

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 351. COORDINATED PLANNING AND DELIVERY OF HEALTH AND HUMAN SERVICES

SUBCHAPTER B. ADVISORY COMMITTEES DIVISION 1. COMMITTEES

1 TAC §351.825

The Texas Health and Human Services Commission (HHSC) adopts an amendment to §351.825, concerning Texas Brain Injury Advisory Council (TBIAC).

The amendment to §351.825 is adopted with changes to the proposed text as published in the January 26, 2024, issue of the *Texas Register* (49 TexReg 305). This rule will be republished.

BACKGROUND AND JUSTIFICATION

The TBIAC is established under the Texas Government Code Section 531.012 which specifies that Texas Government Code Chapter 2110 applies to this advisory committee. Section 351.825 states that it expires and the TBIAC is abolished on July 1, 2024. The proposed amendment extends the abolishment date by four additional years as permitted by Texas Government Code §2110.008. Additionally, the amendment makes revisions to ensure the rule meets the HHSC standards for its advisory committee rules, corrects formatting, punctuation, and grammar, and updates provisions to adhere to the Open Meetings Act. The amendment also clarifies member terms, outline reimbursement for specific membership categories travel expenses, and completion of required training.

COMMENTS

The 31-day comment period ended February 26, 2024.

During this period, HHSC received a comment regarding the proposed rule from one individual. A summary of the comment relating to the §351.825 and HHSC's response follows.

Comment: The individual expressed support extending OABIs council to continue their work for 4 more years because they're providing important services to Texas residents.

Response: HHSC appreciates the comment. No changes are made to the rule in the response to this comment.

HHSC made minor formatting edits to align with HHSC standards for advisory committee rules.

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.012, which authorizes the Executive Commissioner to establish advisory committees by rule.

§351.825. *Texas Brain Injury Advisory Council.*

(a) Statutory authority. The Texas Brain Injury Advisory Council (TBIAC) is established under Texas Government Code §531.012 and is subject to §351.801 of this division (relating to Authority and General Provisions).

(b) Purpose. The TBIAC advises the Texas Health and Human Services Commission (HHSC) Executive Commissioner and the Health and Human Services system on strategic planning, policy, rules, and services related to the prevention of brain injury; rehabilitation; and the provision of long-term services and supports for persons who have survived brain injuries to improve their quality of life and ability to function independently in the home and community.

(c) Tasks. The TBIAC performs the following tasks:

(1) informs state leadership of the needs of persons who have survived a brain injury and their families regarding rehabilitation and the provision of long-term services and supports to improve health and functioning that leads to achieving maximum independence in home and community living and participation;

(2) encourages research into the causes and effects of brain injuries as well as promising and best practice approaches for prevention, early intervention, treatment and care of brain injuries and the provision of long-term services and supports;

(3) recommends policies that facilitate the implementation of the most current promising and evidence-based practices for the care, rehabilitation, and the provision of long-term services and supports to persons who have survived a brain injury;

(4) promotes brain injury awareness, education, and implementation of health promotion and prevention strategies across Texas;

(5) facilitates the development of partnerships among diverse public and private provider and consumer stakeholder groups to develop and implement sustainable service and support strategies that meet the complex needs of persons who have survived a brain injury and those experiencing co-occurring conditions; and

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

(d) Reporting requirements.

(1) Reporting to the HHSC Executive Commissioner. By November 1 of each year, the TBIAC files an annual written report with the HHSC Executive Commissioner covering the meetings and activities in the immediately preceding fiscal year and reports any recommendations to the HHSC Executive Commissioner at a meeting of

the Texas Health and Human Services Commission Executive Council. The report includes:

- (A) a list of the meeting dates;
- (B) the members' attendance records;
- (C) a brief description of actions taken by the TBIAC;
- (D) a description of how the TBIAC accomplished its tasks;
- (E) a description of activities the TBIAC anticipates undertaking in the next fiscal year;
- (F) recommendations made by the TBIAC, if any;
- (G) recommended amendments to this section; and
- (H) the costs related to the TBIAC, including the cost of HHSC staff time spent supporting the TBIAC's activities and the source of funds used to support the TBIAC's activities.

(2) Reporting to Texas Legislature. The TBIAC shall submit a written report to the Texas Legislature of any policy recommendations made to the HHSC Executive Commissioner by December 1 of each even-numbered year.

(e) Meetings.

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

(2) Frequency. The TBIAC will meet quarterly.

(3) Quorum. Eight members constitute a quorum.

(f) Membership.

(1) The TBIAC is composed of 15 members appointed by the HHSC Executive Commissioner representing the categories below. In selecting members to serve on the TBIAC, HHSC considers the applicants' qualifications, background, geographic location, and interest in serving.

(A) One representative from acute hospital trauma units.

(B) One representative from post-acute rehabilitation facilities.

(C) One representative of a long-term care facility that serves persons who have survived a brain injury.

(D) One healthcare practitioner or service provider who has specialized training or interest in the prevention of brain injuries or the care, treatment, and rehabilitation of persons who have survived a brain injury.

(E) One representative of an institution of higher education engaged in research that impacts persons who have survived a brain injury.

(F) Five persons who have survived a brain injury representing diverse ethnic or cultural groups and geographic regions of Texas, with:

(i) at least one of these being a transition age youth (age 18-26);

(ii) at least one of these being a person who has survived a traumatic brain injury; and

(iii) at least one of these being a person who has survived a non-traumatic brain injury.

(G) Four family members actively involved in the care of loved ones who have sustained a brain injury, with:

(i) at least one of these being a person whose loved one has survived a traumatic brain injury; and

(ii) at least one of these being a person whose loved one has survived a non-traumatic brain injury.

(H) One representative from the stroke committee of the Governor's Emergency Medical Services (EMS) & Trauma Advisory Council or other stakeholder group with a focus on stroke.

(2) Members are appointed for staggered terms so that the terms of five, or almost five, members expire on December 31 of each year. Regardless of the term limit, a member serves until his or her replacement has been appointed. This ensures sufficient, appropriate representation.

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

(B) Except as may be necessary to stagger terms, the term of each member is three years. A member may apply to serve one additional term.

(g) Officers. The TBIAC selects a chair and vice chair of the TBIAC from among its members. The chair or the vice chair must be a person who has survived a brain injury or a family member actively involved in the care of a loved one who has survived a brain injury.

(1) The chair serves until December 31 of each even-numbered year. The vice chair serves until December 31 of each odd-numbered year.

(2) A member may serve up to two consecutive terms as chair or vice chair.

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

(i) Travel Reimbursement. To the extent permitted by the current General Appropriations Act, a member of the TBIAC may be reimbursed for their travel to and from meetings if funds are appropriated and available and in accordance with the HHSC Travel Policy.

(j) Date of abolition. The TBIAC is abolished and this section expires on July 1, 2028, in compliance with Texas Government Code §2110.008(b).

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 May 28, 2024.

TRD-202402366

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: June 17, 2024

Proposal publication date: January 26, 2024

For further information, please call: (512) 706-7191

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TITLE 10. COMMUNITY DEVELOPMENT

PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 80. MANUFACTURED HOUSING SUBCHAPTER D. LICENSING

10 TAC §80.41

The Manufactured Housing Division of the Texas Department of Housing and Community Affairs (the "Department") adopts amendments 10 Texas Administrative Code, §80.41 relating to the regulation of the manufactured housing program.

The rule adoption provides the Department with the ability to have a third party administer the licensing education exam. The amendments to 10 Texas Administrative Code §80.41 are adopted without changes to the proposed text as published in the April 19, 2024, issue of the *Texas Register* (49 TexReg 2377). The adopted rule will not be republished.

The adoption of the rules are effective thirty (30) days following the date of publication in the *Texas Register*.

The rules as proposed on April 19, 2024, are adopted as final rules.

No comments were received and there were no request for a public hearing to take comments on the rules.

The following is a restatement of the rules' factual basis:

10 Texas Administrative Code §80.41(c)(2)(D) and (E) are adopted without changes, adding that the Department may enter into an agreement with a third party to administer the licensing education exam(s) required under §1201.104 of the Texas Occupations Code. If required to be taken with the assistance of a third party, the applicant shall pay the cost of the exam.

The amendments are adopted under §1201.052 of the Texas Occupations Code, which provides the Director with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the Department and §1201.053 of the Texas Occupations Code, which authorizes the board to adopt rules as necessary and the director to administer and enforce the manufactured housing program through the Manufactured Housing Division.

No other statutes, codes, or articles are affected by adoption of the amended rules.

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 May 31, 2024.

TRD-202402438

Jim R. Hicks

Executive Director

Texas Department of Housing and Community Affairs

Effective date: July 14, 2024

Proposal publication date: April 19, 2024

For further information, please call: (512) 475-2206



TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 74. CURRICULUM REQUIREMENTS

SUBCHAPTER A. REQUIRED CURRICULUM 19 TAC §74.5

The State Board of Education (SBOE) adopts an amendment to §74.5, concerning academic achievement record (transcript). The amendment is adopted without changes to the proposed text as published in the March 1, 2024 issue of the *Texas Register* (49 TexReg 1179) and will not be republished. The adopted amendment requires that completion of instruction in the use of an automated external defibrillator (AED) in addition to the existing requirement for instruction in cardiopulmonary resuscitation (CPR) be indicated on a student's academic achievement record.

REASONED JUSTIFICATION: In 2013, the 83rd Texas Legislature, Regular Session, passed House Bill (HB) 897, amending Texas Education Code (TEC), §28.0023, to require that the SBOE include instruction in CPR for students in Grades 7-12. The legislation required school districts and open-enrollment charter schools to provide instruction in CPR and for students to receive the CPR instruction at least once before graduation. The SBOE adopted an amendment to §74.5 in 2018 to update the rule for the academic achievement record to document the completion of the required CPR instruction if the instruction is provided in Grades 9-12.

In 2023, the 88th Texas Legislature, Regular Session, passed HB 4375, further amending TEC, §28.0023, to add instruction in the use of an AED to the requirements for instruction in CPR. The adopted amendment updates the rule for the academic achievement record to include documentation of the completion of the additional instruction in the use of an AED if the instruction is provided in Grades 9-12.

The SBOE approved the amendment for first reading and filing authorization at its February 2, 2024 meeting and for second reading and final adoption at its April 12, 2024 meeting.

In accordance with TEC, §7.102(f), the SBOE approved the amendment for adoption by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2024-2025 school year. The earlier effective date will ensure that school districts are aware of and able to implement this new requirement at the beginning of the 2024-2025 school year. The effective date is August 1, 2024.

SUMMARY OF COMMENTS AND RESPONSES: The public comment period on the proposal began March 1, 2024, and ended at 5:00 p.m. on April 1, 2024. The SBOE also provided an opportunity for registered oral and written comments at its April 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 counselor and one administrator expressed concern that the number of items required to be added to the academic achievement record (AAR) is cumbersome for administrators.

Response. The SBOE disagrees and provides the following clarification. The proposed amendment does not add a new data element. Instead, it adds the completion of instruction in the use of an AED to an existing item that indicates the completion of CPR instruction.

Comment. One administrator stated that, as written, the proposed rule reads as though the CPR and AED instruction would be two separate trainings.

Response. This comment is outside the scope of the proposed rulemaking. However, the board has provided a response to this comment in the adoption of the proposed amendment to 19 TAC §74.38, Requirements for Instruction in Cardiopulmonary Resuscitation (CPR).

Comment. One administrator asked whether CPR and AED instruction could be reported as one element on the AAR, since the training would most likely be completed at the same time.

Response. The SBOE provides the following clarification. There will be one data element used in the Texas Records Exchange (TREx) for reporting both the completion of CPR instruction and the completion of AED instruction.

Comment. One administrator expressed concern that, although instruction in CPR is important, the addition of the indicator is irrelevant to colleges, universities, scholarship committees, and future employers.

Response. The SBOE disagrees and has determined that the inclusion of the CPR and AED indicator on the AAR is relevant because it helps districts monitor and track the completion of required instruction students must complete before graduating.

Comment. One counselor expressed opposition to the addition of the AED requirement to the AAR.

Response. The SBOE disagrees and has determined that the addition of completion of AED instruction to the CPR instruction element on the AAR is appropriate as proposed.

Comment. One administrator asked whether required training in the use of an AED should be hands-on training or watching a video.

Response. This comment is outside the scope of the proposed rulemaking. However, the board has provided a response to this comment in the adoption of the proposed amendment to 19 TAC §74.38, Requirements for Instruction in Cardiopulmonary Resuscitation (CPR).

Comment. One counselor stated that the required trainings for CPR for graduates are stretching educators too far.

Response. This comment is outside the scope of the proposed rulemaking. However, the board has provided a response to this comment in the adoption of the proposed amendment to 19 TAC §74.38, Requirements for Instruction in Cardiopulmonary Resuscitation (CPR).

Comment. One counselor stated that the required trainings for proper interactions with peace officers for graduates are stretching educators too far.

Response. This comment is outside the scope of the proposed rulemaking.

STATUTORY AUTHORITY. The amendment is adopted under Texas Education Code (TEC), §7.102(c)(13), which requires the State Board of Education to adopt transcript forms and standards for differentiating high school performance for purposes of reporting academic achievement under TEC, §28.025.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §7.102(c)(13).

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 June 3, 2024.

TRD-202402447

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: August 1, 2024

Proposal publication date: March 1, 2024

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



SUBCHAPTER C. OTHER PROVISIONS

19 TAC §74.38

The State Board of Education (SBOE) adopts an amendment to §74.38, concerning requirements for instruction in cardiopulmonary resuscitation (CPR). The amendment is adopted without changes to the proposed text as published in the March 1, 2024 issue of the *Texas Register* (49 TexReg 1184) and will not be republished. The adopted amendment implements House Bill (HB) 4375, 88th Texas Legislature, Regular Session, 2023, by requiring instruction in the use of an automated external defibrillator (AED) in addition to instruction in CPR for students in Grades 7-12.

REASONED JUSTIFICATION: In 2013, the 83rd Texas Legislature, Regular Session, passed HB 897, amending Texas Education Code (TEC), §28.0023, to require that the SBOE include instruction in CPR for students in Grades 7-12. The legislation required school districts and open-enrollment charter schools to provide instruction in CPR and for students to receive the CPR instruction at least once before graduation. TEC, §38.017, requires school districts and open-enrollment charter schools to make available at each campus at least one AED.

Section 74.38 requires school districts and open-enrollment charter schools to provide instruction in CPR to each student in Grades 7-12 at least once before graduation from high school. The instruction is permitted to be provided as part of any course.

In 2023, the 88th Texas Legislature, Regular Session, passed HB 4375, which further amended TEC, §28.0023, to add instruction in the use of an AED to the requirements for instruction in CPR. The legislation specified that the SBOE must require districts and charter schools to provide instruction in the use of an AED to students in Grades 7-12. Additionally, the legislation added the requirement that CPR instruction must include training in CPR techniques and the use of AEDs.

The adopted amendment requires the instruction in the use of an AED beginning with students who enter Grade 7 in the 2024-2025 school year.

The SBOE approved the amendment for first reading and filing authorization at its February 2, 2024 meeting and for second reading and final adoption at its April 12, 2024 meeting.

In accordance with TEC, §7.102(f), the SBOE approved the amendment for adoption by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2024-2025 school year. The earlier effective date will ensure that school districts are aware of and able to implement this new

requirement at the beginning of the 2024-2025 school year. The effective date is August 1, 2024.

SUMMARY OF COMMENTS AND RESPONSES: The public comment period on the proposal began March 1, 2024, and ended at 5:00 p.m. on April 1, 2024. The SBOE also provided an opportunity for registered oral and written comments at its April 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 administrator stated that, as written, the proposed rule reads as though the CPR and AED instruction would be two separate trainings.

Response. The SBOE disagrees that the proposed amendment to §74.38 reads as though CPR and the use of AEDs are two separate trainings and provides the following clarification. TEC, §28.0023, requires that students receive instruction in CPR and the use of an AED. At the April 2024 meeting, the SBOE took action to adopt a proposed amendment to 19 TAC §74.38 to require that CPR instruction include training for students in both CPR techniques and the use of an AED.

Comment. One administrator asked whether required training in the use of an AED should be hands-on training or watching a video.

Response. The SBOE provides the following clarification. TEC, §28.0023, states that the required training for CPR and the use of an AED must incorporate psychomotor skills to support the instruction.

Comment. One counselor stated that the required trainings for CPR for graduates are stretching educators too far.

Response. The SBOE disagrees and provides the following clarification. CPR instruction is required by state law in TEC, §28.0023. The amendment implements HB 4375, 88th Texas Legislature, Regular Session, 2023, by requiring instruction in the use of an AED in addition to instruction in CPR for students in Grades 7-12.

STATUTORY AUTHORITY. The amendment is adopted under Texas Education Code, §28.0023, as amended by House Bill 4375, 88th Texas Legislature, Regular Session, 2023, which requires the State Board of Education to require by rule instruction in cardiopulmonary resuscitation and the use of an automated external defibrillator for students in Grades 7-12.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §28.0023, as amended by House Bill 4375, 88th Texas Legislature, Regular Session, 2023.

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 June 3, 2024.

TRD-202402448

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: August 1, 2024

Proposal publication date: March 1, 2024

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



TITLE 28. INSURANCE

PART 1. TEXAS DEPARTMENT OF INSURANCE

CHAPTER 5. PROPERTY AND CASUALTY INSURANCE

SUBCHAPTER A. AUTOMOBILE INSURANCE

DIVISION 3. MISCELLANEOUS INTERPRETATIONS

28 TAC §5.208

The commissioner of insurance adopts new 28 TAC §5.208, concerning terminology describing transportation-related incidents. The new section is adopted without changes to the proposed text published in the January 12, 2024, issue of the *Texas Register* (49 TexReg 122). The section will not be republished.

REASONED JUSTIFICATION. The new section is necessary to implement House Bill 2190, 88th Legislature, 2023, which, among other things, clarifies terminology in the Insurance Code.

New §5.208(a) clarifies that the changes made by HB 2190 are nonsubstantive and are intended to clarify rather than change existing law.

Subsection (b) clarifies that the term "collision" has the same meaning that "accident" had before passage of HB 2190, for the purposes of Insurance Code §1952.155 and §1954.056.

Subsection (c) clarifies that HB 2190's changes do not impact the rules in Title 28, Chapter 5, Subchapter A.

This section is adopted because the transition provision in Section 142 of HB 2190 is not included in the statutory text. This section highlights that the changes in law made by HB 2190 are nonsubstantive and are intended to clarify rather than change existing law. Because there is no substantive change to the meaning of the term "accident" as currently used in many policy forms, insurers do not need to file updated policy forms.

SUMMARY OF COMMENTS AND AGENCY RESPONSE. TDI provided an opportunity for public comment on the rule proposal for a period that ended on February 14, 2024.

Commenters: TDI received comments from one commenter, Insurance Services Office, Inc. (ISO), that did not express support or opposition, but instead requested additions.

Comment on §5.208

Comment. The commenter notes that proposed new §5.208 does not address similar changes made in Transportation Code §601.072(a-1) and (b), which are also part of HB 2190. The commenter suggests including §601.072(a-1) and (b) in §5.208(a) and (b).

Agency Response. TDI declines to add language interpreting the Transportation Code. HB 2190 made numerous changes not only to the Insurance Code and Transportation Code but also to nine other codes, including the Business and Commerce Code, Civil Practice and Remedies Code, the Code of Criminal Procedure, Government Code, and others. Although TDI has some general and specific authority to adopt rules to implement portions of the Transportation Code—for example, TDI has author-

ity to prescribe the motor vehicle liability insurance form under §601.081(b)--TDI has limited the scope of this rulemaking to the amendments in the Insurance Code enacted by HB 2190.

STATUTORY AUTHORITY. The commissioner adopts new §5.208 under Insurance Code §1951.002 and §36.001.

Insurance Code §1951.002 provides that the commissioner may adopt reasonable rules necessary to carry out the provisions of Insurance Code Title 10, Subtitle C, which includes Insurance Code §1952.155 and §1954.056.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

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

Filed with the Office of the Secretary of State on May 30, 2024.

TRD-202402416

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Effective date: June 19, 2024

Proposal publication date: January 12, 2024

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