common or contract carrier providing a same-day courier service, or by common or contract carrier providing an unmanned aircraft systems delivery service shall also comply with the following:

(1) Counseling information. The pharmacy shall comply with the requirements of §291.33(c)(1)(F) of this title (relating to Operational Standards).

(2) Notification of delivery. The pharmacy shall notify the patient or patient's agent of the delivery of a prescription drug.

(3) Compromised delivery. If a pharmacist determines a prescription drug is in any way compromised during delivery, the pharmacy shall replace the drug or arrange for the drug to be replaced, either by promptly delivering a replacement to the patient or by promptly contacting the prescriber to arrange for the drug to be dispensed to the patient by a pharmacy of the patient's or patient's agent's choice.

(4) Records. The pharmacy shall maintain records for two years on the following events:

(A) when a prescription drug was sent and delivered to the patient or patient's agent; and

(B) patient complaints regarding compromised deliveries, which may be documented in the patient profile.

(5) Controlled substances. A pharmacy shall comply with all state and federal laws and rules relating to the delivery of controlled substances.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Daniel Carroll, Pharm.D.

Executive Director

Texas State Board of Pharmacy

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For further information, please call: (512) 305-8084



SUBCHAPTER B. COMMUNITY PHARMACY (CLASS A)

22 TAC §291.32

The Texas State Board of Pharmacy proposes amendments to §291.32, concerning Personnel. The amendments, if adopted, exclude central fill pharmacies that have no patient-facing contact from the required minimum ratio of pharmacists to pharmacy technicians and pharmacy technician trainees.

Daniel Carroll, Pharm.D., Executive Director/Secretary, has determined that, for the first five-year period the rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. Dr. Carroll has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will be providing pharmacies more flexibility in the staffing of pharmacy technicians to better serve the needs of the pharmacy's patients. There is no anticipated adverse economic impact on large, small or micro-businesses

(pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.

For each year of the first five years the proposed amendments will be in effect, Dr. Carroll has determined the following:

(1) The proposed amendments do not create or eliminate a government program;

(2) Implementation of the proposed amendments does not require the creation of new employee positions or the elimination of existing employee positions;

(3) Implementation of the proposed amendments does not require an increase or decrease in the future legislative appropriations to the agency;

(4) The proposed amendments do not require an increase or decrease in fees paid to the agency;

(5) The proposed amendments do not create a new regulation;

(6) The proposed amendments do limit an existing regulation;

(7) The proposed amendments do not increase or decrease the number of individuals subject to the rule's applicability; and

(8) The proposed amendments do not positively or adversely affect this state's economy.

Written comments on the amendments may be submitted to Eamon D. Briggs, Deputy General Counsel, Texas State Board of Pharmacy, 1801 Congress Avenue, Suite 13.100, Austin, Texas 78701-1319, FAX (512) 305-8061. Comments must be received by 5:00 p.m., April 29, 2025.

The amendments are proposed under §§551.002 and 554.051 of the Texas Pharmacy Act (Chapters 551 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 569, Texas Occupations Code.

§291.32. *Personnel.*

(a) Pharmacist-in-charge.

(1) General.

(A) Each Class A pharmacy shall have one pharmacist-in-charge who is employed on a full-time basis and who may be the pharmacist-in-charge for only one such pharmacy; provided, however, such pharmacist-in-charge may be the pharmacist-in-charge of:

(i) more than one Class A pharmacy, if the additional Class A pharmacies are not open to provide pharmacy services simultaneously; or

(ii) during an emergency, up to two Class A pharmacies open simultaneously if the pharmacist-in-charge works at least 10 hours per week in each pharmacy for no more than a period of 30 consecutive days.

(B) The pharmacist-in-charge shall comply with the provisions of §291.17 of this title (relating to Inventory Requirements).

(C) The pharmacist-in-charge of a Class A pharmacy may not serve as the pharmacist-in-charge of a Class B pharmacy or a Class C pharmacy with 101 beds or more.

(2) Responsibilities. The pharmacist-in-charge shall have responsibility for the practice of pharmacy at the pharmacy for which he or she is the pharmacist-in-charge. The pharmacist-in-charge may advise the owner on administrative or operational concerns. The pharmacist-in-charge shall have responsibility for, at a minimum, the following:

(A) educating and training of pharmacy technicians and pharmacy technician trainees;

(B) supervising a system to assure appropriate procurement of prescription drugs and devices and other products dispensed from the Class A pharmacy;

(C) disposing of and distributing drugs from the Class A pharmacy;

(D) storing all materials, including drugs, chemicals, and biologicals;

(E) maintaining records of all transactions of the Class A pharmacy necessary to maintain accurate control over and accountability for all pharmaceutical materials required by applicable state and federal laws and sections;

(F) supervising a system to assure maintenance of effective controls against the theft or diversion of prescription drugs, and records for such drugs;

(G) adhering to policies and procedures regarding the maintenance of records in a data processing system such that the data processing system is in compliance with Class A pharmacy requirements;

(H) legally operating the pharmacy, including meeting all inspection and other requirements of all state and federal laws or sections governing the practice of pharmacy; and

(I) if the pharmacy uses an automated pharmacy dispensing system, shall be responsible for the following:

(i) consulting with the owner concerning and adherence to the policies and procedures for system operation, safety, security, accuracy and access, patient confidentiality, prevention of unauthorized access, and malfunction;

(ii) inspecting medications in the automated pharmacy dispensing system, at least monthly, for expiration date, misbranding, physical integrity, security, and accountability;

(iii) assigning, discontinuing, or changing personnel access to the automated pharmacy dispensing system;

(iv) ensuring that pharmacy technicians, pharmacy technician trainees, and licensed healthcare professionals performing any services in connection with an automated pharmacy dispensing system have been properly trained on the use of the system and can demonstrate comprehensive knowledge of the written policies and procedures for operation of the system; and

(v) ensuring that the automated pharmacy dispensing system is stocked accurately and an accountability record is maintained in accordance with the written policies and procedures of operation.

(b) Owner. The owner of a Class A pharmacy shall have responsibility for all administrative and operational functions of the pharmacy. The pharmacist-in-charge may advise the owner on administrative and operational concerns. The owner shall have responsibility for, at a minimum, the following, and if the owner is not a Texas licensed pharmacist, the owner shall consult with the pharmacist-in-charge or another Texas licensed pharmacist:

(1) establishing policies for procurement of prescription drugs and devices and other products dispensed from the Class A pharmacy;

(2) establishing policies and procedures for the security of the prescription department including the maintenance of effective controls against the theft or diversion of prescription drugs;

(3) if the pharmacy uses an automated pharmacy dispensing system, reviewing and approving all policies and procedures for system operation, safety, security, accuracy and access, patient confidentiality, prevention of unauthorized access, and malfunction;

(4) providing the pharmacy with the necessary equipment and resources commensurate with its level and type of practice; and

(5) establishing policies and procedures regarding maintenance, storage, and retrieval of records in a data processing system such that the system is in compliance with state and federal requirements.

(c) Pharmacists.

(1) General.

(A) The pharmacist-in-charge shall be assisted by a sufficient number of additional licensed pharmacists as may be required to operate the Class A pharmacy competently, safely, and adequately to meet the needs of the patients of the pharmacy.

(B) All pharmacists shall assist the pharmacist-in-charge in meeting his or her responsibilities in ordering, dispensing, and accounting for prescription drugs.

(C) Pharmacists are solely responsible for the direct supervision of pharmacy technicians and pharmacy technician trainees and for designating and delegating duties, other than those listed in paragraph (2) of this subsection, to pharmacy technicians and pharmacy technician trainees. Each pharmacist shall be responsible for any delegated act performed by pharmacy technicians and pharmacy technician trainees under his or her supervision.

(D) Pharmacists shall directly supervise pharmacy technicians and pharmacy technician trainees who are entering prescription data into the pharmacy's data processing system by one of the following methods.

(i) Physically present supervision. A pharmacist shall be physically present to directly supervise a pharmacy technician or pharmacy technician trainee who is entering prescription data into the data processing system. Each prescription entered into the data processing system shall be verified at the time of data entry. If the pharmacist is not physically present due to a temporary absence as specified in §291.33(b)(3) of this title (relating to Operational Standards), on return the pharmacist must:

(I) conduct a drug regimen review for the prescriptions data entered during this time period as specified in §291.33(c)(2) of this title; and

(II) verify that prescription data entered during this time period was entered accurately.

(ii) Electronic supervision. A pharmacist may electronically supervise a pharmacy technician or pharmacy technician trainee who is entering prescription data into the data processing system provided the pharmacist:

(I) has the ability to immediately communicate directly with the technician/trainee;

(II) has immediate access to any original document containing prescription information or other information related

to the dispensing of the prescription. Such access may be through imaging technology provided the pharmacist has the ability to review the original, hardcopy documents if needed for clarification; and

(III) verifies the accuracy of the data entered information prior to the release of the information to the system for storage and/or generation of the prescription label.

(iii) Electronic verification of data entry by pharmacy technicians or pharmacy technician trainees. A pharmacist may electronically verify the data entry of prescription information into a data processing system provided:

(I) the pharmacist has the ability to immediately communicate directly with the technician/trainee;

(II) the pharmacist electronically conducting the verification is either a:

(-a-) Texas licensed pharmacist; or

(-b-) pharmacist employed by a Class E pharmacy that:

(-1-) has the same owner as the Class A pharmacy where the pharmacy technicians/trainees are located; or

(-2-) has entered into a written contract or agreement with the Class A pharmacy which outlines the services to be provided and the responsibilities and accountabilities of each pharmacy in compliance with federal and state laws and regulations;

(III) the pharmacy establishes controls to protect the privacy and security of confidential records; and

(IV) the pharmacy keeps permanent records of prescriptions electronically verified for a period of two years.

(E) All pharmacists, while on duty, shall be responsible for the legal operation of the pharmacy and for complying with all state and federal laws or rules governing the practice of pharmacy.

(F) A dispensing pharmacist shall be responsible for and ensure that the drug is dispensed and delivered safely and accurately as prescribed, unless the pharmacy's data processing system can record the identity of each pharmacist involved in a specific portion of the dispensing processing. If the system can track the identity of each pharmacist involved in the dispensing process, each pharmacist involved in the dispensing process shall be responsible for and ensure that the portion of the process the pharmacist is performing results in the safe and accurate dispensing and delivery of the drug as prescribed. The dispensing process shall include, but not be limited to, drug regimen review and verification of accurate prescription data entry, including prescriptions placed on hold, packaging, preparation, compounding, transferring, labeling, and performance of the final check of the dispensed prescription. An intern has the same responsibilities described in this subparagraph as a pharmacist but must perform his or her duties under the supervision of a pharmacist.

(2) Duties. Duties which may only be performed by a pharmacist are as follows:

(A) receiving oral prescription drug orders for controlled substances and reducing these orders to writing, either manually or electronically;

(B) interpreting prescription drug orders;

(C) selecting drug products;

(D) performing the final check of the dispensed prescription before delivery to the patient to ensure that the prescription has been dispensed accurately as prescribed;

(E) communicating to the patient or patient's agent information about the prescription drug or device which in the exercise of the pharmacist's professional judgment, the pharmacist deems significant, as specified in §291.33(c) of this title;

(F) communicating to the patient or the patient's agent on his or her request information concerning any prescription drugs dispensed to the patient by the pharmacy;

(G) assuring that a reasonable effort is made to obtain, record, and maintain patient medication records;

(H) interpreting patient medication records and performing drug regimen reviews;

(I) performing a specific act of drug therapy management for a patient delegated to a pharmacist by a written protocol from a physician licensed in this state in compliance with the Medical Practice Act;

(J) verifying that controlled substances listed on invoices are received by clearly recording his/her initials and date of receipt of the controlled substances; and

(K) transferring or receiving a transfer of original prescription information for a controlled substance on behalf of a patient.

(3) Special requirements for compounding. All pharmacists engaged in compounding non-sterile preparations shall meet the training requirements specified in §291.131 of this title (relating to Pharmacies Compounding Non-Sterile Preparations).

(d) Pharmacy Technicians and Pharmacy Technician Trainees.

(1) General.

(A) All pharmacy technicians and pharmacy technician trainees shall meet the training requirements specified in §297.6 of this title (relating to Pharmacy Technician and Pharmacy Technician Trainee Training).

(B) Special requirements for compounding. All pharmacy technicians and pharmacy technician trainees engaged in compounding non-sterile preparations shall meet the training requirements specified in §291.131 of this title.

(2) Duties.

(A) Pharmacy technicians and pharmacy technician trainees may not perform any of the duties listed in subsection (c)(2) of this section.

(B) A pharmacist may delegate to pharmacy technicians and pharmacy technician trainees any nonjudgmental technical duty associated with the preparation and distribution of prescription drugs provided:

(i) unless otherwise provided under §291.33 of this subchapter, a pharmacist verifies the accuracy of all acts, tasks, and functions performed by pharmacy technicians and pharmacy technician trainees;

(ii) pharmacy technicians and pharmacy technician trainees are under the direct supervision of and responsible to a pharmacist; and

(iii) only pharmacy technicians and pharmacy technician trainees who have been properly trained on the use of an automated pharmacy dispensing system and can demonstrate comprehen-

sive knowledge of the written policies and procedures for the operation of the system may be allowed access to the system.

(C) Pharmacy technicians and pharmacy technician trainees may perform only nonjudgmental technical duties associated with the preparation and distribution of prescription drugs, as follows:

- (i) initiating and receiving refill authorization requests;
- (ii) entering prescription data into a data processing system;
- (iii) taking a stock bottle from the shelf for a prescription;
- (iv) preparing and packaging prescription drug orders (i.e., counting tablets/capsules, measuring liquids and placing them in the prescription container);
- (v) affixing prescription labels and auxiliary labels to the prescription container;
- (vi) reconstituting medications;
- (vii) prepackaging and labeling prepackaged drugs;
- (viii) loading bulk unlabeled drugs into an automated dispensing system provided a pharmacist verifies that the system is properly loaded prior to use;
- (ix) loading prepackaged containers previously verified by a pharmacist or manufacturer's unit of use packages into an automated dispensing system in accordance with §291.33(i)(2)(D)(III) of this subchapter;
- (x) compounding non-sterile prescription drug orders; and
- (xi) compounding bulk non-sterile preparations.

(D) In addition to the duties listed above in subparagraph (C) of this paragraph, pharmacy technicians may perform the following nonjudgmental technical duties associated with the preparation and distribution of prescription drugs:

- (i) receiving oral prescription drug orders for dangerous drugs and reducing these orders to writing, either manually or electronically;
- (ii) transferring or receiving a transfer of original prescription information for a dangerous drug on behalf of a patient; and
- (iii) contacting a prescriber for information regarding an existing prescription for a dangerous drug.

(3) Ratio of on-site pharmacists to pharmacy technicians and pharmacy technician trainees.

(A) Except as provided in subparagraphs (B) and (C) [subparagraph (B)] of this paragraph, the ratio of on-site pharmacists to pharmacy technicians and pharmacy technician trainees may be 1:6, provided the pharmacist is on-site and a maximum of three of the six are pharmacy technician trainees. The ratio of pharmacists to pharmacy technician trainees may not exceed 1:3.

(B) Subparagraph (A) of this paragraph does not apply to a central fill pharmacy, as defined in §291.125 of this title (relating to Centralized Prescription Dispensing), that has no patient-facing contact. For purposes of this subparagraph, patient-facing contact means any direct interaction between a pharmacy employee and a patient or patient's agent.

(C) [(B)] As specified in §568.006 of the Act, a Class A pharmacy may have a ratio of on-site pharmacists to pharmacy technicians/pharmacy technician trainees of 1:5 provided:

- (i) the Class A pharmacy:
 - (I) dispenses no more than 20 different prescription drugs; and
 - (II) does not produce sterile preparations including intravenous or intramuscular drugs on-site; and
- (ii) the following conditions are met:
 - (I) at least four are pharmacy technicians and not pharmacy technician trainees; and
 - (II) the pharmacy has written policies and procedures regarding the supervision of pharmacy technicians and pharmacy technician trainees, including requirements that the pharmacy technicians and pharmacy technician trainees included in a 1:5 ratio may be involved only in one process at a time. For example, a technician/trainee who is compounding non-sterile preparations or who is involved in the preparation of prescription drug orders may not also call physicians for authorization of refills.

(e) Identification of pharmacy personnel. All pharmacy personnel shall be identified as follows.

(1) Pharmacy technicians. All pharmacy technicians shall wear an identification tag or badge that bears the person's name and identifies him or her as a pharmacy technician, or a certified pharmacy technician, if the technician maintains current certification with the Pharmacy Technician Certification Board or any other entity providing an examination approved by the board.

(2) Pharmacy technician trainees. All pharmacy technician trainees shall wear an identification tag or badge that bears the person's name and identifies him or her as a pharmacy technician trainee.

(3) Pharmacist interns. All pharmacist interns shall wear an identification tag or badge that bears the person's name and identifies him or her as a pharmacist intern.

(4) Pharmacists. All pharmacists shall wear an identification tag or badge that bears the person's name and identifies him or her as a pharmacist.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Daniel Carroll, Pharm.D.

Executive Director

Texas State Board of Pharmacy

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For further information, please call: (512) 305-8084



SUBCHAPTER C. NUCLEAR PHARMACY (CLASS B)

22 TAC §291.55

The Texas State Board of Pharmacy proposes amendments to §291.55, concerning Records. The amendments, if adopted, up-

date a citation concerning a statutory provision that has been repealed.

Daniel Carroll, Pharm.D., Executive Director/Secretary, has determined that, for the first five-year period the rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. Dr. Carroll has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will be clear and correct regulations. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.

For each year of the first five years the proposed amendments will be in effect, Dr. Carroll has determined the following:

- (1) The proposed amendments do not create or eliminate a government program;
- (2) Implementation of the proposed amendments does not require the creation of new employee positions or the elimination of existing employee positions;
- (3) Implementation of the proposed amendments does not require an increase or decrease in the future legislative appropriations to the agency;
- (4) The proposed amendments do not require an increase or decrease in fees paid to the agency;
- (5) The proposed amendments do not create a new regulation;
- (6) The proposed amendments do not limit or expand an existing regulation;
- (7) The proposed amendments do not increase or decrease the number of individuals subject to the rule's applicability; and
- (8) The proposed amendments do not positively or adversely affect this state's economy.

Written comments on the amendments may be submitted to Eamon D. Briggs, Deputy General Counsel, Texas State Board of Pharmacy, 1801 Congress Avenue, Suite 13.100, Austin, Texas 78701-1319, FAX (512) 305-8061. Comments must be received by 5:00 p.m., April 29, 2025.

The amendments are proposed under §§551.002 and 554.051 of the Texas Pharmacy Act (Chapters 551 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 569, Texas Occupations Code.

§291.55. *Records.*

(a) Maintenance of records.

(1) Every inventory or other record required to be kept under this section shall be:

(A) kept by the pharmacy and be available, for at least two years from the date of such inventory or record, for inspecting and copying by the board or its representative, and other authorized local, state, or federal law enforcement agencies; and

(B) supplied by the pharmacy within 72 hours, if requested by an authorized agent of the board. If the pharmacy maintains

the records in an electronic format, the requested records must be provided in a mutually agreeable electronic format if specifically requested by the board or its representative. Failure to provide the records set out in this subsection, either on site or within 72 hours, constitutes prima facie evidence of failure to keep and maintain records in violation of the Act.

(2) Records of controlled substances listed in Schedules I and II shall be maintained separately from all other records of the pharmacy.

(3) Records of controlled substances, other than original prescription drug orders, listed in Schedules III - V shall be maintained separately or readily retrievable from all other records of the pharmacy. For purposes of this subsection, "readily retrievable" means that the controlled substances shall be asterisked, red-lined, or in some other manner readily identifiable apart from all other items appearing on the record.

(4) Records, except when specifically required to be maintained in original or hard copy form, may be maintained in an alternative data retention system, such as a data processing system or direct imaging system provided:

(A) the records maintained in the alternative system contain all of the information required on the manual record; and

(B) the data processing system is capable of producing a hard copy of the record upon request of the board, its representative, or other authorized local, state, or federal law enforcement or regulatory agencies.

(b) Prescriptions.

(1) Professional responsibility. Pharmacists shall exercise sound professional judgment with respect to the accuracy and authenticity of any radioactive prescription drug order they dispense. If the pharmacist questions the accuracy or authenticity of a radioactive prescription drug order, he/she shall verify the order with the practitioner prior to dispensing.

(2) Oral radioactive prescription drug orders.

(A) Only a pharmacist may receive an oral prescription drug order for a controlled substance. Only an authorized nuclear pharmacist, or a pharmacist-intern or pharmacy technician under the direct supervision of an authorized nuclear pharmacist, may receive from a practitioner or a practitioner's designated agent:

(i) an oral therapeutic prescription drug order; or

(ii) an oral diagnostic prescription drug order in instances where patient specificity is required for patient safety (e.g., radiolabeled blood products, radiolabeled antibodies).

(B) A practitioner shall designate in writing the name of each agent authorized by the practitioner to communicate prescriptions orally for the practitioner. The practitioner shall maintain at the practitioner's usual place of business a list of the designated agents. The practitioner shall provide a pharmacist with a copy of the practitioner's written authorization for a specific agent on the pharmacist's request.

(C) A pharmacist may not dispense an oral radioactive prescription drug order for a dangerous drug or a controlled substance issued by a practitioner licensed in the Dominion of Canada or the United Mexican States unless the practitioner is also licensed in Texas.

(3) Radioactive prescription drug orders issued by practitioners in another state.

(A) Dangerous drug prescription orders. A pharmacist may dispense a radioactive prescription drug order for dangerous drugs

issued by practitioners in a state other than Texas in the same manner as radioactive prescription drug orders for dangerous drugs issued by practitioners in Texas are dispensed.

(B) Controlled substance prescription drug orders. A pharmacist may dispense radioactive prescription drug orders for controlled substances in Schedule III, IV, or V issued by a practitioner in another state provided:

(i) the radioactive prescription drug order is written, oral, or telephonically or electronically communicated prescription as allowed by the DEA issued by a person practicing in another state and licensed by another state as a physician, dentist, veterinarian, or podiatrist, who has a current federal Drug Enforcement Administration registration number, and who may legally prescribe Schedule III, IV, or V controlled substances in such other state; and

(ii) the radioactive prescription drug order is not dispensed more than six months from the initial date of issuance.

(4) Radioactive prescription drug orders issued by practitioners in the United Mexican States or the Dominion of Canada.

(A) Controlled substance prescription drug orders. A pharmacist may not dispense a radioactive prescription drug order for a Schedule II, III, IV, or V controlled substance issued by a practitioner licensed in the Dominion of Canada or the United Mexican States.

(B) Dangerous drug prescription drug orders. A pharmacist may dispense a radioactive prescription drug order for a dangerous drug issued by a person licensed in the Dominion of Canada or the United Mexican States as a physician, dentist, veterinarian, or podiatrist provided the radioactive prescription drug order is an original written prescription.

(C) Prescription drug orders for Schedule II controlled substances. No Schedule II controlled substance may be dispensed without a written prescription drug order of a practitioner on an official prescription form as required by the Texas Controlled Substances Act, §481.075.

(5) Electronic radioactive prescription drug orders. For the purpose of this paragraph, electronic radioactive prescription drug orders shall be considered the same as oral radioactive prescription drug orders.

(A) An electronic radioactive prescription drug order may be transmitted by a practitioner or a practitioner's designated agent:

(i) directly to a pharmacy; or

(ii) through the use of a data communication device provided:

(I) the confidential prescription information is not altered during transmission; and

(II) confidential patient information is not accessed or maintained by the operator of the data communication device other than for legal purposes under federal and state law.

(B) A practitioner shall designate in writing the name of each agent authorized by the practitioner to electronically transmit prescriptions for the practitioner. The practitioner shall maintain at the practitioner's usual place of business a list of the designated agents. The practitioner shall provide a pharmacist with a copy of the practitioner's written authorization for a specific agent on the pharmacist's request.

(C) A pharmacist may not dispense an electronic radioactive prescription drug order for a:

(i) Schedule II controlled substance except as authorized in §481.075[for faxed prescriptions in §481.074], Health and Safety Code; or

(ii) dangerous drug or controlled substance issued by a practitioner licensed in the Dominion of Canada or the United Mexican States unless the practitioner is also licensed in Texas.

(6) Original prescription drug order records.

(A) Original prescriptions shall be maintained and readily retrievable by the pharmacy and remain accessible for a period of two years from the date of filling.

(B) If an original prescription drug order is changed, such prescription order shall be invalid and of no further force and effect; if additional drugs are to be dispensed, a new prescription drug order with a new and separate number is required.

(C) Original prescriptions shall be maintained in one of the following formats:

(i) in three separate files as follows:

(I) prescriptions for controlled substances listed in Schedule II;

(II) prescriptions for controlled substances listed in Schedules III - V; and

(III) prescriptions for dangerous drugs and non-prescription drugs; or

(ii) within a patient medication record system provided that original prescriptions for controlled substances are maintained separate from original prescriptions for noncontrolled substances and prescriptions for Schedule II controlled substances are maintained separate from all other original prescriptions.

(D) Original prescription records other than prescriptions for Schedule II controlled substances may be stored on microfilm, microfiche, or other system which is capable of producing a direct image of the original prescription record, e.g., a digitalized imaging system. If original prescription records are stored in a direct imaging system, the following is applicable:

(i) The original prescription records must be maintained and readily retrievable as specified in subparagraph (C) of this paragraph.

(ii) The pharmacy must provide immediate access to equipment necessary to render the records easily readable.

(7) Prescription drug order information.

(A) All original radioactive prescription drug orders shall bear:

(i) the name of the patient, if applicable at the time of the order;

(ii) the name of the institution;

(iii) the name, and if for a controlled substance, the address and DEA registration number of the practitioner;

(iv) the name of the radiopharmaceutical;

(v) the amount of radioactive material contained in millicuries (mCi), microcuries (uCi), or becquerels (Bq) and the corresponding time that applies to this activity, if different than the requested calibration date and time;

(vi) the date and time of calibration; and

(vii) the date of issuance.

(B) At the time of dispensing, a pharmacist is responsible for the addition of the following information to the original prescription:

(i) the unique identification number of the prescription drug order;

(ii) the initials or identification code of the person who compounded the sterile radiopharmaceutical and the pharmacist who checked and released the product unless maintained in a readily retrievable format;

(iii) the name, quantity, lot number, and expiration date of each product used in compounding the sterile radiopharmaceutical; and

(iv) the date of dispensing, if different from the date of issuance.

(8) Refills. A radioactive prescription drug order must be filled from an original prescription which may not be refilled.

(c) Policy and procedure manual.

(1) All nuclear pharmacies shall maintain a policy and procedure manual. The nuclear pharmacy policy and procedure manual is a compilation of written policy and procedure statements.

(2) A technical operations manual governing all nuclear pharmacy functions shall be prepared. It shall be continually revised to reflect changes in techniques, organizations, etc. All pharmacy personnel shall be familiar with the contents of the manual.

(3) The nuclear pharmacy policies and procedures manual shall be prepared by the pharmacist-in-charge with input from the affected personnel and from other involved staff and committees to govern procurement, preparation, distribution, storage, disposal, and control of all drugs used and the need for policies and procedures relative to procurement of multisource items, inventory, investigational drugs, and new drug applications.

(d) Other records. Other records to be maintained by a pharmacy:

(1) a permanent log of the initials or identification codes which identifies each dispensing pharmacist by name (the initials or identification codes shall be unique to ensure that each pharmacist can be identified, i.e., identical initials or identification codes shall not be used);

(2) copy 3 of DEA order forms (DEA 222) which have been properly dated, initialed, and filed, and all copies of each unaccepted or defective order form and any attached statements or other documents;

(3) a hard copy of the power of attorney to sign DEA 222 order forms (if applicable);

(4) suppliers' invoices of controlled substances; a pharmacist shall verify that the controlled drugs listed on the invoices were actually received by clearly recording his/her initials and the actual date of receipt of the controlled substances;

(5) suppliers' credit memos for controlled substances and dangerous drugs;

(6) a hard copy of inventories required by §291.17 of this title (relating to Inventory Requirements);

(7) hard copy reports of surrender or destruction of controlled substances and/or dangerous drugs to an appropriate state or federal agency;

(8) records of distribution of controlled substances and/or dangerous drugs to other pharmacies, practitioners, or registrants; and

(9) a hard copy of any notification required by the Texas Pharmacy Act or these sections, including, but not limited to, the following:

(A) reports of theft or significant loss of controlled substances to DEA and the board;

(B) notifications of a change in pharmacist-in-charge of a pharmacy; and

(C) reports of a fire or other disaster which may affect the strength, purity, or labeling of drugs, medications, devices, or other materials used in the diagnosis or treatment of injury, illness, and disease.

(e) Permission to maintain central records. Any pharmacy that uses a centralized recordkeeping system for invoices and financial data shall comply with the following procedures.

(1) Controlled substance records. Invoices and financial data for controlled substances may be maintained at a central location provided the following conditions are met.

(A) Prior to the initiation of central recordkeeping, the pharmacy submits written notification by registered or certified mail to the divisional director of DEA as required by the Code of Federal Regulations, Title 21, §1304.04(a), and submits a copy of this written notification to the board. Unless the registrant is informed by the divisional director of DEA that permission to keep central records is denied, the pharmacy may maintain central records commencing 14 days after receipt of notification by the divisional director.

(B) The pharmacy maintains a copy of the notification required in subparagraph (A) of this paragraph.

(C) The records to be maintained at the central record location shall not include executed DEA order forms, prescription drug orders, or controlled substance inventories, which shall be maintained at the pharmacy.

(2) Dangerous drug records. Invoices and financial data for dangerous drugs may be maintained at a central location.

(3) Access to records. If the records are kept on microfilm, computer media, or in any form requiring special equipment to render the records easily readable, the pharmacy shall provide access to such equipment with the records.

(4) Delivery of records. The pharmacy agrees to deliver all or any part of such records to the pharmacy location within two business days of written request of an authorized agent of the board or any other authorized official.

(5) Ownership of pharmacy records. For purposes of these sections, a pharmacy licensed under the Act is the only entity which may legally own and maintain prescription drug records.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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SUBCHAPTER D. INSTITUTIONAL PHARMACY (CLASS C)

22 TAC §291.72

The Texas State Board of Pharmacy proposes amendments to §291.72, concerning Definitions. The amendments, if adopted, add definitions for the terms "common ownership" and "owner of record."

Daniel Carroll, Pharm.D., Executive Director/Secretary, has determined that, for the first five-year period the rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. Dr. Carroll has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will be clear and correct regulations that reflect the Board's current practices concerning the licensure of pharmacies. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.

For each year of the first five years the proposed amendments will be in effect, Dr. Carroll has determined the following:

- (1) The proposed amendments do not create or eliminate a government program;
- (2) Implementation of the proposed amendments does not require the creation of new employee positions or the elimination of existing employee positions;
- (3) Implementation of the proposed amendments does not require an increase or decrease in the future legislative appropriations to the agency;
- (4) The proposed amendments do not require an increase or decrease in fees paid to the agency;
- (5) The proposed amendments do not create a new regulation;
- (6) The proposed amendments do expand an existing regulation;
- (7) The proposed amendments do not increase or decrease the number of individuals subject to the rule's applicability; and
- (8) The proposed amendments would have a de minimis impact on this state's economy.

Written comments on the amendments may be submitted to Eamon D. Briggs, Deputy General Counsel, Texas State Board of Pharmacy, 1801 Congress Avenue, Suite 13.100, Austin, Texas 78701-1319, FAX (512) 305-8061. Comments must be received by 5:00 p.m., April 29, 2025.

The amendments are proposed under §§551.002 and 554.051 of the Texas Pharmacy Act (Chapters 551 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board inter-

prets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 569, Texas Occupations Code.

§291.72. Definitions.

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

(1) Accurately as prescribed--Distributing and/or delivering a medication drug order:

(A) to the correct patient (or agent of the patient) for whom the drug or device was prescribed;

(B) with the correct drug in the correct strength, quantity, and dosage form ordered by the practitioner; and

(C) with correct labeling as ordered by the practitioner and required by rule.

(2) Act--The Texas Pharmacy Act, Chapters 551 - 566 and 568 - 569, Occupations Code, as amended.

(3) Administer--The direct application of a prescription drug by injection, inhalation, ingestion, or any other means to the body of a patient by:

(A) a practitioner, an authorized agent under his supervision, or other person authorized by law; or

(B) the patient at the direction of a practitioner.

(4) Automated compounding or counting device--An automated device that compounds, measures, counts and/or packages a specified quantity of dosage units of a designated drug product.

(5) Automated medication supply system--A mechanical system that performs operations or activities relative to the storage and distribution of medications for administration and which collects, controls, and maintains all transaction information.

(6) Board--The State Board of Pharmacy.

(7) Clinical Pharmacy Program--An ongoing program in which pharmacists are on duty during the time the pharmacy is open for pharmacy services and pharmacists provide direct focused, medication-related care for the purpose of optimizing patients' medication therapy and achieving definite outcomes, which includes the following activities:

(A) prospective medication therapy consultation, selection, and adjustment;

(B) monitoring laboratory values and therapeutic drug monitoring;

(C) identifying and resolving medication-related problems; and

(D) disease state management.

(8) Common ownership--Two or more pharmacies with an identical owner of record with the Board.

(9) [(8)] Confidential record--Any health-related record that contains information that identifies an individual and that is maintained by a pharmacy or pharmacist, such as a patient medication record, prescription drug order, or medication drug order.

(10) [(9)] Consultant pharmacist--A pharmacist retained by a facility on a routine basis to consult with the facility in areas that pertain to the practice of pharmacy.

(11) [(10)] Controlled substance--A drug, immediate precursor, or other substance listed in Schedules I - V or Penalty Groups 1 - 4 of the Texas Controlled Substances Act, as amended, or a drug, immediate precursor, or other substance included in Schedules I - V of the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended (Public Law 91-513).

(12) [(11)] Dangerous drug--A drug or device that:

(A) is not included in Penalty Group 1, 2, 3, or 4, Chapter 481, Health and Safety Code, and is unsafe for self-medication; or

(B) bears or is required to bear the legend:

(i) "Caution: federal law prohibits dispensing without prescription" or "Rx only" or another legend that complies with federal law; or

(ii) "Caution: federal law restricts this drug to use by or on the order of a licensed veterinarian."

(13) [(12)] Device--An instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component part or accessory, that is required under federal or state law to be ordered or prescribed by a practitioner.

(14) [(13)] Direct copy--Electronic copy or carbonized copy of a medication order, including a facsimile (FAX) or digital image.

(15) [(14)] Dispense--Preparing, packaging, compounding, or labeling for delivery a prescription drug or device in the course of professional practice to an ultimate user or his agent by or pursuant to the lawful order of a practitioner.

(16) [(15)] Distribute--The delivery of a prescription drug or device other than by administering or dispensing.

(17) [(16)] Distributing pharmacist--The pharmacist who checks the medication order prior to distribution.

(18) [(17)] Downtime--Period of time during which a data processing system is not operable.

(19) [(18)] Drug regimen review--

(A) An evaluation of medication orders and patient medication records for:

(i) known allergies;

(ii) rational therapy--contraindications;

(iii) reasonable dose and route of administration;

(iv) reasonable directions for use;

(v) duplication of therapy;

(vi) drug-drug interactions;

(vii) drug-food interactions;

(viii) drug-disease interactions;

(ix) adverse drug reactions; and

(x) proper utilization, including overutilization or underutilization.

(B) The drug regimen review may be conducted prior to administration of the first dose (prospective) or after administration of the first dose (retrospective).

(20) [(19)] Electronic signature--A unique security code or other identifier which specifically identifies the person entering infor-

mation into a data processing system. A facility which utilizes electronic signatures must:

(A) maintain a permanent list of the unique security codes assigned to persons authorized to use the data processing system; and

(B) have an ongoing security program which is capable of identifying misuse and/or unauthorized use of electronic signatures.

(21) [(20)] Expiration date--The date (and time, when applicable) beyond which a product should not be used.

(22) [(21)] Facility--

(A) a hospital or other patient facility that is licensed under Chapter 241 or 577, Health and Safety Code;

(B) a hospice patient facility that is licensed under Chapter 142, Health and Safety Code;

(C) an ambulatory surgical center licensed under Chapter 243, Health and Safety Code; or

(D) a hospital maintained or operated by the state.

(23) [(22)] Floor stock--Prescription drugs or devices not labeled for a specific patient and maintained at a nursing station or other hospital department (excluding the pharmacy) for the purpose of administration to a patient of the facility.

(24) [(23)] Formulary--List of drugs approved for use in the facility by the committee which performs the pharmacy and therapeutics function for the facility.

(25) [(24)] Full-time pharmacist--A pharmacist who works in a pharmacy from 30 to 40 hours per week or if the pharmacy is open less than 60 hours per week, one-half of the time the pharmacy is open.

(26) [(25)] Hard copy--A physical document that is readable without the use of a special device (i.e., data processing system, computer, etc).

(27) [(26)] Hot water--The temperature of water from the pharmacy's sink maintained at a minimum of 105 degrees F (41 degrees C).

(28) [(27)] Institutional pharmacy--Area or areas in a facility where drugs are stored, bulk compounded, delivered, compounded, dispensed, and distributed to other areas or departments of the facility, or dispensed to an ultimate user or his or her agent.

(29) [(28)] Investigational new drug--New drug intended for investigational use by experts qualified to evaluate the safety and effectiveness of the drug as authorized by the Food and Drug Administration.

(30) [(29)] Medical Practice Act--The Texas Medical Practice Act, Subtitle B, Occupations Code, as amended.

(31) [(30)] Medication order--A written order from a practitioner or a verbal order from a practitioner or his authorized agent for administration of a drug or device.

(32) [(31)] Number of beds--The total number of beds is determined by the:

(A) number of beds for which the hospital is licensed by the Texas Department of State Health Services; or

(B) average daily census as calculated by dividing the total number of inpatients admitted during the previous calendar year by 365 (or 366 if the previous calendar year is a leap year).

(33) Owner of record--The direct owner of the pharmacy provided on the pharmacy's application for a pharmacy license or most recent approved change of ownership form.

(34) [(32)] Part-time pharmacist--A pharmacist either employed or under contract, who routinely works less than full-time.

(35) [(33)] Patient--A person who is receiving services at the facility (including patients receiving ambulatory procedures and patients conditionally admitted as observation patients), or who is receiving long term care services or Medicare extended care services in a swing bed on the hospital premise or an adjacent, readily accessible facility that is under the authority of the hospital's governing body. For the purposes of this definition, the term "long term care services" means those services received in a skilled nursing facility which is a distinct part of the hospital and the distinct part is not licensed separately or formally approved as a nursing home by the state, even though it is designated or certified as a skilled nursing facility. A patient includes a person confined in any correctional institution operated by the state of Texas.

(36) [(34)] Perpetual inventory--An inventory which documents all receipts and distributions of a drug product, such that an accurate, current balance of the amount of the drug product present in the pharmacy is indicated.

(37) [(35)] Pharmaceutical care--The provision of drug therapy and other pharmaceutical services intended to assist in the cure or prevention of a disease, elimination or reduction of a patient's symptoms, or arresting or slowing of a disease process.

(38) [(36)] Pharmacist-in-charge--Pharmacist designated on a pharmacy license as the pharmacist who has the authority or responsibility for a pharmacy's compliance with laws and rules pertaining to the practice of pharmacy.

(39) [(37)] Pharmacy and therapeutics function--Committee of the medical staff in the facility which assists in the formulation of broad professional policies regarding the evaluation, selection, distribution, handling, use, and administration, and all other matters relating to the use of drugs and devices in the facility.

(40) [(38)] Pharmacy technician--An individual who is registered with the board as a pharmacy technician and whose responsibility in a pharmacy is to provide technical services that do not require professional judgment regarding preparing and distributing drugs and who works under the direct supervision of and is responsible to a pharmacist.

(41) [(39)] Pharmacy technician trainee--An individual who is registered with the board as a pharmacy technician trainee and is authorized to participate in a pharmacy's technician training program.

(42) [(40)] Pre-packaging--The act of re-packaging and re-labeling quantities of drug products from a manufacturer's original container into unit-dose packaging or a multiple dose container for distribution within the facility except as specified in §291.74(f)(3)(B) of this title (relating to Operational Standards).

(43) [(41)] Prescription drug--

(A) A substance for which federal or state law requires a prescription before it may be legally dispensed to the public;

(B) A drug or device that under federal law is required, prior to being dispensed or delivered, to be labeled with either of the following statements:

(i) Caution: federal law prohibits dispensing without prescription or "Rx only" or another legend that complies with federal law; or

(ii) Caution: federal law restricts this drug to use by or on order of a licensed veterinarian; or

(C) A drug or device that is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by a practitioner only.

(44) [(42)] Prescription drug order--

(A) a written order from a practitioner or a verbal order from a practitioner or his authorized agent to a pharmacist for a drug or device to be dispensed; or

(B) a written order or a verbal order pursuant to Subtitle B, Chapter 157, Occupations Code.

(45) [(43)] Rural hospital--A licensed hospital with 75 beds or fewer that:

(A) is located in a county with a population of 50,000 or less as defined by the United States Census Bureau in the most recent U.S. census; or

(B) has been designated by the Centers for Medicare and Medicaid Services as a critical access hospital, rural referral center, or sole community hospital.

(46) [(44)] Sample--A prescription drug which is not intended to be sold and is intended to promote the sale of the drug.

(47) [(45)] Supervision--

(A) Physically present supervision--In a Class C pharmacy, a pharmacist shall be physically present to directly supervise pharmacy technicians or pharmacy technician trainees.

(B) Electronic supervision--In a Class C pharmacy in a facility with 100 beds or less, a pharmacist licensed in Texas may electronically supervise pharmacy technicians or pharmacy technician trainees to perform the duties specified in §291.73(e)(2) of this title (relating to Personnel) provided:

(i) the pharmacy uses a system that monitors the data entry of medication orders and the filling of such orders by an electronic method that shall include the use of one or more the following types of technology:

(I) digital interactive video, audio, or data transmission;

(II) data transmission using computer imaging by way of still-image capture and store and forward; and

(III) other technology that facilitates access to pharmacy services;

(ii) the pharmacy establishes controls to protect the privacy and security of confidential records;

(iii) the pharmacist responsible for the duties performed by a pharmacy technician or pharmacy technician trainee verifies:

(I) the data entry; and

(II) the accuracy of the filled orders prior to release of the order; and

(iv) the pharmacy keeps permanent digital records of duties electronically supervised and data transmissions associated with electronically supervised duties for a period of two years.

(C) If the conditions of subparagraph (B) of this paragraph are met, electronic supervision shall be considered the equivalent of direct supervision for the purposes of the Act.

(48) [(46)] Tech-Check-Tech--Allowing a pharmacy technician to verify the accuracy of work performed by another pharmacy technician relating to the filling of floor stock and unit dose distribution systems for a patient admitted to the hospital if the patient's orders have previously been reviewed and approved by a pharmacist.

(49) [(47)] Texas Controlled Substances Act--The Texas Controlled Substances Act, the Health and Safety Code, Chapter 481, as amended.

(50) [(48)] Unit-dose packaging--The ordered amount of drug in a dosage form ready for administration to a particular patient, by the prescribed route at the prescribed time, and properly labeled with name, strength, and expiration date of the drug.

(51) [(49)] Unusable drugs--Drugs or devices that are unusable for reasons, such as they are adulterated, misbranded, expired, defective, or recalled.

(52) [(50)] Written protocol--A physician's order, standing medical order, standing delegation order, or other order or protocol as defined by rule of the Texas Medical Board under the Texas Medical Practice Act Subtitle B, Chapter 157, Occupations Code.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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SUBCHAPTER F. NON-RESIDENT PHARMACY (CLASS E)

22 TAC §291.102

The Texas State Board of Pharmacy proposes amendments to §291.102, concerning Definitions. The amendments, if adopted, correct the chapter range in the definition of the Act.

Daniel Carroll, Pharm.D., Executive Director/Secretary, has determined that, for the first five-year period the rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. Dr. Carroll has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will be clear and correct regulations. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.

For each year of the first five years the proposed amendments will be in effect, Dr. Carroll has determined the following:

(1) The proposed amendments do not create or eliminate a government program;

(2) Implementation of the proposed amendments does not require the creation of new employee positions or the elimination of existing employee positions;

(3) Implementation of the proposed amendments does not require an increase or decrease in the future legislative appropriations to the agency;

(4) The proposed amendments do not require an increase or decrease in fees paid to the agency;

(5) The proposed amendments do not create a new regulation;

(6) The proposed amendments do not limit or expand an existing regulation;

(7) The proposed amendments do not increase or decrease the number of individuals subject to the rule's applicability; and

(8) The proposed amendments do not positively or adversely affect this state's economy.

Written comments on the amendments may be submitted to Eamon D. Briggs, Deputy General Counsel, Texas State Board of Pharmacy, 1801 Congress Avenue, Suite 13.100, Austin, Texas 78701-1319, FAX (512) 305-8061. Comments must be received by 5:00 p.m., April 29, 2025.

The amendments are proposed under §§551.002 and 554.051 of the Texas Pharmacy Act (Chapters 551 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 569, Texas Occupations Code.

§291.102. Definitions.

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

(1) Act--The Texas Pharmacy Act, Chapters 551 - 569 [551-566], Occupations Code, as amended.

(2) Accurately as prescribed--Dispensing, delivering, and/or distributing a prescription drug order:

(A) to the correct patient (or agent of the patient) for whom the drug or device was prescribed;

(B) with the correct drug in the correct strength, quantity, and dosage form ordered by the practitioner; and

(C) with correct labeling (including directions for use) as ordered by the practitioner. Provided, however, that nothing herein shall prohibit pharmacist substitution if substitution is conducted in strict accordance with applicable laws and rules, including Subchapter A of Chapter 562 of the Texas Pharmacy Act relating to Prescription and Substitution Requirements.

(3) Board--The Texas State Board of Pharmacy.

(4) Class E pharmacy license or non-resident pharmacy license--a license issued to a pharmacy located in another state whose primary business is to:

(A) dispense a prescription drug or device under a prescription drug order and to deliver the drug or device to a patient, including a patient in this state, by the United States mail, common carrier, or delivery service;

(B) process a prescription drug order for a patient, including a patient in this state; or

(C) perform another pharmaceutical service defined by board rule.

(5) Confidential Record--Any health related record, including a patient medication record, prescription drug order, or medication order that:

(A) contains information that identifies an individual; and

(B) is maintained by a pharmacy or pharmacist.

(6) Deliver or delivery--The actual, constructive, or attempted transfer of a prescription drug or device or controlled substance from one person to another, whether or not for a consideration.

(7) Dispense--Preparing, packaging, compounding, or labeling, in the course of professional practice, a prescription drug or device for delivery to an ultimate user or the user's agent under a practitioner's lawful order.

(8) Distribute--To deliver a prescription drug or device other than by administering or dispensing.

(9) Generically equivalent--A drug that is "pharmaceutically equivalent" and "therapeutically equivalent" to the drug prescribed.

(10) New prescription drug order--A prescription drug order that:

(A) has not been dispensed to the patient in the same strength and dosage form by this pharmacy within the last year;

(B) is transferred from another pharmacy; and/or

(C) is a discharge prescription drug order. (Note: furlough prescription drug orders are not considered new prescription drug orders.)

(11) Pharmaceutically equivalent--Drug products which have identical amounts of the same active chemical ingredients in the same dosage form and which meet the identical compendial or other applicable standards of strength, quality, and purity according to the United States Pharmacopoeia or other nationally recognized compendium.

(12) Pharmacist--For the purpose of this subchapter, a person licensed to practice pharmacy in the state where the Class E pharmacy is located.

(13) Pharmacist-in-charge--The pharmacist designated on a pharmacy license as the pharmacist who has the authority or responsibility for a pharmacy's compliance with statutes and rules pertaining to the practice of pharmacy.

(14) Practitioner--

(A) a person licensed or registered to prescribe, distribute, administer, or dispense a prescription drug or device in the course of professional practice in this state, including a physician, dentist, podiatrist, or veterinarian but excluding a person licensed under the Act;

(B) a person licensed by another state, Canada, or the United Mexican States in a health field in which, under the law of this state, a license holder in this state may legally prescribe a dangerous drug; or

(C) a person practicing in another state and licensed by another state as a physician, dentist, veterinarian, or podiatrist, who has a current federal Drug Enforcement Administration registration num-

ber and who may legally prescribe a Schedule II, III, IV, or V controlled substance, as specified under Chapter 481, Health and Safety Code, in that other state.

(15) Prescription drug order--an order from a practitioner or a practitioner's designated agent to a pharmacist for a drug or device to be dispensed.

(16) Therapeutically equivalent--Pharmaceutically equivalent drug products which, when administered in the same amounts, will provide the same therapeutic effect, identical in duration and intensity.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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SUBCHAPTER G. SERVICES PROVIDED BY PHARMACIES

22 TAC §291.120

The Texas State Board of Pharmacy proposes amendments to §291.120, concerning General. The amendments, if adopted, add definitions for the terms "common ownership" and "owner of record."

Daniel Carroll, Pharm.D., Executive Director/Secretary, has determined that, for the first five-year period the rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. Dr. Carroll has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will be clear and correct regulations that reflect the Board's current practices concerning the licensure of pharmacies. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.

For each year of the first five years the proposed amendments will be in effect, Dr. Carroll has determined the following:

(1) The proposed amendments do not create or eliminate a government program;

(2) Implementation of the proposed amendments does not require the creation of new employee positions or the elimination of existing employee positions;

(3) Implementation of the proposed amendments does not require an increase or decrease in the future legislative appropriations to the agency;

(4) The proposed amendments do not require an increase or decrease in fees paid to the agency;

(5) The proposed amendments do not create a new regulation;

- (6) The proposed amendments do expand an existing regulation;
- (7) The proposed amendments do not increase or decrease the number of individuals subject to the rule's applicability; and
- (8) The proposed amendments would have a de minimis impact on this state's economy.

Written comments on the amendments may be submitted to Eamon D. Briggs, Deputy General Counsel, Texas State Board of Pharmacy, 1801 Congress Avenue, Suite 13.100, Austin, Texas 78701-1319, FAX (512) 305-8061. Comments must be received by 5:00 p.m., April 29, 2025.

The amendments are proposed under §§551.002 and 554.051 of the Texas Pharmacy Act (Chapters 551 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 569, Texas Occupations Code.

§291.120. *General.*

(a) Purpose. This subchapter applies to all classes of pharmacies except as otherwise noted.

(b) Definitions.

(1) The Texas Pharmacy Act or Act--Subtitle J, other than Chapter 567, Occupations Code, as amended.

(2) Board--The Texas State Board of Pharmacy.

(3) Common ownership--Two or more pharmacies with an identical owner of record with the Board.

(4) Owner of record--The direct owner of the pharmacy provided on the pharmacy's application for a pharmacy license or most recent approved change of ownership form.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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CHAPTER 315. CONTROLLED SUBSTANCES

22 TAC §315.13

The Texas State Board of Pharmacy proposes amendments to §315.13, concerning Official Prescription Form - Effective September 1, 2016. The amendments, if adopted, remove a recordkeeping requirement concerning a statutory provision that has been repealed and the effective date from the short title.

Daniel Carroll, Pharm.D., Executive Director/Secretary, has determined that, for the first five-year period the rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. Dr. Carroll has

determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will be clear and correct regulations. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.

For each year of the first five years the proposed amendments will be in effect, Dr. Carroll has determined the following:

(1) The proposed amendments do not create or eliminate a government program;

(2) Implementation of the proposed amendments does not require the creation of new employee positions or the elimination of existing employee positions;

(3) Implementation of the proposed amendments does not require an increase or decrease in the future legislative appropriations to the agency;

(4) The proposed amendments do not require an increase or decrease in fees paid to the agency;

(5) The proposed amendments do not create a new regulation;

(6) The proposed amendments do not limit or expand an existing regulation;

(7) The proposed amendments do not increase or decrease the number of individuals subject to the rule's applicability; and

(8) The proposed amendments do not positively or adversely affect this state's economy.

Written comments on the amendments may be submitted to Eamon D. Briggs, Deputy General Counsel, Texas State Board of Pharmacy, 1801 Congress Avenue, Suite 13.100, Austin, Texas 78701-1319, FAX (512) 305-8061. Comments must be received by 5:00 p.m., April 29, 2025.

The amendments are proposed under §§551.002 and 554.051 of the Texas Pharmacy Act (Chapters 551 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 569, Texas Occupations Code.

§315.13. *Official Prescription Form [- Effective September 1, 2016].*

(a) Accountability. A practitioner who obtains from the board an official prescription form is accountable for each numbered form.

(b) Prohibited acts. A practitioner may not:

(1) allow another practitioner to use the individual practitioner's official prescription form;

(2) pre-sign an official prescription blank;

(3) post-date an official prescription; or

(4) leave an official prescription blank in a location where the practitioner should reasonably believe another could steal or misuse a prescription.

(c) While not in use. While an official prescription blank is not in immediate use, a practitioner may not maintain or store the book at a location so the book is easily accessible for theft or other misuse.

(d) Voided. A practitioner must account for each voided official prescription form by sending the voided form to the board.

(e) Types of forms. Forms may be single or multiple copy forms as provided by the board.

~~[(f) Faxed forms. Faxed official prescription forms will be accounted for as in the TCSA, §481.074(e).]~~

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 7, 2025.

TRD-202500833

Daniel Carroll, Pharm.D.

Executive Director

Texas State Board of Pharmacy

Earliest possible date of adoption: April 20, 2025

For further information, please call: (512) 305-8084



PART 21. TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS

CHAPTER 463. APPLICATIONS AND EXAMINATIONS

SUBCHAPTER F. PROFESSIONAL DEVELOPMENT

22 TAC §463.35

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Psychologists proposes amendments to §463.35, relating to Professional Development.

Overview and Explanation of the Proposed Rule. The proposed amendment will clarify the nature of professional development a licensee must receive related to maintaining competency when providing services to unique populations.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year pe-

riod the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

Request for Public Comments. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on April 20, 2025, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which

vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §501.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Psychologists previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§463.35. *Professional Development.*

(a) Minimum Professional Development Hours Required:

(1) A licensee must complete 40 hours of professional development during each renewal period that they hold a license. The 40 hours of professional development must include 6 hours in ethics and 6 hours designed to ensure competency when providing services to a distinct population, defined as a group of people who share a common attribute, trait, or defining characteristic of the licensee's choice [~~in cultural diversity or competence~~].

(2) A licensee may carry forward to the next renewal period, a maximum of 10 hours accrued during the current renewal period if those hours are not needed for renewal.

(b) Acceptable ethics hours include, but are not limited to professional development on:

- (1) state or federal laws, including agency rules, relevant to the practice of psychology;
- (2) practice guidelines established by local, regional, state, national, or international professional organizations;
- (3) training or education designed to demonstrate or affirm the ideals and responsibilities of the profession; and
- (4) training or education intended to assist licensees in determining appropriate decision-making and behavior, improve consistency in or enhance the professional delivery of services, and provide a minimum acceptable level of practice.

~~[(e) Acceptable cultural diversity or competency hours include, but are not limited to, professional development regarding age, disability, ethnicity, gender, gender identity, language, national origin, race, religion, culture, sexual orientation, and socio-economic status.]~~

~~(c) [(d)] Acceptable Professional Development Activities:~~

~~(1) All professional development hours must have been received during the renewal period unless allowed under subsection (a)(2) of this section, and be directly related to the practice of psychology;~~

~~(2) The Council shall make the determination as to whether the activity claimed by the licensee is directly related to the practice of psychology;~~

~~(3) Except for hours claimed under subsection (g), all professional development hours obtained must be designated by the provider in a letter, email, certificate, or transcript that displays the licensee's name, topic covered, date(s) of training, and hours of credit earned; and~~

~~(4) Multiple instances or occurrences of a professional development activity may not be claimed for the same renewal period.~~

~~(d) [(e)] Licensees must obtain at least fifty percent of their professional development hours from one or more of the following providers:~~

~~(1) an international, national, regional, state, or local association of medical, mental, or behavioral health professionals;~~

~~(2) public school districts, charter schools, or education service centers;~~

~~(3) city, county, state, or federal governmental entities;~~

~~(4) an institution of higher education accredited by a regional accrediting organization recognized by the Council for Higher Education Accreditation, the Texas Higher Education Coordinating Board, or the United States Department of Education;~~

~~(5) religious or charitable organizations devoted to improving the mental or behavioral health of individuals;~~

~~(6) a hospital or hospital system, including any clinic, division, or department within a hospital or hospital system; or~~

~~(7) any provider approved or endorsed by a provider listed herein.~~

~~(e) [(f)] Licensees shall receive credit for professional development activities according to the number of hours designated by the provider, or if no such designation, on a one-for-one basis with one credit hour for each hour spent in the professional development activity.~~

~~(f) [(g)] Notwithstanding subsection (e) above, licensees may claim professional development credit for each of the following activities:~~

~~(1) Passage of the jurisprudence examination. Licensees who pass the jurisprudence examination may claim 1 hour of professional development in ethics.~~

~~(2) Preparing and giving a presentation at a professional development activity. The maximum number of hours that may be claimed for this activity is 5 hours.~~

~~(3) Authoring a book or peer reviewed article. The maximum number of hours that may be claimed for this activity is 5 hours.~~

~~(4) Teaching or attending a graduate level course. The maximum number of hours that may be claimed for this activity is 5 hours.~~

~~(5) Self-study. The maximum number of hours that may be claimed for this activity is 1 hour.~~

(6) Successful completion of a training course on human trafficking prevention described by §116.002 of the Occupations Code. Licensees who complete this training may claim 1 hour of professional development credit.

(7) Providing supervision to supervisees delivering psychological services to individuals residing in a rural mental health discipline Health Professional Shortage Area (HPSA) identified by the U.S. Health Resources & Services Administration (HRSA). The maximum number of hours that may be claimed for this activity is 20 and hours claimed may not be counted toward the ethics or distinct population [cultural diversity or competency requirements].

(g) [(h)] The Council does not pre-evaluate or pre-approve professional development providers or hours.

(h) (i) Licensees shall maintain proof of professional development compliance for a minimum of 3 years after the applicable renewal period.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 6, 2025.

TRD-202500817

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Psychologists

Earliest possible date of adoption: April 20, 2025

For further information, please call: (512) 305-7706



CHAPTER 465. RULES OF PRACTICE

22 TAC §465.38

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Psychologists proposes amendments to §465.38, relating to Psychological Services for Schools.

Overview and Explanation of the Proposed Rule. The proposed amendments will update the description of the scope of practice for Licensed Specialists in School Psychology to better reflect the full scope of practice and align with national standards, without substantively altering the scope of practice.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be

no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

Request for Public Comments. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on April 20, 2025, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this

State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §501.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Psychologists previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§465.38. *Psychological Services for Schools.*

(a) This rule acknowledges the unique difference in the delivery of school psychological services in public and private schools from psychological services in the private sector. The Council recognizes the purview of the State Board of Education and the Texas Education Agency in safeguarding the rights of school children in Texas. The mandated multidisciplinary team decision making, hierarchy of supervision, regulatory provisions, and past traditions of school psychological service delivery both nationally and in Texas, among other factors, allow for rules of practice in public and private schools which reflect these occupational distinctions from the private practice of psychology.

(b) Scope of Practice.

(1) School psychological services include the delivery of a comprehensive range of services to support the academic, emotional, social, behavioral, and mental health development and needs of students, which includes the promotion of students' strengths, as well as the identification and treatment of mental health disorders and disabilities impacting student educational performances.

~~{(1) An LSSP is a person who is trained to address psychological and behavioral problems manifested in and associated with educational systems by utilizing psychological concepts and methods in programs or actions which attempt to improve the learning, adjustment and behavior of students. Such activities include, but are not limited to, addressing special education eligibility, conducting manifestation determinations, and assisting with the development and implementation of individual educational programs, conducting behavioral assess-~~

~~ments, and designing and implementing behavioral interventions and supports.}~~

(2) School psychological services include, but are not limited to:

(A) Assessment, which includes psychoeducational, cognitive, psychological, emotional, behavioral, and other assessments; universal screenings; and various data collection methods to:

(i) identify and address student academic, social, emotional, developmental, and mental and behavioral health needs;

(ii) make eligibility recommendations for special education services;

(iii) assess risk of harm to self or others, and;

(iv) evaluate effectiveness of services and practices.

(B) Prevention and Intervention services to support student learning, which include facilitating delivery of curricula and instructional strategies, school-wide, group, and individual interventions to support student achievement, student wellness, mental and behavioral health, promoting safe learning environments and addressing other barriers to learning.

(C) Mental and Behavioral Health Services, which includes individual, group and/or school-wide services to promote social, emotional, mental and behavioral health, and prosocial and positive behaviors. Such services also include individual or group counseling, behavioral assessment and intervention, and consultation with families, educational staff, and other interested parties.

(D) Consultation and Collaboration, which includes engagement in collaborative problem-solving as a vehicle to plan, implement, and evaluate academic and mental and behavioral health services, which may include psychoeducation for students, families, school personnel, and other relevant parties.

(E) Development of programs, which includes designing, implementing, or evaluating safe, supportive, and educationally and psychologically sound learning environments; engaging in crisis prevention, response, and intervention; acting as a catalyst for educator and family engagement in adaptations and innovations; and facilitating the psychoeducational development of individual families or groups.

~~{(2) The assessment of emotional or behavioral disturbance, solely for educational purposes, using psychological techniques and procedures is considered the practice of school psychology.}~~

(3) The delivery of school psychological services in the public schools of this state shall be consistent with nationally recognized standards for the practice of school psychology. Licensees providing school psychological services in a private school should comply with those same nationally recognized standards where possible, but at a minimum, must comply with all applicable Council rules, including those related to informed consent, notification of the right to file a complaint, competency, forensic services, and misuse of services.

(c) The specialist in school psychology license permits the licensee to provide school psychological services only in public and private schools. A person utilizing this license may not provide psychological services in any context or capacity outside of a public or private school.

(d) The correct title for an individual holding a specialist in school psychology license is Licensed Specialist in School Psychology or (LSSP), or the individual may use the title School Psychologist as referenced in §21.003 of the Education Code. An LSSP who

has achieved certification as a Nationally Certified School Psychologist (NCSP) may use this credential along with the license title of LSSP.

(e) Providers of Psychological Services Within the Public Schools.

(1) School psychological services may be provided in Texas public schools only by individuals authorized by this Council to provide such services. Individuals who may provide such school psychological services include:

(A) LSSPs; and

(B) interns and post-doctoral fellows working towards licensure as a psychologist.

(2) Licensees who do not hold the specialist in school psychology license may contract for specific types of psychological services, such as clinical psychology, counseling psychology, neuropsychology, and family therapy, but any such contracting may not involve the broad range of school psychological services listed in subsection (b)(1) of this section.

(3) An LSSP who contracts with a school to provide school psychological services must notify the school of any intent or plan to subcontract or assign those services to another provider prior to entering into the agreement. An LSSP subject to this provision shall be responsible for ensuring the school psychological services delivered comply with subsection (b)(3) of this section.

(f) Compliance with Applicable Education Laws. LSSPs shall comply with all applicable state and federal laws affecting the practice of school psychology, including, but not limited to:

(1) Texas Education Code;

(2) Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g;

(3) Individuals with Disabilities Education Improvement Act (IDEIA), 20 U.S.C. §1400 et seq.;

(4) Texas Public Information Act, Texas Government Code, Chapter 552;

(5) Section 504 of the Rehabilitation Act of 1973;

(6) Americans with Disabilities Act (ADA) 42 U.S.C. §12101; and

(7) HIPAA when practicing in a private school.

(g) Informed Consent in a Public School. Informed consent for a Licensed Specialist in School Psychology must be obtained in accordance with the Individuals with Disabilities Education Improvement Act (IDEIA) and the U.S. Department of Education's rules governing parental consent when delivering school psychological services in the public schools, and is considered to meet the requirements for informed consent under Board rules. No additional informed consent, specific to any Council rules, is necessary in this context. Licensees providing psychological services under subsection (e)(2) of this section, or in a private school however, must obtain informed consent as otherwise required by the Council rules.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 6, 2025.
TRD-202500818

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Psychologists

Earliest possible date of adoption: April 20, 2025

For further information, please call: (512) 305-7706



PART 30. TEXAS STATE BOARD OF EXAMINERS OF PROFESSIONAL COUNSELORS

CHAPTER 681. PROFESSIONAL COUNSELORS

SUBCHAPTER C. APPLICATION AND LICENSING

22 TAC §681.72

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Professional Counselors proposes amendments to §681.72, relating to Required Application Materials.

Overview and Explanation of the Proposed Rule. The proposed amendment would remove the expiration provisions related to supervision training courses required for applications for supervisor status.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity and consistency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local em-

ployment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

Request for Public Comments. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on April 20, 2025, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §503.2015 of the Tex. Occ. Code the Texas State Board of Examiners of Professional Counselors previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §503.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of

care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 503 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§681.72. Required Application Materials.

(a) To apply for LPC Associate, the applicant must submit:

- (1) the Council's application form;
- (2) all applicable fees;
- (3) official examination results from the National Board of Certified Counselors verifying a passing score on the National Counselor Exam (NCE) or National Clinical Mental Health Counselor Exam (NCMHCE);
- (4) completion certificate for the Texas jurisprudence exam dated no more than six months before the date the application was received;
- (5) an official graduate transcript(s);
- (6) a practicum/graduate intern documentation form;
- (7) a supervisory agreement form; and
- (8) The holder of a current license in good standing issued by another jurisdiction equivalent to the Texas LPC Associate license must submit official verification of his or her license, including official verification of any supervised experience recognized by the issuing jurisdiction. If supervised experience cannot be verified by the issuing jurisdiction, the Council may consider a supervised experience documentation form with verification of the supervisor's credentials.

(b) To apply for LPC as the holder of a current Texas LPC Associate license, the applicant must submit:

- (1) the Council's application form;
- (2) all applicable fees;
- (3) completion certificate for the jurisprudence exam dated no more than six months before the date the application for LPC was received;
- (4) the Council's supervised experience documentation form; and
- (5) other information or forms as requested by the Council.

(c) To apply for LPC as the holder of a current license equivalent to a Texas LPC license issued by another jurisdiction, the applicant's license must be in good standing and must submit:

(1) all of the items listed in subsection (a)(1) - (6) [(a)(1) - (5)] of this section;

(2) official verification of the license, including official verification of any supervised experience recognized by the issuing jurisdiction; and

(3) other information or forms as requested by the Council.

(d) To apply for supervisor status, an LPC must:

(1) have held the LPC license in good standing for at least 60 months;

(2) submit an application and all applicable fees; and

(3) submit a completion certificate for an acceptable supervisor training. An acceptable supervisor training is:

(A) a doctoral level course in the supervision of professional counseling or mental health services which was taken for credit at an accredited school and documented on an official transcript; ~~the qualifying doctoral level course may have been completed no more than five (5) years before the date the application for supervisor status was received~~; or

(B) a 40-clock-hour supervision course as set forth in §681.147 of this title. ~~[(relating to 40-ClockHour Supervisor Training Course); the qualifying 40-clock-hour supervision course may have been completed no more than two (2) years before the date the application for supervisor status was received]~~

(e) An applicant who holds a current LPC license in good standing issued by another jurisdiction must be substantially equivalent to Texas licensure requirements.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 6, 2025.

TRD-202500821

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Professional Counselors

Earliest possible date of adoption: April 20, 2025

For further information, please call: (512) 305-7706



22 TAC §681.140

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Professional Counselors proposes amendments to §681.140, relating to Requirements for Continuing Education.

OVERVIEW AND EXPLANATION OF THE PROPOSED RULE.

The proposed amendment will clarify the nature of professional development a licensee must receive related to maintaining competency when providing services to unique populations.

FISCAL NOTE. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

PUBLIC BENEFIT. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity and consistency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

PROBABLE ECONOMIC COSTS. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT STATEMENT. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO-BUSINESSES AND RURAL COMMUNITIES. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

LOCAL EMPLOYMENT IMPACT STATEMENT. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

REQUIREMENT FOR RULES INCREASING COSTS TO REGULATED PERSONS. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

GOVERNMENT GROWTH IMPACT STATEMENT. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

TAKINGS IMPACT ASSESSMENT. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council.

cil, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on April 20, 2025, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

APPLICABLE LEGISLATION. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

STATUTORY AUTHORITY. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §503.2015 of the Tex. Occ. Code the Texas State Board of Examiners of Professional Counselors previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §503.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 503 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§681.140. Requirements for Continuing Education.

(a) Minimum Continuing Education Hours Required.

(1) An LPC must complete 24 hours of continuing education during each renewal period that they hold a license. The 24 hours of continuing education must include 6 hours in ethics and 3 hours designed to ensure competency when providing services to a distinct population, defined as a group of people who share a common attribute, trait, or defining characteristic of the licensee's choice ~~[in cultural diversity or competency].~~

(2) A licensee may carry forward to the next renewal period, a maximum of 10 hours accrued during the current renewal period if those hours are not needed for renewal.

(b) Special Continuing Education Requirements.

(1) A licensee with supervisory status must complete 6 hours of continuing education in supervision.

(2) A licensee must successfully complete the Texas jurisprudence examination each renewal period. Licensees who pass the Texas jurisprudence examination may claim 1 hour of continuing education in ethics.

(3) The special continuing education requirements set out in this subsection may be counted toward the minimum continuing education hours required under subsection (a) of this section.

(c) Acceptable ethics hours include, but are not limited to continuing education on:

(1) state or federal laws, including agency rules, relevant to the practice of professional counseling;

(2) practice guidelines established by local, regional, state, national, or international professional organizations;

(3) training or education designed to demonstrate or affirm the ideals and responsibilities of the profession; and

(4) training or education intended to assist licensees in determining appropriate decision-making and behavior, improve consistency in or enhance the professional delivery of services, and provide a minimum acceptable level of practice.

~~[(d) Acceptable cultural diversity or competency hours include, but are not limited to continuing education regarding age, disability, ethnicity, gender, gender identity, language, national origin, race, religion, culture, sexual orientation, and socio-economic status.]~~

(d) ~~[(e)]~~ Acceptable Continuing Education Activities.

(1) All continuing education hours must have been received during the renewal period unless allowed under subsection (a)(2) of this section, and be directly related to the practice of professional counseling;

(2) The Council shall make the determination as to whether the activity claimed by the licensee is directly related to the practice of professional counseling;

(3) Except for hours claimed under subsection (g) ~~[(h)]~~ of this section, all continuing education hours obtained must be designated by the provider in a letter, email, certificate, or transcript that displays the licensee's name, topic covered, date(s) of training, and hours of credit earned; and

(4) Multiple instances or occurrences of a continuing education activity may not be claimed for the same renewal period.

~~[(e)]~~ ~~[(f)]~~ Licensees must obtain at least fifty percent of their continuing education hours from one or more of the following providers:

(1) an international, national, regional, state, or local association of medical, mental, or behavioral health professionals;

(2) public school districts, charter schools, or education service centers;

(3) city, county, state, or federal governmental entities;

(4) an institution of higher education accredited by a regional accrediting organization recognized by the Council for Higher Education Accreditation, the Texas Higher Education Coordinating Board, or the United States Department of Education;

- (5) religious or charitable organizations devoted to improving the mental or behavioral health of individuals;
- (6) a licensee with supervisor status;
- (7) a hospital or hospital system, including any clinic, division, or department within a hospital or hospital system; or
- (8) any provider approved or endorsed by a provider listed herein.

(f) [(g)] Licensees shall receive credit for continuing education activities according to the number of hours designated by the provider, or if no such designation, on a one-for-one basis with one credit hour for each hour spent in the continuing education activity.

(g) [(h)] Notwithstanding subsection (e) [(f)] of this section, licensees may claim continuing education credit for each of the following activities:

- (1) Preparing and giving a presentation at a continuing education activity. The maximum number of hours that may be claimed for this activity is 5 hours.
- (2) Authoring a book or peer reviewed article. The maximum number of hours that may be claimed for this activity is 5 hours.
- (3) Teaching or attending a graduate level course. The maximum number of hours that may be claimed for this activity is 5 hours.
- (4) Self-study. The maximum number of hours that may be claimed for this activity is 1 hour. Self-study is credit that is obtained from any type of activity that is performed by an individual licensee acting alone. Such activities include, but are not limited to, reading materials directly related to the practice of professional counseling. Time spent individually viewing or listening to audio, video, digital, or print media as part of an organized continuing education activity, program, or offering from a third-party is not subject to this self-study limitation and may count as acceptable education under other parts of this rule.
- (5) Successful completion of a training course on human trafficking prevention described by §116.002 of the Occupations Code. Licensees who complete this training may claim 1 hour of continuing education credit.

(h) [(i)] The Council does not pre-evaluate or pre-approve continuing education providers or hours.

(i) [(j)] Licensees shall maintain proof of continuing education compliance for a minimum of 3 years after the applicable renewal period.

[(k) Subsection (f) of this rule is effective January 1, 2024.]

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 6, 2025.
 TRD-202500822
 Darrel D. Spinks
 Executive Director
 Texas State Board of Examiners of Professional Counselors
 Earliest possible date of adoption: April 20, 2025
 For further information, please call: (512) 305-7706



PART 34. TEXAS STATE BOARD OF SOCIAL WORKER EXAMINERS

CHAPTER 781. SOCIAL WORKER LICENSURE

SUBCHAPTER C. APPLICATION AND LICENSING

22 TAC §781.501

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Social Worker Examiners proposes amendments to §781.501, relating to Requirements for Continuing Education.

Overview and Explanation of the Proposed Rule. The proposed amendment will clarify the nature of professional development a licensee must receive related to maintaining competency when providing services to unique populations.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity and consistency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or

amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

Request for Public Comments. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on April 20, 2025, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §505.2015 of the Tex. Occ. Code the Texas State Board of Social Worker Examiners previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §505.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been

proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 505 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§781.501. Requirements for Continuing Education.

(a) Minimum Continuing Education Hours Required:

(1) A licensee must complete 30 hours of continuing education during each renewal period that they hold a license. The 30 hours of continuing education must include 6 hours in ethics and 3 hours designed to ensure competency when providing services to a distinct population, defined as a group of people who share a common attribute, trait, or defining characteristic of the licensee's choice [in cultural diversity or competency].

(2) A licensee may carry forward to the next renewal period, a maximum of 10 hours accrued during the current renewal period if those hours are not needed for renewal.

(b) Special Continuing Education Requirements.

(1) A licensee with supervisory status must complete 6 hours of continuing education in supervision.

(2) The special continuing education requirements set out in this subsection may be counted toward the minimum continuing education hours required under subsection (a) of this section.

(c) Acceptable ethics hours include, but are not limited to continuing education on:

(1) state or federal laws, including agency rules, relevant to the practice of social work;

(2) practice guidelines established by local, regional, state, national, or international professional organizations;

(3) training or education designed to demonstrate or affirm the ideals and responsibilities of the profession; and

(4) training or education intended to assist licensees in determining appropriate decision-making and behavior, improve consistency in or enhance the professional delivery of services, and provide a minimum acceptable level of practice.

~~[(d) Acceptable cultural diversity or competency hours include, but are not limited to continuing education regarding age, disability, ethnicity, gender, gender identity, language, national origin, race, religion, culture, sexual orientation, and socio-economic status.]~~

(d) ~~[(e)]~~ Acceptable Continuing Education Activities.

(1) All continuing education hours must have been received during the renewal period unless allowed under subsection (a)(2) of this section, and be directly related to the practice of social work;

(2) The Council shall make the determination as to whether the activity claimed by the licensee is directly related to the practice of social work;

(3) Except for hours claimed under subsection (g) ~~[(h)]~~ of this section, all continuing education hours obtained must be designated by the provider in a letter, email, certificate, or transcript that dis-

plays the licensee's name, topic covered, date(s) of training, and hours of credit earned; and

(4) Multiple instances or occurrences of a continuing education activity may not be claimed for the same renewal period.

(e) [(f)] Licensees must obtain at least fifty percent of their continuing education hours from one or more of the following providers:

(1) an international, national, regional, state, or local association of medical, mental, or behavioral health professionals;

(2) public school districts, charter schools, or education service centers;

(3) city, county, state, or federal governmental entities;

(4) an institution of higher education accredited by a regional accrediting organization recognized by the Council for Higher Education Accreditation, the Texas Higher Education Coordinating Board, or the United States Department of Education;

(5) religious or charitable organizations devoted to improving the mental or behavioral health of individuals;

(6) a licensee that is a Council-approved supervisor;

(7) a hospital or hospital system, including any clinic, division, or department within a hospital or hospital system; or

(8) any provider approved or endorsed by a provider listed herein.

(f) [(g)] Licensees shall receive credit for continuing education activities according to the number of hours designated by the provider, or if no such designation, on a one-for-one basis with one credit hour for each hour spent in the continuing education activity.

(g) [(h)] Notwithstanding subsection (e) [(f)] of this section, licensees may claim continuing education credit for each of the following activities:

(1) Passage of the jurisprudence examination. Licensees who pass the jurisprudence examination may claim 1 hour of continuing education in ethics.

(2) Preparing and giving a presentation at a continuing education activity. The maximum number of hours that may be claimed for this activity is 5 hours.

(3) Authoring a book or peer reviewed article. The maximum number of hours that may be claimed for this activity is 5 hours.

(4) Teaching or attending a university or college level course. The maximum number of hours that may be claimed for this activity is 5 hours.

(5) Self-study. The maximum number of hours that may be claimed for this activity is 1 hour. Self-study is credit that is obtained from any type of activity that is performed by an individual licensee acting alone. Such activities include, but are not limited to, reading materials directly related to the practice of social work. Time spent individually viewing or listening to audio, video, digital, or print media as part of an organized continuing education activity, program or offering from a third-party is not subject to this self-study limitation and may count as acceptable continuing education under other parts of this rule.

(6) Successful completion of a training course on human trafficking prevention described by §116.002 of the Occupations Code. Licensees who complete this training may claim 1 hour of continuing education credit.

(7) Providing field or practicum instruction to social work students. A field or practicum instructor may claim one hour of continuing education credit for each hour of college or university credit that is awarded to the social work student receiving instruction. The maximum number of hours that may be claimed for this activity is 10 hours per renewal period, and hours claimed may not be counted toward the ethics or distinct population [cultural diversity or competency] requirements.

(h) [(i)] The Council does not pre-evaluate or pre-approve continuing education providers or hours.

(i) [(j)] Licensees shall maintain proof of continuing education compliance for a minimum of 3 years after the applicable renewal period.

[(k) Subsection (f) of this rule is effective January 1, 2024.]

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 6, 2025.

TRD-202500820

Darrel D. Spinks

Executive Director

Texas State Board of Social Worker Examiners

Earliest possible date of adoption: April 20, 2025

For further information, please call: (512) 305-7706

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PART 35. TEXAS STATE BOARD OF EXAMINERS OF MARRIAGE AND FAMILY THERAPISTS

CHAPTER 801. LICENSURE AND REGULATION OF MARRIAGE AND FAMILY THERAPISTS

SUBCHAPTER C. APPLICATIONS AND LICENSING

22 TAC §801.261

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Marriage and Family Therapists proposes amendments to §801.261, relating to Requirements for Continuing Education.

OVERVIEW AND EXPLANATION OF THE PROPOSED RULE. The proposed amendment will clarify the nature of professional development a licensee must receive related to maintaining competency when providing services to unique populations.

FISCAL NOTE. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

PUBLIC BENEFIT. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to applicants, licensees, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

PROBABLE ECONOMIC COSTS. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT STATEMENT. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO-BUSINESSES AND RURAL COMMUNITIES. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

LOCAL EMPLOYMENT IMPACT STATEMENT. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

REQUIREMENT FOR RULES INCREASING COSTS TO REGULATED PERSONS. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

GOVERNMENT GROWTH IMPACT STATEMENT. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

TAKINGS IMPACT ASSESSMENT. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council,

1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on April 20, 2025, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

APPLICABLE LEGISLATION. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

STATUTORY AUTHORITY. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council also proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§801.261. Requirements for Continuing Education.

(a) Minimum Continuing Education Hours Required

(1) An LMFT must complete 30 hours of continuing education during each renewal period that they hold a license. The 30 hours of continuing education must include 6 hours in ethics and 3 hours designed to ensure competency when providing services to a distinct population, defined as a group of people who share a common attribute, trait, or defining characteristic of the licensee's choice [in cultural diversity or competency].

(2) A licensee may carry forward to the next renewal period, a maximum of 10 hours accrued during the current renewal period if those hours are not needed for renewal.

(b) Special Continuing Education Requirements. The special continuing education requirements set out in this subsection may be counted toward the minimum continuing education hours required under subsection (a) of this section.

(1) A licensee with supervisory status must complete 6 hours of continuing education in supervision.

(2) A licensee with supervisory status must take and pass the jurisprudence examination. One hour of continuing education in ethics may be claimed for passing the jurisprudence examination.

(3) A licensee who provides telehealth services must complete 2 hours of continuing education in technology-assisted services.

(c) Acceptable ethics hours include, but are not limited to continuing education on:

(1) state or federal laws, including agency rules, relevant to the practice of marriage and family therapy;

(2) practice guidelines established by local, regional, state, national, or international professional organizations;

(3) training or education designed to demonstrate or affirm the ideals and responsibilities of the profession; and

(4) training or education intended to assist licensees in determining appropriate decision-making and behavior, improve consistency in or enhance the professional delivery of services, and provide a minimum acceptable level of practice.

~~[(d) Acceptable cultural diversity or competency hours include, but are not limited to continuing education regarding age, disability, ethnicity, gender, gender identity, language, national origin, race, religion, culture, sexual orientation, and socio-economic status.]~~

(d) ~~[(e)]~~ Acceptable Continuing Education Activities.

(1) All continuing education hours must have been received during the renewal period unless allowed under subsection (a)(2)~~[(3)]~~ of this section, and be directly related to the practice of marriage and family therapy;

(2) The Council shall make the determination as to whether the activity claimed by the licensee is directly related to the practice of marriage and family therapy;

(3) Except for hours claimed under subsection (g) ~~[(h)]~~ of this section, all continuing education hours obtained must be designated by the provider in a letter, email, certificate, or transcript that displays the licensee's name, topic covered, date(s) of training, and hours of credit earned.

(4) Multiple instances or occurrences of a continuing education activity may not be claimed for the same renewal period.

(e) ~~[(f)]~~ Licensees must obtain at least fifty percent of their continuing education hours from one or more of the following providers:

(1) an international, national, regional, state, or local association of medical, mental, or behavioral health professionals;

(2) public school districts, charter schools, or education service centers;

(3) city, county, state, or federal governmental entities;

(4) an institution of higher education accredited by a regional accrediting organization recognized by the Council for Higher Education Accreditation, the Texas Higher Education Coordinating Board, or the United States Department of Education;

(5) religious or charitable organizations devoted to improving the mental or behavioral health of individuals;

(6) A graduate-level licensee with supervisor status;

(7) a hospital or hospital system, including any clinic, division, or department within a hospital or hospital system; or

(8) any provider approved or endorsed by a provider listed herein.

(f) ~~[(g)]~~ Licensees shall receive credit for continuing education activities according to the number of hours designated by the provider, or if no such designation, on a one-for-one basis with one credit hour for each hour spent in the continuing education activity.

(g) ~~[(h)]~~ Notwithstanding subsection (e) ~~[(f)]~~ above, licensees may claim continuing education credit for each of the following activities:

(1) Passage of the jurisprudence examination. Licensees who pass the jurisprudence examination may claim 1 hour of continuing education in ethics.

(2) Preparing and giving a presentation at a continuing education activity. The maximum number of hours that may be claimed for this activity is 5 hours.

(3) Authoring a book or peer reviewed article. The maximum number of hours that may be claimed for this activity is 5 hours.

(4) Teaching or attending a graduate level course. The maximum number of hours that may be claimed for this activity is 5 hours.

(5) Self-study. The maximum number of hours that may be claimed for this activity is 1 hour. Self-study is credit that is obtained from any type of activity that is performed by an individual licensee acting alone. Such activities include, but are not limited to, reading materials directly related to the practice of marriage and family therapy. Time spent individually viewing or listening to audio, video, digital, or print media as part of an organized continuing education activity, program, or offering from a third-party is not subject to this self-study limitation and may count as acceptable education under other parts of this rule.

(6) Successful completion of a training course on human trafficking prevention described by §116.002 of the Occupations Code. Licensees who complete this training may claim 1 hour of continuing education credit.

(h) ~~[(i)]~~ The Council does not pre-evaluate or pre-approve continuing education providers or hours.

(i) ~~[(j)]~~ Licensees shall maintain proof of continuing education compliance for a minimum of 3 years after the applicable renewal period.

~~[(k) Subsection (f) of this rule is effective January 1, 2024]~~

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 6, 2025.
TRD-202500819

Darrel D. Spinks
Executive Director
Texas State Board of Examiners of Marriage and Family Therapists
Earliest possible date of adoption: April 20, 2025
For further information, please call: (512) 305-7706



PART 41. TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL

CHAPTER 882. APPLICATIONS AND LICENSING

SUBCHAPTER E. CONTINUING EDUCATION

22 TAC §882.50

The Texas Behavioral Health Executive Council proposes amendments to §882.50, relating to Continuing Education and Audits.

Overview and Explanation of the Proposed Rule. The proposed amendment will require license holders to use any online system adopted by the Council for reporting continuing education hours.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to applicants, licensees, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional

costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/index.html>. The deadline for receipt of comments is 5:00 p.m., Central Time, on April 20, 2025, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council also proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§882.50. *Continuing Education and Audits.*

(a) All persons issued a license by the Council are obligated to continue their professional education by completing a minimum amount of continuing education during each renewal period that they hold a license from this agency. The specific continuing education requirements for a license holder will be determined by the member board authorized to set those requirements.

(b) Licensees shall report continuing education in the manner prescribed by the Council, including registering for and using any online system for documenting continuing education adopted by the Council.

(c) [(b)] The Council conducts two types of audits regarding continuing education. Licensees shall comply with all agency requests for documentation and information concerning compliance with continuing education requirements.

(1) Random audits. Each month, 5% of the licensees will be selected by an automated process for an audit of the licensee's compliance with the agency's continuing education requirements. The agency will notify a licensee of the audit. Upon receipt of an audit notification, a licensee must submit continuing education documentation in the manner requested by the Council. [through the agency's online licensing system, or by email, or regular mail before a license will be renewed]

(2) Individualized audits. The Council may also conduct audits of a specific licensee's compliance with its continuing education requirements at any time the agency determines there are grounds to believe that a licensee has not complied with the requirements of this rule. Upon receipt of notification of an individualized audit, the licensee must submit all requested documentation within the time period specified in the notification.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 6, 2025.

TRD-202500814

Darrel D. Spinks

Executive Director

Texas Behavioral Health Executive Council

Earliest possible date of adoption: April 20, 2025

For further information, please call: (512) 305-7706



CHAPTER 884. COMPLAINTS AND ENFORCEMENT

SUBCHAPTER B. INVESTIGATIONS AND DISPOSITION OF COMPLAINTS

22 TAC §884.10

The Texas Behavioral Health Executive Council proposes amendments to §884.10, relating to Investigation of Complaints.

Overview and Explanation of the Proposed Rule. The proposed amendments will clarify when a licensee is presumed to be engaging in the scope of practice of their license, and therefore subject to the jurisdiction of the Council, versus when conduct or statements by a licensee that are within the scope of practice will, nevertheless, be considered not done under the authority of their license.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or

administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to applicants, licensees, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or

via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/index.html>. The deadline for receipt of comments is 5:00 p.m., Central Time, on April 20, 2025, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council also proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§884.10. *Investigation of Complaints.*

(a) The following priority rating system shall serve to distinguish between categories of complaints. The priority rating system is as follows:

(1) High Priority - cases involving sexual misconduct or a probability of imminent physical harm to the public or a member of the public; and

(2) Regular Priority - cases involving all other violations of state or federal law.

(b) The Enforcement Division shall investigate all complaints in a timely manner. A schedule shall be established for conducting each phase of a complaint that is under the control of the Council not later than the 30th day after the date the complaint is received. The schedule shall be kept in the information file of the complaint, and all parties shall be notified of the projected time requirements for pursuing the complaint. A change in the schedule must be noted in the complaint information file, and all parties to the complaint must be notified in writing not later than the seventh day after the date the change is made.

(c) The Council may accept, but is not obligated to investigate, a complaint that lacks sufficient information to identify the source or the name of the person who filed the complaint, a complaint that lacks sufficient evidence to identify a specific violation, or a complaint with an uncooperative complainant.

(d) A complainant may explain the allegations made in the complaint by attaching or including with the complaint any evidence the complainant believes is relevant to a determination of the allegations, including written statements or communications, medical or mental health records, recordings, photographs, or other documentary evidence.

(e) A review will be conducted upon receipt of a complaint to determine if the Council has jurisdiction over the complaint, and if so, whether the complaint states an allegation which, if true, would constitute a violation of the Council's rules or other law within the jurisdiction of the Council.

(f) When a licensee's conduct or statements could lawfully be made under an authority separate from their license issued by the Council, any conduct or statement that falls within the scope of practice of their license will be presumed to be taken or made under the authority of that license, and therefore within the jurisdiction of the Council, unless the licensee can show:

(1) no reasonable person would believe the conduct or statement occurred in the context of a professional relationship, or

(2) the licensee clearly and unequivocally disclaimed acting under the authority of their license prior to the conduct or statement, received written acknowledgement and consent from any clients that no professional services would be provided under the authority of their license, and did not otherwise engage at any time in the scope of practice of their license in relation to the conduct or statement.

(g) [(f)] Complaints that do not state a violation of a law within the jurisdiction of the Council shall be dismissed. If the complaint alleges a violation of a law within the jurisdiction of another agency, the complaint will be referred to that agency as required or allowed by law.

(h) [(g)] Complaints that state a violation of a law within the jurisdiction of the Council shall be investigated by an investigator assigned by the Enforcement Division.

(i) [(h)] Licensees will receive written notice of any alleged complaint(s), including specific information regarding any violation(s) encountered. Notice to a licensee is effective and service is complete when sent by registered or certified mail to the licensee's address of record at the time of the mailing.

(j) [(i)] Following completion of the investigation, an investigation report shall be drafted. This report shall include a recommendation as to whether the investigation has produced sufficient evidence to establish probable cause that a violation has occurred.

(k) [(j)] The Enforcement Division Manager (or the manager's designee) and legal counsel shall review the investigation report to determine if there is probable cause that a violation occurred.

(l) [(k)] A complaint for which the staff determines probable cause exists shall be referred for an informal conference by agency staff or a member board's Disciplinary Review Panel. Agency staff shall send the respondent notice of the date and time of the informal conference.

(m) [(l)] A complaint for which staff or a Disciplinary Review Panel determines that probable cause does not exist shall be referred for dismissal.

(n) [(m)] The services of a private investigator shall be retained only in the event that staff investigator positions are vacant or inadequate to provide essential investigative services. The services of a private investigative agency shall be obtained in accordance with the state's procurement procedures.

(o) [(n)] If a complainant or respondent are represented by an attorney, any notice or service required by law shall be made upon the attorney at the attorney's last known address.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 6, 2025.
TRD-202500815



CHAPTER 885. FEES

22 TAC §885.1

The Texas Behavioral Health Executive Council proposes amendments to §885.1, relating to Executive Council Fees.

Overview and Explanation of the Proposed Rule. The proposed amendment would eliminate the fee requirement for a verification, which is available on the Council website.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to applicants, licensees, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the

residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/index.html>. The deadline for receipt of comments is 5:00 p.m., Central Time, on April 20, 2025, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council also proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§885.1. *Executive Council Fees.*

(a) General provisions.

(1) All fees are nonrefundable, nontransferable, and cannot be waived except as otherwise permitted by law. Any attempt to cancel, initiate a chargeback, or seek recovery of fees paid to the Council may result in the opening of a complaint against a licensee or applicant.

(2) Fees required to be submitted online to the Council must be paid by debit or credit card. All other fees paid to the Council must be in the form of a personal check, cashier's check, or money order.

(3) For applications and renewals the Council is required to collect fees to fund the Office of Patient Protection (OPP) in accordance with Texas Occupations Code §101.307, relating to the Health Professions Council.

(4) For applications, examinations, and renewals the Council is required to collect subscription or convenience fees to recover costs associated with processing through Texas.gov.

(5) All examination fees are to be paid to the Council's designee.

(b) The Executive Council adopts the following chart of fees:

(1) Fees effective through August 31, 2023.

Figure: 22 TAC §885.1(b)(1) (No change.)

(2) Fees effective on September 1, 2023.

Figure: 22 TAC §885.1(b)(2)

[Figure: 22 TAC §885.1(b)(2)]

(c) Late fees. (Not applicable to Inactive Status)

(1) If the person's license has been expired (i.e., delinquent) for 90 days or less, the person may renew the license by paying to the Council a fee in an amount equal to one and one-half times the base renewal fee.

(2) If the person's license has been expired (i.e., delinquent) for more than 90 days but less than one year, the person may renew the license by paying to the Council a fee in an amount equal to two times the base renewal fee.

(3) If the person's license has been expired (i.e., delinquent) for one year or more, the person may not renew the license; however, if eligible the person may apply for reinstatement of the license.

(d) Open Records Fees. In accordance with §552.262 of the Government Code, the Council adopts by reference the rules devel-

oped by the Office of the Attorney General in 1 TAC Part 3, Chapter 70 (relating to Cost of Copies of Public Information) for use by each governmental body in determining charges under Government Code, Chapter 552 (Public Information) Subchapter F (Charges for Providing Copies of Public Information).

(e) Military Exemption for Fees. All licensing and examination base rate fees payable to the Council are waived for applicants who are:

(1) military service members and military veterans, as those terms are defined by Chapter 55, Occupations Code, whose military service, training, or education substantially meets all licensure requirements; or

(2) military service members, military veterans, and military spouses, as those terms are defined by Chapter 55, Occupations Code, who hold a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements of this state.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 6, 2025.

TRD-202500816

Darrel D. Spinks

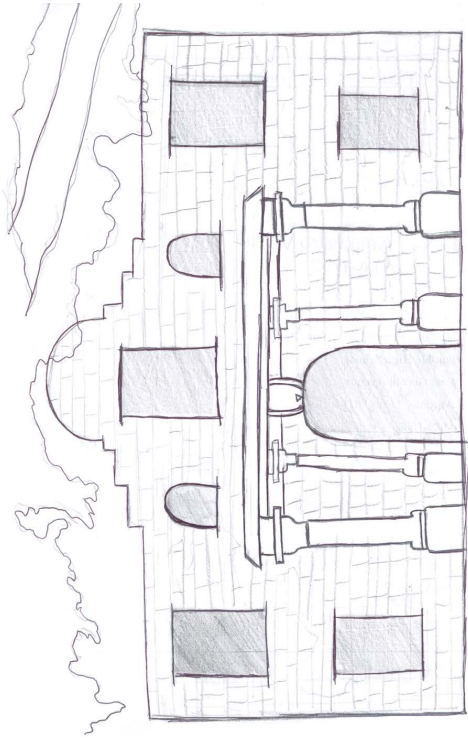
Executive Director

Texas Behavioral Health Executive Council

Earliest possible date of adoption: April 20, 2025

For further information, please call: (512) 305-7706





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 355. REIMBURSEMENT RATES

SUBCHAPTER J. PURCHASED HEALTH SERVICES

DIVISION 4. MEDICAID HOSPITAL SERVICES

1 TAC §355.8052, §355.8061

The executive commissioner of the Texas Health and Human Services Commission (HHSC) adopts amendments to §355.8052, concerning Inpatient Hospital Reimbursement, and §355.8061, concerning Outpatient Hospital Reimbursement.

The amendments to §355.8052 and §355.8061 are adopted without changes to the proposed text as published in the November 22, 2024, issue of the *Texas Register* (49 TexReg 9425). These rules will not be republished.

BACKGROUND AND JUSTIFICATION

The amendments specify that High-Cost Clinician Administered Drugs and Biologics (HCCADs), Long-Acting Reversible Contraceptive (LARC) devices, and Donor Human Milk Services will be reimbursed outside the all-patient refined diagnosis-related group (APR-DRG) inpatient reimbursement and filed on a separate outpatient claim. The non-risk payment will be paid at the lesser of billed charges or the fee-for-service reimbursement amount with the fee schedule acting as the upper-payment limit. A hospital administering these services will be reimbursed separately from the Inpatient Hospital APR-DRG reimbursement methodology. The amendments increase efficiency in the delivery of HCCADs, LARCs, and Human Breast milk.

COMMENTS

The 31-day comment period ended on December 23, 2024.

During this period, HHSC received comments regarding the proposed rules from one commenter. The comments were from the Children's Hospital Association of Texas (CHAT). A summary of the comments relating to the rules and HHSC's responses follows.

Comment: Reimbursement Methodology Clarity: The proposed rule lacks a clear methodology for non-risk payments for physician-administered drugs, which CHAT recommends explicitly including in the rule to ensure consistency.

Response: HHSC thanks the commenter for their recommendations. The methodology is included in §355.8085. Additional

information will be added in the Texas Medicaid Provider Procedure Manual (TMPPM). No changes were made in response to this comment.

Comment: Protection Against Recoupment: CHAT seeks assurance from HHSC that providers following the proposed rule before its effective date (March 1, 2025) won't face recoupment actions by the Texas Health and Human Services (HHS) OIG (Office of Inspector General).

Response: HHS OIG actions are outside the scope of this rule amendment. HHSC Provider Finance Department does not direct HHS OIG actions or audits. No changes were made in response to this comment.

Comment: 340B and Medicaid Alignment: CHAT requests clarification on compliance and billing issues arising from discrepancies between Centers for Medicare and Medicaid Services (CMS) and Health Resources and Services Administration definitions of "Covered Outpatient Drug" and their impact on the 340B program.

Response: HHSC will ensure that drugs administered in an inpatient hospital setting, when directly reimbursed, are considered covered outpatient drugs, aligning with recent CMS guidance. No changes were made in response to this comment.

Comment: Adequate Reimbursement: CHAT urges HHSC to ensure type of bill 111 payments cover the costs of administering high-cost curative therapies, including professional time, supplies, and equipment.

Response: The rate adoption process is outside the scope of this rule amendment. HHSC performs research and pricing reviews that are presented for public comment prior to implementation of rates. No changes were made in response to this comment.

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 Government Code §531.033, which authorizes the executive commissioner of HHSC to adopt rules necessary to carry out HHSC's duties; 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; Texas Government Code §531.021(b-1), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for medical assistance payments under the Texas Human Resources Code Chapter 32.

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 March 5, 2025.

TRD-202500795

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: March 25, 2025

Proposal publication date: November 22, 2024

For further information, please call: (737) 867-7813



TITLE 10. COMMUNITY DEVELOPMENT

PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 1. ADMINISTRATION

SUBCHAPTER A. GENERAL POLICIES AND PROCEDURES

10 TAC §1.23

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.23, State of Texas Low Income Housing Plan and Annual Report (SLIHP) without changes to the text previously published in the December 27, 2024, issue of the *Texas Register* (49 TexReg 10452). The rule will not be republished. The purpose of the repeal is to eliminate an outdated rule while adopting a new updated rule under separate action, in order to adopt by reference the 2025 SLIHP.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous adoption by reference the 2025 SLIHP, as required by Tex. Gov't Code §2306.0723.
2. The repeal does not require a change in work that would require the creation of new employee positions, nor is the repeal significant enough to reduce work load to a degree that any existing employee positions are eliminated.
3. The repeal does not require additional future legislative appropriations.
4. The repeal does not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.
6. The action will repeal an existing regulation, but is associated with a simultaneous readoption in order to adopt by reference the 2025 SLIHP.
7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.

8. The repeal will not negatively or positively affect this state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated this repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate nor authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson, has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed section would be an updated more germane rule that will adopt by reference the 2025 SLIHP. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The public comment period for the rule was held Friday, December 20, 2024, to Monday, January 20, 2025, to receive input on the proposed repealed section. Written comments were submitted to the Texas Department of Housing and Community Affairs, Attn: Housing Resource Center, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, or email info@tdhca.texas.gov. A public hearing for the draft 2025 SLIHP was held on January 7, 2025, in Austin, Texas. While the Department received public comment on the draft 2025 SLIHP, no comments were received specifically on the proposed repeal.

STATUTORY AUTHORITY. The repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules, and Tex. Gov't Code §2306.0723, which requires this annual report to be considered a rule and be adopted following rulemaking procedures.

Except as described herein the repealed section affects no other code, article, or statute.

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 March 6, 2025.

TRD-202500823

Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Effective date: March 26, 2025
Proposal publication date: December 27, 2024
For further information, please call: (512) 475-3959



10 TAC §1.23

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.23 State of Texas Low Income Housing Plan and Annual Report (SLIHP) without changes to the text previously published in the December 27, 2024, issue of the *Texas Register* (49 TexReg 10453). The rule will not be republished.

The purpose of the new section is to provide compliance with Tex. Gov't Code §2306.0723 and to adopt by reference the 2025 SLIHP, which offers a comprehensive reference on statewide housing needs, housing resources, and strategies for funding allocations. The 2025 SLIHP reviews TDHCA's housing programs, current and future policies, resource allocation plans to meet state housing needs, and reports on performance during the preceding state fiscal year (September 1, 2023, through August 31, 2024).

Tex. Gov't Code §2001.0045(b) does not apply to the rule because it is exempt under item (c)(9) because it is necessary to implement legislation. Tex. Gov't Code §2306.0721 requires that the Department produce a state low income housing plan, and Tex. Gov't Code §2306.0722 requires that the Department produce an annual low income housing report. Tex. Gov't Code §2306.0723 requires that the Department consider the annual low income housing report to be a rule. This rule provides for adherence to that statutory requirement. Further no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the new rule would be in effect:

1. The new rule does not create or eliminate a government program, but relates to the adoption, by reference, of the 2025 SLIHP, as required by Tex. Gov't Code §2306.0723.
2. The new rule does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The new rule changes do not require additional future legislative appropriations.
4. The new rule changes will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The new rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.

6. The new rule will not expand, limit, or repeal an existing regulation.

7. The new rule will not increase or decrease the number of individuals subject to the rule's applicability.

8. The new rule will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002. The Department, in drafting this rule, has attempted to reduce any adverse economic effect on small or micro-business or rural communities while remaining consistent with the statutory requirements of Tex. Gov't Code §2306.0723.

1. The Department has evaluated this rule and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. There are no small or micro-businesses subject to the rule for which the economic impact of the rule is projected to be null. There are no rural communities subject to the rule for which the economic impact of the rule is projected to be null.

3. The Department has determined that because the rule will adopt by reference the 2025 SLIHP, there will be no economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The rule does not contemplate nor authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the rule as to its possible effects on local economies and has determined that for the first five years the rule will be in effect the rule has no economic effect on local employment because the rule will adopt by reference the 2025 SLIHP; therefore, no local employment impact statement is required to be prepared for the rule.

Tex. Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule" Considering that the rule will adopt by reference the 2025 SLIHP there are no "probable" effects of the new rule on particular geographic regions.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section will be an updated and more germane rule that will adopt by reference the 2025 SLIHP, as required by Tex. Gov't Code §2306.0723. There will not be any economic cost to any individuals required to comply with the new section because the adoption by reference of prior year SLIHP documents has already been in place through the rule found at this section being repealed.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section is in effect, enforcing or administering the new section does not have any foreseeable implications related to costs or revenues of the state or local governments because the new rule will adopt by reference the 2025 SLIHP.

SUMMARY OF PUBLIC COMMENT. The public comment period for the proposed new rule was held between Friday, December 20, 2024 and Monday, January 20, 2025. The public comment period for the draft 2025 SLIHP was also held between December 20, 2024 and January 20, 2025. A public hearing for the draft 2025 SLIHP was held on January 7, 2025, in Austin, Texas. Written comments were accepted by email and mail. While the Department received public comment on the draft 2025 SLIHP, no comments were received specifically regarding (and in response to) the proposed new rule.

STATUTORY AUTHORITY. The new section is adopted pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the new section affects no other code, article, or statute.

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 March 6, 2025.

TRD-202500824

Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

Effective date: March 26, 2025

Proposal publication date: December 27, 2024

For further information, please call: (512) 475-3959



TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 61. SCHOOL DISTRICTS

SUBCHAPTER A. BOARD OF TRUSTEES RELATIONSHIP

19 TAC §61.1

The State Board of Education (SBOE) adopts an amendment to §61.1, concerning continuing education for school board members. The amendment is adopted with changes to the proposed text as published in the October 11, 2024 issue of the *Texas Register* (49 TexReg 8299) and will be republished. The adopted amendment establishes new eligibility requirements for trainers of school boards to include a background check, establishes that only individuals (not organizations) are eligible to provide training to school board trustees, and prohibits trainers of school boards from engaging in political advocacy during training.

REASONED JUSTIFICATION: Texas Education Code (TEC), §11.159, Member Training and Orientation, requires the SBOE to provide a training course for school board trustees. Section 61.1 addresses this statutory requirement. School board trustee training under current SBOE rule includes a local school district orientation session; a basic orientation to the TEC; an annual team-building session with the local school board and the superintendent; specified hours of continuing education based on identified needs; training on evaluating student academic performance; training on identifying and reporting potential victims of sexual abuse, human trafficking, and other maltreatment of children; and training on school safety. In addition to

establishing the conditions for the training courses required for school district trustees, §61.1 establishes the criteria for both registered providers of school board training and authorized providers of school board training.

The adopted amendment updates the application requirements to be a provider of school board member training. Specifically, amended subsection (c) limits eligible providers to individuals, removing organizations from eligibility. Amended subsection (c)(1) requires the rejection of applications that do not demonstrate the requisite training, experience, educational background, or expertise. New subsection (c)(2) requires applications to include a background check and establishes additional conditions under which an application would be rejected. New subsection (c)(3) describes conditions under which a provider's status would be revoked. New subsection (c)(5) describes conditions under which a non-registered provider may be involved in training school board trustees.

New subsection (d) prohibits training providers from engaging in political advocacy while providing training. New subsection (d)(1) defines political advocacy for the purpose of this section, and new subsection (d)(2) establishes what political advocacy does not include. New subsection (d)(3) requires trainers to provide a written acknowledgement that he or she would not engage in political advocacy. New subsection (d)(4) establishes steps TEA would take if it determined that a provider engaged in political advocacy. New subsection (d)(5) permits the SBOE to revoke a provider's eligibility if it determines that the provider engaged in political advocacy. New subsection (d)(6) establishes that the revocation of a provider's status would be for one year, unless determined otherwise by the SBOE. New subsection (d)(7) establishes that a provider is presumed to have engaged in political advocacy if the advocacy occurs during the training session. In addition, obsolete language related to implementation of the section has been removed.

The following changes were made at adoption.

Technical edits were made in subsections (c) and (d) to align with administrative rule form and style guidelines and update cross references.

Subsection (c)(1) was amended to establish that a registered provider's education must include bachelor's degree at a minimum.

Subsection (c)(2) was amended to establish that, in addition to providing a list of five approved background check providers, TEA must also provide prospective registered providers a list of approved background checks associated with obtaining a professional certification or license, including background checks of school district employees conducted using the criminal history clearinghouse established by the Texas Department of Public Safety pursuant to Texas Government Code, §411.0845. The language was also amended to clarify that a background check must have been completed within the 12 months preceding the submission of the application.

Subsection (c)(3) was amended to require registered providers who are convicted of a felony or crime of moral turpitude to report that conviction to TEA within 10 days.

Subsection (d) was amended to clarify that a trainer may not engage in political advocacy during a training session and that supporting or opposing any measure with the intent to influence the outcome of a legislative, rulemaking, or other policy process or measure would be considered engaging in political advocacy.

The SBOE approved the amendment for first reading and filing authorization at its September 13, 2024 meeting and for second reading and final adoption at its November 22, 2024 meeting. The effective date of the amendment is August 25, 2025.

SUMMARY OF COMMENTS AND RESPONSES: The public comment period on the proposal began October 11, 2024, and ended at 5:00 p.m. on November 12, 2024. The SBOE also provided an opportunity for registered oral and written comments at its November 2024 meeting in accordance with the SBOE board operating policies and procedures. Following is a summary of the public comments received and corresponding responses.

Comment: One commenter stated that advocating for school district students, parents, teachers, and staff often intertwines with politics and that trustees should be able to engage in grass-roots advocacy training without repercussions.

Response: The SBOE provides the following clarification. The proposed rule does not restrict trustees from engaging in advocacy training.

Comment: An individual commented in favor of the requirement for background checks for trainers.

Response: The SBOE agrees. A background check will be required for registered providers of trustee training.

Comment: One commenter suggested a review of the required training, adding that the training the commenter has attended has been politically one-sided and indoctrinatory. The commenter continued that the team-of-eight training encourages always voting unanimously and instructs that defending the district and superintendent takes precedence over representing constituents.

Response: The SBOE agrees in part and took action to clarify the definition of political advocacy that is prohibited under the rule. The comments related to the team-of-eight training are outside the scope of the proposed rulemaking.

Comment: One commenter stated that local school boards know who is right to provide the training and the rule should allow for local control.

Response: The SBOE agrees. The proposed rule allows each school system to choose which registered or authorized provider is best suited for its needs.

Comment: Two commenters stated that the SBOE should allow background checks from professional certifications and registrations mandated by law for professional fields to meet the requirements for a background check.

Response: The SBOE agrees. At adoption, the SBOE amended subsection (c)(2) to require TEA to provide prospective registered providers a list of approved background checks associated with obtaining a professional certification or license.

Comment: Two commenters stated that the SBOE should clarify subsection (c)(5) by including a disclaimer that any unregistered panelist, speaker, or presenter joining a registered provider are sharing their own opinions and incidental comments should not be considered a violation so long as the registered provider makes reasonable efforts to redirect the speaker(s) in accordance with the rule.

Response: The SBOE disagrees and has determined that the language in subsection (c)(5) is appropriate as proposed.

Comment: One commenter stated that it is important for providers to have clear guidelines around what would be considered political advocacy and that the SBOE should clarify the definition of political advocacy in a way that does not restrict discussions of broad policy and legislative topics, as these conversations are essential to informed decision-making.

Response: The SBOE agrees. At adoption, the SBOE approved changes to subsection (d) to clarify that a trainer may not engage in political advocacy during a training session and that supporting or opposing any measure with the intent to influence the outcome of a legislative, rulemaking, or other policy process or measure would be considered engaging in political advocacy.

Comment: One commenter stated that the rule should have an implementation date of September 1 to allow for sufficient lead time to prevent a shortage of registered providers. The commenter continued that most association events have a three- to four-month lead time to accept presenter applications and build the program, and if the rule establishes a September 1 effective date, presenters at various association events would have to be approved registered providers by April 1, when the presenter application window opens.

Response: The SBOE disagrees that a specific implementation date is needed in the rule language, because according to TEC, §7.102(f), amended §61.1 will be effective beginning with the 2025-2026 school year.

Comment: One commenter stated that the rule should clarify that the registration requirements apply only to the individuals who will present the content and not to administrative staff, graphic designers, and information technology professionals or others who develop the content.

Response: The SBOE disagrees that the rule needs to be clarified. Subsection (c) specifically mentions individuals should register "to provide the board member continuing education."

Comment: One commenter stated that eliminating the eligibility of groups and organizations as registered providers would have a negative short-term impact on upcoming conferences, as there would not be time to for all potential trainers for the approximately 150 individual sessions to get fingerprinted and approved. The commenter recommended allowing a year-long transition by having an implementation date of November 1, 2025.

Response: The SBOE disagrees. The proposed rule does not prevent employees of, or contractors for, organizations from providing training; it only requires that those employees and contractors go through the registration process. Additionally, according to TEC, §7.102(f), amended §61.1 will be effective beginning with the 2025-2026 school year.

Comment: One commenter stated that the word "policy," used in the terms "policy position" and "policy process" in §61.1(d)(1)(B), is not defined in either statute or rule. The commenter stated that in absence of a definition, the terms could be misconstrued to imply that a training could not include broad statements of support for public education, student outcome improvement, child safety, or fiscal prudence. The commenter recommended either striking the term or defining "policy position" in §61.1(d)(1)(B) to include "with the intent of influencing."

Response: The SBOE agrees. At adoption, the SBOE changed the language of subsection (d)(1)(B) to clarify the definition of political advocacy that is prohibited under the rule.

Comment: One commenter stated that §61.1(d)(1) should limit the definition of "political advocacy" to "with the intent of influencing the outcome of legislation pending before the Texas Legislature or of rulemaking pending before an administrative body."

Response: The SBOE agrees. At adoption, the SBOE changed the language of subsection (d)(1)(B) to clarify the definition of political advocacy that is prohibited under the rule.

Comment: One commenter stated that the language of §61.1(d)(1)(C) is confusing and recommended revising it to be more direct, striking the phrase "shall not include" and in its place adding "does not mean."

Response: The SBOE disagrees and has determined that the language is appropriate as proposed.

Comment: One commenter stated that if discussions related to the needs of school boards, especially those serving communities that have faced challenges, are deemed "political advocacy," it could hinder necessary conversations about equity, representation in schools, and understanding of implementation of state laws and guidance. The commenter stated that lack of clarity in the rule could discourage trainers from engaging with these important topics, undermining the goal of preparing school board members to govern effectively.

Response: The SBOE provides the following clarification. The language of the proposed rule does not define discussions related to the needs of school boards as "political advocacy." However, at adoption, the SBOE changed the language of subsection (d)(1)(B) to clarify the definition of political advocacy that is prohibited under the rule.

Comment: One commenter stated that limiting eligible training providers to individuals raises significant concerns, specifically that organizations that offer specialized expertise in critical areas like school finance, special education, and equity often provide a level of collaborative, in-depth knowledge that individual trainers may not match. The commenter stated that by redefining who can serve as a provider, the proposed rule risks weakening the role of collaborative, expert-led training and long-standing relationships that school board trustees rely on to stay informed and lead effectively.

Response: The SBOE disagrees. The proposed rule does not prevent employees of, or contractors for, organizations from providing training; it only requires that those employees and contractors go through the registration process.

Comment: One commenter expressed concern that the proposed changes would harm minority students and school board members by restricting access to the specialized training necessary to serve marginalized communities effectively. The commenter stated that by excluding trainers with deep knowledge of the unique challenges faced by Latino and other minority students, the rule would limit school board members' ability to make informed decisions that address the needs of these populations. The commenter stated that this lack of valuable training could further disadvantage minority students, widening educational gaps and undermining efforts to create equitable school environments.

Response: The SBOE disagrees. The proposed rule does not exclude trainers with deep knowledge of the unique challenges faced by any given student group. Additionally, the proposed rule does not prevent employees of, or contractors for, organizations from providing training; it only requires that those employees and contractors go through the registration process.

Comment: Two commenters opposed the proposed amendment, stating that it unnecessarily limits access to high-quality training for school board members and could inhibit meaningful discussions, including encouraging trustees to make student-centered decisions. The commenter urged the SBOE to reject these provisions and allow organizations to continue playing a vital role in training school boards, especially in districts serving historically marginalized populations.

Response: The SBOE disagrees. The proposed rule does not exclude trainers with deep knowledge of the unique challenges faced by any given student group. Additionally, the proposed rule does not prevent employees of, or contractors for, organizations from providing training; it only requires that those employees and contractors go through the registration process. The proposed rule does not restrict trustees from engaging in advocacy training.

Comment: One commenter stated that organizations should not be precluded from offering continuing education since organizations may offer expertise and qualified personnel on educational policymaking, community engagement, improving student outcomes, complying with existing state and federal laws, and other areas of trustee interest. The commenter stated that changes to §61.1(c) present concerns about how school board members may benefit from evidence-based and up-to-date resources and training provided by qualified organizations. The commenter recommended removing the proposed changes to §61.1(c) and (c)(1) that prohibit groups or organizations from being registered providers.

Response: The SBOE disagrees. The proposed rule does not prevent employees of, or contractors for, organizations from providing training; it only requires that those employees and contractors go through the registration process.

Comment: One commenter stated that defining political advocacy and prohibiting it from school board member training presents concerns about how trustees can be equipped to understand their role as elected representatives of their school districts. Specifically, the commenter suggested that subsections (d)(1)(B) and (C) limit how school board members can understand the legislative process of state policies that will affect their governance of their school districts and the potential well-being of their school district communities. The commenter recommended striking subsections (d)(1)(B) and (C) to limit the definition of political advocacy for the purposes of this rule to activities outlined in subsection (d)(1)(A).

Response: SBOE disagrees. Political advocacy, as defined by the rule, does not prohibit school board member training from addressing the legislative process or trustees' role as elected representatives. At adoption, the SBOE changed the language of subsection (d)(1)(B) to clarify the definition of political advocacy that is prohibited under the rule.

Comment: One commenter stated that limiting eligibility to individuals will prevent school board trustees from benefiting from the in-depth knowledge and infrastructure of organizations and impair the quality, scope, and efficiency of the continuing education provided to Texas school board trustees. The commenter also stated that specialized and up-to-date training is particularly important for school board trustees who serve Latino students.

Response: The SBOE disagrees that the proposed rule will impair the quality of continuing education for school board members. The proposed rule does not prevent employees of, or contractors for, organizations from providing training; it only requires

that those employees and contractors go through the registration process.

Comment: One commenter stated that the proposed restrictions on "political advocacy" are vague and would impair robust and solution-oriented dialogue on educational issues. The commenter stated that language of the political advocacy prohibition, particularly with regard to the "intent" of the discussion of policy positions, is so vague that it would discourage providers from presenting comprehensive information on education issues and the variety of perspectives that school board trustees need to make informed decisions; impair the exchange of information between trustees and providers; and hinder discussions focused on student-centered solutions to address the challenges faced by trustees and the students they serve. The commenter also stated that the political advocacy prohibition would have a significant impact on the ability of school board trustees to develop sound policies to improve the education of Latinos and all Texans.

Response: The SBOE agrees that the language should be clarified. At adoption, the SBOE changed the language of subsection (d)(1)(B) to clarify the definition of political advocacy that is prohibited under the rule.

STATUTORY AUTHORITY. The amendment is adopted under Texas Education Code, §11.159, which requires the State Board of Education to provide a training course for school board trustees.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §11.159.

§61.1. Continuing Education for School Board Members.

(a) Under the Texas Education Code (TEC), §11.159, the State Board of Education (SBOE) shall adopt a framework for school board development to be used in structuring continuing education for school board members. The framework shall be posted to the Texas Education Agency (TEA) website and shall be distributed annually by the president of each board of trustees to all current board members and the superintendent.

(b) The continuing education required under the TEC, §11.159, applies to each member of an independent school district board of trustees. All school board trainings and continuing education under this section shall comply with state law.

(1) Each school board member of an independent school district shall complete a local district orientation.

(A) The purpose of the local orientation is to familiarize new board members with local board policies and procedures and district goals and priorities.

(B) A candidate for school board may complete the training up to one year before he or she is elected or appointed. A newly elected or appointed school board member who did not complete this training in the year preceding his or her election or appointment must complete the training within 120 calendar days after election or appointment.

(C) The orientation shall be at least three hours in length.

(D) The orientation shall address local district practices in the following, in addition to topics chosen by the local district:

- (i) curriculum and instruction;
- (ii) business and finance operations;

- (iii) district operations;
- (iv) superintendent evaluation; and
- (v) board member roles and responsibilities.

(E) Each board member should be made aware of the continuing education requirements of this section and those of the following:

- (i) open meetings act in Texas Government Code, §551.005;
- (ii) public information act in Texas Government Code, §552.012; and
- (iii) cybersecurity in Texas Government Code, §2054.5191.

(F) The orientation shall be open to any board member who chooses to attend.

(2) Each school board member of an independent school district shall complete a basic orientation to the TEC and relevant legal obligations.

(A) The orientation shall have special, but not exclusive, emphasis on statutory provisions related to governing Texas school districts.

(B) A candidate for school board may complete the training up to one year before he or she is elected or appointed. A newly elected or appointed school board member who did not complete this training in the year preceding his or her election or appointment must complete the training within 120 calendar days after election or appointment.

(C) The orientation shall be at least three hours in length.

(D) Topics shall include, but not be limited to, the TEC, Chapter 26 (Parental Rights and Responsibilities), and the TEC, §28.004 (Local School Health Advisory Council and Health Education Instruction).

(E) The orientation shall be provided by a regional education service center (ESC).

(F) The orientation shall be open to any board member who chooses to attend.

(G) The continuing education may be fulfilled through online instruction, provided that the training incorporates interactive activities that assess learning and provide feedback to the learner and offers an opportunity for interaction with the instructor.

(H) The ESC shall determine the clock hours of training credit to be awarded for successful completion of an online course and shall provide verification of completion as required in subsection (i) of this section.

(3) After each session of the Texas Legislature, including each regular session and called session related to education, each school board member shall complete an update to the basic orientation to the TEC.

(A) The update session shall be of sufficient length to familiarize board members with major changes in statute and other relevant legal developments related to school governance.

(B) The update shall be provided by an ESC or a registered provider, as defined by subsection (c) of this section.

(C) A board member who has attended an ESC basic orientation session described in paragraph (2) of this subsection that incorporated the most recent legislative changes is not required to attend an update.

(D) The continuing education may be fulfilled through online instruction, provided that the training is designed and offered by a registered provider, incorporates interactive activities that assess learning and provide feedback to the learner, and offers an opportunity for interaction with the instructor.

(E) The ESC or registered provider shall determine the clock hours of training credit to be awarded for successful completion of an online course and shall provide verification of completion as required in subsection (i) of this section.

(4) The entire board shall participate with their superintendent in a team-building session.

(A) The purpose of the team-building session is to enhance the effectiveness of the board-superintendent team and to assess the continuing education needs of the board-superintendent team.

(B) The session shall be held annually.

(C) The session shall be at least three hours in length.

(D) The session shall include a review of the roles, rights, and responsibilities of a local board, including its oversight relationship to administrators, as outlined in the framework for school board development described in subsection (a) of this section.

(E) The assessment of needs shall be based on the framework for school board development described in subsection (a) of this section and shall be used to plan continuing education activities for the year for the governance leadership team.

(F) The team-building session shall be provided by an ESC or a registered provider as described in subsection (c) of this section.

(G) The superintendent's participation in team-building sessions as part of the continuing education for board members shall represent one component of the superintendent's ongoing professional development.

(5) In addition to the continuing education requirements in paragraphs (1) through (4) of this subsection, each board member shall complete additional continuing education based on the framework for school board development described in subsection (a) of this section.

(A) The purpose of continuing education is to address the continuing education needs referenced in paragraph (4) of this subsection.

(B) The continuing education shall be completed annually.

(C) In a board member's first year of service, he or she shall complete at least ten hours of continuing education in fulfillment of assessed needs.

(D) Following a board member's first year of service, he or she shall complete at least five hours of continuing education annually in fulfillment of assessed needs.

(E) A board president shall complete continuing education related to leadership duties of a board president as some portion of the annual requirement.

(F) At least 50% of the continuing education shall be designed and delivered by persons not employed or affiliated with the board member's local school district. No more than one hour of the

required continuing education that is delivered by the local district may utilize self-instructional materials.

(G) The continuing education shall be provided by an ESC or a registered provider, as defined by subsection (c) of this section.

(H) The continuing education may be fulfilled through online instruction, provided that the training is designed and offered by a registered provider, incorporates interactive activities that assess learning and provide feedback to the learner, and offers an opportunity for interaction with the instructor.

(I) The ESC or registered provider shall determine the clock hours of training credit to be awarded for successful completion of an online course and shall provide verification of completion as required in subsection (i) of this section.

(6) Each school board member shall complete continuing education on evaluating student academic performance and setting individual campus goals for early childhood literacy and mathematics and college, career, and military readiness.

(A) The purpose of the training on evaluating student academic performance is to provide research-based information to board members that is designed to support the oversight role of the board of trustees outlined in the TEC, §11.1515.

(B) The purpose of the continuing education on setting individual campus goals for early childhood literacy and mathematics and college, career, and military readiness is to facilitate boards meeting the requirements of TEC, §11.185 and §11.186.

(C) A candidate for school board may complete the training up to one year before he or she is elected or appointed. A newly elected or appointed school board member who did not complete this training in the year preceding his or her election or appointment must complete the training within 120 calendar days after election or appointment.

(D) The continuing education shall be completed every two years.

(E) The training shall be at least three hours in length.

(F) The continuing education required by this subsection shall include, at a minimum:

(i) instruction in school board behaviors correlated with improved student outcomes with emphasis on:

(I) setting specific, quantifiable student outcome goals; and

(II) adopting plans to improve early literacy and numeracy and college, career, and military readiness for applicable student groups evaluated in the Closing the Gaps domain of the state accountability system established under TEC, Chapter 39;

(ii) instruction in progress monitoring practices to improve student outcomes; and

(iii) instruction in state accountability with emphasis on the Texas Essential Knowledge and Skills, state assessment instruments administered under the TEC, Chapter 39, and the state accountability system established under the TEC, Chapter 39.

(G) The continuing education shall be provided by an authorized provider as defined by subsection (e) of this section.

(H) If the training is attended by an entire school board and its superintendent, includes a review of local school district data on student achievement, and otherwise meets the requirements of subsec-

tion (b)(4) of this section, the training may serve to meet a school board member's obligation to complete training under subsection (b)(4) and (6) of this section, as long as the training complies with the Texas Open Meetings Act.

(7) Each board member shall complete continuing education on identifying and reporting potential victims of sexual abuse, human trafficking, and other maltreatment of children in accordance with TEC, §11.159(c)(2).

(A) A candidate for school board may complete the training up to one year before he or she is elected or appointed. A newly elected or appointed school board member who did not complete this training in the year preceding his or her election or appointment must complete the training within 120 calendar days after election or appointment.

(B) The training shall be completed every two years.

(C) The training shall be at least one hour in length.

(D) The training must familiarize board members with the requirements of TEC, §38.004 and §38.0041, and §103.1401 of this title (relating to Reporting Child Abuse or Neglect, Including Trafficking of a Child).

(E) The training required by this subsection shall include, at a minimum:

(i) instruction in best practices of identifying potential victims of child abuse, human trafficking, and other maltreatment of children;

(ii) instruction in legal requirements to report potential victims of child abuse, human trafficking, and other maltreatment of children; and

(iii) instruction in resources and organizations that help support victims and prevent child abuse, human trafficking, and other maltreatment of children.

(F) The training sessions shall be provided by a registered provider as defined by subsection (c) of this section.

(G) This training may be completed online, provided that the training is designed and offered by a registered provider, incorporates interactive activities that assess learning and provide feedback to the learner, and offers an opportunity for interaction with the instructor.

(H) The registered provider shall determine the clock hours of training credit to be awarded for successful completion of an online course and shall provide verification of completion as required in subsection (i) of this section.

(c) For the purposes of this section, a registered provider has demonstrated proficiency in the content required for a specific training. An individual applicant shall register with the TEA to provide the board member continuing education required in subsection (b)(3), (5), and (7) of this section. Groups and organizations are not eligible for registration.

(1) The applicant's registration application shall include documentation of the applicant's training, experience, educational background, which must include a bachelor's or higher degree, and expertise in the activities and areas covered in the framework for school board development. A registration application that does not demonstrate the training, experience, educational background, and expertise shall be rejected.

(2) TEA will provide each applicant with a list of at least five TEA-approved background check providers and a list of TEA-ap-

proved background checks associated with obtaining a professional certification or license in this state, including background checks of school district employees conducted using the criminal history clearinghouse established by the Texas Department of Public Safety pursuant to the Texas Government Code, §411.0845. The applicant's registration application shall include a background check report from one of the approved providers or a background check report performed in association with obtaining an approved professional certification or license. A registration application that does not include a background check report completed in the last 12 months shall be rejected, and a registration application that includes a background check report documenting an applicant's felony or crime of moral turpitude conviction shall be rejected.

(3) Any registered provider will report to TEA within 10 days if they are convicted of a felony or crime of moral turpitude. TEA shall revoke a registered provider's status upon notification and confirmation that a registered provider has been convicted of a felony or a crime of moral turpitude. A registered provider will be given an opportunity to promptly contest in writing, within 30 days, a claim that the registered provider was convicted. TEA will respond within 30 days of its decision. An informal hearing will be conducted by TEA upon request from the registered provider. Registration shall be withheld until confirmation of registration is received from TEA.

(4) An updated registration shall be required of a provider of continuing education every three years.

(5) A registered provider may present with other panel members, speakers, or presenters for credit. Those panel members, speakers, or presenters must comply with subsections (d)-(m) of this section but are not required to comply with paragraphs (1)-(4) of this subsection. Any violation of this section by the other panel members, speakers, or presenters is the responsibility of the registered provider.

(6) A school district that provides continuing education exclusively for its own board members is not required to register.

(7) An ESC is not required to register under this subsection.

(d) A provider of training under this section may not engage in political advocacy during the training sessions under this section.

(1) For the purposes of this section, political advocacy means:

(A) supporting or opposing political candidate(s), a particular party, or a group of candidates who hold a particular political viewpoint or position, specifically or by unmistakable implication, with the intent to influence the outcome of an election or appointment; and/or

(B) supporting or opposing any measure with the intent to influence the outcome of a legislative, rulemaking, or other policy process or measure.

(2) Political advocacy shall not include discussions on fostering legislative relationships, legislative or rulemaking processes, or legislative or policy updates.

(3) If a provider is required to register under subsection (c) of this section, the provider shall provide a written acknowledgement, provided by the agency, indicating that the provider shall not engage in political advocacy while providing training. A registration application that does not include an acknowledgement shall be rejected.

(4) If the agency determines a provider engaged in political advocacy while providing training, the agency shall:

(A) issue a warning to the provider;

(B) request that the provider submit a written explanation from the provider explaining the events and what action, if any, has or will be taken to prevent a future violation; and

(C) notify members of the State Board of Education of the warning issued to the provider and include any written explanation from the provider.

(5) The board may remove the registration or the authorization to provide training under this section for an individual, school district, or regional service center if the board determines that the provider engaged in political advocacy while providing training under this section.

(6) Removal of registration or authorization under paragraph (5) of this subsection shall be for a term of one year unless modified by the board.

(7) A provider is presumed to have provided political advocacy while providing training under this section if the political advocacy occurs during that training session.

(e) An authorized provider meets all the requirements of a registered provider and has demonstrated proficiency in the content required in subsection (b)(4) and (6) of this section. Proficiency may be demonstrated by completing a TEA-approved train-the-trainer course that includes evaluation on the topics and following a review of the provider's qualifications and course design, or through other means as determined by the commissioner.

(1) A school district or individual may be authorized by TEA to provide the board member training required in subsection (b)(4) and (6) of this section.

(2) An ESC shall be authorized by TEA to provide the board member training required in subsection (b)(4) and (6) of this section.

(3) The authorization process shall include documentation of the provider's training and/or expertise in the activities and areas covered in the framework for school board development.

(4) An updated authorization shall be required of a provider of training every three years.

(f) No continuing education shall take place during a school board meeting unless that meeting is called expressly for the delivery of board member continuing education. However, continuing education may take place prior to or after a legally called board meeting in accordance with the provisions of the Texas Government Code, §551.001(4).

(g) An ESC board member continuing education program shall be open to any interested person, including a current or prospective board member. A district is not responsible for any costs associated with individuals who are not current board members.

(h) A registration fee shall be determined by ESCs to cover the costs of providing continuing education programs offered by ESCs.

(i) For each training described in this section, the provider of continuing education shall provide verification of completion of board member continuing education to the individual participant and to the participant's school district. The verification must include the provider's authorization or registration number.

(j) To the extent possible, the entire board shall participate in continuing education programs together.

(k) At the last regular meeting of the board of trustees before an election of trustees, the current president of each local board of trustees shall announce the name of each board member who has

completed the required continuing education, who has exceeded the required hours of continuing education, and who is deficient in meeting the required continuing education as of the anniversary of the date of each board member's election or appointment to the board or two-year anniversary of his or her previous training, as applicable. The announcement shall state that completing the required continuing education is a basic obligation and expectation of any sitting board member under SBOE rule. The minutes of the last regular board meeting before an election of trustees must reflect whether each trustee has met or is deficient in meeting the training required for the trustee as of the first anniversary of the date of the trustee's election or appointment or two-year anniversary of his or her previous training, as applicable. The president shall cause the minutes of the local board to reflect the announcement and, if the minutes reflect that a trustee is deficient in training as of the anniversary of his or her joining the board, the district shall post the minutes on the district's Internet website within 10 business days of the meeting and maintain the posting until the trustee meets the requirements.

(l) Annually, the SBOE shall commend those local board-superintendent teams that complete at least eight hours of the continuing education specified in subsection (b)(4) and (5) of this section as an entire board-superintendent team.

(m) Annually, the SBOE shall commend local board-superintendent teams that effectively implement the commissioner's trustee improvement and evaluation tool developed under the TEC, §11.182, or any other tool approved by the commissioner.

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) 475-1497



CHAPTER 67. STATE REVIEW AND APPROVAL OF INSTRUCTIONAL MATERIALS

The State Board of Education (SBOE) adopts new §§67.27, 67.29, 67.31, 67.33, 67.39, 67.41, 67.61, and 67.63, concerning state review and approval of instructional materials. Section 67.27 and §67.29 are adopted with changes to the proposed text as published in the December 20, 2024 issue of the *Texas Register* (49 TexReg 10176) and will be republished. Sections 67.31, 67.33, 67.39, 67.41, 67.61, and 67.63 are adopted without changes to the proposed text as published in the December 20, 2024 issue of the *Texas Register* (49 TexReg 10176) and will not be republished. The new sections implement House Bill (HB) 1605, 88th Texas Legislature, Regular Session, 2023, by defining the procedures and policies for the selection, appointment, training, and duties of instructional materials review and approval (IMRA) reviewers; outlining the procedures for IMRA public access and public comment; and specifying procedures for materials to be updated or revised following approval by the board. The new sections also outline the procedures for local districts to adopt instructional materials.

REASONED JUSTIFICATION: Texas Education Code (TEC), Chapter 31, addresses instructional materials in public education and permits the SBOE to adopt rules for the adoption, requisition, distribution, care, use, and disposal of instructional materials. HB 1605, 88th Texas Legislature, Regular Session, 2023, significantly revised TEC, Chapter 31, including several provisions under SBOE authority. HB 1605 also added a new provision to TEC, Chapter 48, to provide additional funding to school districts and charter schools that adopt and implement SBOE-approved materials. In addition, the bill added requirements related to adoption of essential knowledge and skills in TEC, Chapter 28.

At the January-February 2024 meeting, the SBOE approved 19 TAC Chapter 67, State Review and Approval of Instructional Materials, Subchapter B, State Review and Approval, §67.21, Proclamations, Public Notice, and Requests for Instructional Materials for Review; §67.23, Requirements for Publisher Participation in Instructional Materials Review and Approval (IMRA); and §67.25, Consideration and Approval of Instructional Materials by the State Board of Education, and Subchapter D, Duties of Publishers and Manufacturers, §67.81, Instructional Materials Contracts, and §67.83, Publisher Parent Portal, for second reading and final adoption. At that time, the board expressed a desire to clarify the rules related to the list of approved instructional materials outlined in TEC, §31.022.

At the June 2024 meeting, the SBOE approved 19 TAC Chapter 67, State Review and Approval of Instructional Materials, Subchapter B, State Review and Approval, §67.43, Lists of Approved and Rejected Instructional Materials, for second reading and final adoption.

The adopted new sections in Subchapter B define the procedures and policies for the selection, appointment, training, and duties of IMRA reviewers; outline the procedures for IMRA public access and public comment; and specify procedures for materials to be updated or revised following approval by the board.

The following changes were made to §67.27 at adoption. Subsection (a) was modified to allow IMRA reviewer applications to include contact information for a reference other than a supervisor if the applicant does not have a supervisor and to state that SBOE members shall have access to all completed applications from their respective districts. New subsections (d) and (e) were created to organize the criteria for quality reviewers and suitability reviewers. The qualification requirements for quality reviewers in subsection (d)(1)(C) was clarified to specify that professors must have three years of experience or more in the subject area(s) or courses being reviewed. Subsection (d)(2) was modified to establish a process for SBOE member approval of a quality reviewer applicant who is rejected by the Texas Education Agency for not meeting minimum eligibility. A provision was added to subsection (d)(12) to allow an SBOE member to waive the application exemption for previous IMRA quality reviewers. Subsection (e)(3) was clarified to require a suitability review panel to reflect the political affiliation of the membership of the SBOE.

Section 67.29(f) was modified at adoption to clarify that the no-contact period for IMRA reviewers begins upon execution of their contract.

The adopted new sections in Subchapter C outline the procedures for local districts to request sample copies of materials under review and clarify the procedures for selection and lo-

cal adoption of instructional materials by school districts and open-enrollment charter schools.

The SBOE approved the new sections for first reading and filing authorization at its November 22, 2024 meeting and for second reading and final adoption at its January 31, 2025 meeting.

In accordance with TEC, §7.102(f), the SBOE approved the new sections for adoption by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2025-2026 school year. The earlier effective date will allow for the rules to apply to IMRA Cycle 2025. The effective date is 20 days after filing as adopted with the Texas Register.

SUMMARY OF COMMENTS AND RESPONSES: The public comment period on the proposal began December 20, 2024, and ended at 5:00 p.m. on January 21, 2025. The SBOE also provided an opportunity for registered oral and written comments at its January 2025 meeting in accordance with the SBOE board operating policies and procedures. Following is a summary of the public comments received and corresponding responses.

Comment. A parent requested a follow up for Wichita Independent School District.

Response. This comment is outside the scope of the proposed rulemaking.

SUBCHAPTER B. STATE REVIEW AND APPROVAL

19 TAC §§67.27, 67.29, 67.31, 67.33, 67.39, 67.41

STATUTORY AUTHORITY. The new sections are adopted under Texas Education Code (TEC), §31.003(a), which permits the State Board of Education (SBOE) to adopt rules for the adoption, requisition, distribution, care, use, and disposal of instructional materials; TEC, §31.022, as amended by House Bill (HB) 1605, 88th Texas Legislature, Regular Session, 2023, which requires the SBOE to review instructional materials that have been provided to the board by the Texas Education Agency (TEA) under TEC, §31.023; and TEC, §31.023, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, which requires the commissioner of education to establish, in consultation with and with the approval of the SBOE, a process for the annual review of instructional materials by TEA. In conducting a review under this section, TEA must use a rubric developed by TEA in consultation with and approved by the SBOE.

CROSS REFERENCE TO STATUTE. The new sections implement Texas Education Code, §31.003(a); and §31.022 and §31.023, as amended by House Bill 1605, 88th Texas Legislature, Regular Session, 2023.

§67.27. *IMRA Reviewers: Eligibility and Appointment.*

(a) All instructional materials review and approval (IMRA) reviewers must complete an application. The application will include a resume and supervisor, if applicable, or another reference contact information and must request any professional associations, affiliations, and groups in a format approved by the State Board of Education (SBOE) chair. SBOE members shall have access to all completed applications in their respective districts.

(b) The IMRA reviewer application shall be posted to the SBOE website.

(c) An IMRA reviewer may serve as a quality reviewer or as a suitability reviewer.

(d) Quality reviewers.

(1) IMRA quality reviewers must meet one of the following minimum qualification requirements:

(A) educators with three or more years of experience;

(B) district or campus personnel who have taught and/or directly supported the grade level(s) and subject area(s) or course(s) for at least three years;

(C) professors at an accredited institution of higher education in Texas with at least three years or more experience in the subject area(s) or courses; or

(D) persons with evidence of strong content knowledge and experience in the grade level(s) and subject area(s) or course(s).

(2) The Texas Education Agency (TEA) may reject a quality reviewer applicant if the candidate does not meet minimum eligibility as outlined in this section with approval of the SBOE member for which the applicant is a district resident. The member has one week to respond to TEA's decision. If the SBOE member approves applicants who were previously rejected by TEA, those applications shall be reinstated to the applicant pool to be rated.

(3) All eligible quality reviewer applicants shall be evaluated by TEA staff using the applicants' experience and qualifications rated on a scale of 1-3. The best qualified individuals are ranked 1.

(4) Once rated, all eligible quality reviewer applicants are shared with the SBOE member for which the applicant is a district resident.

(5) TEA staff provides all quality reviewer applicants and their applications to the SBOE member for which the applicant is a district resident, and the SBOE member may adjust rankings, veto applicants, and/or identify top candidates.

(6) The SBOE member has two weeks to return applicants and their rankings to TEA staff. If the SBOE member does not submit a response, TEA staff's ranking shall remain unchanged.

(7) IMRA quality reviewers must be approved by the SBOE member for which they are a district resident.

(8) If an individual invited to serve on a quality review panel declines the invitation, the relevant SBOE member will select an alternate from the list of candidates within one week. To the extent an SBOE member fails to select an alternate within one week, the top-ranked applicant is deemed selected.

(9) In the event TEA does not receive enough applications to fill available roles, TEA may:

(A) reduce the size of the review team to no fewer than three reviewers;

(B) postpone the review of materials using the SBOE-approved strategy for prioritizing selection of instructional materials for review; or

(C) modify the review schedule to allow for additional recruitment efforts.

(10) TEA staff shall build quality review panels using top candidates identified from each SBOE district. As final selections are made, TEA may consider the following characteristics to ensure that each individual review panel is balanced and has the necessary qualifications. The guidelines are established to ensure that the work groups are highly qualified, reflect the make-up of the state's educators, and include representation from the following.

(A) Experience: highly qualified educators and others with evidence of strong content knowledge and experience in the subject and/or grade level or bands and/or course(s).

(B) Position: a variety of positions reflected such as parents, classroom teachers, campus- and district-level administrators/specialists, education service center subject area personnel, representatives from higher education, and community members, including employers.

(C) School district size: large, midsize, and small school districts.

(D) Demographics: multiple and different racial and ethnic groups and males and females.

(E) School district/charter school: a variety of local education agencies are represented, including open-enrollment charter schools.

(F) Expertise: if a work group is assigned a grade band, at least one reviewer with experience teaching for each grade level will be prioritized.

(11) TEA staff shall maintain a database of individuals who have served on an IMRA review panel during the review process.

(12) Applicants are exempt from subsection (a) of this section if they have previously served as an IMRA quality reviewer and received an acceptable performance rating; however, an SBOE member may waive this provision and require all applicants to resubmit their applications in accordance with subsection (a) of this section.

(e) Suitability reviewers.

(1) Texas residency is a minimum requirement for any IMRA suitability reviewer.

(2) Each SBOE member shall annually nominate a minimum of 20 applicants to serve as suitability reviewers and rank them from most preferred to least preferred.

(3) A panel for suitability review consists of three reviewers and shall reflect the political affiliation of the membership of the SBOE. No more than one suitability reviewer per panel may be from any one SBOE district.

(4) TEA staff shall build suitability review panels using top candidates identified from each SBOE district. As final selections are made, TEA may consider the following characteristics to ensure that each individual review panel is balanced and has the necessary qualifications.

(A) Experience: successful participation as a quality or suitability reviewer in a past review.

(B) Demographics: multiple and different racial and ethnic groups and males and females.

(5) If an individual invited to serve on a review panel declines the invitation, the relevant SBOE member will select an alternate from the list of candidates within one week. To the extent a member fails to select an alternate within one week, the top-ranked applicant is deemed selected.

(6) If there are not enough suitability reviewers available for a review cycle, TEA shall request more nominations from each SBOE member. To the extent a member fails to nominate additional candidates within one week, candidates from other SBOE member districts may be considered.

(7) If an SBOE member who nominated reviewers no longer holds the office before the start of the annual review, the new

SBOE member may nominate different suitability reviewers or adjust their rankings. If the office is vacant, the SBOE chair may nominate different suitability reviewers or adjust their rankings.

§67.29. IMRA Reviewers: Training, Duties, and Conduct.

(a) Instructional materials review and approval (IMRA) reviewers shall participate in training that includes at least the following:

- (1) the responsibilities of an IMRA reviewer;
- (2) statutes and rules pertaining to the IMRA process;
- (3) essential knowledge and skills specified for subjects and grades or courses included in the proclamation or request for instructional materials, including clear and consistent guidelines for determining Texas Essential Knowledge and Skills (TEKS), Texas Prekindergarten Guidelines (TPG), or English Language Proficiency Standards coverage within the instructional materials;
- (4) identifying factual errors;
- (5) the schedule of IMRA procedures;
- (6) regulatory requirements, including Texas Government Code, §572.051 (relating to Standards of Conduct), and Texas Penal Code, §36.02 (relating to Bribery); and
- (7) IMRA quality and suitability rubrics.

(b) IMRA reviewers shall not accept meals, entertainment, gifts, or gratuities in any form from State Board of Education (SBOE) members; publishers, authors, or depositories; agents for publishers, authors, or depositories; any person who holds any official position with publishers, authors, depositories, or agents; or any person or organization interested in influencing the selection of instructional materials.

(c) IMRA reviewers shall be afforded the opportunity to collaborate with other panel members during the official virtual and face-to-face reviews to discuss coverage of TEKS or TPG, errors, components, or any other aspect of instructional materials being evaluated. Reviewers shall not discuss with other reviewers of the panel the instructional materials being reviewed, except during official virtual and face-to-face reviews.

(d) IMRA reviewers shall not discuss instructional materials being evaluated with a member of the SBOE, unions, organizations, or associations or with any party having a financial interest in the approval of instructional materials prior to the conclusion of the review. The review is considered to have concluded on the date that the final list of instructional materials recommended for approval is posted on the SBOE website.

(e) SBOE members may attend review panel meetings but may not discuss materials under review with state review panel members.

(f) IMRA reviewers shall observe a no-contact period that shall begin upon execution of their contract and end when they are released from their duties. During this period, IMRA reviewers shall not have direct or indirect communication with any person having an interest in the approval process regarding content of instructional materials under evaluation by the panel.

(g) The restrictions in subsections (c)-(f) of this section are not intended to prohibit IMRA reviewers from providing public testimony to the SBOE either at a public hearing or in any regularly scheduled meeting in accordance with the SBOE Operating Rules, §2.12 (relating to Public Hearings).

(h) IMRA reviewers shall report immediately to the commissioner of education and chair of the SBOE any communication or at-

tempted communication by any person not officially involved in the review process regarding instructional materials being evaluated by the panel.

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

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SUBCHAPTER C. LOCAL OPERATIONS

19 TAC §67.61, §67.63

STATUTORY AUTHORITY. The new sections are adopted under Texas Education Code (TEC), §31.003(a), which permits the State Board of Education (SBOE) to adopt rules for the adoption, requisition, distribution, care, use, and disposal of instructional materials; TEC, §31.022, as amended by House Bill (HB) 1605, 88th Texas Legislature, Regular Session, 2023, which requires the SBOE to review instructional materials that have been provided to the board by the Texas Education Agency (TEA) under TEC, §31.023; and TEC, §31.023, as amended by HB 1605, 88th Texas Legislature, Regular Session, 2023, which requires the commissioner of education to establish, in consultation with and with the approval of the SBOE, a process for the annual review of instructional materials by TEA. In conducting a review under this section, TEA must use a rubric developed by TEA in consultation with and approved by the SBOE.

CROSS REFERENCE TO STATUTE. The new sections implement Texas Education Code, §31.003(a); and §31.022 and §31.023, as amended by House Bill 1605, 88th Texas Legislature, Regular Session, 2023.

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TITLE 28. INSURANCE

PART 2. TEXAS DEPARTMENT OF INSURANCE, DIVISION OF WORKERS' COMPENSATION

CHAPTER 120. COMPENSATION
PROCEDURE--EMPLOYERS

28 TAC §120.2

INTRODUCTION. The Texas Department of Insurance, Division of Workers' Compensation (DWC) adopts amendments to 28 TAC §120.2, concerning employer's first report of injury and notice of injured employee rights and responsibilities. DWC adopts §120.2 without changes to the proposed text published in the October 25, 2024, issue of the *Texas Register* (49 TexReg 8544). The rule will not be republished.

REASONED JUSTIFICATION. The amendments correct the addresses and websites contained in 28 TAC §120.2 to reflect the current addresses and websites of DWC and the Office of Injured Employee Counsel (OIEC). The amendments are necessary to ensure that the information in the rule is current and accurate. The adopted amendments also make updates for plain language and agency style.

SUMMARY OF COMMENTS AND AGENCY RESPONSE.

Commenters: DWC received one written comment. Commenters in support of the proposal were: OIEC.

Comment on §120.2. OIEC commented in support of the proposed amendments.

Agency Response to Comment on §120.2. DWC appreciates the comment.

STATUTORY AUTHORITY. The commissioner of workers' compensation adopts the amendments to 28 TAC §120.2 under Labor Code §§404.109, 402.00111, 402.00116, and 402.061.

Labor Code §404.109 provides that the public counsel of OIEC shall adopt, in the form and manner prescribed by the public counsel and after consultation with the commissioner of workers' compensation, a notice of injured employee rights and responsibilities to be distributed by the division as provided by commissioner or commissioner of insurance rules.

Labor Code §402.00111 provides that the commissioner of workers' compensation shall exercise all executive authority, including rulemaking authority under Title 5 of the Labor Code.

Labor Code §402.00116 provides that the commissioner of workers' compensation shall administer and enforce this title, other workers' compensation laws of this state, and other laws granting jurisdiction to or applicable to the division or the commissioner.

Labor Code §402.061 provides that the commissioner of workers' compensation shall adopt rules as necessary to implement and enforce the Texas Workers' Compensation Act.

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 March 6, 2025.

TRD-202500812

Kara Mace

General Counsel

Texas Department of Insurance, Division of Workers' Compensation

Effective date: March 26, 2025

Proposal publication date: October 25, 2024

For further information, please call: (512) 804-4703

◆ ◆ ◆
TITLE 31. NATURAL RESOURCES AND
CONSERVATION

PART 2. TEXAS PARKS AND
WILDLIFE DEPARTMENT

CHAPTER 53. FINANCE

SUBCHAPTER A. FEES

DIVISION 1. LICENSE, PERMIT, AND BOAT
AND MOTOR FEES

31 TAC §53.10

The Texas Parks and Wildlife Commission in a duly noticed meeting on January 23, 2025, adopted an amendment to §53.10, concerning Public Hunting and Fishing Permits and Fees, without change to the proposed text as published in the December 20, 2024, issue of the *Texas Register* (49 TexReg 10292) and will not be republished.

The amendment is a result of the department's review of its regulations under the provisions of Government Code, §2001.039, which requires each state agency to review each of its regulations no less frequently than every four years and to re-adopt, adopt with changes, or repeal each rule as a result of the review.

The amendment implements a conforming change to terminology with respect to references to pronghorn antelope. In 2022, the department amended 31 TAC §65.3, concerning Definitions, to define "pronghorn" as "pronghorn antelope (*Antilocarpa americana*).\" Although Parks and Wildlife Code, Chapter 63, designates the "pronghorn antelope" as a game species, the animal is not in fact a true antelope. Additionally, it is less cumbersome to simply refer to the animal as a pronghorn.

The department received one comment opposing adoption of the rule as proposed. The commenter did not provide a reason or rationale for opposing adoption. No changes were made as a result of the comment.

The department received four comments supporting adoption of the rule as proposed.

The amendment is adopted under the authority of Parks and Wildlife Code, §81.403, which authorizes the commission to establish a fee for a permit for the hunting of wildlife or for any other use in wildlife management areas.

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 March 4, 2025.

TRD-202500780

James Murphy

General Counsel

Texas Parks and Wildlife Department

Effective date: March 24, 2025

Proposal publication date: December 20, 2024

For further information, please call: (512) 389-4775

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CHAPTER 57. FISHERIES

SUBCHAPTER E. PERMITS TO POSSESS OR SELL NONGAME AND EXOTIC FISH TAKEN FROM PUBLIC FRESH WATER

31 TAC §§57.377 - 57.379, 57.381, 57.382, 57.384

The Texas Parks and Wildlife Commission in a duly noticed meeting on January 23, 2025, adopted amendments to 31 TAC §§57.377 - 379, 57.381, 57.382, and 57.384, concerning Permits to Possess or Sell Nongame and Exotic Fish Taken from Public Fresh Water. Section 57.377, concerning Definitions, and §57.378, concerning Applicability: Affected Species, are adopted with changes to the proposed text as published in the December 20, 2024, issue of the *Texas Register* (49 TexReg 10293) and will be republished. Sections 57.379, 57.381, 57.382, and 57.384 are adopted without change and will not be republished.

The change to §57.377 adds a closing parentheses mark to paragraph (1). The change to §57.378 moves common carp from the list of nongame species in subsection (a) to the list of exotic species in subsection (b), corrects capitalization errors in taxonomic names in subsections (a)(8) and (b)(2), and a misspelling of *Pterygoplichthys* in subsection (c). The changes are nonsubstantive.

The amendments add selected exotic species of fish to the list of species for which the department may issue permits authorizing take from public waters for commercial purposes, remove several species from that list, and make clarifying and house-keeping-type changes to improve accuracy and readability.

The amendment to §57.377, concerning Definitions, adds language to clarify that the rules include and are applicable to exotic species in addition to indigenous species. Under Parks and Wildlife Code, Chapter 61, the commission is authorized to regulate the take and possession of aquatic animal life from public fresh water. Parks and Wildlife Code, Chapter 66, delegates to the commission the authority to designate nonindigenous (exotic) species of fish as harmful or potentially harmful exotic aquatic species and regulate their importation, possession, and sale. Under Parks and Wildlife Code, Chapter 67, the department is delegated the authority to manage all indigenous species of fish not designated by rule as game fish (i.e., nongame fish) if necessary to properly manage the species. The amendment is intended to eliminate possible confusion, and is made throughout this rulemaking.

The amendment to §57.378, concerning Applicability: Nongame Fishes, retitles the section to be generic with respect to the effect of the subchapter, adds silver carp and suckermouth armored catfish to the list of species for which a permit may be issued for commercial take, removes freshwater drum, Rio Grande cichlid, and minnows from the list, and adds a clarifying statement that no permit under Chapter 57, Subchapter A (Harmful or Potentially Harmful Fish, Shellfish, and Aquatic Plants) is required for an activity authorized under a permit issued under Subchapter E. The amendment also replaces the current graphic list of affected species with a list that conforms to the conventional rule format.

Silver carp are native to eastern Asia and were introduced to private fish farms and wastewater treatment facilities in the United States during the 1970s and 1980s as a biological control agent to reduce algae growth and improve water-quality conditions in ponds. By 1980, they had escaped into the Mississippi River system during high-water flooding events and subsequently

spread rapidly throughout the Mississippi River drainage. They have become established and potentially problematic in more than ten states, where they compete with native species and pose hazards to boaters because they can weigh up to 60 pounds and are capable of leaping out of the water when startled (such as by boat noise), sometimes striking boaters. Silver carp are now well-documented in the Red River and all its Texas tributaries below Lake Texoma but are not yet highly abundant. There are U.S. and international markets for wild-caught silver carp, regional efforts are underway to incentivize harvest, and the amendment allows their commercial sale. The amendment is intended to encourage removal of this species from Texas fresh waters with the additional benefit of commercial incentive.

Suckermouth armored catfish are native to Central and South America and were imported to the U.S. via the aquarium trade to control algae. Aquarists have been known to dump the contents of fish tanks for various reasons, which is believed to have resulted in the introduction of this species to Texas waters, where high abundance has been documented in some locations. This species competes with indigenous fishes, inadvertently consumes the eggs of other fishes through its feeding behavior, and may cause serious disruptions in food webs and native ecosystems. They are especially problematic in spring-influenced river systems such as those found in the Edwards Plateau of Texas but are also widespread in the Houston and South Texas regions. Additionally, their burrowing behavior causes destabilization and erosion in riverbanks, earthen retention structures, and under concrete retention structures, with resulting potential for economic damage. There has been commercial interest in this species from pet food producers. The amendment is intended to encourage removal of this species from Texas fresh waters with the additional benefit of a commercial incentive.

Freshwater drum are indigenous to Texas and are recreationally and ecologically important. The species serves as a reproductive host for numerous species of native freshwater mussels, many of which are threatened, endangered, or recognized as species in need of conservation intervention. The department has determined that continued commercial harvest of freshwater drum is inconsistent with conservation and recovery goals for imperiled freshwater mussels; therefore, the amendment removes the species from the list of species for which a permit under the subchapter could be issued.

Similarly, the amendment removes minnows from the list of species for which a permit under the subchapter is authorized. The department has determined that 64 percent of the minnow genera currently authorized for commercial harvest in Texas include species that are threatened, endangered, or species of greatest conservation need--37 imperiled species in total. Because of their small size and similarity of appearance, the department believes it is prudent to prohibit all commercial harvest in order to ensure the ability of all minnow species to perpetuate themselves, as well as to forestall or prevent additional state or federal listings as threatened or endangered species.

Finally, the amendment removes the Rio Grande cichlid from the list of species authorized for commercial harvest. The Rio Grande cichlid is native to Texas and is the only indigenous cichlid native to the U.S. Known to be a vigorous fighter, it has become increasingly popular as a sport fish, particularly among fly fishers. Commercial take has become almost non-existent and the department believes that removing it from the list aligns with recreational fisheries management goals, especially for Central

Texas creeks and rivers, where sport fishing guides offer trips targeting the species.

The amendment to §57.382, concerning Harvest and Sales Reports, eliminates the current contents of the section other than the requirement to retain sales receipts and inserts a reference to the requirements of §57.993, concerning Commercial Harvest Report. Under the provisions of §57.993, all persons who engage in commercial harvest activities are required to report those activities to the department; therefore, the requirements of current paragraphs (1) and (2) of §57.382 are unnecessary, since that data is already captured. Therefore, the contents of current paragraph (1) and (2) can be replaced with a simple reference to the reports required under §57.993.

The amendment to §57.384, concerning Refusal to Issue, eliminates current paragraph (4), which is no longer necessary. In 2022, the department promulgated Chapter 56 to comply with recommendations of the Texas Sunset Advisory Commission to establish a uniform process to govern department decisions to refuse issuance or renewal of non-recreational licenses and permits for which such processes are not prescribed by statute. The Sunset Commission also recommended a similar process for agency decisions to suspend or revoke such licenses and permits. The permit established by this subchapter is subject to the provisions of Chapter 56; thus, paragraph (4) is no longer necessary. The amendment retitles the section accordingly to reflect the content of the section.

The amendments to §57.379, concerning Prohibited Acts, §57.381, concerning Permit Specifications and Requirements, and §57.382, concerning Harvest and Sales Reports, make conforming changes as discussed earlier to reflect the applicability of the rules to all species of fish taken from public waters for commercial purposes.

The department received no comments opposing adoption of the rules as proposed.

The department received six comments supporting adoption of the rules as proposed.

The amendments are adopted under Parks and Wildlife Code, Chapter 61, which authorizes the commission to regulate take and possession of aquatic animal life and the means, methods, and places in which it is lawful to take or possess aquatic animal life (including public fresh water); Chapter 66, Subchapter A, which authorizes the department to make rules governing the importation, possession, and sale of exotic harmful or potentially harmful fish; and Chapter 67, which authorizes the commission to establish any limitation of the take, possession, propagation, transportation importation, exportation, sale, and offering for sale of nongame fish necessary to manage those species.

§57.377. *Definitions.*

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

- (1) Affected species--For purposes of this subchapter, all nongame fish and exotic fish listed in §57.378 of this title (relating to Applicability; Affected Species).
- (2) Department--The Texas Parks and Wildlife Department or any authorized employee thereof.
- (3) Exotic fish--As defined in Parks and Wildlife Code §66.007.

(4) Game fish--As defined in §57.971(15)(A) of this title (relating to Definitions).

(5) Nongame fish--For the purposes of this subchapter, all indigenous or native species not defined as game fish, except endangered and threatened fish, which are defined and regulated under Chapter 65, Subchapter G of this title (relating to Threatened and Endangered Nongame Species).

(6) Public freshwater--All of the state rivers, streams, creeks, bayous, reservoirs, lakes, and portions of those freshwaters not defined as coastal waters in §57.971 of this title (relating to Definitions), where public access is available without discrimination.

(7) Shad--Gizzard and threadfin shad (*Dorosoma* spp.).

§57.378. *Applicability: Affected Species.*

(a) Nongame Species. A permit to sell the following species of fish taken from public fresh water may be issued if the department determines that it is necessary to properly manage the species.

(1) Gars (*Lepisosteus* spp. and *Atractosteus* spp.);

(2) Bowfin (*Amia calva*);

(3) Shads (*Dorosoma* spp.);

(4) Suckers (buffalo) (*Ictiobus* spp.);

(5) River carpsucker (*Carpionodes carpio*);

(6) Bullhead catfishes (*Ameiurus* spp.);

(7) Silversides (*Menidia beryllina* and *Membras martinica*); and

(8) Mullet (*Mugil* spp.).

(b) Exotic fish. A permit to sell the following species of fish taken from public fresh water may be issued if the department determines that it will encourage the removal of undesirable species.

(1) Goldfish (*Carassius auratus*);

(2) Grass carp (*Ctenopharyngodon idella*);

(3) Bighead carp (*Hypophthalmichthys nobilis*);

(4) Common carp (*Cyprinus carpio*);

(5) Tilapia (*Oreochromis* spp.);

(6) Silver carp (*Hypophthalmichthys molitrix*); and

(7) Suckermouth armored catfishes (*Hypostomus* spp. and *Pterygoplichthys* spp.).

(c) Hybrids among species listed in subsection (a) of this section may be sold under a permit issued under this subchapter authorizing the take of at least one of the species.

(d) No permit under Chapter 57, Subchapter A, of this chapter is required for an activity authorized under a permit issued under this subchapter; however, all controlled exotic species taken under this subchapter shall be subject to the provisions of §57.113(e) of this title (relating to General Provisions and Exceptions).

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 March 4, 2025.

TRD-202500781

James Murphy
General Counsel
Texas Parks and Wildlife Department
Effective date: March 24, 2025
Proposal publication date: December 20, 2024
For further information, please call: (512) 389-4775



CHAPTER 69. RESOURCE PROTECTION

The Texas Parks and Wildlife Commission in a duly noticed meeting on January 23, 2025, adopted amendments to 31 TAC §69.4 and §69.8, concerning Endangered, Threatened, and Protected Native Plants, and §69.304 and §69.305, concerning Scientific, Educational, and Zoological Permits, without change to the proposed text as published in the December 20, 2024, issue of the *Texas Register* (49 TexReg 10320). The rules will not be republished. The amendments make corrections to internal citations and update scientific names and organizational titles and are nonsubstantive.

The amendments are a result of the department's review of its regulations under the provisions of Government Code, §2001.039, which requires each state agency to review each of its regulations no less frequently than every four years and to re-adopt, adopt with changes, or repeal each rule as a result of the review.

The amendment to §69.4, concerning Renewal, corrects an erroneous internal citation.

The amendment to §69.8, concerning Endangered and Threatened Plants, updates the scientific names for two species of plants. From time to time the consensus of the scientific community with respect to taxonomic differentiation changes, necessitating updates to department rules to reflect that fact.

The amendments to §69.304, concerning Qualifications, and §69.305, concerning Reports, update the name of an accrediting organization.

The department received one comment opposing adoption of the rules as proposed. The commenter did not provide a reason or rationale for opposing adoption. No changes were made as a result of the comment.

The department received six comments supporting adoption of the rules as proposed.

SUBCHAPTER A. ENDANGERED, THREATENED, AND PROTECTED NATIVE PLANTS

31 TAC §69.4, §69.8

The amendment is adopted under the authority of Parks and Wildlife Code, §88.006, which requires the department to adopt regulations to administer the provisions of Chapter 88, including regulations to provide for procedures for identifying endangered, threatened, or protected plants.

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 March 4, 2025.

TRD-202500782
James Murphy
General Counsel
Texas Parks and Wildlife Department
Effective date: March 24, 2025
Proposal publication date: December 20, 2024
For further information, please call: (512) 389-4775



SUBCHAPTER J. SCIENTIFIC, EDUCATIONAL, AND ZOOLOGICAL PERMITS

31 TAC §69.304, §69.305

The amendments are adopted under Parks and Wildlife Code, §43.002, which requires the commission to adopt rules to govern the collecting, holding, possession, propagation, release, display, or transport of protected wildlife for scientific research, educational display, zoological collection, or rehabilitation.

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 March 4, 2025.

TRD-202500783
James Murphy
General Counsel
Texas Parks and Wildlife Department
Effective date: March 24, 2025
Proposal publication date: December 20, 2024
For further information, please call: (512) 389-4775





REVIEW OF AGENCY RULES

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

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

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

Proposed Rule Reviews

Department of Savings and Mortgage Lending

Title 7, Part 4

The Department of Savings and Mortgage Lending (SML), on behalf of the Finance Commission of Texas (commission), publishes notice of its intent to review and consider for readoption, readoption with amendments, or repeal by the commission, the following chapters of 7 TAC Part 4:

Chapter 51, Department Administration (§§51.1 - 51.4, 51.100, 51.200, 51.300 - 51.304, 51.400 - 51.405, and 51.500 - 51.506).

The review will be conducted in accordance with Government Code §2001.039. During the review, SML will assess whether the reasons for initially adopting the rules continue to exist. Each rule will be reviewed to determine whether it is obsolete, reflects current policy considerations and procedures of SML, and whether it is in compliance with Government Code Chapter 2001 (Administrative Procedure Act).

Written comments regarding the rule review and whether the reasons for initially adopting the rules under review continue to exist should be submitted to Iain A. Berry, General Counsel, at 2601 North Lamar Blvd., Suite 201, Austin, Texas 78705-4294, or by email to rules.comments@sml.texas.gov. Comments must be received within 30 days after publication of this notice. Any proposed changes to the rules resulting from rule review will be published in the Proposed Rules section of the *Texas Register* and will be open for public comment at that time, prior to potential adoption by the commission.

TRD-202500864

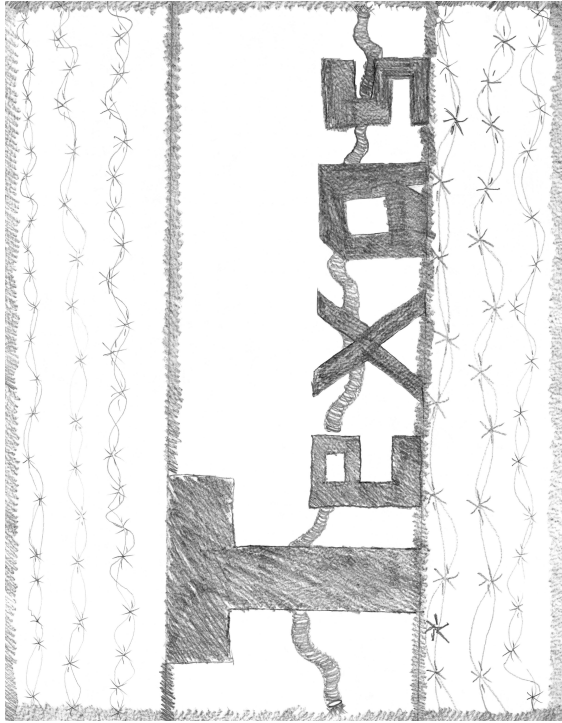
Iain A. Berry

General Counsel

Department of Savings and Mortgage Lending

Filed: March 12, 2025





TABLES & GRAPHICS

Graphic images included in rules are published separately in this tables and graphics section. Graphic images are arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic images are indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word “Figure” followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on.

Figure: 16 TAC §401.160(h)
[Figure: 16 TAC §401.160(b)]

TEXAS LOTTERY COMMISSION RETAILER REGULATORY VIOLATIONS AND RELATED PENALTIES			
No.	DESCRIPTION OF VIOLATION	1st OCCURRENCE	2nd OCCURRENCE
1st Tier Violations			
1.	Licensee engages in telecommunication or printed advertising that the director determines to have been false, deceptive or misleading.	Warning Letter (Notification in writing to the licensee of the detected violation, including a warning that future violations will result in more severe administrative penalties including Suspension and/or revocation of the license.)	10-90 day Suspension
2.	Licensee conditions redemption of a lottery prize upon the purchase of any other item or service.	Warning Letter	10-90 day Suspension
3.	Licensee imposes a restriction upon the redemption of a lottery prize not specifically authorized by the director.	Warning Letter	10-90 day Suspension
4.	Licensee fails to follow instructions and procedures for the conduct of any lottery game, lottery special event or promotion.	Warning Letter	10-90 day Suspension
			30-90 day Suspension to Revocation

5.	Licensee and/or its employee(s) exhibit discourteous treatment including, but not limited to, abusive language toward customers, commission employees or commission vendors.	Warning Letter	10-90 day Suspension	30-90 day Suspension to Revocation
6.	Licensee fails to establish or maintain reasonable security precautions regarding the handling of lottery tickets and other materials.	Warning Letter	10-90 day Suspension	30-90 day Suspension to Revocation
7.	Licensee fails to deface a validated ticket.	Warning Letter	10-90 day Suspension	30-90 day Suspension to Revocation
8.	Licensee sells a draw game ticket for a draw that has already taken place.	Warning Letter	10-90 day Suspension	30-90 day Suspension to Revocation
9.	Licensee fails to follow validation procedures, including, but not limited to, paying a claim without validating the ticket, failing to pay a valid prize after validating a customer's winning ticket, or retaining a customer's winning ticket that has not been validated.	Warning Letter	10-90 day Suspension	30-90 day Suspension to Revocation
10.	Licensee violates any directive or instruction issued by the director of Lottery Operations.	Warning Letter	10-90 day Suspension	30-90 day Suspension to Revocation
11.	Licensee violates any express term or condition of its license not specifically set forth in this subchapter.	Warning Letter	10-90 day Suspension	30-90 day Suspension to Revocation
12.	Licensee sells a scratch ticket from a game that has closed after the date designated for the end of the game.	Warning Letter	10-90 day Suspension	30-90 day Suspension to Revocation
13.	Licensee refuses to refund or properly cancel a Pick 3 or Daily 4 ticket.	Warning Letter	10-90 day Suspension	30-90 day Suspension to Revocation

14.	Licensee fails to return an exchange ticket to a prize claimant claiming a prize on a multi-draw ticket if an exchange ticket is produced by the licensee's terminal.	Warning Letter	10-90 day Suspension	30-90 day Suspension to Revocation
15.	Licensee fails to keep accurate and complete records of all tickets that have not been sold from confirmed, active, and settled packs.	Warning Letter	10-90 day Suspension	30-90 day Suspension to Revocation
16.	Licensee fails to meet any requirement under §401.368, Lottery Ticket Vending Machines rule, if the licensee has been supplied with a self-service lottery ticket vending machine by the commission.	Warning Letter	10-90 day Suspension	30-90 day Suspension to Revocation
17.	Licensee fails to take readily achievable measures within the allowed time period to comply with the barrier removal requirements regarding the ADA.	Warning Letter	10-90 day Suspension	30-90 day Suspension to Revocation
18.	Licensee fails to prominently post license.	Warning Letter	10-90 day Suspension	30-90 day Suspension to Revocation
19.	Licensee sells tickets that were assigned to another licensed location.	Warning Letter	10-90 day Suspension	30-90 day Suspension to Revocation
20.	Licensee knowingly sells a ticket or pays a lottery prize to another person who is: (A) an officer or an employee of the commission; (B) an officer, member, or employee of a lottery operator; (C) an officer, member, or employee of a contractor or subcontractor that is excluded by the terms of its contract from playing lottery games; (D) the spouse, child, brother, sister, or parent of a person described by (A), (B), or (C) above who resides within the same household as that person.	Warning Letter	10-90 day Suspension	30-90 day Suspension to Revocation

2nd Tier Violations			
21.	Licensee endangers the security and/or integrity of the lottery games operated by the commission.	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation
22.	Licensee intentionally or knowingly sells a ticket at a price the licensee knows is greater than the price set by the executive director.	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation
23.	Licensee charges a fee for lottery ticket purchases using a debit card, requires an additional purchase with a debit card, and/or requires a minimum dollar amount for debit card purchases of only lottery tickets.	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation
24.	Licensee sells tickets at a location that is not licensed.	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation
25.	Licensee intentionally or knowingly sells a ticket by extending credit or lends money to enable a person to buy a ticket.	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation
26.	Licensee intentionally or knowingly sells a ticket and accepts anything for payment not specifically allowed under the State Lottery Act.	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation
27.	Licensee sells tickets over the telephone or <u>Internet</u> , [Internet ,] or via mail order sales; or establishes or promotes a group purchase or pooling arrangement under which tickets are purchased on behalf of the group or pool and any prize is divided among the members of the group or pool, and the licensee intentionally or knowingly: (A) uses any part of the funds solicited or accepted for a purpose other than purchasing tickets on behalf of the group or pool; or (B) retains a share of any prize awarded as	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation

	compensation for establishing or promoting the group purchase or pooling arrangement.				
28.	Licensee intentionally or knowingly alters or forges a ticket.	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation	Revocation	
29.	Licensee intentionally or knowingly influences or attempts to influence the selection of a winner of a lottery game.	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation	Revocation	
30.	Licensee intentionally or knowingly claims a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation; or aids or agrees to aid another person or persons to claim a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation.	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation	Revocation	
31.	Licensee intentionally or knowingly tampers with, damages, defaces, or renders inoperable any vending machine, electronic computer terminal, or other mechanical device used in a lottery game, or fails to exercise due care in the treatment of commission property.	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation	Revocation	
32.	Licensee: (A) induces another person to assign or transfer a right to claim a prize; (B) initiates or accepts an offer to sell the right to claim a prize; (C) initiates or accepts an offer of compensation from another person to claim a lottery prize; or (D) purchases, for anything of value, a lottery ticket from a person who is not a licensed lottery retailer.	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation	Revocation	
33.	Licensee intentionally or knowingly makes a statement or entry that the person knows to be false or misleading on a required report.	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation	Revocation	

34.	Licensee fails to maintain or make an entry the licensee knows is required to be maintained or made for a required report.	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation			Revocation
35.	Licensee knowingly refuses to permit the director of the Lottery Operations Division, the executive director, commission, the lottery operator, the employees or agents of the lottery operator, or the state auditor to examine the agent's books, records, papers or other objects, or refuses to answer any question authorized under the State Lottery Act.	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation			Revocation
36.	Licensee intentionally or knowingly makes a material and false or incorrect, or deceptive statement, written or oral, to a person conducting an investigation under the State Lottery Act or a commission rule.	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation			Revocation
37.	Licensee commits an offense of conspiracy as defined in the State Lottery Act.	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation			Revocation
38.	Licensee sells or offers for sale any interest in a lottery of another state or state government or an Indian tribe or tribal government, including an interest in an actual lottery ticket, receipt, contingent promise to pay, order to purchase, or other record of the interest.	10-90 day Suspension to Revocation	30-90 day Suspension to Revocation			Revocation
3rd Tier Violations						
39.	Licensee intentionally or knowingly sells or offers to sell a ticket to a person that the licensee knows is younger than 18 years.	Revocation		n/a		n/a
40.	Licensee incurs four (4) notices of nonsufficient fund transfers or non-transfer of funds within a 12-month period.	Revocation		n/a		n/a

41.	Licensee fails to pay the full amount of money owed to the commission after a nonsufficient funds transfer or non-transfer of funds to the commission's account.	Revocation	n/a	n/a
<u>42.</u>	<u>Licensee knowingly sells tickets to, works with, or otherwise assists a lottery ticket courier service.</u>	<u>Revocation</u>	<u>n/a</u>	<u>n/a</u>

Figure: 22 TAC §885.1(b)(2)

<u>Fees</u>	<u>Total Fee</u>	<u>Base</u>	<u>Texas.gov</u>	<u>OPP</u>	<u>eStrategy</u>
<u>APPLICATION FEES (Effective for applications submitted after 8/31/23)</u>					
<u>Social Workers</u>					
LBSW or LMSW Application	\$ 109.00	\$ 100.00	\$ 4.00	\$ 5.00	
LCSW Application (LMSW-AP applications no longer accepted)	\$ 120.00	\$ 111.00	\$ 4.00	\$ 5.00	
Upgrade from LBSW to LMSW	\$ 24.00	\$ 20.00	\$ 4.00		
Upgrade from LMSW to LCSW	\$ 24.00	\$ 20.00	\$ 4.00		
Independent Practice Recognition	\$ 20.00	\$ 20.00			
Supervisor Status Application	\$ 54.00	\$ 50.00	\$ 4.00		
Temporary License Application	\$ 30.00	\$ 30.00			
<u>Marriage and Family Therapists</u>					
Initial LMFT Associate Application	\$ 159.00	\$ 150.00	\$ 4.00	\$ 5.00	
Upgrade from LMFT Associate to LMFT	\$ 90.00	\$ 86.00	\$ 4.00		
Initial LMFT Application	\$ 161.00	\$ 150.00	\$ 6.00	\$ 5.00	
Supervisor Status Application	\$ 54.00	\$ 50.00	\$ 4.00		
Temporary License Application	\$ 103.00	\$ 100.00	\$ 3.00		
<u>Professional Counselors</u>					
LPC Associate/LPC/Provisional License Application	\$ 165.00	\$ 154.00	\$ 6.00	\$ 5.00	
Supervisor Status Application	\$ 54.00	\$ 50.00	\$ 4.00		
Art Therapy Designation	\$ 20.00	\$ 20.00			
<u>Psychologists/Psychological Associates/Specialists in School Psychology</u>					
LPA Application	\$ 144.00	\$ 135.00	\$ 4.00	\$ 5.00	
LP Application (including reciprocity applications)	\$ 425.00	\$ 410.00	\$ 10.00	\$ 5.00	
LSSP Application	\$ 252.00	\$ 239.00	\$ 8.00	\$ 5.00	
Temporary License Application	\$ 103.00	\$ 100.00	\$ 3.00		
<u>RENEWAL FEES</u>					

<u>Social Workers</u>									
LBSW/LMSW Renewal	\$ 108.00	\$ 102.00	\$ 4.00	\$ 2.00					
LMSW-AP/LCSW Renewal	\$ 108.00	\$ 102.00	\$ 4.00	\$ 2.00					
Additional Renewal Fee for Independent Recognition	\$ 20.00	\$ 20.00							
Additional Renewal Fee for Supervisor Status	\$ 50.00	\$ 50.00							
<u>Marriage and Family Therapists</u>									
LMFT Renewal	\$ 141.00	\$ 135.00	\$ 4.00	\$ 2.00					
Additional Renewal Fee for Supervisor Status	\$ 50.00	\$ 50.00							
<u>Professional Counselors</u>									
LPC Renewal	\$ 141.00	\$ 135.00	\$ 4.00	\$ 2.00					
Additional Renewal Fee for Supervisor Status	\$ 50.00	\$ 50.00							
<u>Psychologists/Psychological Associates/Specialists in School Psychology</u>									
LPA Renewal	\$ 238.00	\$ 230.00	\$ 6.00	\$ 2.00					
LP Renewal	\$ 295.00	\$ 285.00	\$ 8.00	\$ 2.00					
LSSP Renewal	\$ 141.00	\$ 135.00	\$ 4.00	\$ 2.00					
Over 70 Renewal – Applicable only to licensees who turned 70 by 8/31/2020	\$ 26.00	\$ 20.00	\$ 4.00	\$ 2.00					
Additional Renewal Fee for HSP Designation	\$ 40.00	\$ 40.00							
<u>EXAMINATION FEES</u>									
<u>Social Workers</u>									
Jurisprudence Exam	\$ 39.00			\$ 39.00					
<u>Marriage and Family Therapists</u>									
Jurisprudence Exam	\$ 39.00			\$ 39.00					
<u>Professional Counselor</u>									
Jurisprudence Exam	\$ 39.00			\$ 39.00					
<u>Psychologists/Psychological Associates/Specialist in School Psychology</u>									
Jurisprudence Exam	\$ 39.00			\$ 39.00					

MISCELLANEOUS FEES						
Duplicate Renewal Permit or License	\$ 10.00	\$ 8.00	\$ 2.00			
Written Verification of License	\$ 10.00					
Written State to State Verification of Licensure	\$ 50.00	\$ 48.00	\$ 2.00			
Returned Check Fee	\$ 25.00					
Criminal History Evaluation	\$ 150.00	\$ 150.00				
Reinstatement of License	\$ 510.00	\$ 500.00	\$ 10.00			
Request for Inactive Status	\$ 106.00	\$ 100.00	\$ 4.00	\$ 2.00		
Inactive Status Renewal (biennial)	\$ 106.00	\$ 100.00	\$ 4.00	\$ 2.00		
Update Doctoral Degree on License	\$ 54.00	\$ 50.00	\$ 4.00			
Request to Reactivate License from Inactive Status	equal to current renewal fee					
Late fee for license expired 90 days or less	equal to 1.5 times base renewal fee (plus applicable Texas.gov and OPP fees)					
Late fee for license expired more than 90 days, but less than one year	Equal to 2 times the base renewal fee (plus applicable Texas.gov and OPP fees)					

IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §303.003, and §303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 03/17/25- 03/23/25 is 18.00% for consumer¹ credit.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 03/17/25- 03/23/25 is 18.00% for commercial² credit.

¹ Credit for personal, family, or household use.

² Credit for business, commercial, investment, or other similar purpose.

TRD-202500881

Leslie Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: March 12, 2025

Court of Criminal Appeals

Final Approval of Amendments to Texas Rule of Appellate Procedure 6

Court of Criminal Appeals of Texas

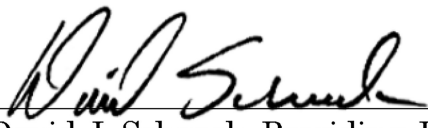
Misc. Docket No. 25-002

Final Approval of Amendments to Texas Rule of Appellate Procedure 6

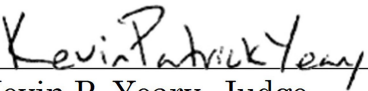
ORDERED that:

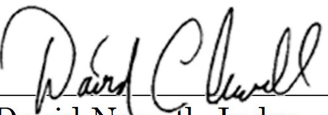
1. On November 19, 2024, the Texas Court of Criminal Appeals in Misc. Dkt. No. 24-008 and the Texas Supreme Court in Misc. Dkt. No. 24-9099 preliminarily approved amendments to Texas Rule of Appellate Procedure 6 and invited public comment.
2. No comments were received, and no additional changes have been made to the amendments. This Order gives final approval to the amendments set forth in Misc. Dkt. No. 24-008, Misc. Dkt. No. 24-9099, and reproduced below, effective April 1, 2025.
3. The Clerk is directed to:
 - a. file a copy of this Order with the Secretary of State;
 - b. cause a copy of this Order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
 - c. send a copy of this Order to each elected member of the Legislature; and
 - d. submit a copy of this Order for publication in the *Texas Register*.

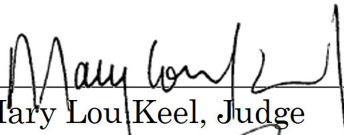
Dated: March 5, 2025.


David J. Schenck, Presiding Judge


Bert Richardson, Judge


Kevin P. Yeary, Judge



David Newell, Judge


Mary Lou Keel, Judge


Scott Walker, Judge


Jesse F. McClure, Judge


Lee Finley, Judge


Gina G. Parker, Judge

TRD-202500856
Deana Williamson
Clerk
Court of Criminal Appeals
Filed: March 11, 2025

◆ ◆ ◆
Texas Commission on Environmental Quality

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075, requires that notice of the proposed orders and the opportunity

to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **April 21, 2025**. TWC, §7.075, also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-2545 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at P.O. Box 13087, Austin, Texas 78711-3087 and must be received by 5:00 p.m. on **April 21, 2025**. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission's enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on the AOs shall be submitted to the commission in writing.

(1) COMPANY: 3L Energy Solutions LLC; DOCKET NUMBER: 2024-1440-PST-E; IDENTIFIER: RN105815088; LOCATION: Houston, Harris County; TYPE OF FACILITY: common carrier; RULES VIOLATED: 30 TAC §334.5(b)(1)(A) and TWC, §26.3467(d), by failing to make available a valid, current TCEQ delivery certificate before depositing a regulated substance into a regulated underground storage tank system; PENALTY: \$9,021; ENFORCEMENT COORDINATOR: Leah Johns, (512) 239-0454; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(2) COMPANY: ABRAXAS CORPORATION; DOCKET NUMBER: 2019-1778-PWS-E; IDENTIFIER: RN102678885; LOCATION: Fort Worth, Parker County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.46(d)(2)(A) and §290.110(b)(4) and Texas Health and Safety Code, §341.0315(c), by failing to maintain a disinfectant residual of at least 0.2 milligram per liter of free chlorine throughout the distribution system at all times; 30 TAC §290.46(q)(1), by failing to issue a boil water notice to customers of the facility within 24 hours of a low disinfectant residual using the prescribed format in 30 TAC §290.47(c); 30 TAC §290.46(q)(1) and (2), by failing to issue a boil water notice to customers of the facility within 24 hours of a water outage using the prescribed format in 30 TAC §290.47(c); 30 TAC §290.108(e), by failing to provide the results of radionuclides sampling to the executive director (ED) for the first quarter of 2018 through the fourth quarter of 2019; 30 TAC §290.117(c)(2)(A), (h), and (i)(1), by failing to collect lead and copper tap samples at the required 20 sample sites, have the samples analyzed, and report the results to the ED for the January 1, 2019 - December 31, 2019, monitoring period; 30 TAC §290.122(b)(3)(A) and (f), by failing to provide public notification and submit a copy of the public notification, accompanied with a signed Certificate of Delivery, to the ED regarding the failure to comply with the maximum contaminant level for combined radium during the first quarter of 2018, second quarter of 2018, and fourth quarter of 2019; 30 TAC §290.271(b) and §290.274(a) and (c), by failing to mail or directly deliver one copy of the Consumer Confidence Report (CCR) to each bill paying customer by July 1st for each year, and failing to submit to the TCEQ by July 1st for each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the facility and that the information in the CCR is correct and consistent

with compliance monitoring data for the 2018 calendar year; and 30 TAC §291.76 and TWC, §5.702, by failing to pay regulatory assessment fees for the TCEQ Public Utility Account regarding Certificate of Convenience and Necessity Number 15596 for calendar year 2019; PENALTY: \$10,365; ENFORCEMENT COORDINATOR: Samantha Salas, (512) 239-1543; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(3) COMPANY: Bailey Wehmeyer dba ANDERSON WATER COMPANY, INCORPORATED; DOCKET NUMBER: 2024-1357-PWS-E; IDENTIFIER: RN101220804; LOCATION: Anderson, Grimes County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(o)(3) and 290.45(h)(1), by failing to adopt and submit to the Executive Director a complete Emergency Preparedness Plan that demonstrates the facility's ability to provide emergency operations; PENALTY: \$140; ENFORCEMENT COORDINATOR: De'Shaune Blake, (210) 403-4033; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 492-3096.

(4) COMPANY: BOLT, DALLAS J; DOCKET NUMBER: 2025-0151-WOC-E; IDENTIFIER: RN110721867; LOCATION: Cisco, Eastland County; TYPE OF FACILITY: operator; RULE VIOLATED: 30 TAC §30.5(a), by failing to obtain a required occupational license; PENALTY: \$175; ENFORCEMENT COORDINATOR: Monica Larina, (361) 881-6965; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401, (361) 881-6900.

(5) COMPANY: City of Childress; DOCKET NUMBER: 2024-1395-PWS-E; IDENTIFIER: RN101251932; LOCATION: Childress, Childress County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(o)(3) and 290.45(h)(1), by failing to adopt and submit to the Executive Director a complete Emergency Preparedness Plan that demonstrates the facility's ability to provide emergency operations; PENALTY: \$50; ENFORCEMENT COORDINATOR: Iliia Perez-Ramirez, (713) 767-3743; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(6) COMPANY: City of East Tawakoni; DOCKET NUMBER: 2024-1394-PWS-E; IDENTIFIER: RN101387058; LOCATION: East Tawakoni, Rains County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(o)(3) and §290.45(h)(1), by failing to adopt and submit to the Executive Director a complete Emergency Preparedness Plan that demonstrates the facility's ability to provide emergency operations; PENALTY: \$55; ENFORCEMENT COORDINATOR: Iliia Perez-Ramirez, (713) 767-3743; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(7) COMPANY: City of Sabinal; DOCKET NUMBER: 2024-1697-PWS-E; IDENTIFIER: RN101390938; LOCATION: Sabinal, Uvalde County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.45(b)(1)(D)(iii) and Texas Health and Safety Code, §341.0315(c), by failing to provide two or more service pumps having a total capacity of 2.0 gallons per minute per connection; and 30 TAC §290.121(a) and (b), by failing to develop and maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the facility will use to comply with the monitoring requirements; PENALTY: \$1,075; ENFORCEMENT COORDINATOR: Corinna Willis, (512) 239-2504; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(8) COMPANY: Douglas 'Kent' Beck; DOCKET NUMBER: 2024-1842-AIR-E; IDENTIFIER: RN112057484; LOCATION: Abi-

lene, Taylor County; TYPE OF FACILITY: auto dealer; RULES VIOLATED: 30 TAC §114.20(c)(1) and Texas Health and Safety Code, §382.085(b), by failing to ensure a motor vehicle is equipped with either the emission control system or devices that were originally part of the motor vehicle or motor vehicle engine, or an alternate emission control device prior to offering to sell the motor vehicle; PENALTY: \$1,125; ENFORCEMENT COORDINATOR: Amy Cox, (512) 239-4631; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(9) COMPANY: Espinoza, Jose J.; DOCKET NUMBER: 2024-1520-EAQ-E; IDENTIFIER: RN102052248; LOCATION: Jarrell, Williamson County; TYPE OF FACILITY: aggregate production operation; RULE VIOLATED: 30 TAC §213.4(a)(1), by failing to obtain approval of an Edwards Aquifer Protection Plan prior to commencing a regulated activity over the Edwards Aquifer Recharge Zone; PENALTY: \$7,500; ENFORCEMENT COORDINATOR: Megan Crinklaw, (512) 239-1129; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(10) COMPANY: FLORES, PAUL M; DOCKET NUMBER: 2025-0152-WOC-E; IDENTIFIER: RN103885448; LOCATION: Cisco, Eastland County; TYPE OF FACILITY: operator; RULE VIOLATED: 30 TAC §30.5(a), by failing to obtain a required occupational license; PENALTY: \$175; ENFORCEMENT COORDINATOR: Monica Larina, (361) 881-6965; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401, (361) 881-6900.

(11) COMPANY: H and H Construction, LLC; DOCKET NUMBER: 2024-1392-WQ-E; IDENTIFIER: RN111462628; LOCATION: Mineral Wells, Parker County; TYPE OF FACILITY: quarry; RULES VIOLATED: 30 TAC §311.74(b)(2) and TWC, §26.553, by failing to obtain authorization to discharge water associated with quarry activities located in the 100-year floodplain in a water quality protection area in the John Graves Scenic Riverway; PENALTY: \$2,625; ENFORCEMENT COORDINATOR: Nancy M. Sims, (512) 239-5053; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(12) COMPANY: HOME DEPOT U.S.A., Incorporated dba The Home Depot; DOCKET NUMBER: 2024-1364-EAQ-E; IDENTIFIER: RN105077879; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: home improvement retailer; RULE VIOLATED: 30 TAC §213.4(a)(1), by failing to obtain approval of an Edwards Aquifer Protection Plan prior to commencing a regulated activity over the Edwards Aquifer Recharge Zone; PENALTY: \$6,750; ENFORCEMENT COORDINATOR: Megan Crinklaw, (512) 239-1129; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(13) COMPANY: KSW Holding Truckee, LLC; DOCKET NUMBER: 2024-1375-PWS-E; IDENTIFIER: RN106531072; LOCATION: Boerne, Kendall County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.42(l), by failing to maintain a thorough and up-to-date plant operations manual for operator review and reference; 30 TAC §290.46(f)(2) and (3)(B)(v) and (D)(i) and (ii), by failing to maintain water works operation and maintenance records and make them readily available for review by the executive director (ED) upon request; 30 TAC §290.110(e)(4)(B), by failing to retain the Disinfection Level Quarterly Operating Reports and provide a copy if requested by the ED; and 30 TAC §290.121(a) and (b), by failing to maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the facility will use to comply with the monitoring requirements; PENALTY: \$650; ENFORCEMENT COORDINATOR: Ronica

Rodriguez Scott, (512) 239-2510; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(14) COMPANY: Llano Grande MHRV LLC; DOCKET NUMBER: 2024-1416-PWS-E; IDENTIFIER: RN102323904; LOCATION: Mercedes, Hidalgo County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.45(f)(1), by failing to make a water purchase contract available to the executive director (ED) in order that production, storage, service pump, or pressure maintenance capacity may be properly evaluated; 30 TAC §290.46(d)(2)(B) and §290.110(b)(4) and Texas Health and Safety Code, §341.0315(c), by failing to maintain a disinfectant residual of at least 0.5 milligrams per liter of chloramine throughout the distribution system at all times; 30 TAC §290.46(f)(2) and (3)(A)(ii)(II), by failing to maintain water works operation and maintenance records and make them readily available for review by the ED upon request; and 30 TAC §290.121(a) and (b), by failing to maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the facility will use to comply with the monitoring requirements; PENALTY: \$1,527; ENFORCEMENT COORDINATOR: Rachel Frey, (512) 239-4330; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(15) COMPANY: MISSILE CORNER LLC; DOCKET NUMBER: 2025-0148-WQ-E; IDENTIFIER: RN112069497; LOCATION: Roanoke, Denton County; TYPE OF FACILITY: operator; RULE VIOLATED: 30 TAC §281.25(a)(4), by failing to obtain authorization to discharge stormwater associated with construction activities; PENALTY: \$875; ENFORCEMENT COORDINATOR: Nancy Sims, (512) 239-5053; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(16) COMPANY: Pulte Homes of Texas, L.P.; DOCKET NUMBER: 2024-1885-WQ-E; IDENTIFIER: RN111601167; LOCATION: Montgomery, Montgomery County; TYPE OF FACILITY: construction site; RULES VIOLATED: 30 TAC §281.25(a)(4) and Texas Pollutant Discharge System General Permit Number TXR1508LB Part III Section F.6(a), (b) and (c) and Part IV Section A, by failing to install and maintain sediment controls and erosion controls, and maintain protective measures identified in the Stormwater Pollution Prevention Plan in effective operating condition; PENALTY: \$563; ENFORCEMENT COORDINATOR: Nancy M. Sims, (512) 239-5053; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(17) COMPANY: SYLVESTER-McCAULLEY WATER SUPPLY CORPORATION; DOCKET NUMBER: 2024-1389-PWS-E; IDENTIFIER: RN101267185; LOCATION: Sylvester, Fisher County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(o)(3) and 290.45(h)(1), by failing to adopt and submit to the Executive Director a complete emergency preparedness plan that demonstrates the facility's ability to provide emergency operations; PENALTY: \$113; ENFORCEMENT COORDINATOR: Tessa Bond, (512) 239-1269; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(18) COMPANY: Tidwell Ralston Business, Incorporated dba Checkpoint 104; DOCKET NUMBER: 2024-1391-PST-E; IDENTIFIER: RN106211766; LOCATION: Houston, Harris County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §37.815(a) and (b), by failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks (USTs); 30 TAC §334.7(d)(1)(D) and (3), by failing to provide an amended registration for any change or

additional information regarding the UST system within 30 days of the occurrence of the change or addition; and 30 TAC §334.50(b)(1)(B) and (2)(A)(iii) and TWC, §26.3475(a) and (c)(1), by failing to monitor the USTs and associated piping installed on or after January 1, 2009 in a manner which will detect a release at a frequency of at least once every 30 days by using interstitial monitoring; PENALTY: \$7,032; ENFORCEMENT COORDINATOR: Faye Renfro, (512) 239-1833; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(19) COMPANY: TM LAND CO LP; DOCKET NUMBER: 2025-0259-WQ-E; IDENTIFIER: RN112087218; LOCATION: Springtown, Parker County; TYPE OF FACILITY: operator; RULE VIOLATED: 30 TAC §281.25(a)(4), by failing to obtain authorization to discharge stormwater associated with construction activities; PENALTY: \$875; ENFORCEMENT COORDINATOR: Monica Larina, (361) 881-6965; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401, (361) 881-6900.

(20) COMPANY: Undine Texas, LLC; DOCKET NUMBER: 2024-1396-PWS-E; IDENTIFIER: RN101230282; LOCATION: Crosby, Harris County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.45(b)(1)(C)(ii) and Texas Health and Safety Code, §341.0315(c), by failing to provide a total storage capacity of 200 gallons per connection; 30 TAC §290.46(n)(1), by failing to maintain at the public water system accurate and up-to-date detailed as-built plans or record drawings and specifications for each treatment plant, pump station, and storage tank until the facility is decommissioned; and 30 TAC §290.46(n)(3), by failing to keep on file copies of well completion data as defined in 30 TAC §290.41(c)(3)(A) for as long as the well remains in service; PENALTY: \$3,055; ENFORCEMENT COORDINATOR: Ronica Rodriguez Scott, (512) 239-2510; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(21) COMPANY: Utilities Investment Company, Incorporated; DOCKET NUMBER: 2024-1464-PWS-E; IDENTIFIER: RN102681756; LOCATION: Magnolia, Waller County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.42(f)(1)(E)(ii), by failing to provide containment facilities for all liquid chemical storage tanks; 30 TAC §290.46(n)(1), by failing to maintain at the public water system accurate and up-to-date detailed as-built plans or record drawings and specifications for each treatment plant, pump station, and storage tank until the facility is decommissioned; and 30 TAC §290.46(n)(3), by failing to keep on file copies of well completion data as defined in 30 TAC §290.41(c)(3)(A) for as long as the well remains in service; PENALTY: \$2,750; ENFORCEMENT COORDINATOR: Tessa Bond, (512) 239-1269; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(22) COMPANY: WEBB, CODY E; DOCKET NUMBER: 2025-0150-WOC-E; IDENTIFIER: RN107272643; LOCATION: Cisco, Eastland County; TYPE OF FACILITY: operator; RULE VIOLATED: 30 TAC §30.5(a), by failing to obtain a required occupational license; PENALTY: \$175; ENFORCEMENT COORDINATOR: Monica Larina, (361) 881-6965; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401, (361) 881-6900.

TRD-202500847
Gitanjali Yadav
Deputy Director, Litigation Division
Texas Commission on Environmental Quality
Filed: March 11, 2025



Notice of an Application to Amend a Water Use Permit Application No. 1330E

Veribest Cattle Feeders, Inc. (Owner/Applicant) seeks an amendment to Certificate of Adjudication No. 14-1330 to add a diversion point and place of use for agricultural purposes to irrigate 233 acres of land out of two tracts of land totaling 633.03 acres in Tom Green County. The diversion point and place of use are currently authorized under Certificate of Adjudication No. 14-1345. More information on the application and how to participate in the permitting process is given below.

The application was received on June 24, 2022. Additional fees were received on September 29, 2022, and additional information was received on October 1 and October 13, 2022. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on October 24, 2022.

The Executive Director has completed the technical review of the application and prepared a draft amendment. The draft amendment, if granted, would include special conditions including, but not limited to, streamflow restrictions. The application, technical memoranda, and Executive Director's draft amendment are available for viewing on the TCEQ web page at: www.tceq.texas.gov/permitting/water_rights/wr-permitting/wr-apps-pub-notice. Alternatively, you may request a copy of the documents by contacting the TCEQ Office of the Chief Clerk by phone at (512) 239-3300 or by mail at TCEQ OCC, Notice Team (MC-105), P.O. Box 13087, Austin, Texas 78711.

Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk, at the address provided in the information section below by April 9, 2025. A public meeting is intended for the taking of public comment and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

The TCEQ may grant a contested case hearing on this application if a written hearing request is filed by April 9, 2025. The Executive Director can consider an approval of the application unless a written request for a contested case hearing is filed by April 9, 2025.

To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and amendment number; (3) the statement "[I/we] request a contested case hearing;" (4) a brief and specific description of how you would be affected by the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit proposed conditions to the requested amendment which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the amendment and will forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

Written hearing requests, public comments, or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/> by entering ADJ 1330 in the search field. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Public Education Program at (800) 687-4040.

General information regarding the TCEQ can be found at our website at www.tceq.texas.gov. Si desea información en español, puede llamar al (800) 687-4040 o por el internet al <http://www.tceq.texas.gov>.

For additional information, individual members of the general public may contact the Public Education Program at (800) 687-4040. General information regarding the TCEQ can be found at our website at www.tceq.texas.gov. Si desea información en español, puede llamar al (800) 687-4040 o por el internet al <http://www.tceq.texas.gov>.

TRD-202500886

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: March 12, 2025



Notice of District Petition

Notice issued March 6, 2025

TCEQ Internal Control No. D-02032025-001: BGM Land Investments, Ltd., (Petitioner) filed a petition for creation of Harris County Municipal Utility District No. 606 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there are no lienholders on the property to be included in the proposed District; (3) the proposed District will contain approximately 494.4 acres located within Harris County, Texas; and (4) none of the land within the proposed District is within the corporate limits or extraterritorial jurisdiction of any city. The petition further states that the proposed District will: (1) purchase, construct, acquire, maintain, own, operate, repair, improve and extend a waterworks and sanitary wastewater system for residential and commercial purposes; (2) construct, acquire, improve, extend, maintain and operate works, improvements, facilities, plants, equipment and appliances helpful or necessary to provide more adequate drainage for the proposed District; (3) control, abate and amend local storm waters or other harmful excesses of waters; and (4) purchase, construct, acquire, improve, maintain and operate additional facilities, systems, plants and enterprises, road facilities, and park and recreational facilities, as shall be consistent with all of the purposes for which the proposed District is created. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately \$147,845,000 (\$80,595,000 for water, wastewater, and drainage, plus \$35,290,000 for roads, and \$31,960,000 for recreation).

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results. The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property rel-

ative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202500887

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: March 12, 2025



Notice of District Petition

Notice issued March 6, 2025

TCEQ Internal Control No. D-02042025-008: AP-Groundwork Venture, LLC, a Texas limited liability company, (Petitioner) filed a petition for creation of North Johnson County Municipal Management District No. 1 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, § 59, and Article III, §§ 52 and 52(a) of the Texas Constitution, Chapter 375, Texas Local Government Code and Chapter 49, Texas Water Code, and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there are no lienholders on the property to be included in the proposed District; (3) the proposed District will contain approximately 420.5438 acres located within Johnson County, Texas; and (4) none of the land within the proposed District is within the corporate limits or extraterritorial jurisdiction of any city. The petition further states that the proposed District will: (1) purchase, construct, acquire, maintain, own, operate, repair, improve and extend a waterworks and sanitary wastewater system for residential and commercial purposes; (2) construct, acquire, improve, extend, maintain and operate works, improvements, facilities, plants, equipment and appliances helpful or necessary to provide more adequate drainage for the proposed District; (3) control, abate and amend local storm waters or other harmful excesses of waters; and, (4) purchase, construct, acquire, improve, maintain and operate additional facilities, systems, plants and enterprises, and road facilities, as shall be consistent with all of the purposes for which the proposed District is created. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately \$76,480,000 (\$47,820,000 for water, wastewater, and drainage, plus \$28,660,000 for roads).

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete no-

tice. When searching the website, type in the issued date range shown at the top of this document to obtain search results. The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202500888

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: March 12, 2025



Notice of District Petition

Notice issued March 6, 2025

TCEQ Internal Control No. D-02062025-026: CC Waco 521 Land Holdings, LP, a Texas limited partnership, (Petitioner) filed a petition for creation of Riverway Municipal Management District (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, § 59, and Article III, §§ 52 and 52(a) of the Texas Constitution, Chapter 375, Texas Local Government Code and Chapter 49, Texas Water Code, and the procedural rules of the TCEQ. The petition states that: (1) the Petitioners hold title to a majority in value of the land to be included in the proposed District; (2) there is one lienholder, Capital Farm Credit, ACA, on the property to be included in the proposed District and the aforementioned entity has consented to the creation of the district; (3) the proposed District will contain approximately 520.808 acres of land, more or less, situated in McLennan County, Texas; and (4) all of the land to be included within the proposed District is within the corporate limits of the City of Waco, Texas; and (5) the City has consented to the creation of the District. By Resolution No. 2024-338, passed and approved on May 14, 2024, the City of Waco, Texas, gave its consent to the creation of the proposed District, pursuant to Texas Local Government Code 375.022(c)(6). The petition further states that the proposed District will: (1) purchase, construct, acquire, maintain, own, operate, repair, improve and extend a waterworks and wastewater system for residential and commercial purposes; (2) construct, acquire, improve, extend,

maintain, and operate works, improvements, facilities, plants, equipment, and appliances helpful or necessary to provide more adequate drainage for the proposed District; (3) control, abate, and amend local storm waters or other harmful excesses of water; and (4) purchase, construct, acquire, improve, maintain, and operate such additional facilities, systems, plants, and enterprises, and roads, as shall be consistent with all of the purposes for which the proposed District is created. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately \$69,165,000 (\$43,570,000 for water, wastewater, and drainage, plus \$25,595,000 for roads).

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results. The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202500889

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: March 12, 2025



Notice of Opportunity to Comment on an Agreed Order of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Order (AO) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AO, the commission shall allow the public an opportunity to submit written comments on the proposed AO. TWC, §7.075, requires that notice of the opportunity to comment must be published in

the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **April 21, 2025**. TWC, §7.075, also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of the proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the attorney designated for the AO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on April 21, 2025**. The designated attorney is available to discuss the AO and/or the comment procedure at the listed phone number; however, TWC, §7.075, provides that comments on an AO shall be submitted to the commission in **writing**.

(1) COMPANY: TURLINGTON WATER SUPPLY CORPORATION; DOCKET NUMBER: 2023-0453-UTL-E; TCEQ ID NUMBER: RN101241446; LOCATION: 504 East Highway 84 West near Fairfield, Freestone County; TYPE OF FACILITY: retail public utility, exempt utility, or provider or conveyor of potable or raw water service that furnishes water service to more than one customer and is not located in a county with a population of 3.3 million or more or in a county with a population of 550,000 or more adjacent to a county with a population of 3.3 million or more; RULE VIOLATED: TWC, §13.1394(b)(2), by failing to adopt and submit to the TCEQ for approval an emergency preparedness plan that demonstrates the Facility's ability to provide emergency operations; PENALTY: \$635; STAFF ATTORNEY: Allison Alt, Litigation, MC 175, (512) 239-6944; REGIONAL OFFICE: Waco Regional Office, 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

TRD-202500852

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: March 11, 2025



Notice of Opportunity to Comment on Default Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Default Orders (DOs). The commission staff proposes a DOs when the staff has sent the Executive Director's Preliminary Report and Petition (EDPRP) to an entity outlining the alleged violations; the proposed penalty; the proposed technical requirements necessary to bring the entity back into compliance; and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPRP or requests a hearing and fails to participate at the hearing. Similar to the procedure followed with respect to Agreed Orders entered into by the executive director of the commission, in accordance with Texas Water Code (TWC), §7.075, this notice of the proposed order and the opportunity to comment is published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **April 21, 2025**. The commission will consider any written comments received, and the commission may withdraw or withhold approval of a DO if a comment discloses facts or considerations that

indicate that consent to the proposed DO is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction, or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed DO is not required to be published if those changes are made in response to written comments.

A copy of each proposed DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the DO should be sent to the attorney designated for the DO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on April 21, 2025**. The commission's attorneys are available to discuss the DOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on the DO shall be submitted to the commission in **writing**.

(1) COMPANY: CANYON RIDGE INVESTMENT COMPANY; DOCKET NUMBER: 2022-0225-PWS-E; TCEQ ID NUMBER: RN101262483; LOCATION: 1000 Tempe Street near Amarillo, Randall County; TYPE OF FACILITY: public water supply (PWS); RULES VIOLATED: 30 TAC §290.271 (b) and 290.274 (a) and (c), by failing to mail or directly deliver one copy of the Consumer Confidence Report (CCR) to each bill paying customer by July 1st of each year, and failed to submit to the TCEQ by July 1st for each year a copy of the annual CCR and certification that the CCR is correct and consistent with compliance monitoring data; 30 TAC §290.117 (c)(2)(A), (h), and (i)(1), 290.122 (c)(2)(A) and (f), and TCEQ Agreed Order Docket Number 2017-1105-PWS-E, Ordering Provision Numbers 2.a.i. and 2.a.iv., by failing to collect lead and copper tap samples at the required ten sample sites, have the samples analyzed, and report the results to the Executive Director (ED), and failing to provide public notification and submit a copy of the notification, accompanied with a signed Certificate of Delivery, regarding the failure to collect lead and copper tap samples at the required ten samples sites; 30 TAC §290.122(c)(2)(A) and (f), by failing to provide public notification and submit a copy of the notification, accompanied with a signed Certificate of Delivery regarding the failure to submit a Disinfection Level Quarterly Operating Report to the ED by the tenth day of the month following the end of each quarter; TCEQ Agreed Order Docket Number 2017-1105-PWS-E, Ordering Provision Number 2.a.ii., by failing to provide public notification and submit a copy of the public notification to the ED regarding the failure to conduct repeat coliform monitoring, regarding the failure to conduct increased coliform monitoring, and regarding the failure to conduct routine coliform monitoring; TWC, §5.702, and 30 TAC §291.76, by failing to pay regulatory assessment fees for the TCEQ Public Utility Account regarding Certificate of Convenience and Necessity Number 11781; TWC, §5.702, and 30 TAC §290.51(a)(6), by failing to pay annual Public Health Service fees and/or any associated late fees for TCEQ Financial Administration Account Number 91910026; PENALTY: \$12,129; STAFF ATTORNEY: Casey Kurnath, Litigation, MC 175, (512) 239-5932; REGIONAL OFFICE: Amarillo Regional Office, 3918 Canyon Drive, Amarillo, Texas 79109-4933, (806) 353-9251.

(2) COMPANY: Heartland Cabinetry and Furniture, Inc.; DOCKET NUMBER: 2022-1635-AIR-E; TCEQ ID NUMBER: RN100764133; LOCATION: 7900 Valcasi Drive, Arlington, Tarrant County; TYPE OF FACILITY: wood cabinet manufacturing facility; RULES VIOLATED: Texas Health and Safety Code, §382.085(b), 30 TAC §106.231(2), and TCEQ Agreed Order Docket Number 2019-1176-AIR-E, Ordering Provisions Number 3.a., by failing to store and dispose of waste materials properly; PENALTY: \$32,812;

STAFF ATTORNEY: Laney Foeller, Litigation, MC 175, (512) 239-6226; REGIONAL OFFICE: Dallas/Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

TRD-202500853

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: March 11, 2025



Notice of Water Quality Application

The following notice was issued on March 5, 2025:

The following notice does not require publication in a newspaper. Written comments or requests for a public meeting may be submitted to the Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087 WITHIN (30) DAYS FROM THE DATE THIS NOTICE IS ISSUED.

INFORMATION SECTION

Walton Texas, LP, 14614 has applied for a minor amendment to the Texas Pollutant Discharge Elimination System Permit No. WQ0015143001 to increase the daily average flow from 200,000 gallons per day (gpd) to 240,000 gpd in the Interim I phase and from 400,000 gpd to 480,000 gpd in the Interim II phase, to change the disinfection method from chlorination to Ultraviolet (UV), and to change the facility location. The existing permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 796,000 gpd. The facility will be located approximately 500 feet northwest of the intersection of Bradshaw road and McBee road, in Grayson County, Texas 75459.

TRD-202500885

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: March 12, 2025



Texas Ethics Commission

List of Late Filers

Below is a list from the Texas Ethics Commission naming the filers who failed to pay the penalty fine for failure to file the report, or filing a late report, in reference to the specified filing deadline. If you have any questions, you may contact Dave Guilianelli at (512) 463-5800.

Deadline: 8 day pre-election report due February 24, 2020

#00056010- Lawrence A. Allen Jr., 3717 Cork, Houston, Texas 77047

#00083328- Gocha Allen Ramirez, 886 Coyote Dr., Rio Grande City, Texas 78582

Deadline: Semiannual report due July 15, 2020

#00084126- Richard Gonzales, 1404 May Dr., Edinburg, Texas 78539

#00084518- Bill Metzger, P.O. Box 850224, Mesquite, Texas 75185

#00084257- Christopher L. Buck, 26 Sweetleaf Ct, The Woodlands, Texas 77381

Deadline: 8 day pre-election report due October 26, 2020

#00083203- Michael R. Walsh, 17414 Pinewood Forest Dr., Spring, Texas 77379

#00080514- Marc M. Meyer, 525 Woodland Square Blvd., Suite 250, Conroe, Texas 77384

Deadline: Semiannual report due January 15, 2021

#00056010- Lawrence A. Allen Jr., 3717 Cork, Houston, Texas 77047

#00084126- Richard Gonzales, 1404 May Dr., Edinburg, Texas 78539

Deadline: Semiannual report due July 15, 2021

#00084126- Richard Gonzales, 1404 May Dr., Edinburg, Texas 78539

Deadline: Special Session report due October 4, 2021

#00041097- Eduardo R. Rodriguez, 1108 Lavaca, Suite 110 #189, Austin, Texas 78701

Deadline: Semiannual report due January 18, 2022

#00086238- Michael A. Matranga, P.O. Box 545, Texas City, Texas 77590

Deadline: 30 day pre-election report due January 31, 2022

#00086410- Stephen A. Missick, 611 Thomas Castleberry Dr., Shepard, Texas 77371

Deadline: Runoff report due May 16, 2022

#00086453- Staci D. Childs, 405 Main Street, Suite 450, Houston, Texas 77002

Deadline: Semiannual report due July 15, 2022

#00086297- Gia Jolene Garcia, 718 Amber Knoll, San Antonio, Texas 78251

#00086453- Staci D. Childs, 405 Main Street, Suite 450, Houston, Texas 77002

#00085987- Kate C. Ferrell, 2500 E. TC Jester #290, Houston, Texas 77008

#00086238- Michael A. Matranga, P.O. Box 545, Texas City, Texas 77590

Deadline: Semiannual report due January 17, 2023

#00084239- Claudia Ordaz Perez, P.O. Box 71738, El Paso, Texas 79917

#00085984- Tracy Y. Scott, P.O. Box 122072, Arlington, Texas 76012

#00086488- Jennifer Stoddard Hajdu, 6805 Sedgwick Dr., Dallas, Texas 75231

Deadline: Semiannual report due July 17, 2023

#00056010- Lawrence A. Allen Jr., 3717 Cork, Houston, Texas 77047

#00086453- Staci D. Childs, 405 Main Street, Suite 450, Houston, Texas 77002

Deadline: Semiannual report due January 16, 2024

#00041097- Eduardo R. Rodriguez, 1108 Lavaca, Suite 110 #189, Austin, Texas 78701

#00086169- Brittney N. Verdell, 4253 Hunt Dr. #3306, Carrollton, Texas 75010

#00086453- Staci D. Childs, 405 Main Street, Suite 450, Houston, Texas 77002

#00088102- Bianca Valerio, 706 Cavalier, Pasadena, Texas 77501

#00088133- Marty M. Rocha, 10222 Needville Fairchilds Rd., Needville, Texas 77461

#00085987- Kate C. Ferrell, 2500 E. TC Jester #290, Houston, Texas 77008

#00087695- Bradley Kyle Williamson, P.O. Box 2427, Harker Heights, Texas 76548

#00088339- Lance York, 5955 Beaudry Dr., Houston, Texas 77035

Deadline: 30 day pre-election report due February 5, 2024

#00088065- Joseph Aragon, 1307 Nueces St., Austin, Texas 78701

Deadline: Semiannual report due July 15, 2024

#00080325- Valoree H. Swanson, 23020 Ammick Ct., Spring, Texas 77389

#00082288- Claudia Natali Hurtado, 5202 Verdant Way, Houston, Texas 77069

#00083889- James R. Pitts, 1340 W. Hwy 287 Bypass, Suite 100, Waxahachie, Texas 75165

#00087776- Timothy D. Greeson P.E., 5555 Mieth Rd., Sealy, Texas 77474

#00088310- Sarah K. Smith, 16231 Charterstone Dr., Houston, Texas 77070

#00080438- William D. Archer, 440 Louisiana, Suite 1550, Houston, Texas 77002

#00085489- Maribel Diaz, 1405 Encantado Circle, Mission, Texas 78572

#00088293- Christopher J. Corner, 3100 Clarence Dr., Orange, Texas 77630

#00088339- Lance York, 5955 Beaudry Dr., Houston, Texas 77035

Deadline: 8 day pre-election report due October 28, 2024

#00065802- Jose M. Lozano, 8953 CR 2411, Sinton, Texas 78387

#00087357- Benjamin M. Mostyn, P.O. Box 762305, San Antonio, Texas 78245

TRD-202500850

J.R. Johnson

Executive Director

Texas Ethics Commission

Filed: March 11, 2025



List of Late Filers

Below is a list from the Texas Ethics Commission naming the filers who failed to pay the penalty fine for failure to file the report, or filing a late report, in reference to the specified filing deadline. If you have any questions, you may contact Dave Guilianelli at (512) 463-5800.

Deadline: Personal Financial Statement due February 14, 2022

#00086410- Stephen A. Missick, 611 Thomas Castleberry Dr., Shepard, Texas 77371

Deadline: Personal Financial Statement due May 2, 2022

#00041097- Eduardo R. Rodriguez, 1610 Garden St., Austin, Texas 78702

#00086525- Megan Lavoie, P.O. Box 12066, Austin, Texas 78711

Deadline: Personal Financial Statement due December 7, 2022

#00087125- Brian Edwards, 4800 Alberta Ave., El Paso, Texas 79905

Deadline: Lobby Activities report due February 10, 2023

#00010233- Eric F. Craven, 1122 Colorado St., 24th Floor, Austin, Texas 78701

Deadline: Lobby Activities report due March 10, 2023

#00013547- Chuck Rice Jr., 4205 Wild Iris Lane, Austin, Texas 78727

Deadline: Lobby Activities report due April 10, 2023

#00013547- Chuck Rice Jr., 4205 Wild Iris Lane, Austin, Texas 78727

Deadline: Personal Financial Statement due May 1, 2023

#00081362- Julia Faye Dvorak, 19101 Scoria Dr., Pflugerville, Texas 78660

#00086453- Staci D. Childs, 405 Main Street, Suite 450, Houston, Texas 77002

Deadline: Lobby Activities report due May 10, 2023

#00087583- Dianna L. Greenwood, 132 Kamakoa Lane, Bastrop, Texas 78602

#00013547- Chuck Rice Jr., 4205 Wild Iris Lane, Austin, Texas 78727

Deadline: Lobby Activities report due June 12, 2023

#00081588- Sebastien Laroche, 230 Lucas Street, Unit 101, San Antonio, Texas 78209

#00087583- Dianna L. Greenwood, 132 Kamakoa Lane, Bastrop, Texas 78602

Deadline: Personal Financial Statement due June 30, 2023

#00080494- Jeanette L. Sterner, 312 Oxbow Cv., Holly Lake Ranch, Texas 75765

Deadline: Lobby Activities report due July 10, 2023

#00081588- Sebastien Laroche, 230 Lucas Street, Unit 101, San Antonio, Texas 78209

Deadline: Personal Financial Statement due July 28, 2023

#00087787- Carlo Taboada, 3707 Renata Dr., Punto De Reynas Sub-division, Brownsville, Texas 78521

Deadline: Lobby Activities report due August 10, 2023

#00081588- Sebastien Laroche, 230 Lucas St., Unit 101, San Antonio, Texas 78209

Deadline: Lobby Activities report due September 11, 2023

#00081588- Sebastien Laroche, 230 Lucas St., Unit 101, San Antonio, Texas 78209

Deadline: Personal Financial Statement due September 15, 2023

#00088558- Joe Elabd, 301 Tarrow St., College Station, Texas 77840

Deadline: Lobby Activities report due October 10, 2023

#00081519- Samuel Sheetz, 807 Brazos St. #602, Austin, Texas 78701

#00081588- Sebastien Laroche, 230 Lucas St., Unit 101, San Antonio, Texas 78209

Deadline: Personal Financial Statement due November 2, 2023

#00087712- Krista Schild, 5019 Duran Dr., Royce City, Texas 75098

Deadline: Lobby Activities report due November 13, 2023

#00081588- Sebastien Laroche, 230 Lucas St., Unit 101, San Antonio, Texas 78209

Deadline: Lobby Activities report due December 11, 2023

#00081588- Sebastien Laroche, 230 Lucas St., Unit 101, San Antonio, Texas 78209

Deadline: Lobby Activities report due January 10, 2024

#00085164- Benjamin Williams, 1301 Lake Park Way, Richardson, Texas 75080

#00087595- Sarah R. McQuilkin, 801-b Port America Pl, Grapevine, Texas 76051

Deadline: Lobby Activities report due February 12, 2024

#00086457- Tanya A. Makany-Rivera, 6500 W. Loop S., Suite 5100, Bellaire, Texas 77401

Deadline: Personal Financial Statement due February 12, 2024

#00084280- Angela L. Overman, 212 Country Club Lane, Levelland, Texas 79336

#00087717- Joe E. Collins III, 2701 W. 15th St., Plano, Texas 75075

Deadline: Personal Financial Statement due April 30, 2024

#00070348- D. Bailey Wynne, 1102 Big Stone Gap Rd, Duncanville, Texas 75137

#00070965- Julia Stockstill Cobb, 125 E. San Augustine, Deer Park, Texas 77536

#00081510- Dale Scott, P.O. Box 12847, Austin, Texas 78711

#00085140- William K. Klock, 10506 Skyflower Dr., Austin, Texas 78759

#00087669- Fohn Bendele, 1208 17th St., Hondo, Texas 78861

Deadline: Lobby Activities report due May 10, 2024

#00065060- Peter John Slover, 2700 Via Fortuna, Suite 500, Austin, Texas 78746

#00070475- Colin Parrish, 1122 Colorado St., Suite 320, Austin, Texas 78701

Deadline: Lobby Activities report due June 10, 2024

#00065060- Peter John Slover, 2700 Via Fortuna, Suite 500, Austin, Texas 78746

Deadline: Lobby Activities report due July 10, 2024

#00055771- Stephen W. Greenberg, 1510 West Loop South, Houston, Texas 77027

#00087497- Stephen McCall, 1320 Arrow Point Drive, Suite 109, Cedar Park, Texas 78613

#00065060- Peter John Slover, 2700 Via Fortuna, Suite 500, Austin, Texas 78746

Deadline: Lobby Activities report due August 12, 2024

#00070475- Colin Parrish, 1122 Colorado St., Suite 320, Austin, Texas 78701

TRD-202500851

J.R. Johnson

Executive Director

Texas Ethics Commission

Filed: March 11, 2025



List of Late Filers

Below is a list from the Texas Ethics Commission naming the filers who failed to pay the penalty fine for failure to file the report, or filing a late report, in reference to the specified filing deadline. If you have any questions, you may contact Dave Guilianelli at (512) 463-5800.

Deadline: 8 day pre-election report due October 28, 2019 for Committees

#00084208- Brandon W. Hodges, Better Bond for Midland, 2502 Stutz Pl., Midland, Texas 79705

Deadline: Semiannual report due July 15, 2020 for Committees

#00084208- Brandon W. Hodges, Better Bond for Midland, 2502 Stutz Pl., Midland, Texas 79705

Deadline: Semiannual report due January 15, 2021 for Committees

#00084208- Brandon W. Hodges, Better Bond for Midland, 2502 Stutz Pl., Midland, Texas 79705

Deadline: 8 day pre-election report due October 31, 2022 for Committees

#00087048- Diane Waldo, SEIU Texas PAC, 4299 San Felipe St., Houston, Texas 77027

Deadline: Semiannual report due January 17, 2023 for Committees

#00058243- Bryan Hughes, Texas Legislative Tourism Caucus, 1100 Congress Avenue, Austin, Texas 78701

Deadline: 30 day pre-election report due October 10, 2023 for Committees

#00087335- William J. Ely, CyFair 4 Liberty PAC, 20715 Orange Poppy Dr., Cypress, Texas 77433

Deadline: 8 day pre-election report due October 30, 2023 for Committees

#00052939- Justin R. Levvis, UA Plumbers & Pipefitters Local 100 PAC Fund, 3010 Interstate 30, Mesquite, Texas 75150

Deadline: Monthly report due January 5, 2024 for Committees

#00028329- Craig D. Messer, Associated Builders & Contractors of Texas PAC, P.O. Box 1891, Austin, Texas 78701

Deadline: Semiannual report due January 16, 2024 for Committees

#00016594- Dianne Morphey, Taylor County Democratic PAC (CEC), 2526 Bennett Dr., Abilene, Texas 79605

#00058243- Bryan Hughes, Texas Legislative Tourism Caucus, 1100 Congress Avenue, Austin, Texas 78701

#00088022- Michael Zweschper, Vote Yes For the SISD Bond, 3217 Piano Bridge Rd., Schulenburg, Texas 78956

#00088142- Deidra Porter, Vote Yes for Silsbee Kids, 625 North 7th St., Silsbee, Texas 77656

Deadline: 30 day pre-election report due February 5, 2024 for Committees

#00088064- Thomas C. Datwyler, Gulf Coast Public Safety TX PAC, 502 6th Street, Hudson, Wisconsin 54016

Deadline: 8 day pre-election report due February 26, 2024 for Committees

#00088064- Thomas C. Datwyler, Gulf Coast Public Safety TX PAC, 502 6th Street, Hudson, Wisconsin 54016

Deadline: 8 day pre-election report due April 26, 2024 for Committees

#00084494- Sakki K. Joseph, Congress PAC, 830 Deer Hollow Dr., Sugar Land, Texas 77479

Deadline: Semiannual report due July 15, 2024 for Committees

#00015553- Lorna L. Mayles, Texas Society of Professional Surveyors PAC, 2525 Wallingwood Dr., Suite 300, Austin, Texas 78746

#00069312- Ana M. Luke, Humble Area Democrats, 20803 Atascocita Shores Dr., Humble, Texas 77346

#00081934- Monica Torres, Hidalgo Forward, 702 Las Palmas Avenue, Hidalgo, Texas 78557

#00085817- Raquel Rojo, Justicia Fronteriza PAC, 1535 Raphael Circle, El Paso, Texas 79936

#00018745- Max A. Miller Jr., Baptist Minister's Association of Houston & Vicinity PAC, 7817 Calhoun Rd., Houston, Texas 77033

#00080185- Latonya Rudolph, Northeast Houston AFT Committee on Political Education, 5310 E. Sam Houston Pkwy N., Suite M, Houston, Texas 77015

#00087722- Angelica Montfort, All Hat No Cattle PAC, 7901 Aqua Vista Dr, Plano, Texas 75025

Deadline: 30 day pre-election report due October 7, 2024 for Committees

#00060078- Sean Saunders, Galveston County Republican Party County Executive Committee (CEC), 3106 Zachary Bay Lane, Dickinson, Texas 77539

TRD-202500857

J.R. Johnson

Executive Director

Texas Ethics Commission

Filed: March 11, 2025

Texas Facilities Commission

Request for Proposals #303-5-20780

The Texas Facilities Commission (TFC), on behalf of the Office of the Attorney General - Child Support Division (OAG-CSD), announces the issuance of Request for Proposals (RFP) #303-5-20780. TFC seeks a five (5) or ten (10) year lease of approximately 8,502 square feet of office space in Houston, Texas.

The deadline for questions is April 1, 2025, and the deadline for proposals is April 22, 2025, at 3:00 p.m. The award date is June 18, 2025. TFC reserves the right to accept or reject any or all proposals submitted. TFC is under no legal or other obligation to execute a lease on the basis of this notice or the distribution of a RFP. Neither this notice nor the RFP commits TFC to pay for any costs incurred prior to the award of a grant.

Parties interested in submitting a proposal may obtain information by contacting Ayra Matthews at Ayra.Matthews@tfc.texas.gov. A copy of the RFP may be downloaded from the Electronic State Business Daily at <https://www.txsmartbuy.gov/esbd/303-5-20780>.

TRD-202500854

Amanda Brainard

Acting Director State Leasing Services

Texas Facilities Commission

Filed: March 11, 2025

Texas Health and Human Services Commission

Public Notice: Class Waiver Amendment

The Texas Health and Human Services Commission (HHSC) is submitting a request to the Centers for Medicare & Medicaid Services (CMS) to amend the CLASS waiver program. HHSC administers the CLASS Program under the authority of §1915(c) of the Social Security Act. CMS has approved the CLASS waiver application through August 31, 2030. The proposed effective date for the amendment is August 1, 2025.

The amendment request proposes to update the CLASS waiver to align with CMS revised 1915(c) Home and Community-Based Services (HCBS) Waiver Application and Technical Guide released by CMS in December 2024. The revisions will update Appendix B, C, and D. The updates are as follows:

Appendix B: Participant Access and Eligibility

HHSC selected the following Medicaid eligibility groups served in the waiver, based on CMS adding new checkboxes. Parents and Other Caretaker Relatives, Pregnant Women, and Infants and Children under Age 19.

Historically, HHSC had these groups listed in the "Other specified groups section," before there was a checkbox for these groups. With the additional checkboxes, HHSC removed the groups from the "Other specified groups." HHSC did not add any new eligibility groups to the waiver through this amendment. This change was just to align with the CMS checkboxes.

Appendix C: Participant Services

HHSC indicated services that are allowed via remote/telehealth delivery and updated the corresponding service definitions to include the following: remote monitoring activities, privacy rights and safeguards, back-up plans, equipment and placement, and participant control and access.

Services impacted are: Case Management, Cognitive Rehabilitation Therapy, Occupational Therapy, Physical Therapy, Specialized Therapies (Recreational therapy, and music therapy), Financial Management services (FMS), Support Consultation, and Speech and Language Pathology.

For each service listed above that may be delivered via remote/telehealth delivery, HHSC added the following language, "As appropriate for the individual and as permitted by service-specific requirements, the modalities for delivering the service include in person, synchronous audio-visual, and telephone. Program providers must defer to the needs of the individual receiving services and ensure the mode of service delivery is accessible, person-centered, and not driven by provider convenience. The service delivered using synchronous audio-visual technology must be clinically appropriate, safe, and agreed to by the individual receiving services or by the legally authorized representative (LAR). It must also conform to the privacy requirements under the Health Insurance Portability and Accountability Act. The individual or legally authorized representative (LAR) must consent to the delivery of the service using synchronous audio-visual technology and the consent must be documented in the individual's record. Verbal consent is permissible and should also be documented in the individual's record. The program provider documents in the implementation plan that consent for the use of synchronous audio-visual technology has been obtained and documented in the individual's plan."

HHSC populated the new Remote/Telehealth Delivery of Waiver Services section. Language in this section includes: in-person require-

ments, how individual privacy is respected, HHSC community integration policy, successful delivery of services for persons who need hands on assistance/physical assistance, technology support, and ensuring individual health and safety.

To align with the new 3.7 waiver application changes from CMS, HHSC provided information in the new Home and Community-Based Settings section C-5, to provide a description of the settings in which the CLASS services are received; description of the means by which HHSC ascertains that all waiver settings meet federal HCB Setting requirements, at the time of this submission and in the future as part of ongoing monitoring; attested to the requirements that each setting will meet; and that the waiver does include provider-owned or controlled settings and for those settings meets the CMS settings requirements.

To align with policy, HHSC added language to the Respite Consumer Directed service (CDS) option and the Direct service agency option (DSA) to clarify service providers in these provider categories cannot reside with the individual receiving services.

In C-2 b, HHSC clarified the requirements for ensuring continuity of care for a waiver participant. HHSC clarified that licensed Home and Community Support Services Agencies (HCSSA) ensure the client continues to receive services as specified in the plan of care. HHSC regulatory monitors licensed HCSSA providers to ensure that services are provided as ordered or authorized. In addition, the CLASS program rules require a backup plan for services that are critical to the individual's health and safety. HHSC Contract Administration Provider Monitoring (CAPM) monitors CLASS providers for CLASS specific requirements.

In section C-2 g, HHSC checked the new CMS checkbox to indicate that HCBS services may not be provided while an individual is an acute care hospital.

Appendix D: Participant-Centered Planning and Service Delivery

HHSC added language in the service plan development process section to include a temporary or provisional service plan process in order to initiate services in advance before a finalized plan is created for an individual. Including language about if an individual is in immediate jeopardy or has a crisis situation and the services the DSA is required to provide even if they were not included on the service plan or approved by HHSC to ensure the individuals health and safety. The language outlines the process for updating the service plan.

To align with the new 3.7 waiver application CMS changes, HHSC checked the boxes that assures compliance on the service plan HCBS settings requirements.

The CLASS Program provides community-based services and supports to individuals with a related condition who live in their own homes or in the home of another person, such as a family member. Services and supports are intended to enhance quality of life, functional independence, health and welfare, and to supplement, rather than replace, existing informal or formal supports and resources.

Services in the CLASS Program are case management, prevocational services, residential habilitation, respite (in-home and out of home), supported employment, prescribed drugs, financial management services, support consultation, adaptive aids, auditory integration training/auditory enhancement training, behavioral support, cognitive rehabilitation therapy, continued family services, dental treatment, dietary, employment assistance, minor home modifications, nursing, occupational therapy services, physical therapy services, specialized therapies, speech and language pathology, support family services and transition assistance services.

To obtain a free copy of the proposed waiver amendment, ask questions, obtain additional information, or submit comments, please contact Jayasree Sankaran by U.S. mail, telephone, fax, or email at the addresses and numbers below. A copy of the proposed waiver amendment may also be obtained online on the HHSC website at:

<https://www.hhs.texas.gov/laws-regulations/policies-rules/waivers>

Comments about the proposed waiver amendment must be submitted to HHSC by April 21, 2025.

The Access and Eligibility Services for local benefit offices will post this notice for 30 days and will have copies of the amendment available for review.

Addresses:

U.S. Mail

Texas Health and Human Services Commission

Attention: Jayasree Sankaran, Waiver Coordinator, Federal Coordination, Rules and Committees

701 West 51st Street, Mail Code H-310

Austin, Texas 78751

Telephone

(512) 438-4331

Fax

Attention: Jayasree Sankaran, Waiver Coordinator at (512) 323-1905

Email

TX_Medicaid_Waivers@hhs.texas.gov

TRD-202500884

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: March 12, 2025



Public Notice: Home and Community Based Services Waiver Amendment

The Texas Health and Human Services Commission (HHSC) is submitting a request to the Centers for Medicare & Medicaid Services (CMS) to amend the Home and Community-based Services (HCS) waiver program authorized under §1915(c) of the Social Security Act. CMS has approved the HCS waiver application through August 31, 2028. The proposed effective date for the amendment is August 1, 2025.

The amendment request proposes to update the HCS waiver to align with CMS revised 1915(c) Home and Community-Based Services (HCBS) Waiver Application and Technical Guide released by CMS in December 2024. The revisions will update Appendix B, C, and D. The updates are as follows:

Appendix B: Participant Access and Eligibility

HHSC selected the following Medicaid eligibility groups served in the waiver, based on CMS adding new checkboxes. Parents and Other Caretaker Relatives, Pregnant Women, and Infants and Children under Age 19.

Historically, HHSC had these groups listed in the "Other specified groups section," before there was a checkbox for these groups. With the additional checkboxes, HHSC removed the groups from the "Other specified groups." HHSC did not add any new eligibility groups to the

waiver through this amendment. This change was just to align with the CMS checkboxes.

Appendix C: Participant Services

HHSC indicated services that are allowed via remote/telehealth delivery and updated the corresponding service definitions to include the following: remote monitoring activities, privacy rights and safeguards, back-up plans, equipment and placement, and participant control and access.

Services impacted by this update are: audiology, occupational therapy, physical therapy, speech and language pathology, behavioral support, cognitive rehabilitation therapy, dietary services, financial management services, nursing, and social work.

For each service listed above that may be delivered via remote/telehealth delivery, HHSC added the following language, "As appropriate for the individual and as permitted by service-specific requirements, the modalities for delivering the service include in person, synchronous audio-visual, and telephone. Program providers must defer to the needs of the individual receiving services and ensure the mode of service delivery is accessible, person-centered, and not driven by provider convenience. The service delivered using synchronous audio-visual technology must be clinically appropriate, safe, and agreed to by the individual receiving services or by the legally authorized representative (LAR). It must also conform to the privacy requirements under the Health Insurance Portability and Accountability Act. The individual or LAR must consent to the delivery of the service using synchronous audio-visual technology and the consent must be documented in the individual's record. Verbal consent is permissible and should also be documented in the individual's record. The program provider documents in the implementation plan that consent for the use of synchronous audio-visual technology has been obtained and documented in the individual's plan."

HHSC populated the new Remote/Telehealth Delivery of Waiver Services section. Language in this section includes: in-person requirements, how individual privacy is respected, HHSC community integration policy, successful delivery of services for persons who need hands on assistance/physical assistance, technology support, and ensuring individual health and safety.

To align with the new 3.7 waiver application changes from CMS, HHSC provided information in the new Home and Community-Based Settings (HCBS) section C-5 to provide a description of the settings in which the HCS services are received; description of the means by which HHSC ascertains that all waiver settings meet federal HCBS requirements, at the time of this submission and in the future as part of ongoing monitoring; attested to the requirements that each setting will meet; and that the waiver does include provider-owned or controlled settings and for those settings, meets the CMS settings requirements.

In C-2 b, HHSC clarified the process for ensuring continuity of care for a waiver participant by adding a reference to 26 Texas Administrative Code (TAC), Section 565.11, which requires the provider to ensure the continuity of services. HHSC long-term care regulatory monitors HCS provider agencies to ensure that services are provided as ordered or authorized.

In C-1 c, HHSC clarified the HCBS settings regulation and person-centered planning training requirements for the service coordinator.

In section C-2 g, HHSC checked the new CMS checkbox to indicate that HCBS services may not be provided while an individual is an acute care hospital to align with existing policy.

Appendix D: Participant-Centered Planning and Service Delivery

In D-1 a, HHSC provided information on the training requirements for the HCBS settings criteria and person-centered service plan development.

In D-1 d ii, HHSC checked the boxes to attest to the information on the service plan HCBS settings requirements.

In D-1 b and D-2 b, HHSC updated information in the Service Plan Development Safeguards section to attest to the processes in place to ensure participant safeguards regarding the participants right to choose their provider, that there is a dispute resolution process, that HHSC has oversight of the process, the restriction on the entity that develops the service plan from providing services without approval from HHSC, and that HHSC attests that the agency that develops the service plan is administratively separate from the direct service provider functions.

The HCS waiver provides services and supports to individuals with intellectual disabilities who live in their own homes, in the home of a family member, or another community setting such as a three-person or four-person residence operated by an HCS program provider. Services and supports are intended to enhance quality of life, functional independence, and health and well-being in continued community-based living and to supplement, rather than replace, existing informal or formal supports and resources.

Current services in the HCS waiver include individualized skills and socialization, respite, employment readiness, supported employment, adaptive aids, audiology, occupational therapy, physical therapy, prescribed drugs, speech and language pathology, financial management services, support consultation, behavioral support, cognitive rehabilitation therapy, dental treatment, dietary services, employment assistance, minor home modifications, nursing, residential assistance, social work, supporting home living, and transition assistance services.

To obtain a free copy of the proposed waiver amendment, ask questions, obtain additional information, or submit comments about the amendment, please contact Julyya Alvarez by U.S. mail, telephone, fax, or email at the addresses and numbers below. A copy of the proposed waiver amendment request may also be obtained online on the HHSC website at:

<https://www.hhs.texas.gov/laws-regulations/policies-rules/waivers>

Comments about the proposed waiver amendment must be submitted to HHSC by April 21, 2025.

The Access and Eligibility Services for local benefit offices will post this notice for 30 days and will have copies of the amendment available for review.

Addresses:

U.S. Mail

Texas Health and Human Services Commission

Attention: Julyya Alvarez, Waiver Coordinator, Federal Coordination, Rules and Committees

701 West 51st Street, Mail Code H-310

Austin, Texas 78751

Telephone

(512) 438-4321

Fax

Attention: Julyya Alvarez, Waiver Coordinator at (512) 323-1905

Email

TX_Medicaid_Waivers@hhs.texas.gov

TRD-202500883
Karen Ray
Chief Counsel
Texas Health and Human Services Commission
Filed: March 12, 2025



Revised Public Notice - Texas State Plan for Medical Assistance Amendment

The Texas Health and Human Services Commission (HHSC) would like to revise the previously posted notice of intent to submit amendments to the Texas State Plan for Medical Assistance under Title XIX of the Social Security Act. This revised notice updates the proposed effective date to June 1, 2025.

The purpose of the amendment is to specify that High-Cost Clinician Administered Drugs and Biologics (HCCADs), Long-Acting Reversible Contraceptive (LARC) devices, and Donor Human Milk Services will be reimbursed outside the all-patient refined diagnosis-related group (APR-DRG) inpatient reimbursement and filed on a separate outpatient claim. The non-risk payment will be paid at the lesser of billed charges or the fee-for-service reimbursement amount with the fee schedule acting as the upper-payment limit.

The proposed amendment for High-Cost Clinician Administered Drugs and Biologics (HCCADs) is estimated to result in an annual aggregate expenditure of \$13,713,511 for federal fiscal year (FFY) 2025, consisting of \$8,228,107 in federal funds and \$5,485,404 in state general revenue. For FFY 2026 the estimated annual aggregate expenditure is \$13,713,511 consisting of \$8,204,794 in federal funds and \$5,508,717 in state general revenue

Rule Hearing.

A hearing was conducted online on December 3, 2024. The notice for the rule hearing was published in the November 22, 2024, issue of the *Texas Register* (49 TexReg 9425). Additional information and notice of hearings can be found at <https://www.sos.texas.gov/texreg/index.shtml>

Copy of Proposed Amendment(s). Interested parties may obtain additional information and/or a free copy of the proposed amendment by contacting Nicole Hotchkiss, State Plan Policy Advisor, by mail at the Health and Human Services Commission, P.O. Box 13247, Mail Code H-600, Austin, Texas 78711; by telephone at (512) 438-5035; or by e-mail at Medicaid_Chip_SPA_Inquiries@hhsc.state.tx.us. Once submitted to the Centers for Medicare and Medicaid Services for approval, copies of the proposed amendment will be available for review at the HHSC Access and Eligibility Services for local benefit offices.

Written Comments.

Written comments about the proposed amendment and/or requests to review comments may be sent by U.S. mail, overnight mail, special delivery mail, hand delivery, fax, or email:

U.S. Mail

Texas Health and Human Services Commission
Attention: Provider Finance Department
Mail Code H-400
P.O. Box 149030
Austin, Texas 78714-9030
Overnight mail, special delivery mail, or hand delivery
Texas Health and Human Services Commission

Attention: Provider Finance Department
North Austin Complex
Mail Code H-400
4601 W. Guadalupe St.
Austin, Texas 78751

Phone number for package delivery: (512) 730-7401.

Fax

Attention: Provider Finance at (512) 730-7475

Email

pfd_hospitals@hhsc.state.tx.us

Preferred Communication.

For quickest response, please use email or phone, if possible, for communication with HHSC related to this state plan amendment.

TRD-202500846

Karen Ray
Chief Counsel
Texas Health and Human Services Commission
Filed: March 10, 2025



Department of State Health Services

Correction of Error

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DSHS), proposed amendments to 25 TAC §289.230 in the February 21, 2025, issue of the *Texas Register* (50 TexReg 909). Due to an error by the Texas Register, numerous provisions in the original publication of the amendment were formatted incorrectly or were omitted from the original publication. The errors were corrected and the proposed rulemaking was republished in the March 7, 2025, issue (50 TexReg 1762).

Three additional errors were identified in the republication of the proposal.

In subsection (w)(9)(B), the word "or" instead of the word "of" was incorrectly included in the phrase "...registration or radiation machine services". The subparagraph should have been published as follows:

(B) A medical physicist must maintain [shall hold] a current Texas license as required by [under] the Medical Physics Practice Act, Texas Occupations Code[;] Chapter 602, in diagnostic radiological physics and be registered with the department [agency] or employed by an entity registered with the department [agency], as specified in [accordance with] §289.226(j) of this subchapter, relating to application for registration of radiation machine services, [title] and the Act, unless exempted by §289.226(d) (7) [(6)] of this subchapter, relating to exemptions [title].

In subsection (w)(12)(B), the word "instruction" should have been "instructions". The subparagraph should have been published as follows:

(B) [instructions to workers in accordance with] §289.203(c) of this chapter, related to instructions to workers [title];

In subsection (w)(13), the words "as specified" were omitted from the paragraph. The paragraph should have been published as follows:

(13) [(45)] Receipt, transfer, and disposal of interventional breast radiography machines. Each facility must [registrant shall] maintain

records showing the receipt, transfer, and disposal of interventional breast radiography machines. These records must be maintained as specified in subsection (x) of this section for inspection by the department and [shall] include the :

TRD-202500866



Texas Lottery Commission

Scratch Ticket Game Number 2676 "LIMITED EDITION MEGA LOTERIA"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2676 is "LIMITED EDITION MEGA LOTERIA". The play style is "row/column/diagonal".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2676 shall be \$10.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2676.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize.

Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: ARMADILLO SYMBOL, BAT SYMBOL, BICYCLE SYMBOL, BLUEBONNET SYMBOL, BOAR SYMBOL, BUTTERFLY SYMBOL, CACTUS SYMBOL, CARDINAL SYMBOL, CHERRIES SYMBOL, CHILE PEPPER SYMBOL, CORN SYMBOL, COVERED WAGON SYMBOL, COW SYMBOL, COWBOY HAT SYMBOL, COWBOY SYMBOL, DESERT SYMBOL, FIRE SYMBOL, FOOTBALL SYMBOL, GEM SYMBOL, GUITAR SYMBOL, HEN SYMBOL, HORSE SYMBOL, HORSESHOE SYMBOL, JACKRABBIT SYMBOL, LIZARD SYMBOL, LONE STAR SYMBOL, MARACAS SYMBOL, MOCKINGBIRD SYMBOL, MOONRISE SYMBOL, MORTAR PESTLE SYMBOL, NEWSPAPER SYMBOL, OIL RIG SYMBOL, PECAN TREE SYMBOL, PIÑATA SYMBOL, RACE CAR SYMBOL, RATTLESNAKE SYMBOL, ROADRUNNER SYMBOL, SADDLE SYMBOL, SHIP SYMBOL, SHOES SYMBOL, SOCCER BALL SYMBOL, SPEAR SYMBOL, SPUR SYMBOL, STRAWBERRY SYMBOL, SUNSET SYMBOL, WHEEL SYMBOL, WINDMILL SYMBOL, \$10.00, \$15.00, \$20.00, \$30.00, \$50.00, \$100, \$200, \$500, \$1,000 and \$5,000.

D. Play Symbol Caption- The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2676 - 1.2D

PLAY SYMBOL	CAPTION
ARMADILLO SYMBOL	ARMADILLO
BAT SYMBOL	BAT
BICYCLE SYMBOL	BICYCLE
BLUEBONNET SYMBOL	BLUEBONNET
BOAR SYMBOL	BOAR
BUTTERFLY SYMBOL	BUTTERFLY
CACTUS SYMBOL	CACTUS
CARDINAL SYMBOL	CARDINAL
CHERRIES SYMBOL	CHERRIES
CHILE PEPPER SYMBOL	CHILE PEPPER
CORN SYMBOL	CORN
COVERED WAGON SYMBOL	COVERED WAGON
COW SYMBOL	COW
COWBOY HAT SYMBOL	COWBOY HAT
COWBOY SYMBOL	COWBOY
DESERT SYMBOL	DESERT
FIRE SYMBOL	FIRE
FOOTBALL SYMBOL	FOOTBALL
GEM SYMBOL	GEM
GUITAR SYMBOL	GUITAR
HEN SYMBOL	HEN
HORSE SYMBOL	HORSE
HORSESHOE SYMBOL	HORSESHOE
JACKRABBIT SYMBOL	JACKRABBIT
LIZARD SYMBOL	LIZARD
LONE STAR SYMBOL	LONE STAR
MARACAS SYMBOL	MARACAS
MOCKINGBIRD SYMBOL	MOCKINGBIRD
MOONRISE SYMBOL	MOONRISE

MORTAR PESTLE SYMBOL	MORTAR PESTLE
NEWSPAPER SYMBOL	NEWSPAPER
OIL RIG SYMBOL	OIL RIG
PECAN TREE SYMBOL	PECAN TREE
PIÑATA SYMBOL	PIÑATA
RACE CAR SYMBOL	RACE CAR
RATTLESNAKE SYMBOL	RATTLESNAKE
ROADRUNNER SYMBOL	ROADRUNNER
SADDLE SYMBOL	SADDLE
SHIP SYMBOL	SHIP
SHOES SYMBOL	SHOES
SOCCER BALL SYMBOL	SOCCER BALL
SPEAR SYMBOL	SPEAR
SPUR SYMBOL	SPUR
STRAWBERRY SYMBOL	STRAWBERRY
SUNSET SYMBOL	SUNSET
WHEEL SYMBOL	WHEEL
WINDMILL SYMBOL	WINDMILL
\$10.00	TEN\$
\$15.00	FFN\$
\$20.00	TWY\$
\$30.00	TRTY\$
\$50.00	FFTY\$
\$100	ONHN
\$200	TOHN
\$500	FVHN
\$1,000	ONTH
\$5,000	FVTH

E. Serial Number- A unique thirteen (13) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Bar Code - A twenty-four (24) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten

(10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Game-Pack-Ticket Number - A fourteen (14) digit number consisting of the four (4) digit game number (2676), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 050 within each Pack. The format will be: 2676-0000001-001.

H. Pack - A Pack of the "LIMITED EDITION MEGA LOTERIA" Scratch Ticket Game contains 050 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). Ticket back 001 and 050 will both be exposed.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "LIMITED EDITION MEGA LOTERIA" Scratch Ticket Game No. 2676.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Scratch Ticket validation requirements set forth in Texas Lottery Rule 401.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. Each Scratch Ticket contains exactly seventy-two (72) Play Symbols. A prize winner in the "LIMITED EDITION MEGA LOTERIA" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose Play Symbols as follows: PLAYBOARDS 1 & 2 INSTRUCTIONS: 1) The player completely scratches the CALLER'S CARD to reveal 28 symbols. 2) The player scratches ONLY the symbols on both PLAYBOARDS that exactly match the symbols revealed on the CALLER'S CARD. 3) If the player reveals a complete row, column or diagonal line on either PLAYBOARD, the player wins the prize for that line. BONUS GAMES INSTRUCTIONS: The player scratches ONLY the symbols on the BONUS GAMES that exactly match the symbols revealed on the CALLER'S CARD. If the player reveals 2 symbols in the same GAME, the player wins the PRIZE for that GAME. INSTRUCCIONES DE JUEGO PARA LAS TABLAS DE JUEGO 1 Y 2: 1) El jugador raspa completamente la CARTA DEL GRITÓN para revelar 28 símbolos. 2) El jugador SOLAMENTE raspa los símbolos en las dos TABLAS DE JUEGO que son exactamente iguales a los símbolos revelados en la CARTA DEL GRITÓN. 3) Si el jugador revela una línea completa, horizontal, vertical o diagonal en cualquiera TABLA DE JUEGO, el jugador gana el premio para esa línea. INSTRUCCIONES DE JUEGO PARA LOS JUEGOS DE BONO: El jugador SOLAMENTE raspa los símbolos en los JUEGOS DE BONO que son exactamente iguales a los símbolos revelados en la CARTA DEL GRITÓN. Si el jugador revela 2 símbolos en el mismo JUEGO, el jugador gana el PREMIO para ese JUEGO. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly seventy-two (72) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;

3. Each of the Play Symbols must be present in its entirety and be fully legible;

4. Each of the Play Symbols must be printed in black ink except for dual image games;

5. The Scratch Ticket shall be intact;

6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;

7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;

8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;

9. The Scratch Ticket must not be counterfeit in whole or in part;

10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;

11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;

13. The Scratch Ticket must be complete and not miscut, and have exactly seventy-two (72) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;

14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;

15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the seventy-two (72) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the seventy-two (72) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or

a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. GENERAL: A Ticket can win up to eight (8) times in accordance with the prize structure.

B. GENERAL: Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

C. PLAYBOARDS/TABLAS DE JUEGO: There will be no identical Play Symbols in the CALLER'S CARD/CARTA DEL GRITÓN play area.

D. PLAYBOARDS/TABLAS DE JUEGO: At least fourteen (14) but no more than twenty-six (26) CALLER'S CARD/CARTA DEL GRITÓN Play Symbols will match a Play Symbol on either PLAYBOARD/TABLA DE JUEGO play area.

E. PLAYBOARDS/TABLAS DE JUEGO: No identical Play Symbols are allowed on the same PLAYBOARD/TABLA DE JUEGO play area.

F. BONUS GAMES/JUEGOS DE BONO: Every BONUS GAME/JUEGO DE BONO Grid will match at least one (1) Play Symbol to the CALLER'S CARD/CARTA DEL GRITÓN play area.

2.3 Procedure for Claiming Prizes.

A. To claim a "LIMITED EDITION MEGA LOTERIA" Scratch Ticket Game prize of \$10.00, \$15.00, \$20.00, \$30.00, \$50.00, \$100, \$200 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$30.00, \$50.00, \$100, \$200 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "LIMITED EDITION MEGA LOTERIA" Scratch Ticket Game prize of \$1,000, \$5,000 or \$250,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "LIMITED EDITION MEGA LOTERIA" Scratch Ticket Game prize the claimant may submit the signed winning Scratch Ticket and a thoroughly completed claim form via mail. If a prize value is \$1,000,000 or more, the claimant must also provide proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). Mail all to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets

lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;

2. in default on a loan made under Chapter 52, Education Code;

3. in default on a loan guaranteed under Chapter 57, Education Code; or

4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "LIMITED EDITION MEGA LOTERIA" Scratch Ticket Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "LIMITED EDITION MEGA LOTERIA" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned

by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Prizes. There will be approximately 25,200,000 Scratch Tickets in Scratch Ticket Game No. 2676. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2676 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$10.00	2,772,000	9.09
\$15.00	1,008,000	25.00
\$20.00	1,008,000	25.00
\$30.00	1,512,000	16.67
\$50.00	504,000	50.00
\$100	254,100	99.17
\$200	54,600	461.54
\$500	4,200	6,000.00
\$1,000	1,260	20,000.00
\$5,000	140	180,000.00
\$250,000	10	2,520,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.54. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of Scratch Tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Scratch Ticket Game. The Executive Director may, at any time, announce a closing date (end date) for the Scratch Ticket Game No. 2676 without advance notice, at which point no further Scratch Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Scratch Ticket closing procedures and the Scratch Ticket Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket

Game No. 2676, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-202500845
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: March 10, 2025



Motor Vehicle Crime Prevention Authority

Fiscal Year 2026 Request for Applications - Taskforce Grants

March 4, 2025

Notice of Request for Applications

The Motor Vehicle Crime Prevention Authority (MVCPA) authorized the issuance of the Fiscal Year (FY) 2026 Request for Applications (RFA). MVCPA is authorized in statute to provide grants to local law enforcement to combat motor vehicle theft, burglary from a motor vehicle and/or fraud-related motor vehicle crime.

Eligible applicants may request funds for program operation by submission of an application consistent with the information, including the requirements and conditions stated in this RFA. This RFA is posted in the *Texas Register* as required by law for at least thirty (30) days prior to the due date for Applications.

All applications submitted will be for FY2026. If previously awarded a FY 2025, grant the MVCPA may provide a FY 2026 grant subject to availability of funding and grantees' positive program performance.

Due Date

Grant Applications from eligible applicants must be completely submitted on-line at <https://MVCPA.tamu.edu> on or before 5:00 p.m., April 18, 2025. First-time applicants must establish an account and perform account setup steps prior to an application being able to be submitted.

The required Resolution and any optional supporting documents must be scanned and submitted as attachments to the application at <https://MVCPA.tamu.edu> on or before 5:00 p.m., April 18, 2025.

Applicable Authority and Rules

Motor Vehicle Crime Prevention Authority grant programs are governed by the following statutes, rules, standards and guidelines:

- Texas Transportation Code Chapter 1006 (<https://statutes.capitol.texas.gov/Docs/TN/htm/TN.1006.htm>)
- Texas Administrative Code (TAC): Title 43; Part 3; Chapter 57 (http://texreg.sos.state.tx.us/public/readtac%24ext.ViewTAC?tac_view=3&ti=43&pt=3)
- Texas Grant Management Standards (TxGMS) as promulgated by the Texas Comptroller of Public Accounts (<https://comptroller.texas.gov/purchasing/grant-management/>)
- The current Motor Vehicle Crime Prevention Authority Grant Administrative Manual and any subsequent adopted grantee instruction manuals (https://www.txdmv.gov/sites/default/files/body-files/MVCPA_FY20_Grant_Admin_Manual.pdf)
- This Request for Applications issued on March 4, 2025

Eligible Applicants

Only Texas law enforcement agencies through their city or county are eligible to apply for Motor Vehicle Crime Taskforce Grants.

Applicants meeting the eligibility requirements may submit a new grant subject to the priority established by the MVCPA in the FY 2025 RFA.

New Grant-Available only to law enforcement agencies. These are annual grants that require a minimum cash match of 20% for the program described in the application. New applicants shall email MVCPA at GrantsMVCPA@txdmv.gov from an official governmental agency email account to request an account and access be established.

Grant Type

Reimbursement-This is a total program budget reimbursement grant. Applicants that are awarded grants will expend local (agency) funds and then will be reimbursed quarterly, subject to compliance with standard and special conditions as contained in the Statement of Grant Award (SGA), at the agreed rate for all allowable, reasonable, and necessary program costs incurred.

Grant Term

The FY 2026 grant cycle is a one (1) year funding cycle to begin on **September 1, 2025, and end August 31, 2026.**

For those grantees who were previously awarded an FY 2025 grant, subject to the availability of funding and grantee's positive program performance, the MVCPA may provide an FY2026 grant using the same on-line application systems and budget values as originally submitted. No obligations or expenses may be incurred or made outside of the grant period(s).

Method of Application

Grant Applications from eligible applicants shall be completely submitted on-line at <https://MVCPA.tamu.edu> on or before 5:00 p.m., April 18, 2025. All forms will be completed on-line. The Resolution and all supporting documents must be submitted as attachments.

Resolution Required

A Resolution (Order or Ordinance) by the applicant governing body is required to make application for these funds. The Resolution shall provide that the governing body applies for the funds for the purpose provided in statute (Texas Transportation Code, Chapter 1006) and agrees to return the grant funds in the event of loss or misuse, and to designate the officials that the governing body chooses as its agents to make uniform assurances and administer the grant if awarded.

Only the governing body submitting an application needs to adopt and submit a Resolution. Participating jurisdictions in multi-agency taskforces shall agree and commit to the grant through interagency agreements as provided under Texas Local Government Code Chapter 362, Texas Government Code Chapter 791 and TxGMS.

In the event a governing body has delegated the application authority to a city manager, chief of police, sheriff, or other official then applicants must submit on-line a copy of the delegation order (documentation) along with the Resolution signed by the official. A sample Resolution is attached as Appendix A.

Program Category

To be eligible for consideration for funding, a taskforce grant application must be designed to support one or more of the following MVCPA program categories (43 TAC §57.14):

Law Enforcement, Detection, and Apprehension - provide financial support to law enforcement agencies for economic motor vehicle theft and fraud-related motor vehicle crime enforcement teams (referred to as taskforces). Taskforces will develop organized methods to combat motor vehicle theft, including catalytic converter theft, burglary of a motor vehicle, and fraud-related motor vehicle crime through the enforcement of law. This may include recovery of vehicles, clearance of cases, arrest of law violators, and disruption of organized motor vehicle crime. This category includes the development of uniform programs to prevent stolen motor vehicles from entering Mexico or being removed from Texas through outbound seaports.

Prosecution/Adjudication/Conviction - provide financial support for taskforces to work with prosecutors and the judiciary to implement programs designed to reduce the incidence of motor vehicle theft, including catalytic converter theft, burglary of a motor vehicle and fraud-related motor vehicle crime.

Prevention, Anti-Theft Devices, and Automobile Registration - provide financial support for taskforces to work with organizations and communities to reduce the incidence of motor vehicle theft, including the theft of catalytic converters, burglary of a motor vehicle and/or fraud-related motor vehicle crime. The application shall demonstrate how the financial support will assist automobile owners to reduce motor vehicle theft, burglary of a motor vehicle and fraud-related motor vehicle crime.

Reduction of the Sale of Stolen Vehicles or Parts - provide financial support for taskforces to work with businesses, organizations, and communities to reduce the sale of stolen vehicles or parts, including catalytic converters. Applicants will develop organized methods to combat the sale of stolen vehicles and parts using any of the following: vehicle identification number (VIN) inspection; inspections of motor vehicle part and component distribution enterprises; parts labeling and etching methods; and means to detect the fraudulent selling of stolen parts.

Educational Programs and Marketing - provide financial support for taskforces to work with individuals, businesses, organizations, and communities to assist automobile owners in preventing motor vehicle theft, including catalytic converter theft, burglary of a motor vehicle, and fraud-related motor vehicle crime. Develop and provide specialized training or education program(s) to: the public on motor vehicle crime prevention, law enforcement on interdiction and prosecution, and government officials on fraud-related motor vehicle crime prevention, including title and registration fraud.

Priority Funding

The MVCPA enabling statute provides that "...the authority shall allocate grant funds primarily based on the number of motor vehicles stolen in, or the motor vehicle burglary or theft rate across, and the number of fraud-related motor vehicle crimes committed in the state rather than based on geographic distribution." Tex. Transp. Code §1006.151(c). In addition, the following grant features will be given priority consideration in evaluating new grant applications:

Continuing Funded Programs in Compliance with MVCPA Grant Conditions - Applications that provide for the continuation of existing programs that currently meet the program and fiscal reporting conditions of the MVCPA. Applicants must provide ongoing need and evidence of their progress and impactful performance toward combatting motor vehicle theft, including catalytic converter theft, burglary of a motor vehicle and/or fraud-related motor vehicle crime. The applicant must describe the experience and qualifications of investigators used in the program and how utilization of current grant inventory and resources for the continued operation of these specialized investigative grant programs are useful for the state and local governments.

Programs to Combat Organized Economic Crime - Applications for economic motor vehicle theft and fraud-related motor vehicle crime enforcement teams that introduce, increase, or expand efforts to combat criminal activities by organized crime.

Border and Port Security - Applications that provide specific initiatives to identify and prevent stolen vehicles and catalytic converters from crossing the border using automatic license plate readers, training of local state and federal personnel in the identification of stolen vehicles, and bridge and port inspections.

Use of Technology - Applications that incorporate automatic license plate reader programs, surveillance equipment and other uses of technology to increase the number of stolen vehicles recovered and the number of persons arrested for motor vehicle crimes.

Theft of Parts from a Motor Vehicle - Applications that incorporate a reasonable, objective plan to combat and prevent the theft of catalytic converters.

Dedicated Prosecutors - Applications that incorporate a dedicated prosecutor to increase the priority of economic motor vehicle crime case prosecutions and decrease the number of repeat offenders through successful prosecution efforts.

Supporting Documents

Documents that provide evidence of local support or commitment from other officials or agencies for the application may be submitted following the same instructions as the Resolution. Interagency agreements shall be submitted prior to payments being authorized if an award is made. MVCPA recommends that interagency agreements be completed after award determinations are made to ensure correct amounts are reflected in those agreements. All interagency agreements must meet the conditions and elements required in the TxGMS.

Supplanting Prohibited

Grant funds provided by the Authority under this RFA shall not be used to supplant federal, state or local funds that otherwise would be available for the same purposes (Texas Administrative Code Title 43, §57.9). Supplanting means the replacement of other funds with MVCPA grant funds. This shall include using existing resources already available to a program activity as cash match.

Cash Match Requirement

All applications for programs must provide at least a twenty (20%) percent cash match (Texas Administrative Code Title 43 §57.36). Multijurisdictional agencies must provide details for the method of cash match in intergovernmental agreements (Texas Government Code, Chapter 791). Cash match must meet the requirements provided in TxGMS.

Formulas to calculate cash match:

1. Total MVCPA grant funds requested multiplied by percentage of match required = Total Amount of Cash Match Required
2. Total Program Cost minus Total Cash Match Required = Total Authority Grant Request

NICB in Lieu of Cash - Applicants may enter into formal agreements with the National Insurance Crime Bureau (NICB) to work on grant funded activities. The amount of salary and other direct costs related to the work on grant activity provided by the NICB may be counted and reported as in lieu of cash match. Time certifications are required to be made by the employee for these positions as required by TXGMS. Applicants must meet the obligation expressed as cash match in the event NICB cannot meet its obligation.

In-Kind Match

Only include in-kind if necessary for the local jurisdiction. In-kind contributions shall not be considered cash match. In-kind match may be used to: 1) reflect the total level of jurisdictions' effort/costs to combat economic motor vehicle crime; 2) reflect how the grant program fits into jurisdictions' operation; 3) effectively operate a single program with multiple funding streams; and/or 4) contributions from the applicant or third parties that are for grant funded activity. Costs in detail line items shall not be split between in-kind match and cash match or grant funding. For example, the entire salary of an officer shall be placed in one expense type rather than split between grant/cash match costs and in-kind.

Reporting and Webinar Attendance Requirements

Applicants who are awarded grants will be required to provide:

Quarterly Progress Reports - The MVCPA requires the submission of quarterly progress reports to demonstrate progress toward meeting goals and activities provided in the grant application. These include: 1) Monthly progress toward statutorily required performance measures; 2) Monthly progress recorded on the Goals, Strategies and Activities report; and 3) Quarterly Summary and Success section. Grantees designated as Border/Port Security grants are required to complete additional sections required by the Texas Legislature.

Quarterly Financial Reports - Reports of actual expenses are provided to request funds. All expenditures must be in accordance with local policies and procedures and grant requirements. Grantees shall review all expenditures, ensure all applicable regulations are followed, and maintain documentation that is accurate and complete. All expenses must be supported by appropriate documentation.

Webinar Attendance: One grant representative from the applicant agency is required to attend a monthly session via teleconference or webinar that includes information on MVCPA grant administration.

One law enforcement officer is required to attend the monthly information sharing and networking sessions on law enforcement issues and other MVCPA issues critical to the successful operation of an MVCPA taskforce. "These meetings occur in person during the months a MVCPA Board Meeting takes place."

Funding Requirements and Conditions

a) State Funds Availability - All awards by the MVCPA are subject to the availability of state funds.

b) Right of Refusal - The Authority reserves the right to reject any or all of the applications submitted.

c) Awards - Publishing the RFA does not legally obligate the Authority to fund any programs.

d) Partial Funding - The Authority may choose to offer funds for all, or any portion of a program submitted in an application.

e) Substitution - The Authority may offer alternative funding sources, special conditions, or alternative program elements in response to submitted Applications.

f) Application Required - Registration for on-line access is required. The MVCPA is not responsible for applicants who cannot complete the registration and application process on-time.

g) No Alternative Application Submission - Paper applications and requests for funding are not accepted in lieu of the on-line grant application process.

h) Review Criteria - Authority staff and designated MVCPA Board member(s) will review each grant using subjective and objective tools and comparative analysis. The weight given to each section or combination of sections is at the sole discretion of the Authority.

i) Questions and Clarification - During the review period, the applicant may be contacted by Authority staff to ask questions or to seek clarification regarding information provided in the application. Failure to promptly respond will not disqualify an applicant, but information that is submitted after the review period may not be considered.

j) Final Selection - The Authority may select and award programs that best meet the statutory

purposes and that reflect its current priorities. No appeal may be made from the Authority's decisions.

k) Changes in Application - If an applicant proposes changes to be made in the program type or participation of jurisdictions after an award is determined, then the Authority will review the changes and

may make modifications (including the amount) or cancel the award as deemed appropriate by the Authority.

l) Delayed Start - An applicant that is awarded a grant and that does not begin operations within 45 days from the beginning of the grant term is considered terminated.

m) Application instructions - the MVCPA provides additional details and instructions in the on-line application system that are incorporated by reference as part of this RFA and must be followed during the application and award process.

n) Program Income - is defined in the TxGMS. Current grantees carrying forward program income from prior years will follow the new rules established by the Texas Comptroller and MVCPA Grant Administrative Manual. Budgeted use of Program Income should be specified in the grant budget detail, narrative, and source of income table for FY 2026.

o) Texas Commission on Law Enforcement Standards (TCOLE) Certifications Required - All law enforcement agencies regulated by Occupations Code, Chapter 1701, must certify that they are in compliance with the TCOLE standards or provide a certification from the TCOLE that states that the requesting agency is in the process of achieving compliance with said rules.

Selection Process:

Eligible applications will be reviewed. Grant award decisions by MVCPA are final and not subject to judicial review. Grants will be awarded on or before September 1, 2025.

Applications that do not meet the stated requirements of this RFA and that are not eligible for review will be notified ten (10) working days after the due date.

Application Workshop

Potential applicants are requested/required to attend the on-line "Motor Vehicle Crime Prevention Authority Grant Application Workshop" which has been scheduled for: April 30, 2025, from 9 a.m. to 12 p.m. Join by using the following link:

THIS MEETING WILL BE HELD REMOTELY VIA

Microsoft Teams

Need Help? (<https://aka.ms/JoinTeamsMeeting?omkt=en-US>)

Join the meeting (https://teams.microsoft.com/l/meetup-join/19%3ameeting_NDdkYzc2NzgtY2U3NS00ZTUwLTg3YzktYmExMzhkYjhmZjZm%40thread.v2/0?context=%7b%22Tid%22%3a%2272719f70-3533-46b3-9456-ec1235143768%22%2c%22Oid%22%3a%220514ac85-ebb6-4d6b-83c8-d095df91e59b%22%7d)

Meeting ID: 215 109 540 885

Passcode: QK3kC9Tk

Dial in by phone

+1 737-787-8456,,404290408# United States, Austin

Find a local number

Phone conference ID: 404 290 408#

Conference ID: 929 327 163#

The informational session will provide details on the grant Application process including grant eligibility requirements, completing the various Application sections, and the grant cycle timeline. At least one representative of the potential grant applicant should be present at this workshop.

Contact Person
William Diggs, MVCPA Director,
Texas Motor Vehicle Crime Prevention Authority
4000 Jackson Avenue

Austin, Texas 78731
(512) 465-1485
GrantsMVCPA@txdmv.gov

Figure 1:

MVCPA Application Checklist

Each Applicant must:

- 1) Complete the on-line Application on or before **5:00 PM, April 18, 2025;**
- 2) Complete the Resolution with the city or county and attach with other supporting documents on or before **5:00 PM, April 18, 2025**

Figure 2:

Appendix A
Updated Sample Motor Vehicle Crime Prevention Authority Resolution

Applicants must use the language below to meet the minimum legal elements to execute an agreement with the MVCPA through the grant application process. Cities and counties not wanting to use the sample below must address all the legal elements contained herein.

2026 **Blank City/County** Resolution or Order or Ordinance
Motor Vehicle Crime Prevention Authority
2026 **Blank City/County** Resolution Taskforce Grant Program

WHEREAS, under the provisions of the Texas Transportation Code Chapter 1006 and Texas Administrative Code Title 43; Part 3; Chapter 57, entities are eligible to receive grants from the Motor Vehicle Crime Prevention Authority to provide financial support to law enforcement agencies for economic motor vehicle theft and fraud-related motor vehicle crime enforcement teams; and

WHEREAS, this grant program will assist this jurisdiction to combat motor vehicle theft, motor vehicle burglary and fraud-related motor vehicle crime; and

WHEREAS, BLANK has agreed that in the event of loss or misuse of the grant funds, BLANK assures that the grant funds will be returned in full to the Motor Vehicle Crime Prevention Authority.

NOW THEREFORE, BE IT RESOLVED and ordered that TITLE, is designated as the Authorized Official to apply for, accept, decline, modify, or cancel the grant application for the Motor Vehicle Crime Prevention Authority Grant Program and all other necessary documents to accept said grant; and

BE IT FURTHER RESOLVED that TITLE, is designated as the Program Director and TITLE, is designated as the Financial Officer for this grant.

Adopted this ___ day of _____, 2025.

NAME
TITLE: County Judge /Mayor/ City Manager

TRD-202500813
William Diggs
MVCPA Director
Motor Vehicle Crime Prevention Authority
Filed: March 6, 2025

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Panhandle Regional Planning Commission

Legal Notice for Service Delivery

LEGAL NOTICE

The Panhandle Regional Planning Commission (PRPC) is soliciting proposals from qualified entities to operate an integrated One-stop Service Delivery System to deliver Workforce Development and Child Care program services in the 26 counties of the Texas Panhandle Workforce Development Area under a single contract.

Workforce Development and Child Care program services provided through the Service Delivery System include, but are not limited to, those funded and governed by the Workforce Innovation and Opportunity Act, Reemployment Services and Eligibility Assessment, Temporary Assistance for Needy Families and Noncustodial Parent/CHOICES, Supplemental Nutrition Assistance Program Employment and Training, and Child Care Services grants.

Proposers will be expected to demonstrate the capability to conduct workforce service delivery for all customers groups at the current level and also effectively incorporate the Panhandle Workforce Development Board's stated priorities. The initial term for any award resulting from this solicitation will be one year, beginning October 1, 2025, with the possibility for renewal for up to three additional years.

The proposal schedule is expected to be as follows:

Release Request for Proposals (RFP) - March 20, 2025

Proposers' Conference - April 8, 2025 at 10:30 a.m.

Letter of Intent to Propose Due Date and Time - April 11, 2025 at 3:00 p.m.

Questions may be submitted in writing to wdrfpquestions@theprpc.org - no later than April 18, 2025 at 3:00 p.m.

Deadline for Submission - April 30, 2025 at 3:00 p.m.

Contract to be awarded - May 22, 2025 (tentatively)

A copy of the Request for Proposals (RFP) can be obtained Monday through Friday, 8:00 a.m. to 5:00 p.m., at 415 Southwest Eighth Ave., Amarillo, Texas 79101 or by download from the Workforce Development section of the Panhandle Regional Planning Commission website at <http://www.theprpc.org/Programs/WorkforceDevelopment/wfprocurement.html>

PRPC as administrative and fiscal agent for the Panhandle Workforce Development Board dba Workforce Solutions Panhandle, a proud partner of the AmericanJobCenter Network, is an Equal Opportunity Employer / Program. Auxiliary aids and services are available upon request to individuals with disabilities. Relay Texas: 711

TRD-202500880

Leslie Hardin

Workforce Development Program Manager

Panhandle Regional Planning Commission

Filed: March 12, 2025

Texas Parks and Wildlife Department

Notice of a Public Comment Hearing on an Application for a Sand and Gravel Permit

Union Pacific Railroad has applied to the Texas Parks and Wildlife Department (TPWD) for an Individual Permit pursuant to Texas Parks and Wildlife Code, Chapter 86, to remove or disturb 2,026 cubic yards of sedimentary material within the Brazos River in Fort Bend County. The purpose of the disturbance is for the replacement of the existing Pier C1 of Bridge 32.42 on the Glidden Subdivision for safe and reliable railroad transportation. The location is Latitude 29.585142°, Longitude -95.758617°, about 8.2 river miles downstream of Farm-to-Market Road 723 and about 500 feet upstream of U.S. Highway 90 Alternate (Jackson Street). This notice is being published and mailed pursuant to 31 TAC §69.105(d).

TPWD will hold a public comment hearing regarding the application at 10:00 a.m. on April 17, 2025, at TPWD headquarters, located at 4200

Smith School Road, Austin, Texas 78744. A remote participation option will be available upon request. Potential attendees should contact Sue Reilly at (512) 389-8622 or at sue.reilly@tpwd.texas.gov for information on how to participate in the hearing remotely. The hearing is not a contested case hearing under the Texas Administrative Procedure Act. Oral and written public comment will be accepted during the hearing.

Written comments may be submitted directly to TPWD and must be received no later than 30 days after the date of publication of this notice in the *Texas Register*. A written request for a contested case hearing from an applicant or a person with a justiciable interest may also be submitted and must be received by TPWD prior to the close of the public comment period. Timely hearing requests shall be referred to the State Office of Administrative Hearings. Submit written comments, questions, requests to review the application, or requests for a contested case hearing to: TPWD Sand and Gravel Program by mail: Attn: Sue Reilly, Texas Parks and Wildlife Department, Inland Fisheries Division, 4200 Smith School Road, Austin, Texas 78744; or via e-mail: sand.gravel@tpwd.texas.gov.

TRD-202500882

James Murphy

General Counsel

Texas Parks and Wildlife Department

Filed: March 12, 2025

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Notice of Hearing

SOAH Docket No. 802-25-11743

This is a notice of a contested case hearing as required under Texas Government Code, §2001.051 and §2001.052.

APPLICATION

Citizens of Real County Partnership and Real County submitted an application to the Texas Parks and Wildlife Department (TPWD) for a General Sand and Gravel Permit pursuant to Chapter 86, Texas Parks and Wildlife Code and 31 TAC Chapter 69, Subchapter H. The applicants seek to disturb streambed materials within the Frio River in Real County. The project location would be at approximately latitude 29.725097, longitude -99.747989, 1/10 mile west of the intersection of County Road Camino Bajo and County Road Camino Alto in Real County. The project purpose is to extend the existing county road.

TPWD received the application on August 28, 2024, and public notice of the application was published in the October 25, 2024, issue of the *Texas Register* (49 TexReg 8618). A public comment hearing was held on November 15, 2024. Upon receipt of amended plans, the public comment period was extended and a second public comment hearing was held on December 19, 2024. The public comment period ended on December 22, 2024. During this time, TPWD received one written request for a contested case hearing. TPWD referred this request to the State Office of Administrative Hearings (SOAH) on February 5, 2025. TPWD has neither approved nor denied the application.

CONTESTED CASE HEARING

SOAH will conduct a prehearing conference on this application via videoconference at:

9:00 a.m. - April 15, 2025

To join the Zoom meeting via computer or smart device:

<https://soah-texas.zoomgov.com>

Meeting ID: 161 787 3722

Video Passcode: PWD743

To join the Zoom meeting via telephone dial:

+1 669 254 5252

Meeting ID: 161 787 3722

Telephone Passcode: 041821

The purpose of the preliminary hearing is to determine party status, develop a procedural and discovery schedule, set a hearing on the merits date, discuss whether referral to mediation is appropriate, and address any other relevant issues raised by the parties.

The hearing will be conducted in accordance with Chapter 86, Texas Parks and Wildlife Code; Chapter 2001, Texas Government Code; and the procedural rules of TPWD and SOAH, including 31 TAC Chapter 69 and 1 TAC Chapter 155.

The applicant is automatically a party in this hearing. If anyone else wishes to be a party to the hearing, he or she must attend the hearing and show how he or she would be adversely affected by the application in a way not common to members of the general public. Any person may attend the hearing and any person may request to be a party. Only persons named as parties may continue participation in the hearing.

In accordance with 1 TAC §155.401(a), Notice of Hearing, "Parties that are not represented by an attorney may obtain information regarding contested case hearings on the public website of the

State Office of Administrative Hearings at www.soah.texas.gov, or in printed format upon request to SOAH."

INFORMATION

If you need more information about the hearing process for this application, please contact TPWD staff attorney Bridgett Meyer at (512) 389-8899 or bridgett.meyer@tpwd.texas.gov, or SOAH at (512) 475-4993.

Persons with disabilities who plan to attend this hearing and who need special accommodations at the hearing should call the SOAH Docketing Department at (512) 475-4993, at least one week prior to the hearing.

TRD-202500835

James Murphy

General Counsel

Texas Parks and Wildlife Department

Filed: March 10, 2025

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Supreme Court of Texas

Approval of Amendments to Texas Disciplinary Rules of Professional Conduct 1.05 and 3.05

Supreme Court of Texas

Misc. Docket No. 25-9012

Approval of Amendments to Texas Disciplinary Rules of Professional Conduct 1.05 and 3.05

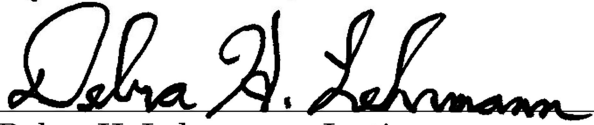
ORDERED that:

1. The Texas Disciplinary Rules of Professional Conduct 1.05 and 3.05 are amended as follows, effective immediately.
2. The Clerk is directed to:
 - a. file a copy of this Order with the Secretary of State;
 - b. cause a copy of this Order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
 - c. send a copy of this Order to each elected member of the Legislature; and
 - d. submit a copy of this Order for publication in the *Texas Register*.

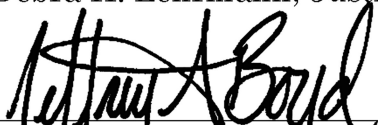
Dated: March 7, 2025.



James D. Blacklock, Chief Justice



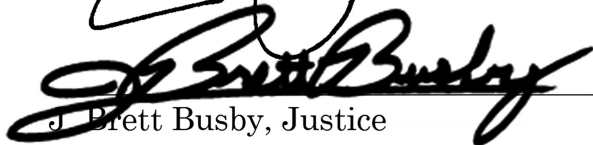
Debra H. Lehrmann, Justice



Jeffrey S. Boyd, Justice



John P. Devine, Justice



J. Brett Busby, Justice



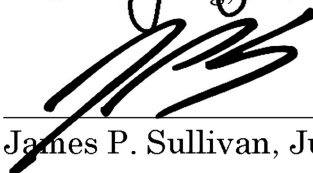
Jane N. Bland, Justice



Rebeca A. Huddle, Justice



Evan A. Young, Justice



James P. Sullivan, Justice

TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT

I. CLIENT-LAWYER RELATIONSHIP

Rule 1.05 Confidentiality of Information

(a) Confidential information includes both privileged information and unprivileged client information. Privileged information refers to the information of a client protected by the lawyer-client privilege of Rule ~~5.03~~503 of the Texas Rules of Evidence or of Rule 5.03 of the Texas Rules of Criminal Evidence or by the principles of attorney-client privilege governed by Rule ~~5.01~~501 of the Federal Rules of Evidence for United States Courts and Magistrates. Unprivileged client information means all information relating to a client or furnished by the client, other than privileged information, acquired by the lawyer during the course of or by reason of the representation of the client.

III. ADVOCATE

Rule 3.05 Maintaining Impartiality of Tribunal

A lawyer shall not:

(a) seek to influence a tribunal concerning a pending matter by means prohibited by law or applicable rules of practice or procedure;

(b) except as otherwise permitted by law and not prohibited by applicable rules of practice or procedure, communicate or cause another to communicate ex parte with a tribunal for the purpose of influencing that entity or person concerning a pending matter other than:

(1) in the course of official proceedings in the cause;

(2) in writing if he promptly delivers a copy of the writing to opposing counsel or the adverse party if he is not represented by a lawyer;

(3) orally upon adequate notice to opposing counsel or to the adverse party if he is not represented by a lawyer.

(c) For purposes of this rule:

(1) Matter has the meanings ascribed by it in Rule ~~1.10(f)~~ 1.11(f) of these Rules;

(2) A matter is pending before a particular tribunal either when that entity has been selected to determine the matter or when it is reasonably foreseeable that that entity will be so selected.

TRD-202500834
Jaclyn Daumerie
Rules Attorney
Supreme Court of Texas
Filed: March 7, 2025

Final Approval of Amendments to Texas Rule of Civil
Procedure 10 and Texas Rule of Appellate Procedure 6 (Joint
Order, Court of Criminal Appeals Misc. Docket No. 25-002)

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Supreme Court of Texas

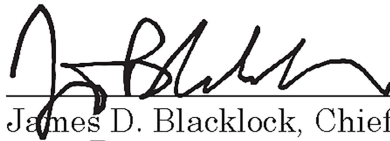
Misc. Docket No. 25-9011

Final Approval of Amendments to Texas Rule of Civil Procedure 10 and Texas Rule of Appellate Procedure 6

ORDERED that:


1. On November 19, 2024, in Misc. Dkt. No. 24-9099, the Court preliminarily approved amendments to Texas Rule of Civil Procedure 10 and Texas Rule of Appellate Procedure 6 and invited public comment. The Court of Criminal Appeals, in Misc. Dkt. No. 24-008, also preliminarily approved the amendments to Texas Rule of Appellate Procedure 6.
2. No comments were received, and no additional changes have been made to the amendments. This Order gives final approval to the amendments set forth in Misc. Dkt. No. 24-9099 and Misc. Dkt. No. 24-008 and reproduced below, effective April 1, 2025.
3. The Clerk is directed to:
 - a. file a copy of this Order with the Secretary of State;
 - b. cause a copy of this Order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
 - c. send a copy of this Order to each elected member of the Legislature; and
 - d. submit a copy of this Order for publication in the *Texas Register*.


Dated: March 5, 2025.


James D. Blacklock, Chief Justice


Debra H. Lehrmann, Justice


Jeffrey S. Boyd, Justice


John P. Devine, Justice


J. Brett Busby, Justice


Jane N. Bland, Justice


Rebeca A. Huddle, Justice


Evan A. Young, Justice


James P. Sullivan, Justice

TEXAS RULES OF CIVIL PROCEDURE

RULE 10. WITHDRAWAL OF ATTORNEY

An attorney may withdraw from representing a party only upon written motion for good cause shown. If another attorney is to be substituted as attorney for the party, the motion shall state: the name, address, telephone number, email address, telecopier number, if any, and State Bar of Texas identification number of the substitute attorney; that the party approves the substitution; and that the withdrawal is not sought for delay only. If another attorney is not to be substituted as attorney for the party, the motion shall state: that a copy of the motion has been delivered to the party; that the party has been notified in writing of his right to object to the motion; whether the party consents to the motion; the party's last known address, telephone number, and email address; and all pending settings and deadlines. If the motion is granted, the withdrawing attorney shall immediately notify the party in writing of any additional settings or deadlines of which the attorney has knowledge at the time of the withdrawal and has not already notified the party. The Court may impose further conditions upon granting leave to withdraw. Notice or delivery to a party shall be either made to the party in person or mailed to the party's last known address by both certified and regular first class mail. If the attorney in charge withdraws and another attorney remains or becomes substituted, another attorney in charge must be designated of record with notice to all other parties in accordance with Rule 21a.

TEXAS RULES OF APPELLATE PROCEDURE

Rule 6. Representation by Counsel

6.5. Withdrawal of Lead Counsel

An appellate court may, on appropriate terms and conditions, permit lead counsel to withdraw from representing a party in the appellate court.

- (a) *Contents of Motion.* A motion for leave to withdraw must contain the following:
 - (1) a list of current deadlines and settings in the case;
 - (2) the party's name and last known address, ~~and~~ telephone number, and email address;
 - (3) a statement that a copy of the motion was delivered to the party; and
 - (4) a statement that the party was notified in writing of the right to object to the motion.
- (b) *Delivery to Party.* The motion must be delivered to the party in person or mailed — both by certified and by first-class mail — to the party at the party's last known address.
- (c) *If Motion Granted.* If the court grants the motion, the withdrawing lead counsel must immediately notify the party, in writing, of any deadlines or settings that the attorney knows about at the time of withdrawal but that were not previously disclosed to the party. The withdrawing lead counsel must file a copy of that notice with the court clerk.
- (d) *Exception for Substitution of Lead Counsel.* If an attorney substitutes for a withdrawing lead counsel, the motion to withdraw need not comply with (a) but must state only the substitute attorney's name, mailing address, telephone number, email address, fax number, if any, and State Bar of Texas identification number. The withdrawing lead counsel must comply with (b) but not (c).

TRD-202500811
Jaclyn Daumerie
Rules Attorney
Supreme Court of Texas
Filed: March 6, 2025



How to Use the Texas Register

Information Available: The sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

Governor - Appointments, executive orders, and proclamations.

Attorney General - summaries of requests for opinions, opinions, and open records decisions.

Texas Ethics Commission - summaries of requests for opinions and opinions.

Emergency Rules - sections adopted by state agencies on an emergency basis.

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

Adopted Rules - sections adopted following public comment period.

Texas Department of Insurance Exempt Filings - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

Review of Agency Rules - notices of state agency rules review.

Tables and Graphics - graphic material from the proposed, emergency and adopted sections.

Transferred Rules - notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

In Addition - miscellaneous information required to be published by statute or provided as a public service.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

How to Cite: Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words “TexReg” and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 50 (2025) is cited as follows: 50 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written “50 TexReg 2 issue date,” while on the opposite page, page 3, in the lower right-hand corner, would be written “issue date 50 TexReg 3.”

How to Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code* section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online at: <https://www.sos.texas.gov>. The *Texas Register* is available in an .html version as well as a .pdf version through the internet. For website information, call the Texas Register at (512) 463-5561.

Texas Administrative Code

The *Texas Administrative Code (TAC)* is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*.

The *TAC* volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete *TAC* is available through the Secretary of State’s website at <http://www.sos.state.tx.us/tac>.

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

How to Cite: Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §91.1: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §91.1 is the section number of the rule (91 indicates that the section is under Chapter 91 of Title 1; 1 represents the individual section within the chapter).

How to Update: To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Index of Rules*.

The *Index of Rules* is published cumulatively in the blue-cover quarterly indexes to the *Texas Register*.

If a rule has changed during the time period covered by the table, the rule’s *TAC* number will be printed with the *Texas Register* page number and a notation indicating the type of filing (emergency, proposed, withdrawn, or adopted) as shown in the following example.

TITLE 1. ADMINISTRATION Part 4. Office of the Secretary of State Chapter 91. Texas Register

1 TAC §91.1.....950 (P)

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