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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.

Proclamation 41-4116

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, GREG ABBOTT, Governor of the State of Texas, issued a disaster proclamation on Tuesday, April 30, 2024, as amended on Thursday, May 2, 2024, Tuesday, May 7, 2024, Wednesday, May 15, 2024, Monday, May 20, 2024, and Sunday, May 26, 2024, certifying that the severe storms and flooding that began on April 26, 2024, and included heavy rainfall, flash flooding, river flooding, large hail, and hazardous wind gusts caused widespread and severe property damage, injury, or loss of life in Anderson, Angelina, Austin, Bandera, Bastrop, Baylor, Bell, Bexar, Blanco, Bosque, Brazos, Brown, Burleson, Burnet, Caldwell, Calhoun, Chambers, Cherokee, Clay, Coleman, Colorado, Comal, Concho, Coryell, Delta, DeWitt, Dickens, Eastland, Ellis, Falls, Fayette, Freestone, Galveston, Gillespie, Gonzales, Gregg, Grimes, Guadalupe, Hamilton, Hardin, Harris, Haskell, Hays, Henderson, Hill, Hood, Houston, Hunt, Jasper, Jefferson, Johnson, Jones, Karnes, Kaufman, Kendall, Kerr, Kimble, Knox, Lamar, Lampasas, Lavaca, Lee, Leon, Liberty, Limestone, Llano, Madison, Mason, McCulloch, McLennan, Medina, Menard, Milam, Mills, Montgomery, Nacogdoches, Navarro, Newton, Orange, Panola, Polk, Robertson, Rusk, Sabine, San Augustine, San Jacinto, San Saba, Shelby, Smith, Somervell, Sutton, Tarrant, Travis, Trinity, Tyler, Van Zandt, Walker, Waller, Washington, Wichita, Williamson, and Wilson Counties;

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby amend the aforementioned proclamation and declare a disaster in the additional counties of Dallas, Fannin, Hockley, Lynn, and Rockwall.

Pursuant to Section 418.017 of the Texas Government Code, I authorize the use of all available resources of state government and of political subdivisions that are reasonably necessary to cope with this disaster.

Pursuant to Section 418.016 of the Texas Government Code, any regulatory statute prescribing the procedures for conduct of state business or any order or rule of a state agency that would in any way prevent, hinder, or delay necessary action in coping with this disaster shall be suspended upon written approval of the Office of the Governor. However, to the extent that the enforcement of any state statute or administrative rule regarding contracting or procurement would impede any state agency's emergency response that is necessary to protect life or property threatened by this declared disaster, I hereby authorize the suspension of such statutes and rules for the duration of this declared disaster.

In accordance with the statutory requirements, copies of this proclamation shall be filed with the applicable authorities.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 30th day of May, 2024.

Greg Abbott, Governor

TRD-202402520

Proclamation 41-4117

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, GREG ABBOTT, Governor of the State of Texas, issued a disaster proclamation on Tuesday, April 30, 2024, as amended on Thursday, May 2, 2024, Tuesday, May 7, 2024, Wednesday, May 15, 2024, Monday, May 20, 2024, Sunday, May 26, 2024, and Thursday, May 30, 2024, certifying that the severe storms and flooding that began on April 26, 2024, and included heavy rainfall, flash flooding, river flooding, large hail, and hazardous wind gusts caused widespread and severe property damage, injury, or loss of life in Anderson, Angelina, Austin, Bandera, Bastrop, Baylor, Bell, Bexar, Blanco, Bosque, Brazos, Brown, Burleson, Burnet, Caldwell, Calhoun, Chambers, Cherokee, Clay, Coleman, Collin, Colorado, Comal, Concho, Cooke, Coryell, Dallas, Delta, Denton, DeWitt, Dickens, Eastland, Ellis, Falls, Fannin, Fayette, Freestone, Galveston, Gillespie, Gonzales, Gregg, Grimes, Guadalupe, Hamilton, Hardin, Harris, Haskell, Hays, Henderson, Hill, Hockley, Hood, Houston, Hunt, Jasper, Jefferson, Johnson, Jones, Karnes, Kaufman, Kendall, Kerr, Kimble, Knox, Lamar, Lampasas, Lavaca, Lee, Leon, Liberty, Limestone, Llano, Lynn, Madison, Mason, McCulloch, McLennan, Medina, Menard, Milam, Mills, Montague, Montgomery, Nacogdoches, Navarro, Newton, Orange, Panola, Polk, Robertson, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, San Saba, Shelby, Smith, Somervell, Sutton, Tarrant, Travis, Trinity, Tyler, Van Zandt, Walker, Waller, Washington, Wichita, Williamson, and Wilson Counties;

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby amend the aforementioned proclamation and declare a disaster in the additional counties of Bailey, Bowie, Cass, Midland, Red River, and Terrell.

Pursuant to Section 418.017 of the Texas Government Code, I authorize the use of all available resources of state government and of political subdivisions that are reasonably necessary to cope with this disaster.

Pursuant to Section 418.016 of the Texas Government Code, any regulatory statute prescribing the procedures for conduct of state business or any order or rule of a state agency that would in any way prevent, hinder, or delay necessary action in coping with this disaster shall be suspended upon written approval of the Office of the Governor. However, to the extent that the enforcement of any state statute or administrative rule regarding contracting or procurement would impede any state agency's emergency response that is necessary to protect life or property threatened by this declared disaster, I hereby authorize the suspension of such statutes and rules for the duration of this declared disaster.

In accordance with the statutory requirements, copies of this proclamation shall be filed with the applicable authorities.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 5th day of June, 2024.



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-0542-KP

Requestor:

The Honorable Bryan Hughes
Chair, Senate Committee on State Affairs
Texas State Senate
Post Office Box 12068
Austin, Texas 78711-2068

Re: Whether the First Amendment allows Texas state agencies to restrict the political activities of the consultants, advisors, and representatives of its contractors (RQ-0542-KP)

Briefs requested by July 8, 2024

RQ-0543-KP

Requestor:

The Honorable James D. Granberry

Nueces County District Attorney

901 Leopard, Room 206
Corpus Christi, Texas 78401-3681

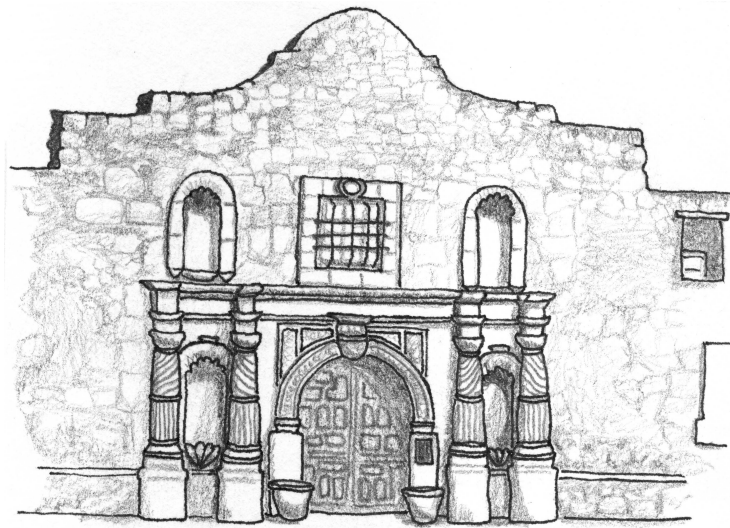
Re: Whether a district clerk may refuse to electronically file a document in a criminal case based on the district clerk's opinion that the document fails to comply with the Judicial Committee on Information Technology Standards (RQ-0543-KP)

Briefs requested by July 8, 2024

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

TRD-202402566
Justin Gordon
General Counsel
Office of the Attorney General
Filed: June 11, 2024





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 1. ADMINISTRATION

PART 4. OFFICE OF THE SECRETARY OF STATE

CHAPTER 107. REGISTRATION OF VISION SUPPORT ORGANIZATIONS

The Office of the Secretary of State (Office) proposes new Chapter 107, §§107.1 - 107.5, concerning registration of vision support organizations (VSOs). The Office proposes new rules to implement the registration requirements for VSOs in Senate Bill 820, enacted by the 88th Legislature, Regular Session, codified at Chapter 74 of the Texas Business and Commerce Code (SB 820).

BACKGROUND INFORMATION AND JUSTIFICATION

SB 820, adopted by the 88th Legislature, Regular Session, establishes a required occupational registration for VSOs in Chapter 74 of the Texas Business and Commerce Code. The bill took effect on September 1, 2023.

As enacted by SB 820, Texas Business and Commerce Code §74.002 requires a VSO (as defined in Texas Business and Commerce Code §74.001(3)) to register annually with the Office. Texas Business and Commerce Code §74.004(a) identifies the information that must be included in the VSO's registration filed with the Office. Texas Business and Commerce Code §74.005(c) directs a VSO to file a corrected registration semi-annually as necessary. Texas Business and Commerce Code §74.004(b) specifies that a registration and each corrected registration must be accompanied by a fee in an amount set by the Office.

The purpose of these new rules under Chapter 107 (Registration of Vision Support Organizations) is to provide information regarding the procedures for VSO registration with the Office, in accordance with SB 820.

SECTION-BY-SECTION SUMMARY

Proposed §107.1 defines terms used within Chapter 107.

Proposed §107.2 specifies the procedure for a VSO to initially register with the Office, or to renew an existing registration, as required by Texas Business and Commerce Code §§74.002 and 74.004.

Proposed §107.3 provides that a registration of a VSO expires on December 31 of each year and must be renewed annually. The section also designates the time period for a registered VSO to submit a renewal registration and a new VSO to register after executing a vision support agreement (as defined in new §107.1).

Proposed §107.4 establishes the procedures and time periods for a VSO to submit a statement of correction, as required by Texas Business and Commerce Code §§74.004 and 74.005.

Proposed §107.5 sets forth the required fees under Chapter 74 of the Texas Business and Commerce Code.

FISCAL NOTE

SB 820 requires a VSO subject to Chapter 74 of the Texas Business and Commerce Code to file with the Office an annual registration and a corrected registration semiannually as necessary, each of which must be accompanied by a fee in an amount set by the Office. The proposed new rules do not impose any additional costs on a VSO seeking to register with the Office.

Texas Business and Commerce Code §74.004(b) states that a registration and each corrected registration must be accompanied by a fee set by the Office in an amount necessary to recover the costs of administering of Chapter 74 of the Texas Business and Commerce Code. The proposed rules set the fee at \$150 for initial and renewal annual registrations, and \$50 for statements of correction. Such fees are comparable to those for similar occupational registrations filed with the Office, particularly dental support organizations under Chapter 73 of the Texas Business and Commerce Code (after which SB 820 was closely modeled).

Christopher Burnett, Director of the Office's Business & Public Filings Division, has determined that for each year of the first five years that the proposed new sections will be in effect, there will be no fiscal implications for state or local governments as a result of enforcing or administering the proposed rules. In addition, the Office does not anticipate that enforcing or administering the proposed rules will result in any reductions in costs or in any additional costs to the Office, the state, or local governments. The Office also does not anticipate that there will be any loss or increase in revenue to the Office, the state, or local governments as a result of enforcing or administering the proposed rules.

PUBLIC BENEFIT

Mr. Burnett has determined that for each year of the first five years that the proposed new sections will be in effect, the public benefit expected as a result of adopting the proposed new rules will be clarity with respect to the Office's application of Texas Business and Commerce Code §§74.002, 74.004, and 74.005. The proposed new rules will benefit the public by providing information regarding the registration of VSOs with the Office in accordance with Chapter 74 of the Texas Business and Commerce Code.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL ECONOMY

There are no anticipated economic costs to persons required to comply with the proposed new rules. There is a cost imposed

on a VSO seeking to register with the Office, or submitting a renewal or correction related to an existing registration, pursuant to Texas Business and Commerce Code §74.004. However, the Office's proposed new rules do not impose any additional costs on such entities. There is no effect on local economy for the first five years that the proposed new rules will be in effect; therefore, no local employment impact statement is required under Texas Government Code §§2001.022 and 2001.024(a)(6).

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

The proposed new rules will have no direct adverse economic impact on small businesses, micro-businesses, or rural communities. Accordingly, the preparation of an economic impact statement and a regulatory flexibility analysis, as specified in Texas Government Code §2006.002, is not required.

GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Texas Government Code §2001.0221, the Office provides the following government growth impact statement for the proposed rules. For each year of the first five years that the proposed new rules will be in effect, the Office has determined the following:

- (1) the proposed rules will not create or eliminate a government program;
- (2) implementation of the proposed rules will not require the creation of new employee positions or the elimination of existing employee positions;
- (3) implementation of the proposed rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the proposed rules will not require an increase or decrease in fees paid to the agency;
- (5) the proposed rules are new rules and therefore create new regulations;
- (6) the proposed rules will not expand, limit, or repeal an existing regulation;
- (7) the proposed rules will not increase or decrease the number of individuals subject to the rules' applicability; and
- (8) the proposed rules will not positively or adversely affect the state's economy.

REQUEST FOR PUBLIC COMMENTS

Comments or questions on the proposed new rules may be submitted in writing and directed to Adam Bitter, General Counsel, Office of the Secretary of State, P.O. Box 12887, Austin, Texas 78711-2887, or by e-mail to generalcounsel@sos.texas.gov. Comments will be accepted for thirty (30) days from the date of publication of the proposed rules in the *Texas Register*. Comments should be organized in a manner consistent with the organization of the proposed new rules.

SUBCHAPTER A. DEFINITIONS

1 TAC §107.1

STATUTORY AUTHORITY

The proposed new rules are authorized by Texas Government Code §2001.004(1) and Texas Business and Commerce Code §74.004(b). Texas Government Code §2001.004(1) requires a state agency to adopt rules of practice stating the nature and

requirements of formal and informal procedures. Texas Business and Commerce Code §74.004(b) directs the Office to set the applicable VSO filing fees. The proposed new rules implement Chapter 74 of the Texas Business and Commerce Code.

CROSS REFERENCE TO STATUTE

No other statute, code, or article is affected by the proposed rules.

§107.1. Definitions.

Words and terms defined in Chapter 74 of the Business and Commerce Code shall have the same meaning in this chapter. In addition, the following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Non-optometrist owner--A person, including a corporation, association, general partnership, limited partnership, limited liability company, limited liability partnership, other legal entity, or sole proprietorship, who is not a licensed optometrist but maintains 5% or more ownership in a vision support organization.

(2) Professional entity--A professional corporation, professional limited liability company, professional association, general partnership that provides a professional service, or limited partnership that provides a professional service.

(3) Secretary--The Texas Secretary of State.

(4) Vision support agreement--One or more agreements under which a vision support organization provides two or more business support services to an optometrist.

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 June 6, 2024.

TRD-202402509

Adam Bitter

General Counsel

Office of the Secretary of State

Earliest possible date of adoption: July 21, 2024

For further information, please call: (512) 475-2813



SUBCHAPTER B. REGISTRATION AND RENEWAL OF VISION SUPPORT ORGANIZATIONS

1 TAC §107.2, §107.3

STATUTORY AUTHORITY

The proposed new rules are authorized by Texas Government Code §2001.004(1) and Texas Business and Commerce Code §74.004(b). Texas Government Code §2001.004(1) requires a state agency to adopt rules of practice stating the nature and requirements of formal and informal procedures. Texas Business and Commerce Code §74.004(b) directs the Office to set the applicable VSO filing fees. The proposed new rules implement Chapter 74 of the Texas Business and Commerce Code.

CROSS REFERENCE TO STATUTE

No other statute, code, or article is affected by the proposed rules.

§107.2. Registration and Renewal of Vision Support Organizations.

(a) A complete initial registration or renewal registration is comprised of:

(1) A completed registration form that is signed by a person authorized to act by or on behalf of the vision support organization, in the form promulgated by the secretary (See Form 4101); and

(2) Payment of the filing fee stated in §107.5 of this chapter (relating to Filing Fees).

(b) A registration statement or renewal application must comply with Business and Commerce Code §74.004, and also provide:

(1) For the vision support organization:

(A) The legal name;

(B) The business address and mailing address, if different; and

(C) A contact name, email address, and phone number.

(2) For each optometrist and each entity that employs or contracts with an optometrist to provide eye care services in this state with which the vision support organization has entered into an agreement to provide two or more business support services:

(A) The legal name and business address of each optometrist and each such entity, as applicable;

(B) If the optometrist provides eye care services through a professional entity, the legal name of the professional entity; and

(C) A disclosure of all business support services provided to each optometrist or each entity that employs or contracts with an optometrist to provide eye care services.

(3) For each optometrist who owns any portion of the vision support organization and for each non-optometrist owner who owns 5% or more of the vision support organization:

(A) The legal name and business address of the owner; and

(B) Whether the owner is an optometrist or a non-optometrist owner.

§107.3. Timing of Registration.

(a) Registrations will expire annually on December 31 of each year.

(b) A vision support organization seeking to renew an existing registration must file a renewal registration. Renewals may be submitted from ninety (90) days prior to expiration until January 31 of the year for which the next registration will be effective by submitting a completed registration form and paying the filing fee, except as provided in subsection (c) of this section.

(c) In the event a vision support organization is required to register under Chapter 74 of the Business and Commerce Code after January 31, the vision support organization must file an initial registration within ninety (90) days after the date of execution of a vision support agreement.

(d) The initial registration for a vision support organization that entered into a vision support agreement prior to February 1, 2024, must be filed not later than January 31, 2025.

(e) The initial registration for a vision support organization that first enters into a vision support agreement on or after February 1, 2024, must be filed not later than the ninetieth (90th) day after the date the agreement is executed.

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 June 6, 2024.

TRD-202402510

Adam Bitter

General Counsel

Office of the Secretary of State

Earliest possible date of adoption: July 21, 2024

For further information, please call: (512) 475-2813



SUBCHAPTER C. STATEMENT OF CORRECTION

1 TAC §107.4

STATUTORY AUTHORITY

The proposed new rules are authorized by Texas Government Code §2001.004(1) and Texas Business and Commerce Code §74.004(b). Texas Government Code §2001.004(1) requires a state agency to adopt rules of practice stating the nature and requirements of formal and informal procedures. Texas Business and Commerce Code §74.004(b) directs the Office to set the applicable VSO filing fees. The proposed new rules implement Chapter 74 of the Texas Business and Commerce Code.

CROSS REFERENCE TO STATUTE

No other statute, code, or article is affected by the proposed rules.

§107.4. Corrections.

(a) A vision support organization must submit a statement of correction semiannually if, during that period, any information provided in the initial registration or renewal registration, as applicable, changes.

(b) A statement of correction must include the following information:

(1) The legal name of the vision support organization;

(2) The date of the last filed registration;

(3) The registration number assigned by the secretary to the vision support organization; and

(4) A statement identifying the information that has changed.

(c) A vision support organization that is required to submit a statement of correction in accordance with subsection (a) of this section shall do so according to the following schedule:

(1) First half (January 1 - June 30) - Statement of correction due not later than the forty-fifth (45th) day after June 30.

(2) Second half (July 1 - December 31) - Statement of correction due not later than the forty-fifth (45th) day after December 31.

(d) The statement of correction must be signed by a person authorized to act by or on behalf of the vision support organization.

(e) The statement of correction must be accompanied by the filing fee stated in §107.5 of this chapter (relating to Filing Fees).

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 June 6, 2024.

TRD-202402511

Adam Bitter

General Counsel

Office of the Secretary of State

Earliest possible date of adoption: July 21, 2024

For further information, please call: (512) 475-2813



SUBCHAPTER D. FILING FEES

1 TAC §107.5

STATUTORY AUTHORITY

The proposed new rules are authorized by Texas Government Code §2001.004(1) and Texas Business and Commerce Code §74.004(b). Texas Government Code §2001.004(1) requires a state agency to adopt rules of practice stating the nature and requirements of formal and informal procedures. Texas Business and Commerce Code §74.004(b) directs the Office to set the applicable VSO filing fees. The proposed new rules implement Chapter 74 of the Texas Business and Commerce Code.

CROSS REFERENCE TO STATUTE

No other statute, code, or article is affected by the proposed rules.

§107.5. Filing Fees.

(a) The filing fee for an initial registration or a renewal registration is \$150.

(b) The filing fee for a statement of correction is \$50.

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 June 6, 2024.

TRD-202402512

Adam Bitter

General Counsel

Office of the Secretary of State

Earliest possible date of adoption: July 21, 2024

For further information, please call: (512) 475-2813



TITLE 10. COMMUNITY DEVELOPMENT

PART 5. OFFICE OF THE GOVERNOR, ECONOMIC DEVELOPMENT AND TOURISM OFFICE

CHAPTER 190. GOVERNOR'S UNIVERSITY RESEARCH INITIATIVE GRANT PROGRAM SUBCHAPTER C. APPLICATION, REVIEW AND AWARD PROCESS

10 TAC §190.20

The Office of the Governor ("OOG") proposes an amendment to 10 TAC §190.20. The proposed amendment will specify the deadline for submitting an application.

EXPLANATION OF PROPOSED AMENDMENT

The rule under consideration relates to the Governor's University Research Initiative ("GURI"), which was implemented to create and administer the GURI grant program, as enacted by Senate Bill 632 and House Bills 7 and 26 during the 84th Legislature, Regular Session, to facilitate the recruitment of distinguished researchers to eligible Texas universities.

The proposed amendment to §190.20 specifies that an application must be submitted not later than the 30th day before the distinguished researcher begins employment at the eligible institution. This will ensure that an application for a GURI grant award is considered during the recruitment stage. It will also give the GURI Advisory Board sufficient time to make its recommendations to the Office of the Governor prior to the distinguished researcher beginning employment.

FISCAL NOTE

Adriana Cruz, Executive Director, Texas Economic Development and Tourism Office, has determined that during each year of the first five years in which the proposed amendment is in effect, there will be no expected fiscal impact on state and local governments as a result of enforcing or administering the proposed amendment.

Ms. Cruz does not anticipate any measurable effect on local employment or the local economy as a result of the proposed amendment.

PUBLIC BENEFIT AND COSTS

Ms. Cruz has also determined that during each year of the first five years in which the proposed amendment is in effect, the public benefit anticipated as a result of the proposed rule change will be to ensure that GURI funds are used for recruitment as intended by Education Code, Subchapter H. There are no anticipated economic costs for persons required to comply with the proposed rule.

Ms. Cruz has determined there may be a positive fiscal impact on the state of Texas as a result of the proposed rule, as it ensures that GURI grant awards are used for recruitment purposes and not retention.

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities. Since the OOG has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, is not required.

GOVERNMENT GROWTH IMPACT STATEMENT

Ms. Cruz has determined that during each year of the first five years in which the proposed amendment is in effect, the amendment:

- 1) will not create or eliminate a government program;
- 2) will not require the creation of new employee positions or the elimination of existing employee positions;

- 3) will not require an increase or decrease in future legislative appropriations to the OOG;
- 4) will not require an increase or decrease in fees paid to the OOG;
- 5) does not create new regulations;
- 6) will not expand, limit, or repeal a existing regulations;
- 7) will not increase or decrease the number of individuals subject to the applicability of the rule; and
- 8) will not positively or adversely affect the Texas economy.

TAKINGS IMPACT ASSESSMENT

The OOG has determined that no private real property interests are affected by the proposed rule and the proposed rule does not restrict, limit, or impose a burden on an owner's rights to the owner's private real property that would otherwise exist in the absence of government action. As a result, the proposed amendment does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

SUBMISSION OF COMMENTS

Written comments regarding the proposed rule amendment may be submitted for 30 days following the date of publication of this notice by mail to Terry Zrubek, Deputy Executive Director, Office of the Governor, Economic Development and Tourism, P.O. Box 12428, Austin, Texas 78711 or by email to Terry.Zrubek@gov.texas.gov with the subject line "GURI Rule Review." The deadline for receipt of comments is 5:00 p.m., Central Time, on July 21, 2024.

STATUTORY AUTHORITY

The amendment is proposed under section 62.162 of the Texas Education Code, which authorizes the Texas Economic Development and Tourism Office, in consultation with the Texas Higher Education Coordinating Board, to adopt rules necessary to administer GURI.

CROSS REFERENCE TO STATUTE

Chapter 62 of the Texas Education Code.

§190.20. Application Process.

- (a) The OOG will maintain a formal application available electronically at the OOG website.
- (b) At any time, the OOG may change the terms of the formal application document. Any applicant may be required to provide supplemental information if the formal application document is changed by the OOG.
- (c) At [H] the discretion of the OOG, applications may be accepted by a specified deadline or on a rolling basis [~~rolling basis~~]. The OOG will post notice of the application schedule of the GURI program at the OOG website.
- (d) An application must be submitted not later than the 30th day before the distinguished researcher begins employment at the eligible institution.

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 June 5, 2024.
TRD-202402488

Adriana Cruz
Executive Director, Texas Economic Development and Tourism Office
Office of the Governor, Economic Development and Tourism Office
Earliest possible date of adoption: July 21, 2024
For further information, please call: (512) 936-0100



TITLE 16. ECONOMIC REGULATION

PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION

CHAPTER 130. PODIATRIC MEDICINE PROGRAM

The Texas Department of Licensing and Regulation (Department) proposes amendments to existing rules at 16 Texas Administrative Code (TAC) Chapter 130, Subchapter A, §§130.1 and §130.2; Subchapter B, §§130.20, 130.23, 130.27, and 130.28; Subchapter C, §130.30 and §130.32; Subchapter D §§130.40 - 130.42; Subchapter E, §§130.50, 130.51, 130.54, 130.55, and §§130.57 - 130.59; Subchapter F, §130.60; and Subchapter G, §§130.70, 130.72, and 130.73; proposes new rules at Subchapter B, §§130.21, 130.22, and 130.24, Subchapter C, §§130.31, 130.34 - 130.37; and Subchapter D, §§130.43 - 130.48; and proposes the repeal of existing rules at Subchapter B, §§130.21, 130.22, and 130.24, Subchapter C, §130.31, Subchapter D, §§130.43 - 130.49; and Subchapter E, §130.52 and §130.53, regarding the Podiatric Medicine Program. These proposed changes are referred to as "proposed rules."

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The rules under 16 TAC, Chapter 130, implement Texas Occupations Code, Chapter 202, Podiatrists; and Chapter 51, the enabling statute of the Texas Commission of Licensing and Regulation (Commission) and the Department. Specific provisions within this rule chapter also implement the statutory requirements under Texas Occupations Code, Chapters 53, 108, 112, 116, and 601.

The proposed rules are necessary to implement changes recommended as a result of the required four-year rule review conducted under Texas Government Code §2001.039. The Department's Notice of Intent to Review 16 TAC, Chapter 130, was published in the September 3, 2021, issue of the *Texas Register* (46 TexReg 5598). At its meeting on October 18, 2022, the Commission readopted the rule chapter in its entirety without changes. The readoption notice was published in the February 25, 2022, issue of the *Texas Register* (47 TexReg 988).

In response to the Notice of Intent to Review that was published, the Department received one public comment from one interested party regarding Chapter 130. The comment questioned whether there is a fee for an inactive status license. The comment has been addressed in the proposed rules by explaining that there is not a fee for an inactive license.

The proposed rules also include changes recommended by Department staff during the rule review process to reorganize and streamline the entire chapter. These recommendations include changes to consolidate the existing rules, reorganize provisions by subject matter, expand existing Subchapter C, eliminate duplicative provisions, and apply plain language principles to improve clarity.

The proposed rules also change the license terms for the Podiatric Medical Radiological Technician license, the Hyperbaric Oxygen Certificate, and the Nitrous Oxide/Oxygen Inhalation Conscious Sedation Registration. Beginning January 1, 2025, all three license types will change from one-year to two-year terms and application and renewal fees will be updated to reflect this change. Existing licenses renewed by the Department will be valid for one year if renewed before January 1, 2025, or for two years if renewed on or after January 1, 2025.

Advisory Board Recommendations

The proposed rules were presented to and discussed by the Podiatric Medical Examiners Advisory Board at its meeting on May 13, 2024. The Advisory Board did not make any changes to the proposed rules. The Advisory Board voted and recommended that the proposed rules be published in the *Texas Register* for public comment.

SECTION-BY-SECTION SUMMARY

Subchapter A. General Provisions.

The proposed rules amend §130.1, Authority. The proposed rules change the name of the section from "Authority" to "Authority and Applicability." The proposed rules amend subsection (a) to identify other statutes that are implemented by the rules in Chapter 130. The proposed rules also add new subsection (b) to explain that the Chapters 60 and 100 rules also apply to the Podiatry program.

The proposed rules amend §130.2, Definitions. The proposed rules update the definition of "Podiatric Medical Radiological Technician" to clarify that the term includes a *Podiatry X-ray Machine Operator*. The proposed rules update the definition of "Practitioner" to clarify that the term includes a podiatrist and a podiatric physician. The proposed rules also remove unnecessary language from the definition of "Act" and add clarifying language to the definition of "License."

Subchapter B. Advisory Board.

The proposed rules amend §130.20, Board Membership. The proposed rules streamline this section by referring to the Occupations Code instead of repeating it verbatim.

The proposed rules repeal existing §130.21, Public Member Eligibility. This section is replaced with new §130.21, Public Member Eligibility.

The proposed rules add new §130.21, Public Member Eligibility. The proposed rules streamline this section by referring to the Occupations Code instead of repeating it verbatim.

The proposed rules repeal existing §130.22, Membership and Employee Restrictions. This section is replaced with new §130.22, Membership and Employee Restrictions.

The proposed rules add new §130.22, Membership and Employee Restrictions. The proposed rules streamline this section by referring to the Occupations Code instead of repeating it verbatim.

The proposed rules amend §130.23, Terms; Vacancies. The proposed rules streamline this section by referring to the Occupations Code instead of repeating it verbatim.

The proposed rules repeal existing §130.24, Grounds for Removal. This section is replaced with new §130.24, Grounds for Removal.

The proposed rules add new §130.24, Grounds for Removal. The proposed rules streamline this section by referring to the Occupations Code instead of repeating it verbatim.

The proposed rules amend §130.27, Advisory Board Meetings and Duties of Department. The proposed rules merge subsection (i) into subsection (g).

The proposed rules amend §130.28, Training. The proposed rules streamline this section by referring to the Occupations Code instead of repeating it verbatim.

Subchapter C. Temporary Residency and Other License Types.

The proposed rules amend Subchapter C, Temporary Residency. The proposed rules rename Subchapter C from "Temporary Residency" to "Temporary Residency and Other License Types," which now includes requirements for a Limited Faculty License, for a Podiatric Medical Radiological Technician Registration, for a Hyperbaric Oxygen Certificate, and for a Nitrous Oxide/Oxygen Inhalation Conscious Sedation Registration.

The proposed rules amend §130.30, Temporary Residency License--General Requirements and Application. The proposed rules remove the word "successfully" and replace the word "shall" with "must."

The proposed rules repeal existing §130.31, Temporary Residency License--Residency Requirements; Program Responsibilities; License Term. This section is replaced with new §130.31, Temporary Residency License--License Term; Residency Requirements; Program Responsibilities.

The proposed rules add new §130.31, Temporary Residency License--License Term; Residency Requirements; Program Responsibilities. The proposed rules rename the section from "Temporary Residency License--Residency Requirements; Program Responsibilities; License Term" to "Temporary Residency License--License Term; Residency Requirements; Program Responsibilities." The proposed rules rearrange the order of the section to increase readability.

The proposed rules amend §130.32, Temporary Residency License--Final Year of Residency. The proposed rules streamline the section to increase readability, rearrange the order of the section, and establish requirements a resident must follow in their final year of residency.

The proposed rules add new §130.34, Limited Faculty License--Requirements; License Term. The proposed rules create a standalone section for a limited faculty license by relocating existing §130.40(b) and §130.42(d) to this section. The proposed rules explain the requirements for procuring a limited faculty license and establish that the term of this license is up to two years. The proposed rules also establish when a limited faculty license will be terminated and that termination does not preclude a podiatrist from applying for or holding another license type issued under this subchapter.

The proposed rules add new §130.35, Podiatric Medical Radiological Technicians. The proposed rules relocate existing §130.53 to this section and update the number of training hours needed for podiatric medical radiological technicians. The proposed rules also change the length of the registration term from one year to two years. A registration is valid for one year if the registration was issued before January 1, 2025, or two years if the registration was issued on or after January 1, 2025. Similarly, the proposed rules establish that a registration

renewed by the department is valid for one year if the renewal was issued before January 1, 2025, and must be renewed annually, or two years if the renewal was issued on or after January 1, 2025, and must be renewed every two years. The proposed rules explain the process for completing a renewal application, establish that human trafficking prevention training is required for each renewal, and explain when the department may refuse to issue or renew a registration.

The proposed rules add new §130.36, Hyperbaric Oxygen Certificate--Application Requirements and Guidelines. The proposed rules relocate existing §130.47 to this section and change the length of the certificate term from one year to two years. A certificate is valid for one year if the certificate was issued before January 1, 2025, or two years if the certificate was issued on or after January 1, 2025. Similarly, the proposed rules establish that a certificate renewed by the department is valid for one year if the renewal was issued before January 1, 2025, and must be renewed annually, or two years if the renewal was issued on or after January 1, 2025, and must be renewed every two years.

The proposed rules add new §130.37, Nitrous Oxide/Oxygen Inhalation Conscious Sedation-Registration Requirements, Guidelines, and Direct Supervision. The proposed rules relocate existing §130.48 to this section and change the length of the certificate term from one year to two years. A registration is valid for one year if the registration was issued before January 1, 2025, or two years if the registration was issued on or after January 1, 2025. Similarly, the proposed rules establish that a registration renewed by the department is valid for one year if the renewal was issued before January 1, 2025, and must be renewed annually, or two years if the renewal was issued on or after January 1, 2025, and must be renewed every two years.

Subchapter D. Doctor of Podiatric Medicine.

The proposed rules amend §130.40, Doctor of Podiatric Medicine License--General Requirements and Application; Limited Faculty License. The proposed rules change the name of the section from "Doctor of Podiatric Medicine License--General Requirements and Applications; Limited Faculty License" to "Doctor of Podiatric Medicine License--General Requirements and Application." The proposed rules relocate the limited faculty license language to new §130.34 and streamline the remaining language to make it easier to read.

The proposed rules amend §130.41, Doctor of Podiatric Medicine License--Jurisprudence Exam. The proposed rules replace the word "shall" with "must."

The proposed rules amend §130.42, Doctor of Podiatric Medicine License--Term; Renewal. The proposed rules remove language relating to a limited faculty license and relocate it to new §130.34. The proposed rules also remove outdated language and add clarifying language.

The proposed rules repeal existing §130.43, Doctor of Podiatric Medicine License--Provisional License. This section is replaced with new §130.43, Doctor of Podiatric Medicine License--Provisional License.

The proposed rules add new §130.43, Doctor of Podiatric Medicine License--Provisional License. The proposed rules remove duplicative language located elsewhere in the chapter and streamline the remaining language to make it easier to read.

The proposed rules repeal existing §130.44, Continuing Medical Education--General Requirements. This section is replaced with

new §130.44, Continuing Medical Education--General Requirements.

The proposed rules add new §130.44, Continuing Medical Education--General Requirements. The proposed rules streamline the section and relocate the continuing medical education audit process to new §130.45.

The proposed rules repeal §130.45, Continuing Medical Education--Exceptions and Allowances; Approval of Hours. The proposed rules relocate the repealed provisions to new §130.46.

The proposed rules add new §130.45, Continuing Medical Education--Audit Process. The proposed rules relocate audit information from current §130.44 and establish that the Department will select random license holders to ensure compliance with CME hours.

The proposed rules repeal §130.46, Inactive Status. The proposed rules relocate the repealed provisions to new §130.47.

The proposed rules add new §130.46, Continuing Medical Education--Exceptions and Allowances; Approval of Hours. The proposed rules relocate the requirements of existing §130.45 to this new section.

The proposed rules repeal §130.47, Hyperbaric Oxygen Certificate--Application Requirements and Guidelines. The proposed rules relocate the repealed provisions to new §130.36.

The proposed rules add new §130.47, Inactive Status. The proposed rules relocate the requirements of existing §130.46 to this new section and establish that a practitioner may place a license on inactive status at no cost.

The proposed rules repeal §130.48, Nitrous Oxide/Oxygen Inhalation Conscious Sedation--Registration Requirements, Guidelines, and Direct Supervision. The proposed rules relocate the repealed provisions to new §130.37.

The proposed rules add new §130.48, Voluntary Charity Care Status. The proposed rules relocate the requirements of existing §130.49 to this new section.

The proposed rules repeal §130.49, Voluntary Charity Care Status. The proposed rules relocate the repealed provisions to new §130.48.

Subchapter E. Practitioner Responsibilities and Code of Ethics.

The proposed rules amend §130.50, Practitioner Identification; Professional Corporations or Associations. The proposed rules remove language regarding the purpose of this section and streamline the rest of the section to make it easier to read.

The proposed rules amend §130.51, Advertising. The proposed rules streamline the section and remove language relating to certifying boards that are not recognized by the Council of Podiatric Medical Education of the American Podiatric Medical Association.

The proposed rules repeal §130.52, Medical Offices, because the Department does not regulate medical offices, but individual licensees.

The proposed rules repeal §130.53, Podiatric Medical Radiological Technicians. The proposed rules relocate the repealed provisions to new §130.35.

The proposed rules amend §130.54, Records. The proposed rules streamline the section to make it easier to read.

The proposed rules amend §130.55, Practitioner Code of Ethics. The proposed rules add new subsection (g) to establish that treatment must be consistent with best practices and standards observed in the podiatry community.

The proposed rules amend §130.57, Sexual Misconduct. The proposed rules streamline the section to make it easier to read.

The proposed rules amend §130.58, Standards for Prescribing Controlled Substances and Dangerous Drugs. The proposed rules streamline the section to make it easier to read.

The proposed rules amend §130.59, Opioid Prescription Limits and Required Electronic Prescribing. The proposed rules streamline the section to make it easier to read.

Subchapter F. Fees.

The proposed rules amend §130.60, Fees. The proposed rules update the fees for the hyperbaric oxygen certificate, the nitrous oxide registration, and the podiatric medical radiological technician registration, because the certificate and registration terms are changed from one year to two years. The fees are \$25 if the certificate or registration is issued or renewed before January 1, 2025, or \$50 if the certificate or registration is issued or renewed on or after January 1, 2025. The proposed rules add a \$0 fee for an Inactive Status License (Initial and Renewal). The proposed rules also make clean-up changes to the cross-referenced fees under Chapter 60.

Subchapter G. Enforcement.

The proposed rules amend §130.70, Complaints and Claims. The proposed rules replace the word "shall" with "must" and streamline the section to make it easier to read.

The proposed rules amend §130.72, Administrative Penalties and Sanctions. The proposed rules clarify that a person or entity who violates or attempts to violate the Occupations Code, this chapter, or any rule of the commission may face proceedings against them.

The proposed rules amend §130.73, Conditions of Suspension of License. The proposed rules streamline the section to make it easier to read.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

State Government Costs and Revenues

Tony Couvillon, Policy Research and Budget Analyst, has determined that for each year of the first five years the proposed rules are in effect, there are no estimated additional costs or reductions in costs to state government as a result of enforcing or administering the proposed rules. Any activities required to implement the proposed rule changes, if any, are one-time program administration tasks that are routine in nature, such as modifying or revising publications or website information, which will also not result in an increase or decrease in program costs.

Mr. Couvillon has determined that for each year of the first five years the proposed rules are in effect, the only increase in revenue to state government will occur in the latter eight months of the first fiscal year, by approximately \$4,200. The revenue in all subsequent fiscal years will be approximately the same as current revenue amounts.

The increase in revenue is a result of the proposed rules doubling the length of the license term for the Registered Podiatric Medical Radiological Technician registration, the Hyperbaric Oxygen certificate, and the Nitrous Oxide/Oxygen Inhalation Conscious

Sedation registration. The application fees for these licenses will need to double as well, to keep the amount of revenue for the administration of the program consistent. The increase in revenue will occur when some of the licensee population will pay application fees that are doubled, when, prior to the adoption of the proposed rules, these applicants would not have paid doubled fees.

Mr. Couvillon has determined that for each year of the first five years the proposed rules are in effect, there is no estimated loss in revenue to the state as a result of enforcing or administering the proposed rules. The proposed rules do not create a revenue loss, as they do not eliminate or decrease any fees assessed by the licensing program.

Local Government Costs and Revenues

Mr. Couvillon has determined that for each year of the first five years the proposed rules are in effect, enforcing or administering the proposed rules does not have foreseeable implications relating to costs or revenues of local governments. There is no impact to local government costs or revenues because local governments are not responsible for any regulation of podiatry.

LOCAL EMPLOYMENT IMPACT STATEMENT

Because Mr. Couvillon has determined that the proposed rules will not affect a local economy, the agency is not required to prepare a local employment impact statement under Texas Government Code §2001.022. The proposed rules have no anticipated impact on the local economy because they are not anticipated to increase or decrease employment opportunities for professionals licensed under Texas Occupations Code Chapter 202 in any area of the state or increase or decrease the number of individuals who may choose to become licensed in the podiatry program.

PUBLIC BENEFITS

Mr. Couvillon also has determined that for each year of the first five-year period the proposed rules are in effect, the public benefit will be an effective and efficient regulatory program for podiatry, which protects the health, safety, and welfare of the citizens of Texas. The proposed rules clarify, streamline, and reorganize the rules to make them more user friendly for licensees and the public. The proposed rules also change the license terms for the Registered Podiatric Medical Radiological Technician licenses, the Hyperbaric Oxygen certificates, and the Nitrous Oxide/Oxygen Inhalation Conscious Sedation registrations, thereby allowing these persons to renew their licenses every other year instead of renewing every year.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

Mr. Couvillon has determined that for each year of the first five-year period the proposed rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules. The proposed rules have no economic costs to persons who are license holders, businesses, or the general public in Texas. The rules do not impose additional fees upon licensees, nor do they create requirements that could cause licensees to expend funds for equipment, technology, staff, supplies or infrastructure.

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposed rules. Because the agency has determined that

the proposed rules will have no adverse economic effect on small businesses, micro-businesses, or rural communities, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, are not required.

The proposed rules have no anticipated adverse economic effect on small businesses or micro-businesses because they do not impose additional fees upon licensees or small or micro-businesses, nor do they create requirements that would cause licensees or those businesses to expend funds for equipment, staff, supplies, or infrastructure. Additionally, the proposed rules have no anticipated adverse economic effect on rural communities because the rules will not decrease the availability of podiatric medical services, nor will the rules increase the cost of those services in rural communities.

ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT

The proposed rules do not have a fiscal note that imposes a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, the agency is not required to take any further action under Texas Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Texas Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for the proposed rules. For each year of the first five years the proposed rules will be in effect, the agency has determined the following:

1. The proposed rules do not create or eliminate a government program.
2. Implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions.
3. Implementation of the proposed rules does not require an increase or decrease in future legislative appropriations to the agency.
4. The proposed rules do not require an increase or decrease in fees paid to the agency. The proposed rules change some fee amounts, but also change how often they are paid, so there is no actual increase or decrease in fees paid to the agency.
5. The proposed rules do not create a new regulation.
6. The proposed rules do expand, limit, or repeal an existing regulation. The proposed rules repeal an existing regulation regarding podiatric medical offices.
7. The proposed rules do not increase or decrease the number of individuals subject to the rules' applicability.
8. The proposed rules do not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

The Department has determined that no private real property interests are affected by the proposed rules and the proposed rules do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rules do not constitute a taking or require a takings impact assessment under Texas Government Code §2007.043.

PUBLIC COMMENTS

Comments on the proposed rules may be submitted electronically on the Department's website at <https://ga.tdlr.texas.gov:1443/form/gcerules>; by facsimile to (512) 475-3032; or by mail to Shamica Mason, Legal Assistant, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711. The deadline for comments is 30 days after publication in the *Texas Register*.

SUBCHAPTER A. GENERAL PROVISIONS

16 TAC §130.1, §130.2

STATUTORY AUTHORITY

The proposed rules are proposed under Texas Occupations Code, Chapters 51 and 202, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed rules are those set forth in Texas Occupations Code, Chapters 51, 53, 108, 112, 116, 202, and 601. No other statutes, articles, or codes are affected by the proposed rules.

§130.1. Authority and Applicability.

(a) This chapter is promulgated under the authority of the Texas Occupations Code, Chapters 51 and 202. Specific provisions within this chapter also implement the statutory requirements under Texas Occupations Code, Chapters 53, 108, 112, 116, and 601.

(b) In addition to this chapter, the rules under 16 TAC Chapter 60, Procedural Rules of the Commission and the Department, and 16 TAC Chapter 100, General Provisions for Health-Related Programs, are applicable to the Podiatric Medicine Program.

§130.2. Definitions.

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

- (1) Act--The Podiatric Medical Practice Act of Texas[; Texas Occupations Code, Chapter 202].
- (2) Advisory Board--The Podiatric Medical Examiners Advisory Board, Texas Occupations Code, Chapter 202.
- (3) Commission--The Texas Commission on Licensing and Regulation.
- (4) Continuing Medical Education (CME)--Educational activities which serve to maintain, develop, or increase the knowledge, skills, and professional performance and relationships that a practitioner uses to provide services for patients, the public, or the profession.
- (5) Department--The Texas Department of Licensing and Regulation.
- (6) Executive Director--The executive director of the department.
- (7) Graduate Podiatric Medical Education (GPME)--An accredited graduate podiatric medical education or residency training program.
- (8) License--The term includes a license, registration, certificate, or other authorization issued under the Act.
- (9) Medical Records--Any records, reports, notes, charts, x-rays, or statements pertaining to the history, diagnosis, evaluation,

treatment or prognosis of the patient including copies of medical records of other health care practitioners contained in the records of the practitioner to whom a request for release of records has been made.

(10) Podiatric Medical Radiological Technician--A person who performs only radiological podiatric procedures under the supervision of a practitioner. The term also includes Podiatry X-ray Machine Operator.

(11) Public Communication--Any written, printed, visual, or oral statement or other communication made or distributed, or intended for distribution, to a member of the public.

(12) Practitioner--A person validly licensed by the department to practice podiatric medicine in the State of Texas. The term is used interchangeably with "Podiatrist" and "Podiatric Physician" in this chapter.

(13) Publication--Any and all public communications relating to the practitioner's practice, including but not limited to, advertisements, announcements, invitations, press releases, journal articles, periodical articles, leaflets, news stories, materials distributed by private or by United States mail, and signs or placards placed in public view or electronic submission.

(14) Solicitation--A private communication to a person concerning the performance of a podiatric service for such person.

(15) Supervision--Responsibility for the control of quality, radiation safety and protection, and technical aspects of podiatric radiological procedures utilized in podiatric medicine for diagnostic purposes.

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 June 7, 2024.

TRD-202402537

Doug Jennings

General Counsel

Texas Department of Licensing and Regulation

Earliest possible date of adoption: July 21, 2024

For further information, please call: (512) 463-7750



SUBCHAPTER B. ADVISORY BOARD

16 TAC §§130.20 - 130.24, 130.27, 130.28

STATUTORY AUTHORITY

The proposed rules are proposed under Texas Occupations Code, Chapters 51 and 202, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed rules are those set forth in Texas Occupations Code, Chapters 51, 53, 108, 112, 116, 202, and 601. No other statutes, articles, or codes are affected by the proposed rules.

§130.20. *Board Membership.*

[(a)] The Podiatric Medical Examiners Advisory Board consists of nine members appointed by the governor as prescribed by Occupations Code §202.051. [follows:]

[(1) six members who are licensed in this state to practice podiatry and have been actively engaged in the practice of podiatry for the five years preceding appointment; and]

[(2) three members who represent the public.]

[(b) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.]

§130.21. *Public Member Eligibility.*

If a person or the person's spouse meets any of the specifications prescribed by Occupations Code §202.053, the person is not eligible for appointment as a public member of the advisory board.

§130.22. *Membership and Employee Restrictions.*

If a person meets any of the specifications prescribed by Occupations Code §202.054, the person may not be a member of the advisory board.

§130.23. *Terms; Vacancies.*

(a) Members of the advisory board serve staggered six-year terms as prescribed by Occupations Code §202.056. [~~with the term of three members expiring on February 1 of each odd numbered year. At the expiration of the term of each member, the governor shall appoint a successor.~~]

(b) If a vacancy occurs during a term, the governor shall appoint a replacement as prescribed by Occupations Code §202.056. [~~who meets the qualifications of the vacated position to serve for the remainder of the term.~~]

§130.24. *Grounds for Removal.*

If a member meets any of the specifications prescribed by Occupations Code §202.056, it is a ground for removal from the advisory board.

§130.27. *Advisory Board Meetings and Duties of Department.*

(a) The advisory board shall meet at the call of the presiding officer of the commission or the executive director.

(b) The department will present the following documents, including any updates or revisions, to the advisory board for its input and recommendation:

(1) The penalty matrix for podiatry to be included in the department's Enforcement Plan; and

(2) Criminal Conviction Guidelines (Guidelines for Applicants with Criminal Convictions) for podiatry.

(c) The department will provide information regarding the general investigative, enforcement, or disciplinary procedures of the department or commission to the advisory board in the following manner:

(1) At advisory board meetings, the department will provide a report on recent enforcement activities, including:

(A) a brief description of final orders entered in enforcement cases; and

(B) statistics on complaints received, disposition of cases, and any sanctions or administrative penalties assessed;

(2) On request of the advisory board, the department will provide additional information:

(A) during the staff report portion of the advisory board meeting; or

(B) by placing a discussion item on the agenda for a future advisory board meeting; or

(3) The department may provide information directly to an individual member of the advisory board in response to a request from that member.

(d) The commission may not adopt a new rule relating to the scope of practice of, a health-related standard of care for, or the ethical practice of the profession of podiatry unless the rule has been proposed by the advisory board.

(e) Under Occupations Code §51.2032(b) and (c), the advisory board may propose a rule described by subsection (d) according to the following procedure:

(1) The advisory board, by a majority vote of the members present and voting at a meeting at which a quorum is present, shall either:

(A) recommend that the rule be published in the *Texas Register* for public comment; or

(B) if the rule has been published and after considering the public comments, make a recommendation to the commission concerning adoption of the rule;

(2) The rule must be within the commission's legal authority to adopt; and

(3) The department may make non-substantive, editorial changes to the rule as necessary.

(f) The commission shall either adopt the rule as proposed by the advisory board under subsection (e), with any non-substantive, editorial changes made by the department under subsection (e)(3), or return the rule to the advisory board for revision.

(g) The department will establish an advisory board work group to review and make recommendations regarding continuing education requirements. Opinions or recommendations made will be presented to the full advisory board for discussion.

(h) The department may obtain additional expertise from one or more of the following sources:

(1) a former member of the advisory board;

(2) a department staff expert; or

(3) an outside expert with relevant education, training, or experience.

~~[(i) Opinions or recommendations made under subsection (g) will be presented to the full advisory board for discussion.]~~

§130.28. *Training.*

~~[(a)] A person who is appointed to and qualifies for office as a member of the advisory board may not vote, deliberate, or be counted as a member in attendance at a meeting of the advisory board until the person completes a training program that complies with Occupations Code, §202.061 [this section].~~

~~[(b) The training program must provide the person with information regarding:]~~

~~[(1) this chapter;]~~

~~[(2) the department's programs, functions, and rules with respect to this chapter;]~~

~~[(3) the results of the most recent formal audit of the department with respect to this chapter;]~~

~~[(4) the scope and limitations on the rulemaking authority of the advisory board;]~~

~~[(5) the types of rules, interpretations, and enforcement actions that may implicate federal Antitrust law by limiting competition or impacting prices charged by persons engaged in a profession or business regulated under this chapter, including rules, interpretations, and enforcement actions that:]~~

~~[(A) regulate the scope of practice of persons in a profession or business regulated under this chapter;]~~

~~[(B) restrict advertising by persons in a profession or business regulated under this chapter;]~~

~~[(C) affect the price of goods or services provided by persons in a profession or business regulated under this chapter; and]~~

~~[(D) restrict participation in a profession or business regulated under this chapter;]~~

~~[(6) the requirements of:]~~

~~[(A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest; and]~~

~~[(B) other laws applicable to members of the advisory board in performing the members' duties; and]~~

~~[(7) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.]~~

~~[(e) The executive director shall create a training manual that includes the information required by subsection (b). The executive director shall distribute a copy of the training manual annually to each advisory board member. On receipt of the training manual, each advisory board member shall sign and submit to the executive director a statement acknowledging receipt of the training manual.]~~

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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16 TAC §§130.21, 130.22, 130.24

STATUTORY AUTHORITY

The proposed repeals are proposed under Texas Occupations Code, Chapters 51 and 202, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed repeals are those set forth in Texas Occupations Code, Chapters 51, 53, 108, 112, 116, 202, and 601. No other statutes, articles, or codes are affected by the proposed repeals.

§130.21. *Public Member Eligibility.*

§130.22. *Membership and Employee Restrictions.*

§130.24. *Grounds for Removal.*

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SUBCHAPTER C. TEMPORARY RESIDENCY

16 TAC §§130.30 - 130.32, 130.34 - 130.37

STATUTORY AUTHORITY

The proposed rules are proposed under Texas Occupations Code, Chapters 51 and 202, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed rules are those set forth in Texas Occupations Code, Chapters 51, 53, 108, 112, 116, 202, and 601. No other statutes, articles, or codes are affected by the proposed rules.

§130.30. Temporary Residency License--General Requirements and Application.

(a) A person who is enrolled in an accredited graduate podiatric medical education (GPME) program in Texas must hold a temporary residency license.

(b) The GPME program must be accredited by the Council on Podiatric Medical Education of the American Podiatric Medical Association.

(c) An applicant granted a temporary residency license for the purpose of pursuing a GPME program in the State of Texas must [shall] not engage in the practice of podiatric medicine, whether for compensation or free of charge, outside the scope and limits of the GPME program in which the applicant is enrolled.

(d) A temporary residency license granted by the department for the purpose of pursuing a GPME program in the State of Texas is valid until the licensee leaves or is terminated from said GPME program.

(e) All temporary residency licensees shall be subject to the same fees and penalties as all other licensees as set forth in the Act and this chapter, except that temporary residency licensees are not subject to continuing medical education requirements.

(f) To be eligible for a temporary residency license an applicant must:

(1) be at least 21 years of age;

(2) pass [successfully complete] at least 90 semester hours of undergraduate college courses acceptable at the time of completion for credit toward a bachelor's degree at an institution of higher education determined by the department to have acceptable standards;

(3) [successfully] graduate from a reputable college of podiatry approved by the Council on Podiatric Medical Education of the

American Podiatric Medical Association, and the college must have been so approved during the entire period of the applicant's course of instruction;

(4) [successfully] pass all required sections of the American Podiatric Medical Licensing Examination;

(5) pay all applicable fees;

(6) submit a completed application in a form and manner prescribed by the department [on a department-approved form];

(7) submit all transcripts of relevant college coursework, acceptable to the department;

(8) [successfully] pass a criminal history background check performed by the department;

(9) provide proof of successful completion of a course in cardiopulmonary resuscitation (CPR);

(10) complete the "Memorandum of Understanding for Approved Residency Program";

(11) complete the "Certificate of Acceptance for Postgraduate Training Program"; and

(12) [successfully] pass a National Practitioner Data Bank query check performed by the department.

(g) The department approves and adopts by reference the Standards and Requirements for Approval of Residencies in Podiatric Medicine and Surgery and Procedures for Approval of Residencies in Podiatric Medicine and Surgery adopted by the Council on Podiatric Medical Education of the American Podiatric Medical Association.

(h) The department approves and adopts by reference the Standards and Requirements for Accrediting Colleges of Podiatric Medicine and Procedures for Accrediting Colleges of Podiatric Medicine adopted by the Council on Podiatric Medical Education of the American Podiatric Medical Association.

(i) The applicant must [shall] submit evidence sufficient for the department to determine that the applicant has met all the requirements and any other information reasonably required by the department. Any application, diploma or certification, or other document required to be submitted to the department that is not in the English language must be accompanied by a certified translation into English.

§130.31. Temporary Residency License--License Term; Residency Requirements; Program Responsibilities.

(a) License term. A temporary residency license is valid for one year. The license holder must renew by submitting a completed renewal application in a form and manner prescribed by the department and paying the required fee under §130.60. The annual renewal application notification will be deemed to be written notice of the impending license expiration forwarded to the person at the person's last known address. A temporary residency license to practice podiatric medicine expires on June 30 of each year.

(b) Temporary residency license responsibilities. A temporary residency license holder is not considered to be a fully licensed podiatrist who independently practices podiatric medicine without supervision. A temporary residency license holder is a person in training and is limited by the Graduate Podiatric Medical Education (GPME) program for residency based supervised patient encounters, supervision of which is designed to protect patients and the citizens of Texas.

(1) A person enrolled in a GPME program must hold a temporary residency license at all times and is not considered to be qualified for a Doctor of Podiatric Medicine license until all residency program requirements have been completed and fulfilled as certified by

the GPME program residency director, and all other requirements for licensure have been attained.

(2) Residents enrolled in an accredited GPME residency program who hold a temporary residency license (i.e. denoted with the letter "T" followed by numerals) may register with the U.S. Drug Enforcement Administration (DEA) to prescribe controlled substances subject to the supervision of the program and residency director. Under no circumstances are residents allowed to prescribe controlled substances for purposes outside of the approved residency program.

(c) Residency Requirements. All residency programs requesting temporary residency licenses for their enrollees must meet all American Podiatric Medical Association/Council on Podiatric Medical Education (APMA/CPME) requirements for accreditation.

(d) Residency director requirements. Within 30 days after the start date of the program each year, the residency director must report to the department a list of all residents enrolled in the program. The residency director will be held responsible for the entire program, including, but not limited to:

(1) ensuring that the temporary residency licensee is practicing within the scope of the residency program requirements;

(2) ensuring that the temporary residency licensee has read and understood the Act and rules governing the practice of podiatric medicine; and

(3) ensuring that all residency program attendees are properly licensed with the department prior to participation in the program.

§130.32. Temporary Residency License--Final Year of Residency.

(a) A holder of a temporary residency license who has entered the final year of an accredited GPME program, [who] is in good standing with the GPME program, and [who] is on course to complete the course in a timely manner, is [may be] permitted to apply for the Doctor of Podiatric Medicine license in the spring, if [provided that] the resident has entered and signed the "Memorandum of Understanding for Conditional Issuance of Texas Doctor of Podiatric Medicine License" (MOU).

(b) A holder of a temporary residency license who passes the jurisprudence examination, [and who] is in compliance with the resident's MOU(s), and [who] meets all other requirements of the law regarding licensure may be issued a Doctor of Podiatric Medicine license prior to completion of the last year of the residency. The Doctor of Podiatric Medicine license issued under this subsection will be subject to the resident's MOU and to the following conditions and restrictions[, in addition to any other provisions in statute and rule applicable to a license to practice podiatry, in general that]:

(1) the resident must pass [successfully complete] and graduate from the resident's accredited GPME program by the date noted in the resident's MOU; [with the department, and]

(2) the resident must submit [to the department] proof of passage [successful completion] and graduation to the department within 30 days after the end date of the residency as noted on the MOU. Failure to timely provide the required proof to the department [requires] subjects the Doctor of Podiatric Medicine license to automatic revocation; [and]

(3) [(2)] the resident must [who has received a Doctor of Podiatric Medicine license prior to successful completion and graduation from an accredited GPME program, and for such period of time while still a resident, shall] practice podiatry only under the temporary residency license, and subject to the scope and limits of the GPME program, and must [shall] not practice podiatry under the Doctor of

Podiatric Medicine license until after passage [successful completion] and graduation from the GPME program and after providing to the department proof of such completion and graduation; and [-]

(4) the resident must comply with any other provisions in statute and rule applicable to a license to practice podiatry.

§130.34. Limited Faculty License--Requirements; License Term.

(a) Requirements. The department may issue a limited faculty license to practice podiatry only for purposes of instruction in an educational institution to a podiatrist who has not completed the jurisprudence examination required in §130.40(a)(5), if the applicant:

(1) at the time of applying for a limited faculty license has accepted an appointment or is serving as a full-time member of the faculty of an educational institution in this state offering an approved or accredited course of study or training leading to a degree in podiatry;

(2) holds a license to practice podiatry from another state with licensing requirements that are substantially equivalent to the requirements established by this subchapter; and

(3) otherwise satisfies the requirements of this section.

(b) License Term. A limited faculty license to practice podiatry is valid for two years.

(1) The department will terminate a limited faculty license immediately upon receiving notice that the faculty appointment of the podiatrist holding the license is terminated.

(2) The termination of a limited faculty license does not prohibit or otherwise impair the ability of a podiatrist to apply for or hold another license type issued under this subchapter.

§130.35. Podiatric Medical Radiological Technicians.

(a) This section implements Texas Occupations Code, Chapter 601. This section does not apply to persons certified by the Texas Medical Board under the Medical Radiologic Technologist Certification Act who are Non-Certified Technicians (NCTs), Certified Medical Radiologic Technologists (MRTs), or Limited Medical Radiologic Technologists (LMRTs).

(b) It is the practitioner's responsibility to ensure that all individuals wishing to perform podiatric radiological procedures are properly trained and apply for registration with the department as a podiatric medical radiological technician. For the purposes of this section, the term Podiatric X-ray Machine Operator, (PXMO) is synonymous with podiatric medical radiological technicians.

(c) Podiatric equipment training course providers and standards for curricula and instructors must be approved by the department.

(d) A podiatric medical radiological technician applicant must:

(1) be 18 years of age or older;

(2) successfully complete, at a minimum, the following 45 hours of clinical and didactic training requirements and provide proof of completion to the department:

(A) five classroom hours and five out-of-classroom hours of radiation safety and protection for the patient, self, and others;

(B) five classroom hours and five out-of-classroom hours of radiographic equipment used in podiatric medicine, including safety standards, operation, and maintenance;

(C) 10 classroom hours and 10 out-of-classroom hours in podiatric radiologic procedures, imaging production and evaluation; and

(D) three classroom hours and two out-of-classroom hours in methods of patient care and management essential to radiologic procedures, excluding CPR, BCLS, ACLS and similar subjects; and

(3) submit a completed application in a form and manner prescribed by the department; and

(4) pay the required fee under §130.60.

(e) A supervising podiatrist must:

(1) verify the student's out-of-classroom training hours;

(2) require the student to maintain a log demonstrating the successful production of x-rays in the clinical setting;

(3) oversee the student's successful production of at least 90 x-rays in the clinical setting; and

(4) sign the log

(f) A podiatric medical radiological technician must hold a registration and must perform only podiatric radiological procedures.

(g) A podiatric medical radiological technician registrant must perform radiological procedures only under the supervision of a practitioner physically present on the premises.

(h) A podiatric medical radiological technician registrant must not perform any dangerous or hazardous procedures as identified by the Texas Medical Board.

(i) A podiatric medical radiological technician registrant must comply with the safety rules of the Texas Department of State Health Services, Radiation Control Program relating to the control of radiation.

(j) Registration Term and Renewal. A registration is valid for one or two years.

(1) A registration is valid for one year if the registration was issued before January 1, 2025, or two years if the registration was issued on or after January 1, 2025.

(2) A registration renewed by the department is valid for:

(A) one year, if the registration was renewed before January 1, 2025; or

(B) two years, if the registration was renewed on or after January 1, 2025.

(3) A registration renewal is completed by submitting a registration renewal application in a form and manner prescribed by the department and paying the required fee under §130.60.

(4) For each registration renewal, a podiatric medical radiological technician must complete the human trafficking prevention training required under Occupations Code, Chapter 116, and provide proof of completion as prescribed by the department.

(k) A podiatric medical radiological technician registrant must inform the department of any address change or change of supervising podiatric physician within two weeks.

(l) The department may refuse to issue or renew a registration to an applicant or a podiatric medical radiological technician who:

(1) violates or attempts to violate the Podiatric Medical Practice Act of Texas, the rules, an order of the executive director or commission previously entered in a disciplinary proceeding, or an order to comply with a subpoena issued by the department;

(2) violates or attempts to violate the Medical Radiologic Technologist Certification Act, or the rules promulgated by the Texas Medical Board;

(3) violates or attempts to violate the rules of the Texas Department of State Health Services for Control of Radiation, as prescribed by Health and Safety Code, Chapter 401;

(4) obtains, attempts to obtain, or uses a registration by bribery or fraud;

(5) engages in unprofessional conduct, including but not limited to, conviction of a crime or commission of any act that is in violation of the laws of the State of Texas if the act is connected with provision of health care;

(6) develops or has an incapacity that prevents the practice of a podiatric medical radiological technician with reasonable skill, competence, and safety to the public as a result of:

(A) an illness;

(B) drug or alcohol dependency; or habitual use of drug or intoxicating liquors; or

(C) another physical or mental condition;

(7) fails to practice in an acceptable manner consistent with public health and welfare;

(8) has disciplinary action taken against a radiological certification, permit, or registration in another state, or by another regulatory agency;

(9) engages in acts requiring registration under these rules without a current registration from the department; or

(10) has had a registration revoked, suspended, or has received disciplinary action.

(m) The commission, executive director, or department, as appropriate, may suspend, revoke, or refuse to issue or renew the registration upon finding that a podiatric medical radiological technician has committed any offense listed in this section.

§130.36. Hyperbaric Oxygen Certificate--Application Requirements and Guidelines.

(a) A certificate to supervise and administer hyperbaric oxygen is available to practitioners. To obtain the certificate, the practitioner must:

(1) submit an application in a form and manner prescribed by the department; and

(2) pay the required fee under §130.60.

(b) A practitioner practicing hyperbaric oxygen must:

(1) follow the published recommendations of the Undersea Hyperbaric Medical Society, Inc. (UHMS);

(2) act within the credentials and bylaws of the hospital that operates the hyperbaric unit;

(3) only practice hyperbaric oxygen in a hospital setting;

(4) show evidence of attendance and successful completion of a hyperbaric medicine team training course that is recognized by the UHMS;

(5) only utilize hyperbaric oxygen in the treatment of the foot as recognized by the Podiatric Medical Practice Act; and

(6) have on file with the department documentation certifying compliance with the above requirements, prior to administering hyperbaric oxygen.

(c) Certificate Term and Renewal.

(1) The Hyperbaric Oxygen Certificate is valid for: one year if the certificate was issued before January 1, 2025, or two years if the registration was issued on or after January 1, 2025.

(2) A certificate renewed by the department is valid for one year if the certificate was renewed before January 1, 2025, and must be renewed annually, or two years if the certificate was renewed on or after January 1, 2025, and must be renewed every two years. A certificate renewal is completed by submitting a certificate renewal application in a form and manner prescribed by the department and paying the required fee under §130.60.

(d) A certificate holder must inform the department within 10 business days of any address change or change of hospital setting.

(e) A hyperbaric oxygen certificate must be clearly displayed in the office alongside the original license.

§130.37. Nitrous Oxide/Oxygen Inhalation Conscious Sedation--Registration Requirements, Guidelines, and Direct Supervision.

(a) As used in this section, conscious sedation means the production of an altered level of consciousness in a patient by pharmacological or non-pharmacological methods.

(b) Conscious sedation of a patient by nitrous oxide is the administration by inhalation of a combination of nitrous oxide and oxygen producing a minimally depressed level of consciousness while retaining the patient's ability to maintain a patent airway independently and continuously, and to respond appropriately to physical stimulation and verbal command.

(c) Conscious sedation of a patient by nitrous oxide must be induced, maintained, and continuously supervised only by the practitioner or by the assistant under continuous direct supervision of the practitioner. The nitrous oxide must not be flowing if the practitioner is not present in the room.

(d) To use nitrous oxide/oxygen inhalation conscious sedation on a patient for podiatric medical purposes in the State of Texas, the practitioner must first register with the department and provide the following:

(1) proof that the practitioner has completed a didactic and clinical course which includes aspects of monitoring patients and the hands-on use of the gas machine. The didactic and clinical course must:

(A) be directed by a licensed and certified M.D., D.O., D.D.S., or D.P.M., in the State of Texas with advanced educational and clinical experience with routine administration of nitrous oxide/oxygen inhalation conscious sedation;

(B) include a minimum of four hours didactic work in pharmacodynamics of nitrous oxide/oxygen inhalation conscious sedation; and

(C) include a minimum of six hours of clinical experience under personal supervision;

(2) proof that the practitioner has completed a CME course in nitrous oxide/oxygen inhalation conscious sedation that includes training in the prevention and management of emergencies in the podiatric medical practice; and

(3) proof that the practitioner has completed a basic and advanced CPR program sponsored by either the American Heart Association or the American Red Cross. Proof of current certification is

the responsibility of the podiatric physician. Additionally, the D.P.M. must provide documented training or emergency procedures to office personnel.

(e) The department may, at any time and without prior notification, require an on-site office evaluation to determine that all standards regarding nitrous oxide/oxygen inhalation conscious sedation are being met.

(f) Registration Term and Renewal. A registration is valid for one or two years.

(1) A registration is valid for one year if the registration was issued before January 1, 2025, or two years if the registration was issued on or after January 1, 2025.

(2) A registration renewed by the department is valid for one year if the registration was renewed before January 1, 2025, and must be renewed annually, or two years if the registration was renewed on or after January 1, 2025, and must be renewed every two years. A registration renewal is completed by submitting a registration renewal application in a form and manner prescribed by the department and paying the required fee under §130.60.

(3) A registration will not be renewed if a current certificate of inspection of the gas machine is not filed with the department.

(g) A registrant must inform the department within 10 business days of any address change.

(h) When a registration is issued, it must be clearly displayed in the office.

(i) All office personnel who assist the practitioner in the nitrous oxide/oxygen inhalation conscious sedation procedure must:

(1) be trained in basic life support;

(2) have annual reviews of emergency protocols, contents, and use of emergency equipment; and

(3) have annual reviews of basic CPR.

(j) Documentation verifying these annual reviews must be maintained in the office of the practitioner who employs the personnel and must be provided to the department if requested.

(k) The practitioner must evaluate and document in the patient's medical record, prior to the nitrous oxide/oxygen inhalation conscious sedation procedure, the patient's health and medical status to ensure that nitrous oxide/oxygen inhalation conscious sedation is medically appropriate.

(l) Equipment used must meet the following safety criteria: The gas machine must have:

(1) 30% minimum oxygen flow;

(2) Glass flow tubes;

(3) Nitrous oxide fail-safe (will not flow without oxygen);

(4) Automatic room air intake in the event the bag is empty;

(5) Non-rebreathing check valve;

(6) Oxygen flush; and

(7) Auxiliary oxygen outlet with one demand valve resuscitation assembly per office.

(m) All practitioners administering nitrous oxide must have:

(1) a functioning vacuum system;

(2) a scavenger system;

(3) appropriate emergency drugs and equipment for resuscitation;

(4) a manifold to provide for protection against overpressure. The manifold must be equipped with an audible alarm system. The machine must have a service check on a three-year basis, a copy of which must be filed with the department; and

(5) a method of locking the nitrous oxide tanks after business hours.

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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16 TAC §130.31

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The proposed repeals are proposed under Texas Occupations Code, Chapters 51 and 202, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed repeals are those set forth in Texas Occupations Code, Chapters 51, 53, 108, 112, 116, 202, and 601. No other statutes, articles, or codes are affected by the proposed repeals.

§130.31. Temporary Residency License--Residency Requirements; Program Responsibilities; License Term.

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SUBCHAPTER D. DOCTOR OF PODIATRIC MEDICINE

16 TAC §§130.40 - 130.48

STATUTORY AUTHORITY

The proposed rules are proposed under Texas Occupations Code, Chapters 51 and 202, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters

and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed rules are those set forth in Texas Occupations Code, Chapters 51, 53, 108, 112, 116, 202, and 601. No other statutes, articles, or codes are affected by the proposed rules.

§130.40. Doctor of Podiatric Medicine License--General Requirements and Application[; Limited Faculty License].

(a) An applicant for a license to practice podiatry in this state must:

(1) be at least 21 years of age;

(2) pass [successfully complete] at least 90 semester hours of undergraduate college courses acceptable at the time of completion for credit toward a bachelor's degree at an institution of higher education determined by the department to have acceptable standards;

(3) [successfully] graduate from a [reputable] college of podiatry approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association, and the college must have been so approved during the entire period of the applicant's course of instruction;

(4) [successfully] pass all required sections of the American Podiatric Medical Licensing Examination;

(5) [successfully] pass the jurisprudence examination[; except as provided in subsection (b)];

(6) successfully complete at least one year of GPME in a program approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association with a hospital, clinic, or institution acceptable to the department (successful completion means the applicant must have finished the entire GPME program in which the applicant matriculated; partial program attendance is not acceptable) [(successful completion means the GPME program which was actually begun/matriculated is completed; the applicant must have successfully completed the entire program; partial program attendance is not acceptable);]

(7) pay all applicable fees;

(8) submit a completed application in a form and manner prescribed by the department [on a department-approved form];

(9) submit all transcripts of relevant college coursework, acceptable to the department;

(10) [successfully] pass a criminal history background check performed by the department;

(11) provide proof of passage [successful completion] of a course in cardiopulmonary resuscitation (CPR); and

(12) [successfully] pass a National Practitioner Data Bank query check performed by the department.

(b) At the discretion of the executive director, the GPME requirement, which became effective in Texas on July 1, 1995, may be waived if the applicant:

(1) has been licensed and in active podiatric practice for at least five continuous years in another state; and

(2) demonstrates in the application to the department an acceptable record from that state and all other states under which the applicant has ever been licensed.

{(b) The department may issue a limited faculty license to practice podiatry only for purposes of instruction in an educational

institution to a podiatrist who has not completed the jurisprudence examination required in subsection (a)(5), if the applicant:}]

[(1) at the time of applying for a limited faculty license has accepted an appointment or is serving as a full-time member of the faculty of an educational institution in this state offering an approved or accredited course of study or training leading to a degree in podiatry;]

[(2) holds a license to practice podiatry from another state with licensing requirements that are substantially equivalent to the requirements established by this subchapter; and]

[(3) otherwise satisfies the requirements of this section.]

(c) At the discretion of the department, the National Board Part III (formerly known as PM Lexis) requirement, which became effective in Texas on January 29, 1992, may be waived if:

(1) the applicant has been in active licensed practice for at least five continuous years, with an acceptable record;

(2) the applicant has successfully completed any other course of training reasonably required by the executive director relating to the safe care and treatment of patients; and

(3) the executive director determines that the applicant has substantially equivalent experience and was not required to pass a part of an examination related to the testing of clinical skills when licensed in this or another state.

[(e) At the discretion of the executive director, the GPME requirement may be waived if the applicant has been in active podiatric practice for at least five continuous years in another state under license of that state, and upon application to the department demonstrates an acceptable record from that state and from all other states under which the applicant has ever been licensed. The GPME requirement became effective in Texas on July 1, 1995.]

(d) A showing of an acceptable record under this section is defined to include, but is not limited to:

(1) a showing that the applicant has:

(A) no civil or criminal judgement, in state or federal court or other judicial forum, entered against the applicant on a podiatric medical-related cause of action;

(B) no conviction of or deferred adjudication for a felony;

(C) no dishonorable discharge from military service; and

(D) no disciplinary action recorded from any medical institution or agency or organization, including, but not limited to:

(i) any licensing board;

(ii) hospital;

(iii) surgery center;

(iv) clinic;

(v) professional organization;

(vi) governmental health organization; or

(vii) extended-care facility.

(2) If any judgment or disciplinary determination under this subsection, has been on appeal, reversed, reversed and rendered, or remanded and later dismissed, or in any other way concluded in favor of the applicant, it shall be the applicant's responsibility to bring such result to the notice of the department by way of certified mail

along with any such explanation of the circumstances as the applicant deems pertinent to the determination of admittance to licensure in this state.

(3) The applicant must obtain and submit to the department a letter directly from all state boards under which they have ever been previously licensed stating that the applicant is a licensee in good standing with each said board or that said prior license or licenses were terminated or expired with the licensee in good standing.

[(d) At the discretion of the executive director, the executive director may excuse an applicant for a license from the National Board Part III (formerly known as PM Lexis) requirement if the executive director determines that an applicant with substantially equivalent experience was not required to pass a part of an examination related to the testing of clinical skills when the applicant was licensed in this or another state with an acceptable record, provided that the applicant has been in active licensed practice for at least five continuous years and has successfully completed any other course of training reasonably required by the executive director relating to the safe care and treatment of patients. The National Board Part III/PM Lexis came into existence in June 1987. Texas began the National Board Part III/PM Lexis requirement for licensure on January 29, 1992.]

[(e) A showing of an acceptable record under this section is defined to include, but is not limited to:]

[(1) a showing that the applicant has not had entered against them a judgment, civil or criminal, in state or federal court or other judicial forum, on a podiatric medical-related cause of action; no conviction of or deferred adjudication for a felony; no disciplinary action recorded from any medical institution or agency or organization, including, but not limited to, any licensing board, hospital, surgery center, clinic, professional organization, governmental health organization, or extended-care facility; and no dishonorable discharge from military service.]

[(2) If any judgment or disciplinary determination under this subsection, has been on appeal, reversed, reversed and rendered, or remanded and later dismissed, or in any other way concluded in favor of the applicant, it shall be the applicant's responsibility to bring such result to the notice of the department by way of certified letter along with any such explanation of the circumstances as the applicant deems pertinent to the determination of admittance to licensure in this state.]

(e) [(f)] The department approves and adopts by reference the Standards and Requirements for Approval of Residencies in Podiatric Medicine and Surgery and Procedures for Approval of Residencies in Podiatric Medicine and Surgery adopted by the Council on Podiatric Medical Education of the American Podiatric Medical Association.

(f) [(g)] The department approves and adopts by reference the Standards and Requirements for Accrediting Colleges of Podiatric Medicine and Procedures for Accrediting Colleges of Podiatric Medicine adopted by the Council on Podiatric Medical Education of the American Podiatric Medical Association.

(g) [(h)] The department may require additional information from an applicant who has been out of practice for more than two years and require the applicant to complete additional education, examinations, or training before issuing a license to ensure the applicant [podiatrist] possesses reasonable knowledge, skill and competence for the safe care and treatment of patients.

(h) [(i)] The applicant must [shall] submit, in a form and manner prescribed by [through a method acceptable to] the department, evidence sufficient for the department to determine that the applicant has met all the requirements and any other information reasonably required by the department. Any application, diploma or certification, or other

document required to be submitted to the department that is not in the English language must be accompanied by a certified translation into English.

§130.41. Doctor of Podiatric Medicine License--Jurisprudence Exam.

(a) All applicants shall be provided detailed information about the examination process prior to exam administration.

(b) Applicants must [shall] follow the security procedures required for administration of the exam at each testing facility.

(c) A license shall not be issued to any person who has been detected in a deceptive, dishonest or fraudulent act while taking an examination required by the department.

(d) The passing score for the examination shall be determined by the department.

§130.42. Doctor of Podiatric Medicine License--Term; Renewal.

(a) A Doctor of Podiatric Medicine license is valid for two years.

(b) To renew a Doctor of Podiatric Medicine license, the licensee must:

(1) submit a completed [~~department-approved~~] renewal application in a form and manner prescribed by the department;

(2) complete all required continuing medical education hours as required by §130.44; and

(3) pay the required fee under §130.60.

(c) For each license renewal [on or after September 1, 2020], a Doctor of Podiatric Medicine must complete the human trafficking prevention training required under Occupations Code, Chapter 116, and provide proof of completion as prescribed by the department.

~~[(d) A limited faculty license to practice podiatry only for purposes of instruction in an educational institution is valid for the term indicated in subsection (a), except that the department shall terminate a limited faculty license immediately upon receiving notice that the faculty appointment of the podiatrist holding the limited faculty license is terminated. The termination of a limited faculty license does not prohibit or otherwise impair the ability of a podiatrist to apply for or hold another license type issued under this subchapter.]~~

§130.43. Doctor of Podiatric Medicine License--Provisional License.

(a) An applicant for a provisional license must abide by all the provisions of §130.40 except for §130.40(a)(5) and must meet the following requirements:

(1) be licensed in good standing as a podiatric physician in another state, the District of Columbia, or a territory of the United States that has licensing requirements that are substantially equivalent to the requirements of the Act, subsequent amendments, and rules;

(2) furnish proof of such licensure to the department;

(3) not have been revoked or suspended in any jurisdiction; and

(4) pass the jurisprudence exam.

(b) An applicant for provisional licensure must be sponsored by a person currently licensed by the department for at least five years and in good standing under the Act with the following conditions applicable.

(c) Prior to beginning practice in Texas, the sponsor licensee must ensure the following:

(1) that the applicant for provisional licensure will be working within the same office and under the direct supervision of the sponsor licensee; and

(2) that such sponsor licensee is aware of the Act and rules governing provisional licensure and that the sponsorship will cease upon the invalidity of the provisional license.

(d) The sponsor licensee will be held responsible for the unauthorized practice of podiatric medicine should such provisional license expire.

(e) An applicant for a provisional license may be excused from the requirement of sponsorship of this rule if the department determines that compliance with this subsection constitutes a hardship to the applicant.

(f) A provisional license is valid for up to 180 days or until passage or failure of the jurisprudence exam and may be renewed up to three times. It is the responsibility of the applicant and sponsor to return the provisional license to the department upon expiration.

(g) If at any time during the provisional licensure period it is determined that the holder of such provisional license has violated the Act or department rules, such provisional license will be subject to disciplinary action including revocation.

§130.44. Continuing Medical Education--General Requirements.

(a) A licensee must complete 50 hours of department-approved continuing medical education (CME) every two years for the renewal of the license to practice podiatric medicine. One hour of training is equal to one hour of CME. It is the responsibility of the licensee to ensure that all CME hours being claimed meet the standards for CME as set by the commission.

(b) A licensee must complete two CME hours related to approved procedures of prescribing and monitoring controlled substances prior to the first anniversary of the date the license was originally issued.

(c) A licensee must complete at least two CME hours on a course, class, seminar, or workshop in: Ethics in the Delivery of Health Care Services and/or Rules and Regulations pertaining to Podiatric Medicine in Texas.

(1) Acceptable topics for the course, class, seminar, or workshop include:

(A) Human Trafficking Prevention;

(B) Healthcare Fraud;

(C) Professional Boundaries;

(D) Practice Risk Management or Podiatric Medicine related Ethics or Jurisprudence courses;

(E) Abuse and Misuse of Controlled Substances;

(F) Opioid Prescription Practices, and/or

(G) Pharmacology, including those sponsored by an entity approved by the CPME, APMA, APMA affiliated organizations, American Medical Association (AMA), AMA affiliated organizations, or governmental entities, or the entities described in subsections (e) and (f).

(2) Any program approved by the CPME of the APMA is acceptable to the department.

(d) A licensee whose practice includes prescription or dispensation of opioids must annually complete at least one hour of CME covering best practices, alternative treatment options, and multi-modal ap-

proaches to pain management that may include physical therapy, psychotherapy, and other treatments.

(e) A licensee shall receive credit for each hour of podiatric medical meetings and training sponsored by:

- (1) the APMA;
- (2) APMA affiliated organizations;
- (3) the Texas Podiatric Medical Association (TPMA);
- (4) state, county or regional podiatric medical association podiatric medical meetings;
- (5) university sponsored podiatric medical meetings;
- (6) hospital podiatric medical meetings or hospital podiatric medical grand rounds;
- (7) medical meetings sponsored by the Foot & Ankle Society or the orthopedic community relating to foot care; and
- (8) others, at the discretion of the Advisory Board. A practitioner may receive credit for giving a lecture, equal to the credit that a podiatrist attending the lecture obtains.

(f) A licensee shall receive credit for each hour of training for non-podiatric medical sponsored meetings that are relative to podiatric medicine and department approved. This includes, but is not limited to;

- (1) hospital grand rounds;
- (2) hospital CME programs;
- (3) corporate sponsored meetings;
- (4) meetings sponsored by the American Medical Association, the orthopedic community, the American Diabetes Association, the Nursing Association, the Physical Therapy Association; and
- (5) others if approved by the department.

(g) A licensee may obtain up to 20 CME hours per biennium for practice management, home study and self-study programs if the provider is approved by the CPME.

(h) A licensee may receive up to three CME hours for Cardiopulmonary Resuscitation (CPR) certification or up to six hours of CME for Advanced Cardiac Life Support (ACLS) certification, but not both. No on-line CPR certification will be accepted by the department for CME credit.

(i) A licensee may only receive one CME hour for having an article published in a peer review journal, regardless of the number of times or the number of journals in which the article is published.

(j) With the exception of the allowed hours carried forward, the required 50 hours of CME must be obtained in a 24-month period immediately preceding the date in which the license is to be renewed. The 24-month period will begin on the first full day of the month after the practitioner's date of renewal and end two years later. A licensee who completes more than the required 50 hours during the preceding CME period may carry forward a maximum of 10 hours for the next renewal CME period.

(k) Licensees that are deficient in CME hours must complete all deficient CME hours and current biennium CME requirements in order to maintain licensure.

(l) CME obtained as a part of a disciplinary action is not acceptable credit towards the total of 50 hours required every two years.

(m) The CPME updated the CPME 720 - Standards and requirements for approval of providers of continuing education in podiatric medicine, effective July 1, 2020.

(1) The CPME standards define Internet Live Activity as "an online continuing educational activity available at a certain time on a certain date and available only in real-time, just as if it were a continuing educational activity held in an auditorium. Once the event has taken place, learners may no longer participate in that activity."

(2) Some examples of an internet live activity are a webinar, videoconference, or teleconference.

(3) CPME has also released guidance for CME in response to COVID-19 concerns.

(4) Providers of CME, including all organizations listed in the podiatry CME rules, can organize and present an internet live activity for CME credit.

(5) There are no limits on the amount of CME hours that can be obtained through internet live activity.

§130.45. Continuing Medical Education--Audit Process.

(a) The department employs an audit system for CME reporting. The licensee is responsible for maintaining a record of the licensee's CME experiences. The certificates or other documentation verifying earning of CME hours are only to be forwarded to the department if the licensee has been selected for audit.

(b) The audit process shall be as follows:

(1) The department will select for audit a random sample of licensees to ensure compliance with CME hours. The audit may occur before, during, or after the license renewal process.

(2) If selected for an audit, the licensee must submit copies of certificates, transcripts, or other documentation satisfactory to the department, verifying the licensee attendance, participation and completion of the CME.

(3) Failure to timely furnish this information within 30 calendar days after notification of the audit, being deficient in the CME required for the most recent renewal of the license, failure to complete all CME within 90 calendar days after notification of the deficiency, or providing false information during the audit process are grounds for disciplinary action against the licensee.

(4) If selected for CME audit during the renewal period, the licensee may renew and pay renewal fees.

§130.46. Continuing Medical Education--Exceptions and Allowances; Approval of Hours.

(a) Delinquency of CME hours may be allowed in cases of hardship, as determined on an individual basis by the executive director. In cases of such hardship, hours of delinquency must be current at the end of a three-year period.

(b) Any licensee not actively practicing podiatric medicine shall be exempt from these requirements; however, upon resuming practice of podiatric medicine, that licensee must fulfill the requirements of the preceding year from the effective date prior to the resumption of practice.

(c) Hours obtained in colleges or universities while working on a degreed or non-degreed program or an approved residency program by the Council on Podiatric Medical Education shall be considered as having fulfilled the requirements of continuing education hours for the fiscal year, provided that the courses are of a medical nature.

(d) Hours of continuing education submitted to the department for approval, must be certified by the continuing education director of

the institution or organization from which the hours were obtained, that the licensee was in actual attendance for the specified period.

§130.47. Inactive Status.

(a) A practitioner may place a license on inactive status, at no cost, by submitting a completed application in a form and manner prescribed by the department.

(b) A person whose license is on inactive status must not practice podiatric medicine in this state. The practice of podiatric medicine by a person whose license is on inactive status constitutes the practice of podiatric medicine without a license.

(c) A practitioner on inactive status must renew the inactive status every two years, at no cost, in a form and manner prescribed by the department.

(d) To change from an inactive status license to an active status license, an applicant must:

(1) submit a completed application in a form and manner prescribed by the department;

(2) pay the required renewal fee as prescribed in §130.60; and

(3) complete the CME that is required for the renewal of an active license during the preceding license period. CME hours used to satisfy the requirement for changing from an inactive status license to an active status license must not also be utilized for a future renewal of an active status license.

§130.48. Voluntary Charity Care Status.

(a) This section implements Texas Occupations Code, Chapter 112. As used in this section:

(1) "Voluntary charity care" means medical care provided for no compensation:

(A) to indigent populations;

(B) in medically underserved areas; or

(C) for a disaster relief organization.

(2) "Compensation" means direct or indirect payment of anything of monetary value, except payment or reimbursement of reasonable, necessary, and actual travel and related expenses.

(b) A practitioner may place a license on voluntary charity care status, at no cost, by submitting a completed application in a form and manner prescribed by the department.

(c) The practice by a practitioner on voluntary charity care status:

(1) is limited to voluntary charity care for which the practitioner receives no compensation of any kind for podiatric services rendered;

(2) does not include the provision of podiatric services for compensation which has monetary value of any kind;

(3) does not include the provision of podiatric services to members of the practitioner's family; and

(4) does not include the self-prescribing of controlled substances or dangerous drugs.

(d) A practitioner on voluntary charity care status must:

(1) renew the voluntary charity status every two years, at no cost, in a form and manner prescribed by the department; and

(2) complete 25 hours of CME during each renewal cycle.

(e) A practitioner on voluntary charity care status is subject to disciplinary action for:

(1) a violation of the Act or rule adopted under this chapter;

(2) obtaining, or attempting to obtain, voluntary charity care status by submitting false or misleading information to the department; or

(3) unprofessional or dishonorable conduct likely to deceive, defraud, or injure the public if the practitioner engages in the compensated practice of podiatric medicine, the provision of podiatric services to members of the practitioner's family, or the self-prescribing of controlled substances or dangerous drugs.

(f) A practitioner on voluntary charity care status must apply with the department before returning to active status by:

(1) submitting a completed application in a form and manner prescribed by the department;

(2) providing a description of the work performed while on voluntary charity care status;

(3) paying the required doctor of podiatric medicine license renewal fee under §130.60; and

(4) completing an additional 25 hours of CME to meet the doctor of podiatric medicine renewal requirements.

(g) The department may require additional information, education, examinations, or training from a podiatrist who has been on voluntary charity care status for more than two years before returning to active status.

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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Doug Jennings

General Counsel

Texas Department of Licensing and Regulation

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16 TAC §§130.43 - 130.49

STATUTORY AUTHORITY

The proposed repeals are proposed under Texas Occupations Code, Chapters 51 and 202, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed repeals are those set forth in Texas Occupations Code, Chapters 51, 53, 108, 112, 116, 202, and 601. No other statutes, articles, or codes are affected by the proposed repeals.

§130.43. Doctor of Podiatric Medicine License--Provisional License.

§130.44. Continuing Medical Education--General Requirements.

§130.45. Continuing Medical Education--Exceptions and Allowances; Approval of Hours.

§130.46. Inactive Status.

§130.47. *Hyperbaric Oxygen Certificate--Application Requirements and Guidelines.*

§130.48. *Nitrous Oxide/Oxygen Inhalation Conscious Sedation--Registration Requirements, Guidelines, and Direct Supervision.*

§130.49. *Voluntary Charity Care Status.*

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 E. PRACTITIONER RESPONSIBILITIES AND CODE OF ETHICS

16 TAC §§130.50, 130.51, 130.54, 130.55, 130.57 - 130.59

STATUTORY AUTHORITY

The proposed rules are proposed under Texas Occupations Code, Chapters 51 and 202, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed rules are those set forth in Texas Occupations Code, Chapters 51, 53, 108, 112, 116, 202, and 601. No other statutes, articles, or codes are affected by the proposed rules.

§130.50. *Practitioner Identification; Professional Corporations or Associations.*

(a) A practitioner must [shall] use the following professional identifiers in any publication related to the practice of podiatric medicine: Doctor of Podiatric Medicine, D.P.M., Podiatrist, Podiatric Physician.

(b) A practitioner must [Practitioners shall] include one of the following designations to describe the practitioner's [his or her] practice in all publications related to the practice of podiatric medicine: Foot Surgeon, Podiatric Surgeon, Foot Specialist, Doctor and Surgeon of the Foot, Injuries and Diseases of the Foot, Podiatric Physician.

[(e) The purpose of this section and of so limiting the professional designations of a practitioner and the practitioner's practice business is to ensure that the public and all prospective patients are reasonably informed of the distinction between a podiatrist and other medical practitioners as is reflected by the difference in training and licensing and the scope of practice.]

(c) [(d)] A practitioner must [shall] not use a trade name or assumed name to identify the practitioner's [his] practice, except as authorized in this section.

(d) [(e)] A practitioner must provide the department with the practitioner's practice name, corporate name, trade name or assumed name to identify an individual practice, or a group of podiatric physicians with which he/she is practicing and the address, and notify the department of any changes within 10 business days.

(e) [(f)] The name of a professional corporation created for the practice of podiatric medicine must [shall] include one of the following suffixes:

- (1) (Name), A Professional Corporation;
- (2) (Name), A Prof. Corp.;
- (3) (Name), P.C.;
- (4) (Name), Incorporated;
- (5) (Name), Inc.;
- (6) (Name), Professional Association;
- (7) (Name), P.A.;
- (8) (Name), P.L.L.P.;
- (9) (Name), Professional Limited Liability Partnership;
- (10) (Name), P.L.L.C.;
- (11) (Name), Professional Limited Liability Company;
- (12) (Name), L.L.C.; or
- (13) (Name), Limited Liability Company.

(f) [(g)] A practitioner practicing in a group composed of practitioners from different branches of the healing arts may practice under a corporate name, trade name or assumed name adopted by the group, provided the name fairly and objectively identifies the practice. In addition, within the group, the practitioner must [shall] identify themselves [himself] appropriately.

§130.51. *Advertising.*

(a) A practitioner may advertise. A practitioner must [shall] not use or participate in the use of any publication, including advertisements, news stories, press releases, and periodical articles, that contains a false, misleading, or deceptive statement.

(b) A practitioner must [may] not include any of the following types of statements in any advertisements or press releases:

(1) a misrepresentation of fact, or claims as fact something that has not been generally accepted among the podiatric community or by the department as having been proven or established as fact;

(2) a statement that is likely to mislead or deceive or entice or persuade a reasonable person because it fails to make full disclosure of relevant facts whether regarding fees, modes of treatment, conditions or techniques of surgery, post-operative conditions such as degree of pain, length of time of recovery, mobility and strength during recovery, and the like;

(3) a statement that is intended or likely to create in a [an ordinary] reasonable person false or unjustified expectations of favorable results;

(4) a laudatory statement, or other statement or implication that the practitioner's services are of exceptional quality;

(5) [a] statistical data or information that reflects or is intended to reflect quality or degree of success of past performance, or prediction of future success;

(6) a representation that podiatric services can or will be completely performed for a stated fee amount when this is not the case, or makes representations with respect to fees that do not disclose all variables affecting the fees, or makes representations that might [reasonable] cause a reasonable [an ordinary prudent] person to misunderstand or be deceived about the fee amount;

(7) a representation that health care insurance deductibles or co-payments may be waived or are not applicable to health care services to be provided if the deductibles or co-payments are required; or

(8) a representation that the benefits of a health benefit plan will be accepted as full payment when deductibles or co-payments are required.

(c) Information contained in a public communication by a practitioner may include, but is not limited to the following:

(1) name, address, telephone numbers, office hours, and telephone-answering hours;

(2) biographical and educational background;

(3) professional memberships and attainments and certifications, subject~~[, however,]~~ to the provisions of subsection (e);

(4) description of services offered, subject~~[, however]~~ to the provisions of subsection (f);

(5) foreign language ability;

(6) acceptable credit arrangements, subject~~[, however,]~~ to the provisions of subsection (b)(2) and (b)(6);

(7) the limitation of practice to certain areas of podiatric medicine;

(8) the opening or change in location of any office and change in personnel;

(9) fees charged for the initial consultation, provided that any limitation on the time for the consultation must [shall if the time for the consultation is to be limited, any such limitation on the time] be stated;

(10) fixed fees for specific podiatric treatments and services, subject, however, to the provisions of subsection (b)(2) and (b)(6); and

(11) a statement that a schedule of fees or an estimate of fees to be charged for specific treatments or services will be available on request.

(d) All practitioners must [shall] retain recordings, transcripts, or copies of all public communications by date of publication for a period of at least two years after such communication was made.

(e) A practitioner may advertise or publish the name of any board of certification under which the practitioner has fully and validly become certified, provided that the full name of the certifying board is included in the publication. ~~[; except as provided by this subsection, practitioners may not list in any type of advertisement or public communication any certifying board that is not approved or recognized by the Council on Podiatric Medical Education of the American Podiatric Medical Association.]~~

(f) A practitioner must not list in any type of advertisement or public communication any certifying board that is not approved or recognized by the Council on Podiatric Medical Education of the American Podiatric Medical Association.

~~[(f) Each certifying board that is not recognized by the Council on Podiatric Medical Education of the American Podiatric Medical Association must meet each of the following requirements:]~~

~~[(1) the certifying board requires all practitioners who are seeking certification to successfully pass a written or an oral examination or both, which tests the applicant's knowledge and skills in the specialty or subspecialty area of podiatric medicine. All or part of the~~

~~examination may be delegated to a testing organization. All examinations require a psychometric evaluation for validation;]~~

~~[(2) the certifying board has written proof of a determination by the Internal Revenue Service that the certifying board is tax exempt under the Internal Revenue Code pursuant to §501(c);]~~

~~[(3) the certifying board has a permanent headquarters and staff;]~~

~~[(4) the certifying board has at least 100 duly licensed certificants from at least one-third of the states; and]~~

~~[(5) the certifying board requires all practitioners who are seeking certification to have satisfactorily completed identifiable and substantial training in the specialty or subspecialty area of podiatric medicine in which the practitioner is seeking certification, and the certifying organization utilizes appropriate peer review. This identifiable training shall be deemed acceptable unless determined by the department, with the advice of the advisory board, to be inadequate in scope, content, and duration in that specialty or subspecialty area of podiatric medicine in order to protect the public health and safety.]~~

(g) The terms "board eligible", "board qualified", or any similar words or phrase calculated to convey the same meaning must [may] not be used in advertising.

(h) If a publication by or for a practitioner mentions [includes mention of] a particular surgical technique or device, the publication must also include a specific and true statement that reveals ~~[to an ordinary reasonable person]~~ the limits, ~~[and]~~ scope, and specific purpose of the technique or device so as not to mislead a [an ordinary] reasonable person regarding the difficulty, pain or discomfort, length of time for surgery or recuperation, or possibility of complications.

§130.54. Records.

(a) All practitioners must [shall] make, maintain, and keep accurate records of the diagnosis made and the treatment performed for and upon each of the practitioner's [his or her] patients for reference and for protection of the patient for at least five years following the completion of treatment.

(b) The records of the identity, diagnosis, evaluation, or treatment of a patient by a practitioner that are created or maintained by a practitioner are the property of the practitioner.

(c) A practitioner must furnish copies, a summary, or a narrative of the medical records pursuant to a written request by:

(1) the patient;

(2) a parent or legal guardian if the patient is a minor;

(3) a legal guardian if the patient has been adjudicated incompetent to manage his or her personal affairs;

(4) an attorney ad litem appointed for the patient; or

(5) a personal representative if the patient is deceased, except if the practitioner determines that access to the information would be harmful to the physical, mental, or emotional health of the patient. The practitioner must delete confidential information about another patient or family member of the patient who has not consented to the release.

~~[(e) A practitioner shall furnish copies of medical records or a summary or narrative of the medical records pursuant to a written request by the patient or by a parent or legal guardian if the patient is a minor, or a legal guardian if the patient has been adjudicated incompetent to manage his or her personal affairs, or an attorney ad litem appointed for the patient or personal representative if the patient is deceased, except if the practitioner determines that access to the informa-~~

tion would be harmful to the physical, mental, or emotional health of the patient. The practitioner may delete confidential information about another patient or family member of the patient who has not consented to the release.]

(d) The requested copies of medical records or [of] a summary or narrative of the records must [shall] be furnished by the practitioner within thirty (30) days after the date of the request and reasonable fees for furnishing the information shall be paid by the patient or someone on behalf of the patient.

(e) As referenced in subsection (c), if the practitioner denies the request for copies of medical records or a summary or narrative of the records, either in whole or in part, the practitioner must [shall] furnish the patient a written statement, signed and dated, stating the reason for the denial, and a copy of the statement denying the request must [shall] be placed in the patient's medical records.

(f) The practitioner is entitled to [responding to a request for such information shall be entitled to receive] a reasonable fee for providing the requested information. In addition, a reasonable fee may include actual costs for mailing, shipping, or delivery of the records and x-rays.

(g) A practitioner is entitled to payment of a reasonable fee prior to releasing a requested copy, summary, or narrative of medical records. A practitioner may retain the requested information until payment is received but must notify the requesting party, in writing and within ten calendar days of receiving the request, of the need for payment.

(1) A copy of the letter regarding the need for payment shall be made part of the patient's medical record. Medical records requested pursuant to a proper request for release may not be withheld from the patient, the patient's authorized agency, or the patient's designated recipient for such records based on a past due account for medical care or treatment previously rendered to the patient.

(2) A practitioner is not entitled to payment of a reasonable fee when the information is requested for purposes of emergency or acute medical care by a health care provider licensed by any state, territory, or insular possession of the United States or any State or Province of Canada.

~~[(g) The practitioner providing copies of requested medical records or a summary or a narrative of such medical records shall be entitled to payment of a reasonable fee prior to release of the information unless the information is requested by a health care provider licensed in Texas or licensed by any state, territory, or insular possession of the United States or any State or Province of Canada if requested for purposes of emergency or acute medical care. In the event the practitioner receives a proper request for copies of medical records or a summary or narrative of the medical records for purposes other than for emergency or acute medical care, the practitioner may retain the requested information until payment is received. In the event payment is not routed with such a request, within ten calendar days from receiving a request for the release of such medical records for reasons other than emergency or acute medical care, the practitioner shall notify the requesting party in writing of the need for payment and may withhold the information until payment of a reasonable fee is received. A copy of the letter regarding the need for payment shall be made part of the patient's medical record. Medical records requested pursuant to a proper request for release may not be withheld from the patient, the patient's authorized agency, or the patient's designated recipient for such records based on a past due account for medical care or treatment previously rendered to the patient.]~~

(h) A subpoena is not [shall not be] required for the release of medical records requested pursuant to a proper release for records under this section made by a patient or by the patient's guardian or other representative duly authorized to obtain such records.

(i) A practitioner is only required to provide copies of billing records pertaining to medical treatment of a patient when specifically requested in a proper request for release of medical records.

~~[(i) In response to a proper request for release of medical records, a practitioner shall not be required to provide copies of billing records pertaining to medical treatment of a patient unless specifically requested pursuant to the request for release of medical records.]~~

(j) The allowable charges as set forth in this chapter shall be maximum amounts, and this chapter shall be construed and applied [so as] to be consistent with lower fees or the prohibition or absence of such fees as required by state statute or prevailing federal law.

§130.55. *Practitioner Code of Ethics.*

(a) The health and safety of patients shall be the first consideration of the practitioner. The principal objective to the practitioner is to render service to humanity. A practitioner shall continually strive to improve his medical knowledge and skill for the benefit of his patients and colleagues. The practitioner shall administer to patients in a professional manner and to the best of his ability. Secrets and personal information entrusted to him shall be held inviolate unless disclosure is necessary to protect the welfare of the individual or the community. A practitioner shall be temperate in all things in recognition that his knowledge and skill are essential to public health, welfare, and human life.

(b) A practitioner shall conduct his practice on the highest plane of honesty, integrity, and fair dealing and shall not mislead his patients as to the gravity of such patient's podiatric medical needs. A practitioner shall not abandon a patient he has undertaken to treat. The practitioner may discontinue treatment after reasonable notice has been given to the patient by the practitioner of the practitioner's intention to discontinue treatment and the patient has had a reasonable time to secure the services of another practitioner or all podiatric medical services actually begun have been completed and there is no contract or agreement to provide further treatment.

(c) A practitioner shall not aid an unethical practitioner or engage in any subterfuge with any person, business, or organization. The practitioner shall expose any illegal, unethical, or dishonest conduct of other practitioners and cooperate with those invested with the responsibility of enforcement of the law and these rules of conduct.

(d) A person under a practitioner's care or treatment on whom podiatric medical surgery is to be performed in connection with such care or treatment should be informed by the practitioner of the identity of the surgeon before the surgery is performed.

(e) The practitioner has special knowledge which his patient does not have; therefore, to avoid misunderstanding he should advise his patient in advance of beginning treatment of the nature and extent of the treatment needed; the approximate time required to perform the recommended treatment and services; and any further or additional services or return by the patient for treatment, adjustments, or consultation and the time in which this shall occur. A practitioner should inform his patients as to the fees to be charged for services before the services are performed, regardless of whether the fees are charged on a case basis, on the basis of a separate charge for each service, or a combination of these two methods, or some other basis. If an exact fee for a particular service, as in extended care cases, cannot be quoted to a patient, a fair and reasonable estimate of what the fee will be and the basis on which it will be determined should be given the patient.

(f) A practitioner shall not tender or receive a commission for a referral.

(g) A podiatrist's treatment of a patient must be consistent with the best practices and standards observed in the podiatry community and must be performed with the same level of skill required of a reasonably prudent podiatrist practicing under the same or similar circumstances.

§130.57. *Sexual Misconduct.*

(a) Sexual misconduct is behavior that exploits the physician-patient or physician-staff member relationship in a sexual way. This behavior is non-diagnostic and non-therapeutic, may be verbal or physical, and may include expressions of thoughts and feelings or gestures that are sexual or that reasonably may be construed by a person as sexual.

(b) Sexual misconduct may be the basis for disciplinary action if the behavior was injurious or there is an exploitation of the physician-patient or physician-staff member relationship.

(c) Sexual violation may include physician-patient or physician-staff member sex, whether or not initiated by the patient/staff, and engaging in any conduct with a patient/staff that is sexual or may be reasonably interpreted as sexual, including but not limited to:

- (1) sexual intercourse, genital-to-genital contact;
- (2) oral to genital contact;
- (3) oral to anal contact, genital to anal contact;
- (4) kissing in a romantic or sexual manner;

(5) touching breasts, genitals, or any sexualized body part for any purpose other than appropriate examination or treatment, or where the patient/staff has refused or has withdrawn consent;

(6) encouraging the patient/staff to masturbate in the presence of the physician or masturbation by the physician while the patient/staff is present; and

(7) offering to provide practice-related services, such as drugs, in exchange for sexual favors.

(d) Sexual impropriety may comprise behavior, gestures, or expressions that are seductive, sexually suggestive, or sexually demeaning to a patient/staff, including but not limited to:

(1) disrobing or draping practices that reflect a lack of respect for the patient's/staff's privacy, deliberately watching a patient/staff dress or undress, instead of providing privacy for disrobing;

(2) subjecting a patient/staff to an intimate examination in the presence of medical students or other parties without the explicit consent of the patient/staff or when consent has been withdrawn;

(3) examination or touching of genitals without the use of gloves;

(4) inappropriate comments about or to the patient/staff, including but not limited to:

(A) making sexual comments about a person's body or underclothing;

(B) making sexualized or sexually demeaning comments to a patient/staff;

(C) criticizing the patient's/staff's sexual orientation (transgender, homosexual, heterosexual, or bisexual);

(D) making comments about potential sexual performance during an examination or consultation, except when the

examination or consultation is pertinent to the issue of sexual function or dysfunction;

(E) requesting details of sexual history, sexual likes, or sexual dislikes when not clinically indicated for the type of consultation;

~~{(4) inappropriate comments about or to the patient/staff, including but not limited to making sexual comments about a person's body or underclothing, making sexualized or sexually demeaning comments to a patient/staff, criticizing the patient's/staff's sexual orientation (transgender, homosexual, heterosexual, or bisexual), making comments about potential sexual performance during an examination or consultation except when the examination or consultation is pertinent to the issue of sexual function or dysfunction, requesting details of sexual history or sexual likes or dislikes when not clinically indicated for the type of consultation;}~~

(5) engaging in treatment or examination of a patient/staff for other than bona fide health care purposes or in a manner substantially inconsistent with reasonable health care practices;

(6) using the physician-patient or physician-staff member relationship under the pretext of treatment to solicit a date;

(7) initiation by the physician of conversation regarding the sexual problems, preferences, or fantasies of the physician; and

(8) examining the patient/staff intimately without consent.

(e) Sexual exploitation by a practitioner is the breakdown of the professionalism in the physician/patient/staff relationship constituting sexual abuse. Sexual exploitation may undermine the therapeutic relationship, may exploit the vulnerability of the patient/staff, and ultimately may be detrimental to the patient's/staff's emotional well-being, including but not limited to:

(1) causing emotional dependency of the patient/staff;

(2) causing unnecessary dependence outside the therapeutic relationship;

(3) breach of trust; and

(4) imposing coercive power over the patient/staff.

(f) A third impartial person who is the same sex as the patient must be present in the examining room if a patient is asked to disrobe or if the genitalia are examined.

(g) The practitioner under investigation for sexual misconduct may be required to have a complete medical evaluation, including appropriate mental and physical examination. Laboratory examination should include appropriate urine and blood drug screens.

(h) The psychiatric history and mental status examination is to be performed by a psychiatrist knowledgeable in the evaluation suspected of sexual misconduct. The examination may include neuropsychological testing.

(i) Sexual violation or impropriety may warrant disciplinary action by the department up to and including revocation of license.

(j) In the event a physician applies for license reinstatement, any petition for reinstatement will include the stipulation that additional mental and physical evaluations may be required prior to the department's review for reinstatement to ensure the continuing protection of the public.

§130.58. *Standards for Prescribing Controlled Substances and Dangerous Drugs.*

(a) A podiatrist must comply with all federal and state laws and regulations relating to the ordering and prescribing of controlled sub-

stances in Texas, including, but not limited to, requirements set forth by:

- (1) the United States Drug Enforcement Administration;
- (2) the United States Food and Drug Administration;
- (3) the Texas Health and Human Services Commission;
- (4) the Texas Department of Public Safety;
- (5) the Texas State Board of Pharmacy; and
- (6) the department.

~~[(a) Podiatrists shall comply with all federal and state laws and regulations relating to the ordering and prescribing of controlled substances in Texas, including but not limited to requirements set forth by the United States Drug Enforcement Administration, United States Food & Drug Administration, Texas Health & Human Services Commission, Texas Department of Public Safety, Texas State Board of Pharmacy, and the department.]~~

(b) A podiatrist must ~~[may]~~ not prescribe a controlled substance except for a valid podiatric medical purpose and in the course of podiatric practice.

(c) A podiatrist must ~~[may]~~ not confer upon and must ~~[may]~~ not delegate prescriptive authority (the act of prescribing or ordering a drug or device) to any other person.

(d) A podiatrist may designate an agent to communicate a prescription to a pharmacist. The podiatrist remains personally responsible for the actions of the designated agent who communicates a prescription to a pharmacist. A podiatrist who designates an agent must:

(1) on request, provide a pharmacist with a copy of the podiatrist's written authorization for a designated agent to communicate a prescription; and

(2) maintain a list of the designated agents at the podiatrist's usual place of business.

~~[(d) A podiatrist may designate an agent to communicate a prescription to a pharmacist. A podiatrist who designates an agent shall provide a pharmacist on request with a copy of the podiatrist's written authorization for a designated agent to communicate a prescription and shall maintain at the podiatrist's usual place of business a list of the designated agents. The podiatrist remains personally responsible for the actions of the designated agent who communicates a prescription to a pharmacist.]~~

(e) Responsible prescribing of controlled substances requires that a podiatrist consider certain elements prior to issuing a prescription, including, but not limited to:

- (1) reviewing the patient's Schedule II, III, IV, and V prescription drug history report by accessing the Texas State Board of Pharmacy's - Texas Prescription Monitoring Program (PMP) database;
- (2) the patient's date of birth matches with proper identification;
- (3) an initial comprehensive history and physical examination is performed;
- (4) the Schedule II prescription copy is in the chart or record found for each prescription written; and
- (5) alternative therapy (e.g. ultrasound, TENS) discussed and prescribed for the patient.

(f) Prior to prescribing opioids, benzodiazepines, barbiturates, or carisoprodol, a podiatrist must ~~[shall]~~ review the patient's Schedule

II, III, IV, and V prescription drug history report by accessing the Texas State Board of Pharmacy's - Texas Prescription Monitoring Program (PMP) database. Failure to do so is grounds for disciplinary action by the department.

(g) Prior to prescribing any controlled substance, a podiatrist may review the patient's Schedule II, III, IV, and V prescription drug history report by accessing the Texas State Board of Pharmacy's - Texas Prescription Monitoring Program (PMP) database.

(h) An employee of the podiatrist acting at the direction of the podiatrist may perform the function described in subsection (e) and (f) so long as that employee acts in compliance with HIPAA and only accesses information related to a particular patient of the podiatrist.

(i) A podiatrist or an employee of a podiatrist acting at the direction of the podiatrist may access the Texas State Board of Pharmacy's - Texas Prescription Monitoring Program (PMP) database to inquire about the podiatrist's own Schedule II, III, IV, and V prescription drug activity.

(j) A podiatrist or an employee of a podiatrist acting at the direction of the podiatrist may not access the Texas State Board of Pharmacy's - Texas Prescription Monitoring Program (PMP) database for reasons not directly related to a patient under their care. Unauthorized access is grounds for disciplinary action by the department.

(k) If a podiatrist uses an electronic medical records management system (health information exchange) that integrates a patient's Schedule II, III, IV, and V prescription drug history data from the Texas State Board of Pharmacy's - Texas Prescription Monitoring Program (PMP) database, a review of the electronic medical records management system (health information exchange) with the integrated data must ~~[shall]~~ be deemed compliant with the review of the Texas State Board of Pharmacy's - Texas Prescription Monitoring Program (PMP) database as required under §481.0764(a) of the Texas Health and Safety Code and these rules.

(l) The duty to access a patient's Schedule II, III, IV, and V prescription drug history report through the Texas State Board of Pharmacy's - Texas Prescription Monitoring Program (PMP) database as described in subsection (e) does not apply in the following circumstances:

(1) it is clearly noted in the patient's medical record that the patient has a diagnosis of cancer or is in hospice care; or

(2) the podiatrist or an employee of the podiatrist makes a good faith attempt to access the Texas State Board of Pharmacy's - Texas Prescription Monitoring Program (PMP) database but is unable to access the information because of circumstances outside the control of the podiatrist or an employee of the podiatrist and the good faith attempt and circumstances are clearly documented in the patient's medical record for prescribing a controlled substance.

(m) Information obtained from the Texas State Board of Pharmacy's - Texas Prescription Monitoring Program (PMP) database may be included in any form in the searched patient's medical record and is subject to any applicable state or federal confidentiality, privacy or security laws.

(n) In accordance with Texas Health and Safety Code Chapter 483, Subchapter E., a podiatrist may prescribe an opioid antagonist to a person at risk of experiencing an opioid-related drug overdose or to a family member, friend, or other person in a position to assist the person who is at risk of experiencing an opioid-related drug overdose. A podiatrist who prescribes an opioid antagonist must ~~[shall]~~ document the basis for the prescription in the medical record of the person who is at risk of experiencing an opioid-related drug overdose.

§130.59. *Opioid Prescription Limits and Required Electronic Prescribing.*

(a) In this section, "acute pain" means the normal, predicted, physiological response to a stimulus such as trauma, disease, and operative procedures. Acute pain is time limited and the term does not include:

- (1) chronic pain;
- (2) pain being treated as part of cancer care;
- (3) pain being treated as part of hospice or other end-of-life care; or
- (4) pain being treated as part of palliative care.

(b) For the treatment of acute pain, a podiatrist must ~~[may]~~ not:

- (1) issue a prescription for an opioid in an amount that exceeds a 10-day supply; or
- (2) provide for a refill of an opioid.

(c) After January 1, 2021, all controlled substances must be prescribed electronically except:

(1) in an emergency or in circumstances in which electronic prescribing is not available due to temporary technological or electronic failure, in a manner provided for by the Texas State Board of Pharmacy rules;

(2) by a practitioner to be dispensed by a pharmacy located outside this state, in a manner provided for by the Texas State Board of Pharmacy rules;

(3) when the prescriber and dispenser are in the same location or under the same license;

(4) in circumstances in which necessary elements are not supported by the most recently implemented national data standard that facilitates electronic prescribing;

(5) for a drug for which the United States Food and Drug Administration requires additional information in the prescription that is not possible with electronic prescribing;

(6) for a non-patient-specific prescription pursuant to a standing order, approved protocol for drug therapy, collaborative drug management, or comprehensive medication management, in response to a public health emergency or in other circumstances in which the practitioner may issue a non-patient-specific prescription;

(7) for a drug under a research protocol;

(8) by a practitioner who has received a waiver under Section 481.0756 of the Texas Health and Safety Code from the requirement to use electronic prescribing, as provided by subsections (d) - (e); or

(9) under circumstances in which the practitioner has the present ability to submit an electronic prescription but reasonably determines that it would be impractical for the patient to obtain the drugs prescribed under the electronic prescription in a timely manner and that a delay would adversely impact the patient's medical condition.

(d) To obtain a waiver of the requirement to use electronic prescribing, a practitioner must submit a waiver request on a form approved by the department.

(1) The waiver request form must document sufficient evidence of the circumstances justifying the waiver as outlined in subsection (e).

(2) A waiver granted by the department under this section shall expire one year after the date of approval.

(3) A practitioner must reapply for a subsequent waiver not earlier than the 30th day before the date the waiver expires if the circumstances that necessitated the waiver continue.

~~{(d) To obtain a waiver of the requirement to use electronic prescribing, a practitioner must submit a waiver request on a form approved by the department. The waiver request form must document sufficient evidence of the circumstances justifying the waiver as outlined in subsection (e). A waiver granted by the department under this section shall expire one year after the date of approval. A practitioner may reapply for a subsequent waiver not earlier than the 30th day before the date the waiver expires if the circumstances that necessitated the waiver continue.}~~

(e) A practitioner's waiver of electronic prescribing request form must contain sufficient evidence of one or more of the following that, in the judgment of the executive director, justify the issuance of a waiver:

(1) economic hardship, including:

(A) any special situational factors affecting either the cost of compliance or ability to comply;

(B) the likely impact of compliance on profitability or viability; and

(C) the availability of measures that would mitigate the economic impact of compliance;

(2) technological limitations not reasonably within the control of the practitioner;

(3) issuance of fifty or fewer prescriptions for controlled substances in the year immediately prior to the application for a waiver, as documented by the Texas Prescription Monitoring Program; or

(4) other exceptional circumstances demonstrated by the practitioner.

(f) The department may revoke or refuse to issue a waiver under this section if the practitioner violates or attempts to violate any provision of Texas Occupations Code, Chapters 51 or 202, this chapter, or any rule or order of the executive director or commission.

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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General Counsel

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16 TAC §130.52, §130.53

STATUTORY AUTHORITY

The proposed repeals are proposed under Texas Occupations Code, Chapters 51 and 202, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chap-

ters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed repeals are those set forth in Texas Occupations Code, Chapters 51, 53, 108, 112, 116, 202, and 601. No other statutes, articles, or codes are affected by the proposed repeals.

§130.52. *Medical Offices.*

§130.53. *Podiatric Medical Radiological Technicians.*

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. FEES

16 TAC §130.60

STATUTORY AUTHORITY

The proposed rules are proposed under Texas Occupations Code, Chapters 51 and 202, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed rules are those set forth in Texas Occupations Code, Chapters 51, 53, 108, 112, 116, 202, and 601. No other statutes, articles, or codes are affected by the proposed rules.

§130.60. *Fees.*

(a) Fees paid to the department are non-refundable.

(b) Fees are as follows:

(1) Temporary Residency License (Initial and Renewal)--\$125

(2) Extended Temporary License extension--\$50

(3) Provisional License--\$125

(4) Doctor of Podiatric Medicine Initial License--\$750

(5) Doctor of Podiatric Medicine Renewal License--\$700

(6) Limited Faculty Initial License--\$125

(7) Limited Faculty Renewal License--\$60

(8) Voluntary Charity Care Status License (Initial and Renewal)--\$0

(9) Inactive Status License (Initial and Renewal)--\$0

(10) [(9)] Active Duty Military Members--\$0

(11) [(10)] Hyperbaric Oxygen Certificate (Initial and Renewal)--\$25 if issued or renewed before January 1, 2025; \$50 if issued or renewed on or after January 1, 2025

(12) [(11)] Nitrous Oxide Registration (Initial and Renewal)--\$25 if issued or renewed before January 1, 2025; \$50 if issued or renewed on or after January 1, 2025

(13) [(12)] Podiatric Medical Radiological Technician Registration (Initial and Renewal) [Technicians] --\$25 if issued or renewed before January 1, 2025; \$50 if issued or renewed on or after January 1, 2025

(14) [(13)] Duplicate License/replacement license--\$25

(15) [(14)] The fee for a criminal history evaluation letter is the fee prescribed under §60.42 [(relating to Criminal History Evaluation Letters)].

(16) [(15)] A dishonored/[returned check or] payment fee is the fee prescribed under §60.82 [(relating to Dishonored Payment Device)].

(17) [(16)] Late renewal fees for licenses issued under this chapter are provided under §60.83 [(relating to Late Renewal Fees)].

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. ENFORCEMENT

16 TAC §§130.70, 130.72, 130.73

STATUTORY AUTHORITY

The proposed rules are proposed under Texas Occupations Code, Chapters 51 and 202, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed rules are those set forth in Texas Occupations Code, Chapters 51, 53, 108, 112, 116, 202, and 601. No other statutes, articles, or codes are affected by the proposed rules.

§130.70. *Complaints and Claims.*

(a) The licensee must display a department-approved sign or provide to all patients and consumers a brochure that notifies consumers or recipients of services of the name, mailing address, website, and telephone number of the department and a statement informing consumers or recipients of services that complaints against a licensee can be directed to the department.

(b) The sign must [shall] be conspicuously and prominently displayed in a location where it may be seen by all patients. The consumer brochure, if chosen, must be prominently displayed and available to patients and consumers at all times.

(c) Each defendant practitioner against whom a professional liability claim or complaint has been filed must report the claim or complaint to the department. The information is to be reported by insurers

or other entities providing medical professional liability insurance for a practitioner. If an insurance carrier does not adequately report, reporting must [shall] be the responsibility of the practitioner.

(d) One separate report must [shall] be filed for each defendant insured practitioner.

(e) The information must be provided within 30 days of receipt of the claim or suit. A copy of the claim letter or petition must be attached.

(f) The information reported must contain at least the requested data as follows:

(1) There must be enough identification data available to enable department staff to match the closure report to the original file. The data required to accomplish this include:

(A) name and license number of defendant practitioner(s); and

(B) name of plaintiff; or

(2) A court order or settlement agreement is acceptable and should contain the necessary information to match the closure information to the original file.

(g) Failure by a licensed insurer to report under this section must [shall] be referred to the Texas Department of Insurance and sanctions under the Texas Insurance Code may be imposed for failure to report.

(h) For the purposes of this section, a professional liability claim or complaint shall be defined as a cause of action against a practitioner for treatment, or other claimed departure from accepted standards of medical or health care or safety which proximately results in injury to or death of the patient, whether the patient's claim or cause of action sounds in tort or contract to include: [~~interns, residents, supervising practitioner, on-call practitioner, consulting practitioner, and those practitioner who administer, read, or interpret laboratory tests, x-rays, and other diagnostic studies.~~]

(1) interns;

(2) residents;

(3) supervising practitioner;

(4) on-call practitioner;

(5) consulting practitioner; and

(6) practitioners who administer, read, or interpret laboratory tests, x-rays, and other diagnostic studies.

(i) Claims that are not required to be reported under this chapter but which may be reported include, but are not limited to, the following:

(1) Product liability claims;

(2) antitrust allegations;

(3) allegations involving improper peer review activities;

(4) civil rights violations;

(5) allegations of liability for injuries occurring on a podiatric physician's property, but not involving a breach of duty in the podiatric physician-patient relationship; or

(6) business disputes.

(j) Claims that are not required to be reported under this chapter may however be voluntarily reported pursuant to the provisions of the Act.

§130.72. *Administrative Penalties and Sanctions.*

(a) If a person or entity violates or attempts to violate any provision of Texas Occupations Code, Chapters 51 or 202, this chapter, or any rule or order of the executive director or commission, proceedings may be instituted to impose administrative penalties, administrative sanctions, or both in accordance with the provisions of Texas Occupations Code, Chapters 51 and 202, any associated rules, and consistent with the department's enforcement plan.

(b) A person authorized to receive information by accessing the Texas State Board of Pharmacy's - Texas Prescription Monitoring Program (PMP) database must [may] not disclose or use the information in a manner not authorized by law.

(c) A person authorized to receive information by accessing the Texas State Board of Pharmacy's - Texas Prescription Monitoring Program (PMP) database commits an offense if the person discloses or uses the information in a manner not authorized by law.

(d) A person authorized to receive information by accessing the Texas State Board of Pharmacy's - Texas Prescription Monitoring Program (PMP) database commits an offense if the person makes a material misrepresentation or fails to disclose a material fact in the request for information.

(e) The department shall deny an application for license, and shall revoke the license of a person licensed under Chapter 202, Texas Occupations Code, as required by Chapter 108, Subchapter B, Texas Occupations Code.

(f) A person whose application for licensure has been denied, or whose license has been revoked, pursuant to Texas Occupations Code, Chapter 108, Subchapter B may reapply or seek reinstatement as provided by that subchapter.

§130.73. *Conditions of Suspension of License.*

(a) Suspension of a license means that the office of the practitioner is to be closed for the purposes of receiving, diagnosing, treating, or consulting with patients.

(1) The suspended practitioner must not participate for income in any professional activity that is directly related to:

(A) the diagnosis of a patient;

(B) the treatment of a patient; or

(C) activities that involve consultation services related to management of a practice.

(2) The suspended practitioner may refer patients to another practitioner for treatment or consultation during the period of the suspension, but the suspended practitioner must not derive any income from such referrals.

(3) The suspended practitioner may allow another practitioner to see the suspended practitioner's patients during the period of the suspension, in the suspended practitioner's office or the other practitioner's office, but the suspended practitioner must not derive income from the other practitioner by way of referral fees, or the like.

{(a) Suspension of a license means that the office of the practitioner is to be closed for the purposes of receiving, diagnosing, treating, or consulting with patients, and the licensee may not participate for income in any professional activity that is directly related to diagnosis or treatment of a patient or activities that involve consultation services related to management of a practice. The practitioner may refer patients to another practitioner for treatment or consultation during the period of the suspension, but the practitioner shall not derive any income from such referrals. The practitioner may allow another practitioner to see

the practitioner's patients during the period of the suspension the practitioner's office or other practitioner's office, but the practitioner shall derive no income from the other practitioner by way of referral fees, or the like.]

(b) The practitioner's office may remain open for the purposes of administrative work, including making future appointments, arranging referrals, handling mail, processing accounts, billing, and insurance matters, and other similar matters not directly related to the diagnosis and treatment of patients.

(c) If the suspended practitioner shares offices with another practitioner, the other practitioner shall be allowed to continue to practice, [; but the suspended practitioner shall not share income with the other practitioner, including any income derived in any way from the diagnosis or treatment of patients. The department may, through unannounced visits or by requesting documentation, check on the business arrangement that the suspended practitioner has with the other practitioner(s) regarding the renting of equipment, rental of business facilities, referral fees or any other negotiated arrangement so as to be sure that the suspended practitioner is not deriving any monies from the practice of podiatric medicine.]

(1) The suspended practitioner must not share income with the other practitioner, including any income derived in any way from the diagnosis or treatment of patients.

(2) The department may, through unannounced visits or by requesting documentation, check on the business arrangement that the suspended practitioner has with the other practitioner(s) regarding the renting of equipment, rental of business facilities, referral fees or any other negotiated arrangement so as to be sure that the suspended practitioner is not deriving any monies from the practice of podiatric medicine.

(d) If a license suspension is probated, the commission or executive director may require the licensee to:

(1) report regularly to the department on matters that are the basis of the probation;

(2) limit practice to the areas prescribed by the commission or executive director; or

(3) continue or review continuing professional education until the licensee attains a degree of skill satisfactory to the department in those areas that are the basis of the probation.

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 June 7, 2024.

TRD-202402543

Doug Jennings

General Counsel

Texas Department of Licensing and Regulation

Earliest possible date of adoption: July 21, 2024

For further information, please call: (512) 463-7750



TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 101. ASSESSMENT

SUBCHAPTER AA. COMMISSIONER'S RULES CONCERNING THE PARTICIPATION OF ENGLISH LANGUAGE LEARNERS IN STATE ASSESSMENTS

DIVISION 1. ASSESSMENTS OF ENGLISH LANGUAGE PROFICIENCY AND ACADEMIC CONTENT FOR ENGLISH LANGUAGE LEARNERS

19 TAC §§101.1001, 101.1003, 101.1005, 101.1007

The Texas Education Agency (TEA) proposes amendments to §§101.1001, 101.1003, 101.1005, and 101.1007, concerning the participation of English language learners in state assessments. The proposed amendments would align the rules with existing state and federal policies regarding the assessment of emergent bilingual (EB) students.

BACKGROUND INFORMATION AND JUSTIFICATION: The proposed amendments to 19 TAC Chapter 101, Subchapter AA, Division 1, would align rules relating to the assessment of EB students with existing state and federal statute. Specifically, the proposed amendments would replace all references to "English learner (EL)" or "English language learner (ELL)" with "emergent bilingual (EB) student," in accordance with Texas Education Code, §29.052.

Section 101.1001, Scope of Rules, defines which students the provisions of Division 1 of Chapter 101, Subchapter AA, apply to. The proposed amendment would clarify that the 60 consecutive days referenced in the rule are "calendar" days for assessment purposes.

Section 101.1003, English Language Proficiency Assessments, clarifies the definition of an EB student and the requirements for EB students to be tested for English language proficiency. The proposed amendment would clarify that EB students in Grades 2-12 must meet the participation requirements to be assessed with the alternate English language proficiency assessment.

Section 101.1005, Assessments of Achievement in Academic Content Areas and Courses, addresses the academic assessment participation requirements for EB students. The proposed amendment would update the rules regarding the assessment options currently available. Specifically, subsection (a) would be updated to clarify that only EB students in Grade 3 or higher are eligible to participate in state academic assessments.

Section 101.1005(b) would be updated to clarify that EB students take the English-version state assessment, with or without allowable testing accommodations, unless the Spanish-version state assessment is more appropriate or the student meets the participation requirements for the alternate assessment. The phrase "with or without allowable testing accommodations" replaces references to the linguistically accommodated version of the assessment since a separate linguistically accommodated version has been replaced with an embedded supports or "accommodated" version. The alternate assessment in subsection (b)(3) would be clarified and re-numbered as new paragraph (2).

Section 101.1005(f) would be eliminated to clarify that all EB students, including those whose parents or guardians decline bilingual services, have access to appropriate assessments and accommodations. Subsection (h) would be eliminated as account-

ability information is no longer within the scope of assessment rules.

Section 101.1007, Assessment Provisions for Graduation, outlines the special provision for eligible EB students related to the use of the State of Texas Assessments of Academic Readiness (STAAR®) English I end-of-course assessment in satisfying high school graduation requirements. The proposed amendment would update the language to include "EB students."

FISCAL IMPACT: Iris Tian, deputy commissioner for analytics, assessment, and reporting, 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 expand regulations by broadening the assessment options for EB students. Additionally, the proposed rulemaking would increase the number of individuals subject to the rules' applicability by repealing an existing limitation.

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 limit or repeal an existing regulation; would not 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. Tian 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 ensuring that all EB students take the appropriate assessments and have access to the available accommodations. 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 June 21, 2024, and ends July 22, 2024. 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 June 21, 2024. 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 amendments are proposed under Texas Education Code (TEC), §39.023(a), (b), (c), and (l), which specify the required assessments for students in Grades 3-8, students who are significantly cognitively disabled, students enrolled in high school courses, and students whose primary language is Spanish, respectively; §39.023(m), which authorizes the commissioner to develop procedures for a language proficiency assessment committee to determine which students qualify for an exemption from the administration of required assessments; TEC, §39.025, which establishes the secondary-level performance required to receive a Texas high school diploma; TEC, §39.027, which establishes the parameters by which an Emergent Bilingual (EB) student may be granted an exemption from an assessment instrument, defines recent unschooled immigrants and an unschooled asylee or refugee, and authorizes the commissioner to develop an assessment system to evaluate the English language proficiency of all EB students; and the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act, §1111(b)(2)(B) and (b)(2)(G), which specify the academic testing requirements for students in Grades 3-12 and the English language proficiency testing requirements for EB students in Kindergarten-Grade 12, respectively.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §§39.023, 39.025, and 39.027; and the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act, §1111(b)(2).

§101.1001. Scope of Rules.

(a) Except as specified in subsection (b) of this section, the provisions of this division shall apply to all students.

(b) The provisions of §101.1005(b)(1)-(2) of this title (relating to Assessments of Achievement in Academic Content Areas and Courses) and §101.1007 of this title (relating to Assessment Provisions for Graduation) shall apply beginning with students first enrolled in Grade 9 or below in the 2011-2012 school year.

(c) For purposes of this subchapter, a student who has been enrolled in a U.S. school for at least 60 consecutive calendar days during a school year is considered to have been enrolled in a U.S. school for that school year.

§101.1003. English Language Proficiency Assessments.

(a) In Kindergarten-Grade 12, an emergent bilingual (EB) student [English learner (EL)], as defined by [the] Texas Education Code (TEC), Chapter 29, Subchapter B, as a student whose primary language is other than English and whose English language skills are such that the student has difficulty performing ordinary classwork [of limited English proficiency], shall be administered state [state-identified] English language proficiency assessments annually in listening, speaking, reading, and writing to fulfill state requirements under [the] TEC, Chapter 39, Subchapter B, and federal requirements.

(b) In rare cases, the admission, review, and dismissal (ARD) committee in conjunction with the language proficiency assessment committee (LPAC) may determine that it is not appropriate for an EB student in Grades 2-12 [ELL] who receives special education services to participate in the general English language proficiency assessment required by subsection (a) of this section for reasons associated with the student's particular disability.

(1) Students with the most significant cognitive disabilities who cannot participate in the general English language proficiency assessment, even with allowable accommodations, and meet the participation requirements for the alternate English language proficiency assessment shall participate in the alternate English language proficiency assessment to meet federal requirements.

(2) The ARD committee shall document the decisions and justifications in the student's individualized education program, and the LPAC shall document the decisions and justifications in the student's permanent record file.

(c) In the case of an EB student [ELL] who receives special education services, the ARD committee in conjunction with the LPAC shall determine and document the need for allowable testing accommodations in accordance with administrative procedures established by the Texas Education Agency.

§101.1005. Assessments of Achievement in Academic Content Areas and Courses.

(a) The language proficiency assessment committee (LPAC) shall select the appropriate assessment option for each emergent bilingual (EB) student in Grade 3 or higher [English language learner (ELL)] in accordance with this subchapter. For each EB student [ELL] who receives special education services, the student's admission, review, and dismissal (ARD) committee in conjunction with the student's LPAC shall select the appropriate assessments. The LPAC shall document the decisions and justifications in the student's permanent record file, and the ARD committee shall document the decisions and justifications in the student's individualized education program. Assessment decisions shall be made on an individual student basis and in accordance with administrative procedures established by the Texas Education Agency (TEA).

(b) Except as provided by subsection (c) of this section, an EB student [ELL] shall participate in the Grades 3-8 and end-of-course assessments, with or without allowable testing accommodations, as required by [the] Texas Education Code (TEC), §39.023(a) and (c) [§39.023(e)]. Except as specified in paragraphs (1) and (2) [(1)-(3)] of this subsection, an EB student [ELL] shall be administered the general form of the English-version state assessment.

(1) An EB student in Grades 3-5 may be administered the Spanish-version state assessment, with or without allowable testing accommodations, if the assessment in Spanish is the most appropriate measure of the student's academic progress, in accordance with TEC, §39.023(l).

(2) An EB student in Grade 3 or higher who receives special education services based on the most significant cognitive disabilities may be administered an alternate assessment instrument based on alternative achievement standards, in accordance with TEC, §39.023(b), if the student meets the participation requirements.

[(1) A Spanish-speaking ELL in Grades 3-5 may be administered the state's Spanish-version assessment if an assessment in Spanish will provide the most appropriate measure of the student's academic progress.]

[(2) An ELL in Grade 3 or higher may be administered the linguistically accommodated English version of the state's mathematics, science, or social studies assessment if:]

[(A) a Spanish-version assessment does not exist or is not the most appropriate measure of the student's academic progress;]

[(B) the student has not yet demonstrated English language proficiency in reading as determined by the assessment under §101.1003 of this title (relating to English Language Proficiency Assessments); and]

[(C) the student has been enrolled in U.S. schools for three school years or less or qualifies as an unshooled asylee or refugee enrolled in U.S. schools for five school years or less.]

[(3) In certain cases, an ELL who receives special education services may, as a result of his or her particular disabling condition, qualify to be administered an alternative assessment instrument based on alternative achievement standards.]

(c) In accordance with [the] TEC, §39.027(a), an unshooled asylee or refugee who meets the criteria of paragraphs (1)-(3) of this subsection shall be granted an exemption from an administration of an assessment instrument under [the] TEC, §39.023(a), (b), or (l). This exemption will only apply during the school year an unshooled asylee or refugee is first enrolled in a U.S. public school. An unshooled asylee or refugee is a student who:

(1) enrolled in a U.S. school as an asylee as defined by 45 Code of Federal Regulations §400.41 or a refugee as defined by 8 United States Code §1101;

(2) has a Form I-94 Arrival/Departure record, or a successor document, issued by the United States Citizenship and Immigration Services that is stamped with "Asylee," "Refugee," or "Asylum"; and

(3) as a result of inadequate schooling outside the United States, lacks the necessary foundation in the essential knowledge and skills of the curriculum prescribed under [the] TEC, §28.002, as determined by the LPAC.

(d) For purposes of LPAC determinations in subsection (c) of this section, inadequate schooling outside the United States is defined as little or no formal schooling outside the United States such that the asylee or refugee lacked basic literacy in his or her primary language upon enrollment in school in the United States.

(e) The LPAC shall, in conjunction with the ARD committee if the EB student [ELL] is receiving special education services under [the] TEC, Chapter 29, Subchapter A, determine and document any allowable testing accommodations for assessments under this section in accordance with administrative procedures established by [the] TEA.

[(f) An ELL whose parent or guardian has declined the services required by the TEC, Chapter 29, Subchapter B, is not eligible for special assessment, accommodation, or accountability provisions made available to ELLs on the basis of limited English proficiency.]

(f) [(g)] School districts may administer the assessment of academic skills in Spanish to a student who is not identified as an EB student [limited English proficient] but who participates in a bilingual program if the LPAC determines the assessment in Spanish to be the most appropriate measure of the student's academic progress.

[(h) Policies for including the academic performance of an ELL in state and federal accountability measures, which will take into account the second language acquisition developmental needs of this student population, shall be delineated in the official TEA publications required by Chapter 97 of this title (relating to Planning and Accountability).]

§101.1007. *Assessment Provisions for Graduation.*

(a) Although an emergent bilingual (EB) student [English language learner (ELL)] shall not be exempt from taking an end-of-course assessment for reasons associated with limited English proficiency or inadequate schooling outside the United States, the special provision [provisions] under subsection (b) of this section shall apply to an EB student [ELL] enrolled in an English I course or an English for Speakers of Other Languages (ESOL) I course if the EB student [ELL]:

(1) has been enrolled in U.S. schools for three school years or less or qualifies as an unenrolled asylee or refugee enrolled in U.S. schools for five school years or less; and

(2) the student has not yet demonstrated English language proficiency in reading as determined by the assessment under §101.1003 of this title (relating to English Language Proficiency Assessments).

(b) Concerning the applicable English I assessment [in which the student is enrolled], an EB student [ELL] who meets the eligibility criteria in subsection (a) of this section shall not be required to retake the assessment each time it is administered if the student passes the course but fails to achieve the passing standard on the assessment.

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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Cristina De La Fuente-Valadez

Director, Rulemaking

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



CHAPTER 129. STUDENT ATTENDANCE SUBCHAPTER AA. COMMISSIONER'S RULES

19 TAC §129.1025

The Texas Education Agency (TEA) proposes an amendment to §129.1025, concerning the student attendance accounting handbook. The proposed amendment would adopt by reference the *2024-2025 Student Attendance Accounting Handbook*. The handbook provides student attendance accounting rules for school districts and charter schools.

BACKGROUND INFORMATION AND JUSTIFICATION: TEA has adopted its student attendance accounting handbook in rule since 2000. Attendance accounting evolves from year to year, so the intention is to annually update §129.1025 to refer to the most recently published student attendance accounting handbook.

Each annual student attendance accounting handbook provides school districts and charter schools with Family Services Plan (FSP) eligibility requirements of all students, prescribes the minimum requirements of all student attendance accounting systems, lists the documentation requirements for attendance audit purposes, and details the responsibilities of all district personnel involved in student attendance accounting. TEA distributes FSP resources under the procedures specified in each current student attendance accounting handbook. The final version of

the student attendance accounting handbook is published on the TEA website. A supplement, if necessary, is also published on the TEA website.

The proposed amendment to §129.1025 would adopt by reference the student attendance accounting handbook for the 2024-2025 school year. The proposed handbook is available on the TEA website at <https://tea.texas.gov/finance-and-grants/financial-compliance/student-attendance-accounting-handbook>.

Significant changes to the *2024-2025 Student Attendance Accounting Handbook* would include the following.

Section 1, Overview

Texas Education Core (TEC), Chapter 48, specifically §48.008, establishes the requirements for adopting an attendance accounting system and reporting attendance accounting data through Texas Student Data System Public Education Information Management (TSDS PEIMS). The following changes implement reporting requirements for attendance and funding.

Language referring to the footnote would be revised to show TEC, §48.008.

Section 2, Audit requirements

TEC, Chapter 42, specifically §42.255, establishes the requirements for violation of presenting reports that contain false information. TEC, §42.008, authorizes the commissioner of education to require audit reports to be submitted for review and analysis. TEC, §44.010, allows for the review of budget, fiscal, and audit reports to determine whether all legal requirements have been met. The following changes implement reporting for audit requirements to account for attendance and funding.

Language would be revised to show the current website for the Texas State Library and Archives Commission.

Language would be revised to state that districts must use the coding structure defined in the Texas Education Data Standards (TEDS) as they relate to attendance.

Language would be revised to state that Student Detail Reports must contain instructional track (Calendar Code) attended by the student.

The language in the Student Detail, Campus Summary, and District Summary Reports would be revised to reflect the expiration of virtual instruction.

Language would be revised to state that charter schools (including those authorized under TEC, Chapter 12, Subchapter G) are required to submit six-week District Summary Reports via the FSP payment system.

Language would be revised to state that additional required documentation must include board-approved local policy that defines the instruction methods.

Language would be revised to state that additional required documents must include any and all bell schedules used during the school year.

Section 3, General Attendance Requirements

TEC, §25.081, and Chapter 48, specifically §48.005, establish the general parameters for attendance and school operation. The following changes would implement reporting requirements for attendance and funding.

Language would be revised to state that Code 0 will be used for a student receiving special education services who has graduated

but returned or continues enrollment with less than two hours of daily instruction, as well as for students who receive special education and related services through an approved contract with a nonpublic day or nonpublic residential school.

Language would be revised to exclude children served in an early childhood special education (ECSE) program from average daily attendance (ADA) Code 0 who have visual impairments, who are deaf or hard of hearing, or both.

Language would be revised to include students who are 26 years old on September 1 of the current year and are not enrolled in a TEC, Chapter 12, Subchapter G, Adult High School Charter School Program.

Language would be revised to state that Code 9 applies to a student who is enrolled in a virtual learning program but not in membership.

Language referencing the funding table would be revised to show changes.

Language would be revised to state that, for funding purposes, the number of days of participation for any student in any special program cannot exceed the number of days present for the same reporting period for the same instructional track.

Language would be expanded to include students who are continuing enrollment to receive special education services or students who have returned to school to receive special education services after receiving a diploma as students who are eligible to continue to generate ADA for funding purposes.

Language would be revised to state that a student may also be entitled to receive special education services through age 21 if the student has a disability and the district determines the student would have met the Texas criteria to continue the receipt of special education services after having been awarded a diploma.

Language in the Age Eligibility table would be revised to align with changes made in the proposed handbook.

Language would be revised to state that students aged 22 to 25 who previously received special education services and are enrolled to complete high school requirements are not eligible for special education weighted state funding but qualify for other weighted state funding.

The footnotes related to maximum age eligibility and enrollment procedures have been revised to show 19 TAC §89.1070(f) and TEC, §26.0125.

Language would be revised to state that a district may accept documentation of an updated address, telephone number, and email address electronically for a student who is continuing enrollment in the district from the prior school year.

The footnotes containing the link and Frequently Asked Questions (FAQ) for residency requirements would be updated.

The name of the Compliance and Inquiries Division would be updated.

Language would be revised to state that students who begin school as homebound, including Compensatory Education Home Instruction (CEHI), may indicate their official entry date as the first day of the school year as long as all the documentation requirements are met and the full number of hours needed are provided by the end of that week.

Language referencing student entitlement to attend school in a particular district would be deleted.

Language stating that districts must accept the transfer application of students whose parent or guardian is an active military servicemember or peace officer and requests a transfer to another campus in the currently enrolled district or to another adjoining school district would be moved from the incorrect section and added to the correct sections.

Language would be revised to change the term "homeless" to "students who experience homelessness."

Language would be revised to state that a student who experiences homelessness or a student who is in foster care should be admitted temporarily for 30 days if acceptable evidence of vaccination is not available.

Language would be revised to list the requirements to enroll an infant or toddler in the district or the Regional Day School Program for the Deaf (RDSPD) that will be providing the appropriate services as described in the Individualized Family Services Plan (IFSP).

Language would be revised to state that once withdrawn, students in Grades 7-12 must be reported as school leavers and cannot be considered dropouts according to the C162 Exit Withdraw Type table in TEDS.

Language concerning student record and record transfer would be revised to include an original copy of the home language survey (HLS), Language Proficiency Assessment Committee (LPAC) documentation, and either parental permission/denial forms for bilingual education programs or English as a second language (ESL) program services, if applicable.

Language would be revised to include an alternative attendance-taking time for students receiving special education services through an 18 plus program that provides community-based instruction.

Language would be revised to state that if a school district provides instructional services for special education after school or on Saturday, the contact hours may be counted for job coaching for a student in a work-based learning opportunity that is available only in the evening.

Language would be revised in an example referring to attendance and students who are not in membership or are served outside the home district.

Language referring to effective dates for program changes would be deleted.

Language would be revised to state that the district providing instruction must establish a written agreement with the nonresidential treatment facility. Students receiving special education services in this situation may still be eligible for those services during their time at a nonresidential treatment facility.

Language would be revised to state that a student who has an infant (0-6 months) considered medically fragile and who meets the criteria for General Education Homebound (GEH) program may also be considered for the GEH program.

Language referring to provision of additional remote instruction in the GEH program would be removed.

Language in the footnote would be revised to show the current link to the Texas Medical Board.

References to supplementing in-person homebound instruction with virtual instruction would be deleted.

Language would be revised to state that students who begin school on GEH may indicate their official entry date as the first day of the school year as long as all the documentation requirements are met and the full number of hours needed are provided by the end of that week.

Language would be revised in the table showing required number of operational and instructional minutes to include Subchapter G, Adult High School Charter School Program. The footnote would be revised to show TEC, §12.251.

Language would be revised to state that all the students in a particular school or track will have the same number of school days (Number Days Taught).

Language would be revised to update waivers listed in subsection 3.8, Calendar.

Language would be revised to state that days with low attendance that do not qualify for a waiver must still be reported as instructional days.

Language would be revised to state that, effective with the 2025-2026 school year, school districts and open-enrollment charter schools with four-day school weeks are not eligible to receive staff development waivers.

Language would be revised to state that the staff development waiver only covers real-time staff development involving all district staff at once, replacing student instruction. Exchange or trade days or individual professional development outside regular hours cannot count toward waiver requirements for staff development minutes.

Language would be revised to state that if TEA grants a district a waiver for a missed school day or a low-attendance day, the district must treat the day as a non-school day in the district's student attendance accounting system and report the day with a Calendar Waiver Event Type (E1570).

Language would be revised to state that a waiver for a dual credit course must be submitted using the Other Waiver application in TEA's automated waiver application system.

Language referencing a school safety training waiver would be added.

Language referencing footnote TEC, §25.0815, would be added.

Language would be revised to specify the date for initial TSDS PEIMS summer submission and the dates for resubmission.

Language would be revised to reflect changes in examples listed in Section 3.

Language would be added to state example for using the life-threatening illness provision to claim funding.

Language would be revised to show the change in numbering order of examples.

Section 4, Special Education

TEC, Chapter 48, specifically §48.102, authorizes funding for special education in certain circumstances. TEC, §48.004, authorizes the commissioner to require reports that may be necessary to implement and administer the FSP. The following changes would implement reporting for special education to account for attendance and funding.

Language would be added to state that special education staff, not attendance staff, must provide coding information. Special education directors ensure accuracy of data and communicate

to attendance personnel. Special education staff must check the Student Detail Report at the end of each six-week period.

Language would be revised to state that eligibility for special education and related services is determined for children aged birth to two years who have a visual impairment (VI), who are deaf or hard of Hearing (DHH), or who are both.

Language would be revised to state that a student is coded as 00 in the TSDS PEIMS Student Special Education Program Association Entity when receiving only speech therapy, regardless of the delivery model, or when receiving speech therapy along with other related services but no instructional special education services.

Language would be revised to describe situations when a student will not have an instructional setting code of 00.

Language would be revised to state that for code 1, home instruction may be used for infants or toddlers (birth to two years of age) with VI or DHH as determined by the IFSP committee, and for students aged three to five as decided by the admission, review, and dismissal (ARD) committee.

Language would be revised to state that in making eligibility and placement decisions for students six years of age and older, the ARD committee must consider information from a licensed physician.

Language would be revised to state that infants and toddlers (children from birth through two years of age) who are DHH, VI, or both may receive home instruction as determined by the IFSP team and be reported as homebound.

Language would be revised to state that students who begin school as homebound, including CEHI, may indicate their official entry date as the first day of the school year as long as all the documentation requirements are met and the full number of hours needed are provided by the end of that week.

Language would be revised to state that code 02 is used for students receiving special education in a hospital or residential care facility by district personnel. If a student in such a facility receives services on a campus outside their parent's district, they are coded with a residential care and treatment code. If the parent resides in the facility's district, the student is reported based on the arrangement at the campus. A student who is receiving special education services by school district personnel at the facility but is not residing in the facility is in an off-home campus instructional setting.

Language would be revised to state that code 08 is used for students in job training aligned with their postsecondary employment goals with direct special education involvement in an individualized education program (IEP) implementation. It covers services in Career Technical Education (CTE) classes or specified work-based learning. Eligibility requires the student's employment in a job with special education personnel directly involved, excluding mere employer consultation.

Language would be revised to state that a student must meet special education eligibility requirements to be reported as a student in special education.

Language would be revised to state that codes 41 or 42 are used for students receiving related services in a special education setting, except if they receive only speech therapy alongside other related services. If a student gets special education instruction and speech therapy, the resource room code is used and Special Education Program Service 25 is reported.

Language would be revised to state that code 60 is used for students who are served in off-campus programs as these are defined in 19 TAC §89.1094.

Language would be revised to include Student School Association Entity in code 71.

Language would be revised to state that codes 81-89 are used for students in residential care facilities who receive special education services on a local district campus where the facility is located, but their parents do not reside in that district. Students under Department of Family and Protective Services conservatorship in relative or kinship care or foster homes will not use this code, except those in cottage homes or congregate care meeting the criteria.

Language would be revised to state that Code 87 indicates that a student resides in a facility and receives special education and related services by school district personnel in a facility (other than the one in which the student resides and other than a non-public day school) not operated by a school district.

Language would be revised to state that codes 91-98 will be used when a student receives special education and related services at South Texas Independent School District or Windham School District. This includes partial hospitalization programs or other outpatient facilities at which school district personnel are providing instruction. The student is in a non-district community setting, aiding their transition to postsecondary education, integrated employment, or independent living, with instruction or involvement from district personnel aligning with their individual transition goals.

Language would be revised to state that code 96 also applies to students who are receiving services, after having met graduation requirements and determined eligible by the student's ARD committee, on property that is owned or operated by a school district.

Language would be revised to state that Student Detail Reports and the TSDS PEIMS Student Special Education Program Association Entity must contain speech therapy reporting information (Descriptor Table Special Education Program Service (C341)) for any student receiving special education services.

Language would be revised to state the specific usage of Special Education Program Service 24.

Language would be revised to state that for Special Education Program Service 25, the student's TSDS PEIMS Special Education Program Reporting Period Attendance Entity must display both the student's primary instructional setting code (other than 00) and code 00. However, if the student is in a mainstream setting and receives speech therapy, only code 00 should be reported.

Language would be revised to state the specific usage of Special Education Program Service 23.

Language would be revised to state that, starting from the 2025-2026 school year, TEA will gradually remove references to programs for children with disabilities (PPCD) in its publications to emphasize that children eligible for these services must be served in the least restrictive environment outlined in their IEP.

Language referencing ECSE services and Kindergarten programs would be deleted. A revision would be made to state that the PPCD indicator should be changed when a student turns six.

Language referencing ECSE services and Head Start would be deleted along with the footnotes.

Language referencing shared service agreements would be revised to state that students must be reported on the Student School Association Entity as a transfer student (attribution 06 - Transfer Student).

Language would be revised to include changes for students who receive instructional services through the RDSPD.

Language would be revised to reflect changes in the coding chart table detailing services for students with disabilities.

Language would be revised to state that district must report Extended School Year services data to TEA using Extended School Year Services Attendance Entity according to the TEDS.

Language would be revised to reflect changes in the examples for Vocational Adjustment Class specifically for the local credit course and the CTE classes.

Language would be revised in mainstream examples to indicate changes in reporting of instructional codes using Special Education Program Service.

Language referencing examples for resource room codes 41 and 42 would be revised.

Language would be revised to reflect changes in the Self-Contained, Regular Campus examples, specifically for the reporting of the instructional setting code.

Language would be revised to reflect changes in the Off Home Campus examples, specifically for the reporting of the instructional setting code.

Language would be revised to reflect changes in the Speech Therapy only and Speech Therapy with Other Services examples, specifically for the reporting of instructional setting code.

Section 5, Career and Technical Education (CTE)

TEC, Chapter 48, including §48.106, authorizes funding for CTE in certain circumstances. TEC, Chapter 29, Subchapter F, establishes general parameters for CTE programs. TEC, §48.004, authorizes the commissioner to require reports as may be necessary to implement and administer the FSP. The following changes would implement reporting for CTE to account for attendance and funding.

Language would be revised to reflect the current link for state-approved CTE courses.

Language referencing enrollment procedures would be revised to state that the ARD committee will create the student's transition plan, aligning courses of study with their postsecondary goals and updating the personal graduation plan as needed for students receiving special education services.

Language would be revised to state that after five consecutive days without CTE services being provided, local education agency (LEA) personnel must remove the student from the TSDS PEIMS CTE Program Reporting Period Attendance Entity's eligible days present effective the first day of placement in the disciplinary setting.

Language would be revised to state that LEAs can claim a maximum of three contact hours (V3) for a single course. To qualify for CTE weighted funding, course periods must average a minimum of 45 minutes per day throughout the calendar year including pep rallies, assemblies, modified bell schedules etc.,

but excluding days covered under Attendance Accounting during Testing Days, Staff Professional Development Waivers, and Closures for Bad Weather or Other Health and Safety Issues.

Language would be revised to show updated CTE Weighted Funding Tiers as calculated by TEA.

Language would be revised to state that student instruction during one class period per week is required to be a minimum of 45 minutes in length in a practicum instructional arrangement.

Language would be revised to state that adaptations such as accommodations or modifications must be implemented as specified by a student's IEP, as applicable, for project-based capstone courses.

Language would be revised to state that to receive CTE weighted funding, class periods are required to be a minimum of 45 minutes in length and an average of 45 minutes during the calendar year.

Language throughout the examples in section 5 would be revised to show the change from course Service ID to CTE Service ID.

Section 6, Bilingual/English as a Second Language (ESL)

TEC, Chapter 48, specifically §48.105, authorizes funding for bilingual or special language programs in certain circumstances. TEC, Chapter 29, Subchapter B, establishes general parameters for bilingual and special language programs. TEC, §48.004, authorizes the commissioner to require reports as may be necessary to implement and administer the FSP. The following changes would implement reporting for bilingual and special language programs to account for attendance and funding.

Language would be revised to state that reclassification is when the LPAC decides an emergent bilingual (EB) student meets criteria to be English proficient (EP), entering year one of monitoring. Exit occurs when the student is no longer classified as EB, ending bilingual or ESL program participation per LPAC recommendation and parental approval.

Language would be revised to state that LEAs are required to clarify in a timely manner which of the two non-English languages is used most of the time, if multiple languages are indicated in the HLS.

Language would be revised in the footnote to show the current link for appropriate bilingual program type codes.

Language would be revised to state that for students transferring within Texas, if the sending district cannot provide the original HLS, the receiving district documents that the original HLS was not included in the student's cumulative folder and documents the attempts and/or reason why the HLS was not obtained.

Language would be revised to state that after five consecutive days without participation in the bilingual or ESL education program, district personnel should remove the student's days from the TSDS PEIMS Bilingual ESL Program Reporting Period Attendance Entity.

Language would be revised to provide the current link for current reclassification requirements.

Language would be revised to update the list of required documents.

Language would be revised to provide the current link for additional resources for program implementation.

Section 7, Prekindergarten (Pre-K)

TEC, Chapter 29, Subchapter E, establishes special general parameters for prekindergarten (pre-K) programs. TEC, Chapter 48, including §48.005, establishes ADA requirements and authorizes funding for certain circumstances. TEC, §48.004, authorizes the commissioner to require reports that may be necessary to implement and administer the FSP. The following changes would implement reporting for prekindergarten to account for attendance and funding.

Language would be revised to state that, regardless of whether a district runs a three-year-old pre-K program, students three years of age who are eligible for special education and related services may be placed in a pre-K class by the ARD committee.

Language would be revised to show a change in terminology from an English learner to emergent bilingual.

Language would be revised to include documentation regarding what languages were used in the home setting if the student had a previous home setting.

Language related to pre-K eligibility based on homelessness would be deleted.

Section 9, Pregnancy-Related Services (PRS)

TEC, Chapter 48, including §48.104, authorizes funding for students who are pregnant under certain circumstances. TEC, §48.004, authorizes the commissioner to adopt reports that may be necessary to implement and administer the FSP. The following changes would implement reporting for pregnancy-related services (PRS) to account for attendance and funding.

Language would be revised to state that students who do not come to school and who do not receive CEHI or general education or special education homebound services must be counted absent in accordance with the charts provided in this section.

Language would be revised to state the different entities that PRS student needs to identify within the TSDS PEIMS.

Language would be revised to include the current link for Texas Medical Board.

Language would be revised to state that for a baby recovery period, a note from a medical practitioner stating the infant's need for hospital confinement is required.

Language would be revised to state that a student who commences school on homebound (including CEHI) may indicate their official entry date as the first day of the school year as long as all the documentation requirements are met and the full number of hours needed are provided by the end of that week.

Language would be revised to state that a pregnant student's ARD committee and PRS program staff members must collaboratively address the student's service needs.

Language would be revised to state that the period of homebound postpartum services for a student receiving special education services may exceed 10 weeks if determined necessary by the ARD committee.

Language would be revised to state that a CEHI teacher may maintain additional documentation as to when a student physically returns to campus to resume their regular schedule. This may or may not be the date the student was scheduled to return.

Language would be revised to show the accurate CTE Program Association Entity.

Language would be revised in the example to state that if all of the required documentation is obtained and the student is provided the full amount of CEHI hours by the end of the first week, the district may claim her entry date.

Section 10, Alternative Education Programs (AEPS) and Disciplinary Removals

TEC, Chapter 48, specifically §48.270, establishes the requirements for violation of presenting reports that contain false information. TEC, §48.004, authorizes the commissioner to adopt reports that may be necessary to implement and administer the FSP. TEC, §44.010, allows for the review of budget, fiscal, and audit reports to determine whether all legal requirements have been met. The following changes would implement reporting for audit requirements to account for attendance and funding.

Language would be revised to state that the leaver code reported on the TSDS PEIMS Student School Association Entity is 98.

Language would be revised to state that neither the TEC nor the TAC outline teacher requirements for the disciplinary alternative setting of an in-school suspension program.

Language would be revised to state that a district should contact TEA to establish a separate campus for the district's Juvenile Justice Alternative Education Program (JJAEP) students and enroll students at this JJAEP campus as the students are placed at the JJAEP facility.

Language would be revised to state that while in a Disciplinary Alternative Education Program (DAEP) or JJAEP, a student served by special education must receive all current IEP-designated services.

Language would be revised to state that a student is not eligible for ADA if the student has been assigned out-of-school suspension for the first day of school. A student cannot be absent on the first day of school.

Section 11, Nontraditional Programs

TEC, Chapter 29, Subchapter A, establishes special general parameters for nontraditional programs. TEC, Chapter 48, including §48.005, establishes ADA requirements and authorizes funding for certain circumstances. TEC, §48.004, authorizes the commissioner to require reports that may be necessary to implement and administer the FSP. The following changes would implement reporting for nontraditional programs to account for attendance and funding.

Language would be revised to reflect changes made to the College Credits Program table. Language would be revised to state the requirements for a dual credit or dual enrollment course.

Language would be revised to state that dual credit includes a course for which a high school student may earn credit only at an institution of higher education (previously referred to as a dual enrollment course) if the course meets the requirements of 19 TAC Chapter 4, Subchapter D. Dual credit and dual enrollment are synonymous. An institution is not required to offer dual credit courses for high school students.

Language would be revised to state student eligibility requirements specific to dual credit courses.

Language referencing the table for minimum passing standards to demonstrate dual credit eligibility would be deleted.

Language would be revised to state that a student enrolled in a TEA-designated Early College High School or Pathways in Tech-

nology Early College High School (P-TECH) program may enroll in dual credit courses if the student demonstrates college readiness in alignment 19 TAC §§4.51-4.63 and 4.81-4.86.

Language would be revised to state that Additional Days School Year (ADSY) provides half-day formula funding for school systems that add instructional days to any of their pre-K through Grade 5 campuses. (TEC, §48.0051)

Language would be revised to state that should an LEA utilizing ADSY funding file for and receive a low attendance waiver, the granting of a low attendance waiver does not reduce the 180 days of instruction for ADSY purposes. An ADSY waiver is not required to be filed for the same date as an approved low-attendance-day waiver.

Language would be revised to state that special education services for students who have completed credit and assessment requirements for graduation and have been determined eligible by their ARD committee to continue enrollment as specified in 19 TAC §89.1070(h) or (i) do not meet the statutory eligibility for Optional Flexible School Day Program (OFSDP). The district should follow the schedule of services in the IEP and claim the applicable ADA funding.

Language would be revised to state that changing the record type during a reporting period is allowed in specific cases, like when a student starts OFSDP, when a student transitions in or out of DAEP, or when an OFSDP student begins receiving PRS CEHI services mid-reporting period.

Language referencing funding eligibility for students 21 through 25 years of age would be deleted.

Language would be revised to state that all attendance must be reported through the OFSDP Flexible Regular Program Reporting Period Attendance Entity.

Language would be revised to state that high school equivalency program attendance is reported using the Flexible Regular Program Reporting Period Attendance Entity.

Section 12, Virtual, Remote, and Electronic Instruction

TEC, Chapter 30A, establishes the general parameters for the Texas Virtual School Network (TXVSN). TEC, §30A.153, authorizes funding for the TXVSN for the FSP under certain circumstances. TEC, §48.004, authorizes the commissioner to adopt reports that may be necessary to implement and administer the FSP. The following changes would implement reporting for the TXVSN to account for attendance and funding.

Language would be revised to provide the current link for a list of TXVSN online schools officially recognized by the agency.

Language would be deleted for Remote Instruction That is Not Delivered through the TXVSN.

Language would be revised to state that a student who has an infant (0-6 months) considered medically fragile and who meets the criteria for Remote Conferencing-Regular Students may also be considered for the GEH program. If a waiver is granted, the affected student will generate attendance according to the two-through-four-hour rule and based on if the student is virtually present at the official attendance-taking time.

Language would be revised to state that the district can submit a request for a general waiver using TEA's automated waiver application system, which is available in TEA Login (TEAL) and cite the requirements in the general waiver section.

Language would be deleted from Remote Conferencing-Students Receiving Special Education and Related Services.

Language would be revised to state if a waiver is approved, attendance will be tracked based on the two-through-four-hour rule. If a student is scheduled to be on campus, their attendance will be recorded if they are physically present. If they are scheduled to be off campus, they will be marked as present if they attend virtually at the official attendance time.

Language referencing the entire section on Virtual Instruction (Local Remote Learning Programs) under TEC, §29.9091, or as modified by TEC, §48.007(c), would be deleted.

Section 13, Appendix: Average Daily Attendance (ADA) and Funding

Language would be revised to state that days in attendance are the total number of days that a student was in attendance (present at the designated attendance-taking time or absent for a purpose described by 19 TAC §129.1025) during a specific period (for example, a 180-day school year) while that student was eligible to generate funding (in membership).

Language would be revised to provide the current link for the CTE Program Reporting Period Attendance Entity.

Language would be revised to provide the current link for the course level provided in the CTE Lookup - Table.

Language would be revised to provide the current link for further guidance on the Bilingual Education Allotment.

Glossary

Language would be revised to update the definition of at-risk.

Language would be revised to update the definition of bilingual/ESL eligible days.

Language referencing EP would be deleted.

Language would be revised to update the definition of in-school suspension, prekindergarten (pre-K), and reclassification.

FISCAL IMPACT: Amy Copeland, associate commissioner for finance and chief school finance officer, 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 expand and limit an existing regulation. The proposed changes to the *2024-2025 Student Attendance Accounting Handbook* would amend requirements and provide clarity regarding student attendance accounting procedures. In some instances, the proposed changes would add information, and in some instances, information would be removed.

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 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. Copeland 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 continue to inform the public of the existence of annual publications specifying attendance accounting procedures for school districts and charter schools. 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 June 21, 2024, and ends July 22, 2024. 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 June 21, 2024. 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 amendment is proposed under Texas Education Code (TEC), §7.055(b)(35), which states that the commissioner shall perform duties in connection with the Foundation School Program (FSP) as prescribed by TEC, Chapter 48; TEC §12.251, which states the definition of adult high school charter school programs; TEC, §25.001, which states that a school district must allow for an active duty member of the armed forces of the United States to be allowed 90 days to provide proof of residency; TEC, §25.0344, which states that a parent serving as a peace officer or service member may request a transfer to a district and campus of their choice; TEC, §25.081, which states that, for each school year, each school district must operate so that the district provides for at least 75,600 minutes, including time allocated for instruction, intermissions, and recesses, for students; TEC, §25.081(d), which authorizes the commissioner to adopt rules to implement the section; TEC, §25.081(g), which states that a school district may not provide student instruction on Memorial Day but that if

a school district would be required to provide student instruction on Memorial Day to compensate for minutes of instruction lost because of school closures caused by disaster, flood, extreme weather conditions, fuel curtailment, or another calamity, the commissioner shall approve the instruction of students for fewer than the number of minutes required under TEC, §25.081(a); TEC, §25.0812, which states that school districts may not schedule the last day of school for students before May 15; TEC, §25.087, which provides purposes for which a school district shall excuse a student from attending school; TEC, §28.02124, which states that a parent may request that a student repeat a course for high school credit; TEC, §29.081, which states that attendance accounting and FSP funding for Optional Flexible School Day Program participation may be generated through a remote or hybrid dropout recovery education program; TEC, §29.0822, which enables a school district to provide a program under this section that meets the needs of students described by TEC, §29.0822(a), for a school district that meets application requirements, including allowing a student to enroll in a dropout recovery program in which courses are conducted online. TEC, §29.0822, authorizes the commissioner to adopt rules for the administration of the section; TEC, §30A.153, which states that, subject to the limitation imposed under TEC, §30A.153(a-1), a school district or open-enrollment charter school in which a student is enrolled is entitled to funding under TEC, Chapter 48, or in accordance with the terms of a charter granted under TEC, §12.101, for the student's enrollment in an electronic course offered through the state virtual school network in the same manner that the district or school is entitled to funding for the student's enrollment in courses provided in a traditional classroom setting, provided that the student successfully completes the electronic course; TEC, §30A.153(d), which authorizes the commissioner to adopt rules necessary to implement the section, including rules regarding student attendance accounting; TEC, §48.004, which states that the commissioner shall adopt rules, take action, and require reports consistent with TEC, Chapter 48, as necessary to implement and administer the FSP; TEC, §48.005, which states that average daily attendance (ADA) is the quotient of the sum of attendance for each day of the minimum number of days of instruction as described under TEC, §25.081(a), divided by the minimum number of days of instruction; TEC, §48.005(m), which authorizes the commissioner to adopt rules necessary to implement the section and subsections (m-1) and (m-2), which address virtual or remote instruction-related funding; TEC, §48.102, which states that for each student in average daily attendance in a special education program under TEC, Chapter 29, Subchapter A, in a mainstream instructional arrangement, a school district is entitled to an annual allotment equal to the adjusted basic allotment multiplied by 1.15. For each full-time equivalent student in average daily attendance in a special education program under TEC, Chapter 29, Subchapter A, in an instructional arrangement other than a mainstream instructional arrangement, a district is entitled to an annual allotment equal to the adjusted basic allotment multiplied by a weight determined according to its instructional arrangement; TEC, §48.103, which states that for each student that a district serves who has been identified as having dyslexia or a related disorder, the district is entitled to an annual allotment equal to the basic allotment multiplied by 0.1 or a greater amount provided by appropriation; TEC, §48.104, which states that for each student who does not have a disability and resides in a residential placement facility in a district in which the student's parent or legal guardian does not reside, a district is entitled to an annual allotment equal to the basic allotment multiplied

by 0.2 or, if the student is educationally disadvantaged, 0.275. For each full-time equivalent student who is in a remedial and support program under TEC, §29.081, because the student is pregnant, a district is entitled to an annual allotment equal to the basic allotment multiplied 2.41; TEC, §48.105, which states that for each student in average daily attendance in a bilingual education or special language program under TEC, Chapter 29, Subchapter B, a district is entitled to an annual allotment equal to the adjusted basic allotment multiplied by 0.1 or 0.15 if the student is in a bilingual education program using a dual language immersion/one-way or two-way program model, and for students not described in subdivision (1), 0.05 if the student is in bilingual education program using a dual language immersion/two-way program model; TEC, §48.106, which states that for each full-time equivalent student in average daily attendance in an approved career and technology education program in Grades 7-12 or in career and technology education programs, a district is entitled to an annual allotment equal to the basic allotment multiplied by a weight of 1.35 and \$50 for each student that is enrolled in two or more advanced career and technology classes for a total of three or more credits; a campus designated as a Pathways in Technology Early College High School (P-TECH) school under TEC, §29.556; or a campus that is a member of the New Tech Network and that focuses on project-based learning and work-based education; TEC, §48.108, which states that for each student in average daily attendance in Kindergarten-Grade 3, a district is entitled to an annual allotment equal to the basic allotment multiplied by 0.1 if the student is educationally disadvantaged or a student of limited English proficiency, as defined by TEC, §29.052, and in bilingual education or special language program under TEC, Chapter 29, Subchapter B; TEC, §48.109, which states that for each student in the gifted and talented category, the district is entitled to an annual allotment equal to the basic allotment multiplied by 0.07 for each school year or a greater amount provided by appropriation. If by the end of the 12th month after receiving an allotment for developing a program a district has failed to implement a program, the district must refund the amount of the allotment to the agency within 30 days. Not more than five percent of a district's students in average daily attendance are eligible for funding under this section. If the state funds exceed amount of state funds appropriated in any year for the programs, the commissioner shall reduce the districts tier one allotment. If funds are less than the total amount appropriated for the school year, the commissioner shall transfer the remainder to any program. After each district has received allotted funds for this program, the State Board of Education may use up to \$500,000 of the funds allocated under this section for other programs; TEC, §48.270, which states that when, in the opinion of the agency's director of school audits, audits or reviews of accounting, enrollment, or other records of a school district reveal deliberate falsification of the records, or violation of the provisions of TEC, Chapter 48, through which the district's share of state funds allocated under the authority of this chapter would be, or has been, illegally increased, the director shall promptly and fully report the fact to the State Board of Education, the state auditor, and the appropriate county attorney, district attorney, or criminal district attorney; and TEC, §49.204, which states that a school district with a local revenue in excess of entitlement may reduce the district's local revenue level by serving nonresident students who transfer to the district and are educated by the district but who are not charged tuition.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§7.055(b)(35), 12.251, 25.001,

25.0344, 25.081, 25.0812, 25.087, 28.02124, 29.081; 29.0822, 30A.153, 48.004, 48.005, 48.102, 48.103, 48.104, 48.105, 48.106, 48.108, 48.109, 48.270, and 49.204.

§129.1025. *Adoption by Reference: Student Attendance Accounting Handbook.*

(a) The student attendance accounting guidelines and procedures established by the commissioner of education under §129.21 of this title (relating to Requirements for Student Attendance Accounting for State Funding Purposes) and the Texas Education Code, §48.004, to be used by school districts and charter schools to maintain records and make reports on student attendance and student participation in special programs will be published annually.

(b) The standard procedures that school districts and charter schools must use to maintain records and make reports on student attendance and student participation in special programs for school year 2024-2025 [2023-2024] are described in the official Texas Education Agency (TEA) publication 2024-2025 [2023-2024] *Student Attendance Accounting Handbook*, which is adopted by this reference as the agency's official rule. A copy of the 2024-2025 [2023-2024] *Student Attendance Accounting Handbook* is available on the TEA website with information related to financial compliance. The commissioner will amend the 2024-2025 [2023-2024] *Student Attendance Accounting Handbook* by reference and amend this subsection and this subsection adopting it by reference, as needed.

(c) Data from previous school years will continue to be subject to the student attendance accounting handbook as the handbook existed in those years.

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 June 10, 2024.

TRD-202402549

Cristina De La Fuentes-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: July 21, 2024

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



TITLE 22. EXAMINING BOARDS

PART 24. TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS

CHAPTER 577. GENERAL ADMINISTRATIVE DUTIES

SUBCHAPTER B. STAFF

22 TAC §577.15

The Texas Department of Licensing and Regulation (Department), on behalf of the Texas Board of Veterinary Medical Examiners (TBVME), proposes amendments to an existing rule at 22 Texas Administrative Code (TAC), Chapter 577, Subchapter B, §577.15, regarding the General Administrative Duties. These proposed changes are referred to as the "proposed rules."

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The rules under 22 TAC, Chapter 577, implement Texas Occupations, Chapter 801, Veterinarians.

The proposed rules amend §577.15, Fee Schedule. The proposed rules are required to comply with the General Appropriations Act, House Bill (HB) 1, 88th Legislature Regular Session (2023) at Article VIII, Section 1, which requires certain agencies, including the TBVME, to bring in enough revenue to cover the appropriations given to the TBVME. Therefore, the TBVME is required to increase its revenue through assessed fees to cover the additional appropriations.

The increased appropriation amount of this biennium is expected to decrease next biennium since the amount of funding the TBVME needs will decrease once a new licensing system has been procured. At that time the TBVME will propose rules to decrease the fee amounts so revenue projections for these proposed rules are only for the first two years following adoption.

Advisory Board Recommendations

The proposed rules were presented to and discussed by the State Board of Veterinary Medical Examiners (Board) at its meeting on January 23, 2024. The Board did not make any changes to the proposed rules. The Board voted and recommended that the proposed rules be published in the *Texas Register* for public comment.

SECTION-BY-SECTION SUMMARY

The proposed rules amend §577.15, Fee Schedule. The proposed rules increase the license application fees for all licenses issued under the statute and rules.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Tony Couvillon, TDLR Policy Research and Budget Analyst, has determined that for each year of the first five years the proposed rules are in effect, there are no estimated additional costs or reductions in costs to the state and local governments as a result of enforcing or administering the proposed rules.

Mr. Couvillon has also determined that for each year of the first five years the proposed rules are in effect, there is no estimated loss in revenue to the state or to local governments as a result of enforcing or administering the proposed rules.

Mr. Couvillon has determined that for each year of the first five years the proposed rules are in effect, there will be implications relating to an increase in revenue.

The 88th Legislature appropriated additional funding to the TBVME for various purposes in the Fiscal Year 2024-25 biennium. The General Appropriations Act requires certain Article VIII agencies, of which TBVME is one, to bring in enough revenue to cover the appropriations given to the TBVME. Therefore, the TBVME is required to increase its revenue through assessed fees to cover the additional appropriations.

The increased appropriation amount of this biennium is expected to decrease next biennium since the amount of funding the TBVME needs will decrease once a new licensing system has been procured. At that time, the TBVME will propose rules to decrease the fee amounts so revenue projections for these proposed rules are only for the first two years following adoption.

Veterinary license fees are currently \$515 for an initial license and \$195 for a renewal license. The proposed rules increase the fees to \$560 for an initial license and \$340 for the license renewal. It is estimated that approximately 700 individuals will apply for a new license each year of the first five years, and

approximately 10,000 license holders will renew each year. However, given the date the proposed rules will take effect if adopted, approximately 230 new applicants can be expected to apply in the remainder of the first fiscal year, and approximately 3,350 license holders can be expected to renew during that same time period. Thus, the expected revenue will be \$128,800 and \$1,139,000 from new and renewal license applications in the first year, and \$389,200 and \$3,400,00 from new and renewal license applications in the second year, for estimated revenue totals of \$1,267,800 in the first year and \$3,789,300 in the second year. The revenue for this license type would have been expected to be approximately \$771,700 and \$2,307,925 for the same time periods at current fee amounts, so the extra revenue from this license type is estimated to be \$496,100 in the first year and \$1,481,275 in the second year.

Special Veterinary license fees are currently \$575 for an initial license and \$209 for a renewal license. The proposed rules increase the fees to \$630 for an initial license and \$250 for the license renewal. It is estimated that approximately six individuals will apply for a new license each year of the first five years, and approximately 50 license holders will renew each year. However, given the date the proposed rules will take effect if adopted, approximately two new applicants can be expected to apply in the remainder of the first fiscal year, and approximately 20 license holders can be expected to renew during that same time period. Thus, the expected revenue will be \$1,260 and \$5,000 from new and renewal license applications in the first year, and \$3,780 and \$12,500 from new and renewal license applications in the second year, for estimated revenue totals of \$6,260 in the first year and \$16,280 in the second year. The revenue for this license type would have been expected to be approximately \$5,330 and \$13,900 for the same time periods at current fee amounts, so the extra revenue from this license type is estimated to be \$930 in the first year and \$2,380 in the second year.

Inactive Veterinary license fee is currently \$109 for an inactive renewal license. The proposed rules increase the fee to \$140 for the inactive license renewal. It is estimated that approximately 530 license holders will renew as inactive each year. However, given the date the proposed rules will take effect if adopted, approximately 175 license holders can be expected to renew as inactive in the remainder of the first fiscal year. Thus, the expected revenue will be \$24,500 from inactive license renewal applications in the first year, and \$74,200 from inactive license renewal applications in the second year. The revenue for this license type would have been expected to be approximately \$19,075 and \$57,770 for the same time periods at current fee amounts, so the extra revenue from this license type is estimated to be \$5,425 in the first year and \$16,430 in the second year.

Veterinary Temporary license fee is currently \$200 for the license. The proposed rules increase the fee to \$220 for the license. It is estimated that approximately 20 individuals will apply each year. However, given the date the proposed rules will take effect if adopted, approximately six license holders can be expected to apply in the remainder of the first fiscal year. Thus, the expected revenue will be \$3,660 from license applications in the first year, and \$12,200 applications in the second year. The revenue for this license type would have been expected to be approximately \$3,600 and \$12,000 for the same time periods at current fee amounts, so the extra revenue from this license type is estimated to be \$60 in the first year and \$200 in the second year.

Veterinary Provisional license fee is currently \$600 for the license. The proposed rules increase the fee to \$610 for the license. There are not expected to be any applications for this license type in this or the upcoming fiscal year, so there will be no revenue increases as a result of this license.

Equine Dental Provider license fees are currently \$100 for an initial license and \$83 for a renewal license. The proposed rules increase the fee to \$125 for an initial license and \$120 for the license renewal. It is estimated that approximately 10 individuals will apply for a new license each year of the first five years, and approximately 55 license holders will renew each year. However, given the date the proposed rules will take effect if adopted, approximately three new applicants can be expected to apply in the remainder of the first fiscal year, and approximately 20 license holders can be expected to renew during that same time period. Thus, the expected revenue will be \$375 and \$2,400 from new and renewal license applications in the first year, and \$1,250 and \$6,600 from new and renewal license applications in the second year, for estimated revenue totals of \$2,275 in the first year and \$7,850 in the second year. The revenue for this license type would have been expected to be approximately \$1,960 and \$5,565 for the same time periods at current fee amounts, so the extra revenue from this license type is estimated to be \$815 in the first year and \$2,285 in the second year.

Inactive Equine Dental Provider license fee is currently \$56 for an inactive renewal license. The proposed rules increase the fee to \$65 for the inactive license renewal. It is estimated that approximately one license holder will renew as inactive each year. However, given the date the proposed rules will take effect if adopted, it is not estimated any license holders can be expected to renew as inactive in the remainder of the first fiscal year. Thus, the expected revenue will be \$0 from inactive license renewal applications in the first year, and \$65 from inactive license renewal applications in the second year. The revenue for this license type would have been expected to be approximately \$0 and \$56 for the same time periods at current fee amounts, so the extra revenue from this license type is estimated to be \$9 in the second year.

Licensed Veterinary Technician license fees are currently \$50 for an initial license and \$50 for a renewal license. The proposed rules increase the fee to \$65 for an initial license and \$80 for the license renewal. It is estimated that approximately 325 individuals will apply for a new license each year of the first five years, and approximately 2,215 license holders will renew each year. However, given the date the proposed rules will take effect if adopted, approximately 110 new applicants can be expected to apply in the remainder of the first fiscal year, and approximately 740 license holders can be expected to renew during that same time period. Thus, the expected revenue will be \$7,150 and \$59,200 from new and renewal license applications in the first year, and \$21,125 and \$177,200 from new and renewal license applications in the second year, for estimated revenue totals of \$66,350 in the first year and \$198,325 in the second year. The revenue for this license type would have been expected to be approximately \$42,500 and \$127,000 for the same time periods at current fee amounts, so the extra revenue from this license type is estimated to be \$23,850 in the first year and \$71,325 in the second year.

Inactive Licensed Veterinary Technician license fee is currently \$26 for an inactive renewal license. The proposed rules increase the fee to \$35 for the inactive license renewal. It is estimated that approximately 200 license holders will renew as inactive each

year. However, given the date the proposed rules will take effect if adopted, approximately 65 license holders can be expected to renew as inactive in the remainder of the first fiscal year. Thus, the expected revenue will be \$2,275 from inactive license renewal applications in the first year, and \$7,000 from inactive license renewal applications in the second year. The revenue for this license type would have been expected to be approximately \$1,690 and \$5,200 for the same time periods at current fee amounts, so the extra revenue from this license type is estimated to be \$585 in the first year and \$1,800 in the second year.

Late fees will increase in proportion to the increases in licensing fees, with a license holder whose license has been expired 90 days or less renewing by paying 1½ times the renewal fee, and a license holder whose license has been expired more than 90 days but less than one year renewing by paying two times the renewal fee. However, the amount of increased revenue that might come from increased late fees cannot be determined because it is unknown how many license holders will allow their licenses to expire in any given year and be required to pay late fees.

The total increased revenue from all license type fee increases is expected to be approximately \$527,765 in the first year and \$1,575,704 in the second year.

LOCAL EMPLOYMENT IMPACT STATEMENT

Mr. Couvillon has determined that the proposed rules will not affect a local economy, so the agency is not required to prepare a local economy impact statement under Government Code §2001.022.

PUBLIC BENEFITS

Mr. Couvillon has determined that for each year of the first five-year period the proposed rules are in effect, the public will benefit from allowing the TBVME to meet its obligation to comply with the Appropriations Limited to Revenue Collection requirement in the General Appropriations Act. By meeting this requirement, the TBVME can receive its full appropriation funding, which will allow it to fulfill longstanding needs for such things as a new, modern licensing system, additional needed personnel, and a continued peer assistance program.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

Mr. Couvillon has determined that for each year of the first five-year period the proposed rules are in effect, there will be additional costs to persons who are required to comply with the proposed rules. The additional cost to any individual will depend on which license is being applied for and whether it is for an initial or renewal license. The amount the fees are proposed to be increased should be able to be reduced in the next fiscal biennium.

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

Mr. Couvillon has determined there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposed rules. The veterinarian program regulates individuals, some of whom might be established as a small or micro-business. It is unknown how many of these persons fall within the definitions of a small or micro-business because data regarding which license holders are established as a small or micro-business are not collected by the agency. The fee increases required by the General Appropriations Act will not be large enough to cause an adverse economic effect on any li-

cence holder. The proposed rules will not result in an adverse economic cost to any small or micro-business.

Because the agency has determined that the proposed rules will have no adverse economic effect on small businesses, micro-businesses, or rural communities, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, is not required.

ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT

The proposed rules have a fiscal note that imposes a cost on regulated persons, including another state agency, a special district, or a local government. However, the proposed rules fall under the exception for rules that relate to agency procurement under §2001.0045(c)(1) and the exception for rules that are necessary to implement legislation, under §2001.0045(c)(9), unless the legislature specifically states §2001.0045(b) applies. Therefore, the agency is not required to take any further action under Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for the proposed rules. For each year of the first five years the proposed rules will be in effect, the agency has determined the following:

1. The proposed rules do not create or eliminate a government program.
2. Implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions.
3. Implementation of the proposed rules does not require an increase or decrease in future legislative appropriations to the agency.
4. The proposed rules require an increase or decrease in fees paid to the agency to allow the TBVME to comply with the requirements of the General Appropriations Act.
5. The proposed rules do not create a new regulation.
6. The proposed rules do not expand, limit, or repeal an existing regulation.
7. The proposed rules do not increase or decrease the number of individuals subject to the rules' applicability.
8. The proposed rules do not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

The Department has determined that no private real property interests are affected by the proposed rules and the proposed rules do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rules do not constitute a taking or require a takings impact assessment under Government Code §2007.043.

PUBLIC COMMENTS

Comments on the proposed rules may be submitted by email to TBVME.Comments@tdlr.texas.gov; by facsimile to (512) 475-3032; or by mail to Monica Nuñez, Legal Assistant, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin,

Texas 78711. The deadline for comments is 30 days after publication in the *Texas Register*.

STATUTORY AUTHORITY

The proposed rules are proposed under Texas Occupations Code, Chapters 51 and 801, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed rules are those set forth in the Texas Occupations Code, Chapters 51 and 801. No other statutes, articles, or codes are affected by the proposed rules.

The legislation that enacted the statutory authority under which the proposed rules are proposed is the General Appropriations Act, House Bill 1, 88th Regular Session (2023) at Article VIII, Section 1.

§577.15. Fee Schedule.

The Texas Board of Veterinary Medical Examiners has established the following fixed fees as reasonable and necessary for the administration of its functions. Other variable fees exist, including but not limited to costs as described in §575.10 of this title (relating to Costs of Administrative Hearings), and are not included in this schedule.

(1) Application for initial license.

- (A) Veterinary Regular License Application--\$560;
- (B) Veterinary Special License Application--\$630;
- (C) Veterinary Provisional License Application--\$610;
- (D) Veterinary Temporary License Application--\$220;
- (E) Equine Dental Provider Application--\$125; and
- (F) Veterinary Technician License Application--\$65.

(2) License Renewals.

- (A) Current License Renewals.
 - (i) Veterinary Regular License--\$340;
 - (ii) Veterinary Special License--\$250;
 - (iii) Veterinary Inactive License--\$140;
 - (iv) Equine Dental Provider License--\$120;
 - (v) Equine Dental Provider Inactive License--\$65;
 - (vi) Veterinary Technician Regular License--\$80;

and

- (vii) Veterinary Technician Inactive License--\$35.
- (B) Expired License Renewals - Less than 90 days

delinquent.

- (i) Veterinary Regular License--\$510;
- (ii) Veterinary Special License--\$375;
- (iii) Veterinary Inactive License--\$210;
- (iv) Equine Dental Provider License--\$180;
- (v) Equine Dental Provider Inactive License--
- (vi) Veterinary Technician Regular License--\$120;

\$97.50;

and

(vii) Veterinary Technician Inactive License--\$52.50.

(C) Expired License Renewals - More than 90 days and less than 1 year delinquent.

(i) Type of License--Board Fees;

(ii) Veterinary Regular License--\$680;

(iii) Veterinary Special License--\$500;

(iv) Veterinary Inactive License--\$280;

(v) Equine Dental Provider License--\$240;

(vi) Equine Dental Provider Inactive License--\$130;

(vii) Veterinary Technician Regular License--\$160;

and

(viii) Veterinary Technician Inactive License--\$70.

(3) Specialized License Categories.

(A) Veterinary Reinstatement--\$437.50;

(B) Veterinary Reactivation--\$262.50;

(C) Equine Dental Provider Reactivation--\$43.75; and

(D) Veterinary Technician Reactivation--\$43.75.

(4) Other Fees.

(A) Criminal History Evaluation Letter--\$50;

(B) Returned Check Fee--\$45;

(C) Duplication of License--\$40;

(D) Letter of Good Standing--\$45;

(E) Continuing Education Approval Review Process--\$45;

(F) Continuing Education Approval Review submitted less than 30 days prior to the continuing education event--\$100; and

(G) Equine Dental Certification Approval Review Process--\$2,500.

[Figure: 22 TAC §577.15]

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 June 10, 2024.

TRD-202402555

Doug Jennings

General Counsel

Texas Board of Veterinary Medical Examiners

Earliest possible date of adoption: July 21, 2024

For further information, please call: (512) 475-4879

TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 9. PROPERTY TAX ADMINISTRATION

SUBCHAPTER K. ARBITRATION
OF APPRAISAL REVIEW BOARD
DETERMINATIONS
DIVISION 2. LIMITED BINDING
ARBITRATION FOR PROCEDURAL
VIOLATIONS

34 TAC §9.4223

The Comptroller of Public Accounts proposes an amendment to §9.4223, concerning dismissal for lack of jurisdiction.

The amendment clarifies that dismissals with prejudice for lack of jurisdiction will occur where the individual who files for limited binding arbitration lacks the authority to do so. The amendment also modifies the language of subsection (a)(9) for consistency with §9.4244(a)(7) of this title. The comptroller will modify §9.4244(a)(7) of this title in a separate rulemaking.

The legislation enacted within the last four years that provides the statutory authority for the amendment is House Bill 988, 87th Legislature, R.S., 2021; and Senate Bill 1854, 87th Legislature, R.S., 2021.

Brad Reynolds, Chief Revenue Estimator, has determined that during the first five years that the proposed amended rule is in effect, the rule: will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; will not increase or decrease the number of individuals subject to the rule's applicability; and will not positively or adversely affect this state's economy.

Mr. Reynolds also has determined that the proposed amendment would have no significant fiscal impact on the state government, units of local government, or individuals. The proposed amended rule would benefit the public by conforming the rule to current statute and improving the clarity and implementation of the section. There would be no significant anticipated economic cost to the public. The proposed amended rule would have no fiscal impact on small businesses or rural communities.

You may submit comments on the proposal to Shannon Murphy, Director, Property Tax Assistance Division, P.O. Box 13528 Austin, Texas 78711 or to the email address: ptad.rulecomments@cpa.texas.gov. The comptroller must receive your comments no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The amendment is proposed under Tax Code, §41A.13, which authorizes the comptroller to adopt rules necessary to implement and administer Tax Code, Chapter 41A, concerning appeal through binding arbitration.

The amendment implements Tax Code, Chapter 41A.

§9.4223. *Dismissal for Lack of Jurisdiction.*

(a) Reasons for dismissal. The arbitrator shall dismiss a pending request for LBA with prejudice, for lack of jurisdiction, if:

(1) except as allowed by Tax Code, §41A.10, taxes on the property subject to the appeal are delinquent because, for any prior year, all property taxes due have not been paid or because, for the year at issue, the undisputed tax amount was not paid before the delinquency date set by the applicable section of Tax Code, Chapter 31;

(2) no notice of protest under Tax Code, Chapter 41, was filed prior to the request for LBA being filed under Tax Code, §41A.015(a);

(3) the requestor seeks to compel the ARB or chief appraiser to take an action that is not authorized by Tax Code, §41A.015(a);

(4) the requestor failed to timely provide written notice to the chair of the ARB, the chief appraiser, and the taxpayer liaison officer for the applicable appraisal district by certified mail, return receipt requested, of the procedural requirement(s) with which the property owner alleges the ARB or chief appraiser was required to comply under Tax Code, §41A.015(b)(1);

(5) the requestor failed to timely file the request for LBA under Tax Code, §41A.015(d), which requires filing it no earlier than the 11th day and no later than the 30th day after the date the property owner delivered the notice required by Tax Code, §41A.015(b)(1);

(6) the chief appraiser or ARB chair delivered a written statement to the property owner on or before the 10th day after the notice described by Tax Code, §41A.015(b)(1), was delivered confirming that the ARB or chief appraiser would comply with the requirement or cure a failure to comply with the requirement;

(7) a lawsuit was filed in district court regarding the same issues, for the same properties, and for the same tax year for which the request was filed;

(8) the property owner or the property owner's agent and the appraisal district have executed a written agreement resolving the matter; or

(9) the request for LBA was not filed by the property owner or was filed by an agent without [who does not have] proper authority as described by [to act as an agent for the property owner under] Tax Code, §41A.08 and §9.4205 of this title.

(b) An arbitrator shall dismiss any individual properties for which subsection (a) of this section applies and the case will move forward with only the remaining properties.

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 June 4, 2024.

TRD-202402478

Victoria North

General Counsel for Fiscal and Agency Affairs

Comptroller of Public Accounts

Earliest possible date of adoption: July 21, 2024

For further information, please call: (512) 475-2220



DIVISION 3. REGULAR BINDING
ARBITRATION OF APPRAISAL REVIEW
BOARD DETERMINATIONS

34 TAC §9.4244

The Comptroller of Public Accounts proposes an amendment to §9.4244, concerning dismissals for lack of jurisdiction.

The amendment clarifies that dismissals with prejudice for lack of jurisdiction will occur where the individual who files for regular binding arbitration lacks the authority to do so. The amendment

modifies the name of §9.4244 for consistency with §9.4223 of this title. The amendment also modifies the language of subsection (a)(7) for consistency with §9.4223(a)(9) of this title. The comptroller will modify §9.4223(a)(9) of this title in a separate rulemaking.

The legislation enacted within the last four years that provides the statutory authority for the amendment is House Bill 988, 87th Legislature, R.S., 2021; Senate Bill 1854, 87th Legislature, R.S., 2021; and Senate Bill 2355, 88th Legislature, R.S., 2023.

Brad Reynolds, Chief Revenue Estimator, has determined that during the first five years that the proposed amended rule is in effect, the rule: will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; will not increase or decrease the number of individuals subject to the rule's applicability; and will not positively or adversely affect this state's economy.

Mr. Reynolds also has determined that the proposed amendment would have no significant fiscal impact on the state government, units of local government, or individuals. The proposed amended rule would benefit the public by conforming the rule to current statute and improving the clarity and implementation of the section. There would be no significant anticipated economic cost to the public. The proposed amended rule would have no fiscal impact on small businesses or rural communities.

You may submit comments on the proposal to Shannon Murphy, Director, Property Tax Assistance Division, P.O. Box 13528 Austin, Texas 78711 or to the email address: ptad.rulecomments@cpa.texas.gov. The comptroller must receive your comments no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The amendment is proposed under Tax Code, §41A.13, which authorizes the comptroller to adopt rules necessary to implement and administer Tax Code, Chapter 41A, concerning appeal through binding arbitration.

The amendment implements Tax Code, Chapter 41A.

§9.4244. *Dismissal [Dismissals] for Lack of Jurisdiction.*

(a) Reasons for dismissal. For requests for RBA filed under Tax Code, §41A.01, the arbitrator shall dismiss with prejudice a pending request for RBA for lack of jurisdiction, if:

(1) except as allowed by Tax Code, §41A.10, taxes on the property subject to the appeal are delinquent because for any prior year, all property taxes due have not been paid or because, for the year at issue, the undisputed tax amount was not paid before the delinquency date set by the applicable section of Tax Code, Chapter 31;

(2) the ARB order(s) appealed did not determine a protest filed pursuant to Tax Code, §41.41(a)(1), concerning the appraised or market value, or Tax Code, §41.41(a)(2), concerning unequal appraisal of the property;

(3) the appraised or market value of the property as determined in the ARB order was either more than \$5 million or the property did not qualify as the property owner's residence homestead under Tax Code, §11.13;

(4) the request for RBA was filed after the deadline established in Tax Code, §41A.03, which requires submission by not later than the 60th calendar day after the date the property owner or the property owner's agent receives the ARB order determining the protest;

(5) the property owner or the property owner's agent filed an appeal with the district court under Tax Code, Chapter 42, concerning the value of the same property in the same tax year that is at issue in the pending RBA;

(6) the property owner or the property owner's agent and appraisal district have executed a written agreement resolving the matter;

(7) the request for RBA was not filed by the property owner or was filed by an agent without proper authority as described by Tax Code, §41A.08 and §9.4205 of this title; or

(8) an LBA award rescinded the ARB order(s) under Tax Code, §41A.015(j)(2)(B).

(b) Contiguous tracts. When an RBA proceeding is brought pursuant to Tax Code, §41A.03(a-1), involving two or more contiguous tracts of land, the arbitrator shall dismiss from the proceeding any tract of land for which subsection (a) of this section applies. If, after dismissal, two or more tracts are not contiguous, the property owner may select the single or contiguous tracts that will be arbitrated. Otherwise, the arbitrator will determine the single or contiguous tracts that contain the property with the highest appraised or market value.

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 June 4, 2024.

TRD-202402479

Victoria North

General Counsel for Fiscal and Agency Affairs

Comptroller of Public Accounts

Earliest possible date of adoption: July 21, 2024

For further information, please call: (512) 475-2220



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 11. TEXAS JUVENILE JUSTICE DEPARTMENT

CHAPTER 341. GENERAL STANDARDS FOR JUVENILE PROBATION DEPARTMENTS SUBCHAPTER C. CHIEF ADMINISTRATIVE OFFICER RESPONSIBILITIES

37 TAC §341.304

The Texas Juvenile Justice Department (TJJD) proposes new 37 TAC §341.304, Requirement to Apply for Diversion Funds.

SUMMARY OF CHANGES

The new §341.304 will explain that, prior to a court committing a juvenile to TJJD, the chief administrative officer or designee must submit an application for diversion funds to divert a youth from commitment to TJJD. The new section will also describe situations in which the requirement does not apply.

FISCAL NOTE

Emily Anderson, Deputy Executive Director: Support Operations and Finance, has determined that, for each year of the first five

years the new section is in effect, there will be no significant fiscal impact for state government or local governments as a result of enforcing or administering the section.

PUBLIC BENEFITS/COSTS

Cameron Taylor, Senior Strategic Advisor, 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 administering the section will be to bring TJJD into compliance with statutory requirements.

Ms. Anderson has also determined that there will be no effect on small businesses, micro-businesses, or rural communities. There is no anticipated economic cost to persons who are required to comply with the new section as proposed. No private real property rights are affected by adoption of this section.

GOVERNMENT GROWTH IMPACT

TJJD has determined that, during the first five years the new section is in effect, the section will have the following impacts.

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

PUBLIC COMMENTS

Comments on the proposal may be submitted within 30 days after publication of this notice to Josh Bauermeister, Policy Writer, Texas Juvenile Justice Department, P.O. Box 12757, Austin, Texas 78711, or via email to policy.proposals@tjjd.texas.gov.

STATUTORY AUTHORITY

The new section is proposed under §223.001(d-1), Human Resources Code, which requires a juvenile probation department to apply for the placement of a child in a regional specialized program before a juvenile court commits the child to the department's custody and allows for the establishment of exceptions to this requirement.

No other statute, code, or article is affected by this proposal.

§341.304. Requirement to Apply for Diversion Funds.

(a) Prior to a court committing a juvenile to TJJD, the chief administrative officer or designee must submit an application for diversion funds to divert a juvenile from commitment to TJJD.

(b) The requirement in subsection (a) does not apply if:

(1) the youth has committed conduct that is eligible for a determinate sentence under §51.031 or §53.045, Family Code, whether or not the petition was approved by the grand jury;

(2) the youth has been previously placed and discharged within the last year from a post-adjudication secure juvenile correctional facility;

(3) the youth is at least 17 years of age on the date of disposition or modification of disposition; or

(4) a juvenile probation department is not recommending commitment.

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 June 4, 2024.

TRD-202402473

Jana L. Jones

General Counsel

Texas Juvenile Justice Department

Earliest possible date of adoption: July 21, 2024

For further information, please call: (512) 490-7278



CHAPTER 380. RULES FOR STATE-OPERATED PROGRAMS AND FACILITIES

SUBCHAPTER B. TREATMENT

DIVISION 2. PROGRAMMING FOR YOUTH WITH SPECIALIZED TREATMENT NEEDS

37 TAC §380.8789

As a result of a rule review of Title 37, Texas Administrative Code, Chapter 380, Subchapter B, as published in the February 2, 2024, issue of the *Texas Register* (49 TexReg 571), the Texas Juvenile Justice Department (TJJD) proposes to repeal §380.8789, Use of Clinical Polygraph in the Sexual Behavior Treatment Program.

During the review, TJJD found the original reasons for adopting the rule no longer exist.

SUMMARY OF CHANGES

Section 380.8789 is repealed because the practice described in the rule is no longer applicable to current TJJD services.

FISCAL NOTE

Emily Anderson, Deputy Executive Director: Support Operations and Finance, has determined that, for each year of the first five years the repeal is in effect, there will be no significant fiscal impact for state government or local governments as a result of enforcing or administering the repeal.

PUBLIC BENEFITS/COSTS

Cameron Taylor, Senior Strategic Advisor, has determined that for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of administering the repeal will be to eliminate a rule that no longer aligns with the practices of TJJD's treatment program.

Ms. Anderson has also determined that there will be no effect on small businesses, micro-businesses, or rural communities. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed. No private real property rights are affected by adoption of this repeal.

GOVERNMENT GROWTH IMPACT

TJJD has determined that, during the first five years the repeal is in effect, the repeal will have the following impacts.

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

PUBLIC COMMENTS

Comments on the proposal may be submitted within 30 days after publication of this notice to Josh Bauermeister, Policy Writer, Texas Juvenile Justice Department, P.O. Box 12757, Austin, Texas 78711, or via email to policy.proposals@tjtd.texas.gov.

STATUTORY AUTHORITY

The repeal is proposed under §2001.039, Government Code, which requires TJJD to review its rules every four years and to determine whether the original reasons for adopting reviewed rules continue to exist.

No other statute, code, or article is affected by this proposed repeal.

§380.8789. *Use of Clinical Polygraph in the Sexual Behavior Treatment Program.*

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 June 4, 2024.

TRD-202402471

Jana L. Jones

General Counsel

Texas Juvenile Justice Department

Earliest possible date of adoption: July 21, 2024

For further information, please call: (512) 490-7278



CHAPTER 385. AGENCY MANAGEMENT AND OPERATIONS

SUBCHAPTER A. CONTRACTS

37 TAC §385.1101

As a result of a rule review of Title 37, Texas Administrative Code, Chapter 385, Subchapter A, as published in the July 28, 2023, issue of the *Texas Register* (48 TexReg 4137), the Texas Juvenile Justice Department (TJJD) proposes to amend §385.1101, Contract Authority and Responsibilities.

SUMMARY OF CHANGES

Amendments to §385.1101 include: 1) adding a definition for *total value*; 2) clarifying that TJJD staff must present to the board any change order for a construction contract that exceeds \$150,000 individually or cumulatively, or a dollar amount that causes the total value of the contract to exceed \$300,000; 3) deleting a paragraph pertaining to the approval of contracts involving the expenditure of funds for outside audit services and outside legal services; and 4) deleting paragraphs pertaining to competitive solicitations, consulting services, professional services, construction services, rate setting, exemptions from the competitive bidding process for youth services, iron and steel products, and contracts with businesses that do not boycott Israel. The above deletions are being proposed because it is understood that TJJD is already abiding by the statutes referenced.

FISCAL NOTE

Emily Anderson, Deputy Executive Director: Support Operations and Finance, has determined that, for each year of the first five years the amended section is in effect, there will be no significant fiscal impact for state government or local governments as a result of enforcing or administering the section.

PUBLIC BENEFITS/COSTS

Cameron Taylor, Senior Strategic Advisor, has determined that for each year of the first five years the amended section is in effect, the public benefit anticipated as a result of administering the section will be to clarify the process for approving and executing contracts and to eliminate duplicative and unnecessary language from the rule.

Ms. Anderson has also determined that there will be no effect on small businesses, micro-businesses, or rural communities. There is no anticipated economic cost to persons who are required to comply with the amended section as proposed. No private real property rights are affected by adoption of these amendments.

GOVERNMENT GROWTH IMPACT

TJJD has determined that, during the first five years the amended section is in effect, the amendments will have the following impacts.

- (1) The amended section does not create or eliminate a government program.
- (2) The amended section does not require the creation or elimination of employee positions at TJJD.
- (3) The amended section does not require an increase or decrease in future legislative appropriations to TJJD.
- (4) The amended section does not impact fees paid to TJJD.
- (5) The amended section does not create a new regulation.
- (6) The amended section does not expand, limit, or repeal an existing regulation.
- (7) The amended section does not increase or decrease the number of individuals subject to the section's applicability.
- (8) The amended section will not positively or adversely affect this state's economy.

PUBLIC COMMENTS

Comments on the proposal may be submitted within 30 days after publication of this notice to Josh Bauermeister, Policy Writer, Texas Juvenile Justice Department, P.O. Box 12757, Austin, Texas 78711, or via email to policy.proposals@tjjd.texas.gov.

STATUTORY AUTHORITY

The amended section is proposed under §2001.039, Government Code, which requires TJJJ to review its rules every four years and to determine whether the original reasons for adopting the reviewed rules continue to exist.

No other statute, code, or article is affected by this proposal.

§385.1101. *Contract Authority and Responsibilities.*

(a) Purpose. This rule establishes the responsibilities for approving and executing contracts required by the Texas Juvenile Justice Department (TJJJ).

(b) Applicability. This rule applies to all contracts entered into by TJJJ.

(c) Definitions. As used in this chapter, the following terms have the following meanings, unless the context clearly indicates otherwise.

(1) Board--the governing board of TJJJ.

(2) Contract--a written contract between TJJJ and another party, either public or private, for goods or services or for a project as defined by Section 2166.001, Government Code. As used in this chapter, "contract" includes the following: letters of agreement; inter-agency/interlocal agreements with other government entities; memorandums of understanding; and other agreements in which state funds or services are exchanged for the delivery of goods or performance of services.

(3) Total Value--The estimated dollar amount that a state agency may be obligated to pay pursuant to the contract and all executed and proposed amendments, extensions, and renewals of the contract.

(d) Authority to Approve Contracts.

(1) Board Approval. TJJJ staff must present certain contracts to the board for approval, including but not limited to:

(A) any contract with a total value exceeding \$500,000;

(B) any construction contract with a total value exceeding \$300,000;

(C) any change order(s) for a construction contract that exceeds ~~order exceeding~~ \$150,000 individually or cumulatively, or a dollar amount that causes the total value of the contract to exceed \$300,000 ~~for a construction contract~~;

(D) any contract with a total value exceeding \$15,000 for consulting ~~consultant~~ services, as defined in Section 2254.021, Government Code;

(E) any contract for architectural or engineering services;

(F) any contract for start-up residential operations; and

(G) any other contract appropriate for board approval as determined by the executive director.

(2) Agency Approval.

(A) The board delegates authority to the executive director or designee to approve all contracts not listed in paragraph (1) of this subsection.

(B) The board delegates authority to the executive director or designee to approve a contract listed in paragraph (1) of this subsection that is executed in response to an emergency, as defined in 34 TAC §20.210 [§20.32].

~~{(3) Other Approvals}~~

~~{(A) TJJJ complies with Section 321.020, Government Code, which requires that all contracts involving the expenditure of funds for outside audit services must be approved by the Texas State Auditor's Office.}~~

~~{(B) TJJJ complies with Section 402.0212, Government Code, which requires that all contracts involving the expenditure of funds for outside legal services must be approved by the Office of the Attorney General.}~~

(e) Authority to Execute Contracts. The board delegates authority to the executive director to execute all contracts for TJJJ. This authority may be delegated by the executive director ~~[to another member of the executive management team].~~

(f) Annual Contract Plan.

(1) TJJJ staff must present to the board for its review an annual plan that outlines TJJJ's anticipated contracting actions for the next fiscal year.

(2) As deemed necessary by the executive director or designee, updates to the contract plan may be provided to the board for review periodically throughout the fiscal year.

~~{(g) Adoptions by Reference and Statutory Citations Relating to Contracting Responsibilities.}~~

~~{(1) Competitive Solicitations.}~~

~~{(A) TJJJ complies with Chapters 2155 and 2156, Government Code, relating to the competitive bidding process and types of solicitations used and Section 2252.002, Government Code, relating to awards of contracts to nonresident bidders.}~~

~~{(B) TJJJ adopts by reference 34 TAC §20.391, relating to requests for offers.}~~

~~{(g) [(2)] Historically Underutilized Businesses. TJJJ adopts by reference 34 TAC Chapter 20, Subchapter D, Division 1, relating to historically underutilized businesses.}~~

~~{(3) Consulting Services.}~~

~~{(A) TJJJ complies with Chapter 2254, Subchapter B, Government Code, relating to consulting services contracts.}~~

~~{(B) TJJJ adopts by reference 34 TAC §5.54, relating to consulting services contracts.}~~

~~{(4) Professional Services. TJJJ complies with Chapter 2254, Subchapter A, Government Code, relating to professional services contracts.}~~

~~{(5) Construction Services. TJJJ awards contracts for the construction of buildings and improvements in accordance with Chapter 2166, Government Code.}~~

~~{(6) Rate Setting. TJJJ complies with Section 2261.151(a), Government Code, relating to payment and reimbursement methods and rates.}~~

~~{(7) Exemptions from Competitive Bidding Process for Youth Services. In accordance with Chapter 2155, Subchapter C, Government Code, relating to certain exemptions from competitive bidding, TJJJ may purchase care and treatment services for youth committed to its care at rates not to exceed any maximum provided~~

by law, based on each provider's qualifications and demonstrated competence.}]

~~[(8) Iron and Steel Products. TJJJ complies with Chapter 2252, Subchapter F, Government Code, relating to the purchase of iron and steel products made in the United States for certain governmental entity projects.]~~

~~[(9) Contracts with Businesses That Do Not Boycott Israel. TJJJ complies with Section 2270.002, Government Code, relating to entering into contracts with only those businesses that have verified in writing that they do not boycott Israel and will not do so for the term of a contract.]~~

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 June 4, 2024.

TRD-202402472

Jana L. Jones

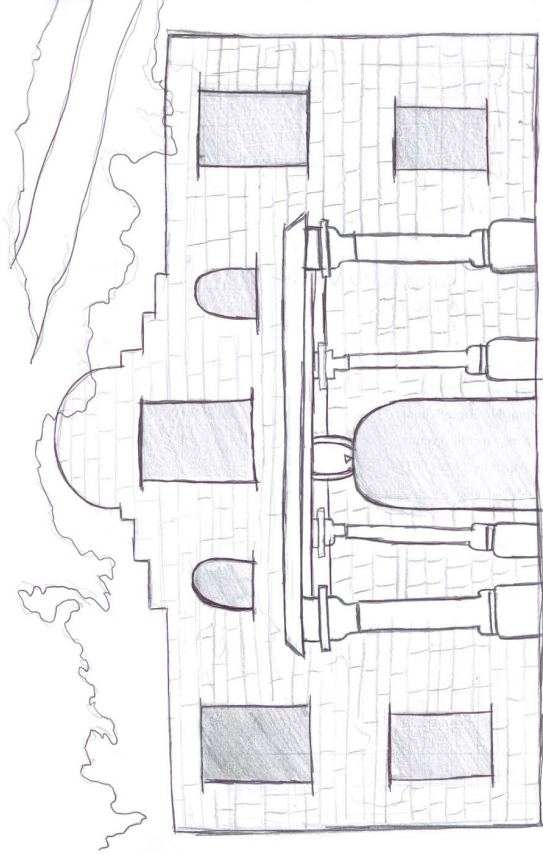
General Counsel

Texas Juvenile Justice Department

Earliest possible date of adoption: July 21, 2024

For further information, please call: (512) 490-7278





WITHDRAWN RULES

Withdrawn Rules include proposed rules and emergency rules. A state agency may specify that a rule is withdrawn immediately or on a later date after filing the notice with the Texas Register. A proposed rule is withdrawn six months after the date of publication of the proposed rule in the Texas Register if a state agency has failed by that time to adopt, adopt as amended, or withdraw the proposed rule. Adopted rules may not be withdrawn. (Government Code, §2001.027)

TITLE 16. ECONOMIC REGULATION

PART 3. TEXAS ALCOHOLIC BEVERAGE COMMISSION

CHAPTER 50. ALCOHOLIC BEVERAGE SELLER SERVER AND DELIVERY DRIVER TRAINING

SUBCHAPTER B. MANDATORY CURRICULUM AND COURSE OF INSTRUCTION

16 TAC §§50.4 - 50.6

Proposed amended §§50.4 - 50.6, published in the December 1, 2023, issue of the *Texas Register* (48 TexReg 6989), are withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on June 5, 2024.

TRD-202402498



SUBCHAPTER E. SELLER SERVER CERTIFICATES

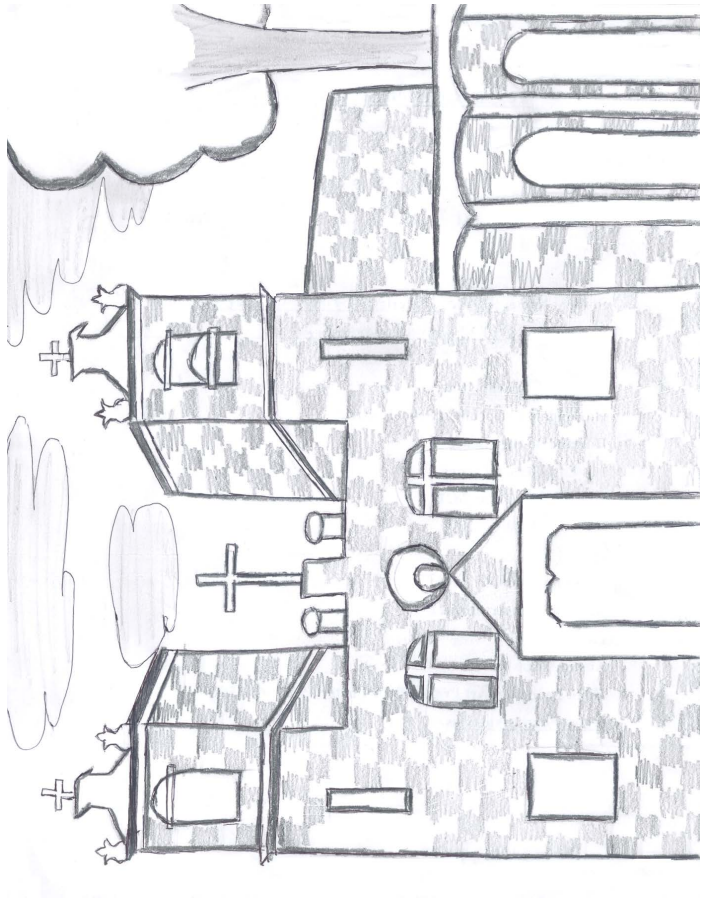
16 TAC §50.29

Proposed amended §50.29, published in the December 1, 2023, issue of the *Texas Register* (48 TexReg 6989), is withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on June 5, 2024.

TRD-202402499





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 16. ECONOMIC REGULATION

PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION

CHAPTER 70. INDUSTRIALIZED HOUSING AND BUILDINGS

16 TAC §70.100

The Texas Commission of Licensing and Regulation (Commission) adopts an amendment to existing rules at 16 Texas Administrative Code (TAC), Chapter 70, §70.100, regarding the Industrialized Housing and Buildings program, without changes to the proposed text as published in the April 5, 2024, issue of the *Texas Register* (49 TexReg 2162). The rule will not be republished.

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The adopted rule under 16 TAC, Chapter 70, implements Texas Occupations Code, Chapter 1202, Industrialized Housing and Buildings.

The adopted rule amendment at §70.100(a) would revise the date on which the industry would be required to comply with the mandatory building codes and amendments identified in §70.100 and §70.101. The proposed rule amends the date for industry implementation to July 1, 2024.

SECTION-BY-SECTION SUMMARY

The adopted rule amends §70.100(a) to revise the effective date of the mandatory building codes to July 1, 2024.

PUBLIC COMMENTS

The Department drafted and distributed the proposed rules to persons internal and external to the agency. The proposed rules were published in the April 5, 2024, issue of the *Texas Register* (49 TexReg 2162). The public comment period closed on May 6, 2024. The Department received comments from five interested parties during the comment period. Of those five parties, three submitted the same comment twice. The public comments are summarized below.

Comment: A commenter received requested the deletion of arc fault circuit interrupter (AFCI) protection for dedicated circuits serving refrigeration equipment. The commenter asked if AFCI protection is necessary for refrigeration equipment since it will likely be unplugged only for repair or replacement.

Department Response: As the comment was not focused on the amendment of the date of effectiveness of the new codes and rule amendments, the Department did not make any changes to the proposed rules based on this comment. The comment will be reviewed for possible future rulemaking.

Comment: A commenter requested a specific amendment to restore exemptions for lead-acid batteries.

Department Response: As the comment was not focused on the amendment of the date of effectiveness of the new codes and rule amendments, the Department did not make any changes to the proposed rules based on this comment. The comment will be reviewed for possible future rulemaking.

Comment: Three commenters requested that the Code Council and Department accept the International Code Council's guidance and adopt, by amendment, all exceptions in the 2024 International Fire Code (IFC), Section 1207, to the 2021 code cycle. In the alternative, the commenters proposed amending the code by adding 2024 IFC Section 1207 to a 2021 IFC adoption. The commenters stated that there is a potential for schedule delays due to code requirements that will delay substantial completion of major projects where the electrical packages are on a critical schedule path.

Department Response: As these comments were not focused on the amendment of the date of effectiveness of the new codes and rule amendments, the Department did not make any changes to the proposed rules based on these comments. The comments will be reviewed for possible future rulemaking.

Comment: One commenter stated that necessary exceptions for lead-acid batteries are missing from the referenced 2021 version of the International Fire Code (IFC) as found in the 2024 version. According to the commenter, the absence of these exceptions will require manufacturers to produce larger shipping sections and incur increased manufacturing materials costs, both of which will lead to an increase in construction costs and building size footprint. The commenter attached a supplement to the comment to show the impact of complying with the 2021 IFC. The commenter identified specific sections of the 2024 IFC to be included in any amendment of the International codes adopted in §70.100.

Department Response: As the comment was not focused on the amendment of the date of effectiveness of the new codes and rule amendments, the Department did not make any changes to the proposed rules based on this comment. The comment will be reviewed for possible future rulemaking.

CODE COUNCIL RECOMMENDATIONS AND COMMISSION ACTION

The Industrialized Housing and Buildings Code Council did not meet to discuss the proposed rule or the public comments received, as the amendment was needed immediately so as not to further delay implementation of the mandatory building codes and their amendments.

At its meeting on May 21, 2024, the Commission adopted the proposed rule as published in the *Texas Register* as recommended by the Department.

STATUTORY AUTHORITY

The adopted rule is adopted under Texas Occupations Code, Chapters 51 and 1202, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the adopted rules are those set forth in Texas Occupations Code, Chapters 51 and 1202. No other statutes, articles, or codes are affected by the adopted 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 June 7, 2024.

TRD-202402522

Doug Jennings

General Counsel

Texas Department of Licensing and Regulation

Effective date: July 1, 2024

Proposal publication date: April 5, 2024

For further information, please call: (512) 463-7750



CHAPTER 84. DRIVER EDUCATION AND SAFETY

SUBCHAPTER B. DRIVER TRAINING AND TRAFFIC SAFETY ADVISORY COMMITTEE

16 TAC §84.30

The Texas Commission of Licensing and Regulation (Commission) adopts amendments to an existing rule at 16 Texas Administrative Code (TAC), Chapter 84, Subchapter B, §84.30, regarding the Driver Education and Safety program, without changes to the proposed text as published in the March 22, 2024, issue of the *Texas Register* (49 TexReg 1807). These rules will not be republished.

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The rules under 16 TAC Chapter 84 implement Texas Education Code, Chapter 1001, Driver and Traffic Safety Education; the driver education laws under Texas Education Code §29.902 and §51.308; and Texas Transportation Code, Chapter 521, Driver's Licenses and Certificates. The rules also implement Texas Occupations Code, Chapter 51, the enabling statute of the Texas Commission of Licensing and Regulation (Commission) and the Texas Department of Licensing and Regulation (Department).

The adopted rules implement House Bill (HB) 3743, Section 4, 88th Legislature, Regular Session (2023), which exempts the Commission and the Department's advisory boards from Texas Government Code, Chapter 2110, State Agency Advisory Committees. HB 3743, Section 4 added new subsection (d) under Texas Occupations Code §51.209, Advisory Boards; Removal of Advisory Board Member. This provision states: "(d) Notwithstanding any other law, Chapter 2110, Government Code, does

not apply to an advisory board established to advise the commission or department."

Texas Government Code, Chapter 2110 specifies certain requirements for a state agency advisory committee or board (advisory board), including the composition, duration, purpose, and tasks of the advisory board; the selection of the presiding officer; and the submission of specified reports. The requirements for the Commission and the Department's advisory boards, however, are specified and detailed in Texas Occupations Code, Chapter 51; in the applicable program statute and rules; and/or as authorized by the applicable program statute and established in rule.

The adopted rules under Chapter 84, Driver Education and Safety, remove a now redundant provision that states that Texas Government Code, Chapter 2110 does not apply to the advisory committee established for that program. The adopted rules are necessary to remove language that is redundant with Texas Occupations Code, Chapter 51, as amended by HB 3743, Section 4, and to make the Driver Education and Safety program rules consistent with other program rules.

SECTION-BY-SECTION SUMMARY

Subchapter B. Driver Training and Traffic Safety Advisory Committee.

The adopted rules amend §84.30, Membership. The adopted rules repeal subsection (b), which states that Texas Government Code, Chapter 2110, does not apply to the advisory committee. This provision does not conflict with Texas Occupations Code, Chapter 51, as amended by HB 3743, Section 4, but it is redundant and is being removed for consistency with other program rules. The subsection (a) lettering is removed with the repeal of subsection (b).

PUBLIC COMMENTS

The Department drafted and distributed the proposed rules to persons internal and external to the agency. The proposed rules were published in the March 22, 2024, issue of the *Texas Register* (49 TexReg 1807). The public comment period closed on April 22, 2024. The Department did not receive any comments from interested parties on the proposed rules.

COMMISSION ACTION

At its meeting on May 21, 2024, the Commission adopted the proposed rules as published in the *Texas Register*.

STATUTORY AUTHORITY

The adopted rules are adopted under Texas Occupations Code, Chapter 51, which authorizes the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement that chapter and any other law establishing a program regulated by the Department. The adopted rules are also adopted under Texas Education Code, Chapter 1001, Driver Education and Safety.

The statutory provisions affected by the adopted rules are those set forth in Texas Occupations Code, Chapters 51; Texas Education Code, Chapters 29, 53, and 1001; and Texas Transportation Code, Chapter 521. No other statutes, articles, or codes are affected by the adopted rules.

The legislation that enacted the statutory authority under which the adopted rules are adopted is House Bill 3743, Section 4, 88th 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 7, 2024.

TRD-202402535

Doug Jennings

General Counsel

Texas Department of Licensing and Regulation

Effective date: July 1, 2024

Proposal publication date: March 22, 2024

For further information, please call: (512) 463-7750



CHAPTER 119. SANITARIANS

16 TAC §119.10

The Texas Commission of Licensing and Regulation (Commission) adopts amendments to existing rules at 16 Texas Administrative Code (TAC), Chapter 119, §119.10, regarding the Sanitarians program, without changes to the proposed text as published in the March 22, 2024, issue of the *Texas Register* (49 TexReg 1809). These rules will not be republished.

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The rules under 16 TAC Chapter 119 implement Texas Occupations Code, Chapter 1953, Sanitarians, and Chapter 51, the enabling statute of the Texas Commission of Licensing and Regulation (Commission) and the Texas Department of Licensing and Regulation (Department).

The adopted rules implement House Bill (HB) 3743, Section 4, 88th Legislature, Regular Session (2023), which exempts the Commission and the Department's advisory boards from Texas Government Code, Chapter 2110, State Agency Advisory Committees. HB 3743, Section 4 added new subsection (d) under Texas Occupations Code §51.209, Advisory Boards; Removal of Advisory Board Member. This provision states: "(d) Notwithstanding any other law, Chapter 2110, Government Code, does not apply to an advisory board established to advise the commission or department."

Texas Government Code, Chapter 2110 specifies certain requirements for a state agency advisory committee or board (advisory board), including the composition, duration, purpose, and tasks of the advisory board; the selection of the presiding officer; and the submission of specified reports. The requirements for the Commission and the Department's advisory boards, however, are specified and detailed in Texas Occupations Code, Chapter 51; in the applicable program statute and rules; and/or as authorized by the applicable program statute and established in rule.

The adopted rules remove language from Chapter 119, Sanitarians, that states that Texas Government Code, Chapter 2110 applies to the advisory committee established for that program. The adopted rules are necessary to remove conflicting language and to align the Sanitarians program rules with Texas Occupations Code, Chapter 51, as amended by HB 3743, Section 4.

SECTION-BY-SECTION SUMMARY

The adopted rules amend §119.10, Advisory Committee. The adopted rules repeal subsection (b), which states that the Registered Sanitarian Advisory Committee is subject to Government

Code, Chapter 2110. The adopted rules re-letter the subsequent subsection.

PUBLIC COMMENTS

The Department drafted and distributed the proposed rules to persons internal and external to the agency. The proposed rules were published in the March 22, 2024, issue of the *Texas Register* (49 TexReg 1809). The public comment period closed on April 22, 2024. The Department did not receive any comments from interested parties on the proposed rules.

COMMISSION ACTION

At its meeting on May 21, 2024, the Commission adopted the proposed rules as published in the *Texas Register*.

STATUTORY AUTHORITY

The adopted rules are adopted under Texas Occupations Code, Chapter 51, which authorizes the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement that chapter and any other law establishing a program regulated by the Department. The adopted rules are also adopted under Texas Occupations Code, Chapter 1953, Sanitarians.

The statutory provisions affected by the adopted rules are those set forth in Texas Occupations Code, Chapters 51 and 1953. No other statutes, articles, or codes are affected by the adopted rules.

The legislation that enacted the statutory authority under which the adopted rules are adopted is House Bill 3743, Section 4, 88th 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 7, 2024.

TRD-202402536

Doug Jennings

General Counsel

Texas Department of Licensing and Regulation

Effective date: July 1, 2024

Proposal publication date: March 22, 2024

For further information, please call: (512) 463-7750



TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 74. CURRICULUM REQUIREMENTS

SUBCHAPTER C. OTHER PROVISIONS

19 TAC §74.28

(Editor's note: In accordance with Texas Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," the figure in 19 TAC §74.28(c) is not included in the print version of the Texas Register. The figure is available in the on-line version of the June 21, 2024, issue of the Texas Register.)

The State Board of Education (SBOE) adopts an amendment to §74.28, concerning students with dyslexia and related disorders. The amendment is adopted with changes to the proposed text as published in the March 1, 2024 issue of the *Texas Register* (49 TexReg 1181) and will be republished. The adopted amendment updates the rule to align with House Bill (HB) 3928, 88th Texas Legislature, Regular Session, 2023; clarifies terminology used in the Texas Education Code; and updates the *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders* (*Dyslexia Handbook*) adopted as Figure: 19 TAC §74.28(c) to clarify requirements related to dyslexia evaluation, identification, and instruction.

REASONED JUSTIFICATION: Section 74.28 provides the requirements to school districts and open-enrollment charter schools for identifying students with dyslexia or related disorders and providing appropriate services to those students.

The 85th Texas Legislature, Regular Session, 2017, passed HB 1886, amending Texas Education Code (TEC), §38.003, to specify that a student enrolled in public school must be screened or tested, as appropriate, for dyslexia and related disorders at appropriate times in accordance with a program approved by the SBOE. The legislation required that the program include screening at the end of the school year for all students in Kindergarten and Grade 1. An amendment to §74.28 to align the rule with HB 1886 was approved for second reading and final adoption at the June 2018 SBOE meeting with an effective date of August 27, 2018.

Section 74.28 was amended effective March 13, 2019, to adopt the *Dyslexia Handbook* in rule as Figure: 19 TAC §74.28(c).

The section was amended again effective December 25, 2019, to require school districts and open-enrollment charter schools to report to the Texas Education Agency (TEA) through the Texas Student Data System Public Education Information Management System (TSDS PEIMS) the results of screening for dyslexia and related disorders required at the end of the school year for each student in Kindergarten and each student in Grade 1 in accordance with TEC, §38.003(a).

The section was amended again effective February 10, 2022, to clarify that evaluations for dyslexia and related disorders must go through the process required by the Individuals with Disabilities Education Act.

The adopted amendment updates the section and the *Dyslexia Handbook* to align with the passage of HB 3928.

The following changes were made since approved for first reading and filing authorization.

Dyslexia Handbook

At adoption, the appendices have been removed, as these will be maintained by TEA staff instead of adopted in SBOE rule.

Clarifications have been made in relation to the reading diagnostic assessments under TEC, §28.006, and the dyslexia screeners in TEC, §38.003. Additionally, the Grade 1 dyslexia screener timeline has been adjusted to reference the screener being done as close to the middle of the school year as possible, but no later than January 31.

Clarifications regarding who might be on a team interpreting screener data, as well as a data review team, have been made.

In relation to the individual with specific knowledge of dyslexia and related disorders, dyslexia instruction, and the reading

process, the following changes have been made at adoption. The term "course" has been changed to "training center" when referring to training and credentialing of certain staff; a statement has been added that an individual who is actively involved in the credentialing process could serve as the required member if so designated by their local education agency (LEA); and school year has been changed to calendar year in reference to how long an individual has to get trained.

Changes have been made to clarify the multidisciplinary team and admission, review, and dismissal (ARD) committee processes and responsibilities.

The flowchart on page 44 has been modified to reflect a more cohesive process.

Additional sentences have been added regarding TEC, §21.4554, and its relation to literacy achievement academies and continuing education requirements.

Updates have been made to the dysgraphia chapter to align with the same changes made in the dyslexia chapters.

Non-substantive edits have also been made for clarity and consistency.

§74.28(d)

Subsection (d) was modified at adoption to remove the word "trained" in front of the provider of dyslexia instruction so as not to imply some additional training requirement than what is otherwise required by statute.

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 allow districts of innovation and open-enrollment charter schools that begin school prior to the statutorily required start date to implement the proposed rulemaking when they begin their school year. 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 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.

Dyslexia Handbook

Comment: Ten individuals commented that certified academic language therapists (CALTs) and other providers of dyslexia instruction (PDIs) should prioritize offering dyslexia instruction and not have to attend ARD committee meetings.

Response: The SBOE agrees that PDIs should prioritize instruction. However, LEAs must comply with statute regarding required ARD committee membership, and the PDI is a statutorily required ARD committee member.

Comment: An assistant special education director commented that more clarification needs to be added regarding who can serve as "sped staff in ARDs and who can serve dual roles."

Response: The SBOE provides the following clarification. It is unclear what is meant by "sped staff in ARDs," but the SBOE notes that these members are defined and described by state and federal law and rule. It is also unclear what the commenter means by "dual role." To the extent the commenter is referring to whether someone who meets the criteria for the state-required multidisciplinary team (MDT)/ARD committee member with specific knowledge regarding the reading process, dyslexia and related disorders, and dyslexia instruction could also serve a dual purpose as a required ARD committee member, the SBOE points out that current commissioner rules in 19 TAC §89.1040 and §89.1050 outline requirements for those evaluating for specific learning disability (SLD) and for ARD committee membership, respectively.

Comment: A CALT commented that if they are required to become special education certified then they will have to "go back to the classroom." The commenter further stated that they are highly qualified reading teachers and should be treated as such.

Response: The SBOE provides the following clarification. Assuming "go back to the classroom" means returning to teach something other than dyslexia instruction, the law states that a PDI, including a CALT, does not have to be a certified special education teacher unless the individual is employed in a special education position that requires that certification. Each LEA has authority to determine whether the position requires the certification.

Comment: A special programs coordinator commented that dyslexia specialists should be required to obtain special education teacher certification.

Response: The SBOE disagrees that dyslexia specialists should be required to obtain special education teacher certification. This decision would be left to each LEA, as each LEA must determine who is best equipped to serve students and under what certifications, licensures, or other credentials. PDIs must be trained in the LEA's adopted instructional materials for students with dyslexia.

Comment: A dyslexia teacher commented that the trainings on page 34 are costly and take years of training. The commenter added that if someone has already taken the courses, they should not have to retake them.

Response: The SBOE disagrees. The courses and training required by the SBOE are offered without charge. Courses are required to be retaken if changes are made to the curriculum.

Comment: Two dyslexia coordinators asked if an individual going through credentialing would be considered to have met the criteria for the required MDT/ARD committee member with the most advanced dyslexia-related certification without meeting the requirements for the member who would be required when this person is "not available." An individual also asked about the timeline for training for the MDT/ARD committee member.

Response: The SBOE agrees that further clarification about enrollment in a credentialing program is warranted, assuming the commenter is referring to the credentialing of a licensed dyslexia therapist (LDT) or becoming credentialed to meet the most advanced dyslexia-related certification requirements. A change has been made at adoption to add a statement that an individual who is currently enrolled and participating in a credentialing program can serve as the required MDT/ARD committee member. Regarding the timeline for training the MDT/ARD committee member, the handbook states that the individual has a year from

the date they are designated to serve as the required MDT/ARD committee member.

Comment: A director noted a typo on page 47 and grammatical and punctuation errors on page 50 when referring to student progress reports.

Response: The SBOE agrees and has corrected the typos and errors.

Comment: A diagnostician commented that there are inconsistencies in the requirements for trained individuals in the handbook. The commenter stated that the handbook needs to clarify whether the goal is to have similar backgrounds to an LDT or CALT or if it is to have knowledge in evaluation.

Response: The SBOE disagrees that there are inconsistencies. Statute identifies who must serve on an MDT and ARD committee to determine identification and eligibility for dyslexia. A PDI must be trained in the district's dyslexia instructional materials and could be different from this member.

Comment: A diagnostician commented that the term "ARD" and "MDT" are used incorrectly and that MDT determines criteria for a disability and an ARD committee determines eligibility.

Response: The SBOE agrees that there could be some misunderstanding with the mentions of MDT and ARD committee. At adoption, changes have been made in Chapters 3 and 5 to demonstrate that an MDT identifies if a student meets the criteria for a disability, and an ARD committee is required by law to determine eligibility, which means both the identification of an eligible disability and the need for special education and related services.

Comment: A director of special education and a diagnostician commented that expecting every district to employ a CALT is unrealistic and not fiscally sound. These individuals further commented that a determination is needed on whether standard protocol providers need to be certified in special education.

Response: The SBOE provides the following clarification. The law does not require the employment of a CALT. As there is no longer mention of standard protocol in the revised handbook, the comment related to standard protocol providers is outside the scope of the proposed rulemaking.

Comment: Three individuals asked that speech therapists be more explicitly spelled out as MDT and ARD committee members.

Response: The SBOE disagrees that a more explicit reference needs to be made, as speech therapists could always be part of an MDT or an ARD committee for any suspected disability.

Comment: Four individuals commented that more guidance needs to be provided for the required MDT and ARD committee member.

Response: The SBOE disagrees that more guidance is necessary; however, TEC, §29.0032, references the requirements for the member, and the SBOE's decision points are located in the handbook.

Comment: A diagnostician commented that diagnosticians should not be required to be CALTs or be trained in reading programs.

Response: The SBOE provides the following clarification. The law does not require diagnosticians to become CALTs or be trained in reading programs.

Comment: A director of special education asked whether the requirement for the MDT member applies to independent educational evaluations (IEEs).

Response: The SBOE provides the following clarification. Federal law in 34 Code of Federal Regulations (CFR), §300.502, describes the requirements for IEEs at public and private expense.

Comment: Forty-three individuals and the Texas Educational Diagnosticians Association (TEDA) commented that diagnosticians and school psychologists are sufficient to identify dyslexia, as they have already received training.

Response: The SBOE agrees that diagnosticians and school psychologists are well equipped and trained to evaluate for the presence of disabilities, and the SBOE expects those individuals to be involved in the evaluation processes based on a student's suspected disability(ies). However, if dyslexia is suspected, someone with specific knowledge about dyslexia and related disorders, dyslexia instruction, and the reading process must be a part of the MDT and ARD committee meeting at which eligibility is discussed. For a diagnostician or school psychologist to meet this requirement, the individual must either (1) be an LDT, (2) hold the most advanced dyslexia-related certification as described in the handbook, or (3) meet the criteria related to completion of the Texas Dyslexia Academies (TDAs), training on comprehensive evaluations for specific learning disabilities, and have documentation showing training in the current research and evidence-based assessments that are used to identify the most common characteristics for dyslexia. So as to not be interpreted as discounting the role of the remaining team members, changes have been made in Chapter 3 at adoption to reference the remaining team of qualified professionals when referring to the MDT.

Comment: A teacher asked for a comparison of who is part of each committee in terms of MDT and ARD.

Response: The SBOE disagrees that a comparison is necessary but points out that TEA has existing technical assistance regarding the evaluation and eligibility process, including required members.

Comment: An education specialist suggested revisions to the language around the required MDT and ARD committee member to remove the word "register," to correct grammatical errors, and to clarify the "or" between LDT and CALT.

Response: The SBOE agrees to correct the grammatical errors but has determined that removing the word "register" and adding the word "or" are unnecessary.

Comment: An individual commented with a question of why specific persons are required to attend ARD meetings for dyslexia but not for other categories.

Response: The SBOE provides the following clarification. State law requires the SBOE to create procedures related to the screening and testing of and treatment for dyslexia and related disorders.

Comment: An individual and Texas Academic Language Therapy Association (ALTA) commented that the required MDT member should also have experience with and training on the district's dyslexia program.

Response: The SBOE disagrees that the required MDT member would have to have specific experience with, and training on, an LEA's local dyslexia program. However, the MDT member must have specific knowledge of the reading process, dyslexia instruc-

tion, and dyslexia and related disorders. Specific knowledge of dyslexia instruction does not require that the individual be trained in the district's specific evidence-based dyslexia program.

Comment: A special education director commented that graduate degrees related to literacy should be acceptable for an MDT/ARD committee member.

Response: The SBOE disagrees, as this is not stated as acceptable in the statute.

Comment: An education service center staff member recommended retaining a highly trained dyslexia interventionist on the MDT. The commenter stated that collaboration between these interventionists and evaluators is vital.

Response: The SBOE agrees that the committee should include all professionals that can help evaluate a student for the suspected disability and that it is a team evaluation.

Comment: The Texas Council of Administrators of Special Education (TCASE) recommended examining standards to determine if diagnosticians and school psychologists can serve as the MDT/ARD committee member.

Response: The SBOE disagrees that examination is necessary. Diagnosticians and school psychologists can serve as the required MDT/ARD committee member if they meet the criteria described in the handbook.

Comment: A teacher commented that the requirements for the dyslexia member are too high and would require a teacher to have a master's degree.

Response: The SBOE disagrees that the requirements are too high and has determined that the requirements are appropriate as proposed. In addition, the SBOE provides clarification that the handbook does not mandate that a teacher must have a master's degree.

Comment: ALTA commented regarding a typo on pages 37-38 with the numbered list.

Response: The SBOE agrees and has revised the numbered list accordingly at adoption.

Comment: A director of intervention and dyslexia coordinator commented that certified academic language practitioners (CALPs) should be permitted to serve as the required MDT member.

Response: The SBOE agrees that, as long as an individual meets the criteria listed in the handbook to serve as the required MDT or ARD committee member, the individual will be able to do so.

Comment: ALTA commented that an additional chart should be created to identify those with the most advanced dyslexia-related certification.

Response: The SBOE disagrees that an additional chart is needed, as authorized providers are listed in the handbook.

Comment: A teacher commented that programs approved by the International Dyslexia Association (IDA) should be added to page 35.

Response: The SBOE provides the following clarification. The IDA is already listed.

Comment: A school psychologist stated that the most advanced dyslexia-related certification list needs to be clarified.

Response: The SBOE disagrees and has determined that the list is sufficient as proposed.

Comment: A special education director and TCASE commented that the Center for Effective Reading Instruction (CERI) should be added to the list of those who provide the most advanced dyslexia-related certifications.

Response: The SBOE disagrees that a change is necessary and notes that the IDA certifications are accredited by the CERI, and IDA is already listed in the handbook.

Comment: TCASE and three individuals commented that the SBOE should clarify which credential is most advanced for purposes of the MDT/ARD committee member, as the "instructor" level is arguably the most advanced.

Response: The SBOE disagrees, as the criteria for determining this is already in the handbook.

Comment: ALTA commented that the term "course," where it refers to the most advanced dyslexia-related certification, should be changed to "training center."

Response: The SBOE agrees and has made the suggested change at adoption.

Comment: ALTA commented requesting that the SBOE delete "teacher" level training from the most advanced dyslexia-related certification language and keep only the "therapy" level.

Response: The SBOE disagrees that a change is necessary. Teacher-level trainings would give the individual the specific knowledge that is required.

Comment: A special education director commented that the required MDT/ARD committee member should not have to show proof of knowledge of research and evidence-based assessments for dyslexia identification.

Response: The SBOE disagrees, as this would be essential for demonstrating the required knowledge. However, it is up to each LEA to determine how to document that requirement.

Comment: A teacher asked how the required MDT/ARD committee member would document their training in current assessments to identify dyslexia and whether that training would need to be completed annually.

Response: The SBOE provides the following clarification. Each LEA would be responsible for determining what the documentation would look like and how often they would require that training.

Comment: An individual requested that "not available" be defined when referring to the required MDT and ARD committee member.

Response: The SBOE disagrees that "not available" needs to be defined. Each LEA will determine this based on its own staffing and scheduling patterns.

Comment: A director of special education asked for more clarification regarding whether someone can serve as the required MDT or ARD committee member as long as they complete the requirements within a year.

Response: The SBOE provides the following clarification. Based on another comment, the handbook has been updated at adoption to allow an MDT or ARD committee member who is not an LDT or does not have the most advanced dyslexia-related certification and is instead obtaining the required training

listed in the handbook to have a calendar year to complete the training.

Comment: A dyslexia teacher stated that more training will require more money and more time.

Response: The SBOE provides the following clarification. The training required for the MDT or ARD committee member who is not an LDT or does not have the most advanced dyslexia-related certification is available free of charge.

Comment: A CALT commented that viewing dyslexia academy modules is not enough for a qualified MDT or ARD committee member and that CALTs should be the ones to evaluate for dyslexia.

Response: The SBOE disagrees that CALTs must always evaluate for dyslexia, as not every district employs these professionals. Even when CALTs are employed, they are participating in a team evaluation. Additionally, the law allows for other individuals if they meet the required criteria.

Comment: A dyslexia coordinator commented that training needs to be free and that training on the comprehensive SLD guide is unnecessary because it is already covered in the Texas Dyslexia Academies.

Response: The SBOE agrees that trainings should be available as much as possible with no cost. The SBOE disagrees that all provisions of the SLD guide training are covered in the TDAs; therefore, the SBOE has determined that it is necessary to require SLD guide training.

Comment: A director of special education commented that training should be required at no cost.

Response: The SBOE agrees that training should be provided at no cost in all possible instances. In the case of the MDT and ARD committee member, the training is available at no cost.

Comment: A CALT commented that TDAs are not all available in a calendar year.

Response: The SBOE provides the following clarification. TEA is working to have all TDAs accessible virtually.

Comment: TCASE and a school district employee recommended that the required MDT/ARD committee member, if not an LDT or someone with the most advanced dyslexia-related certification, be fully trained in the LEA's adopted instructional materials for students with dyslexia, have received training through an accredited course, have received dyslexia-related certification, and be enrolled in a program to earn the most advanced dyslexia-related certification or complete the TDAs within a calendar year as well as complete the guidance for the comprehensive evaluation of an SLD course. TCASE suggested deleting the requirement to document training in current research- and evidence-based assessments that are used to identify the most common characteristics of dyslexia.

Response: The SBOE agrees that requiring training to be completed by the end of the school year may not always work for those who are designated mid-year or late in a school year. At adoption, the SBOE has changed this requirement to reflect a calendar year. The SBOE disagrees that the MDT/ARD committee should only have to meet one of the items on the list provided in order to demonstrate the required knowledge and has determined that the requirement is appropriate as proposed. Additionally, the SBOE disagrees with deleting the requirement to document training in the current research- and evidence-based

assessments but points out that each LEA can determine how to document this.

Comment: ALTA requested that the areas outlined in figure 3.4 on page 37 be modified to clarify the requirement about knowledge regarding assessments that are used to identify most common characteristics of dyslexia.

Response: The SBOE disagrees because not all students will need to be evaluated in all of the areas in figure 3.4.

Comment: The Texas Classroom Teachers Association (TCTA) commented that page 50 of the handbook should include a sentence regarding a teacher's completion of a literacy achievement academy satisfying the requirements for documented dyslexia training.

Response: The SBOE disagrees that an additional sentence is necessary, as it may be implied that it is the only way to receive dyslexia training.

Comment: TCTA commented that page 51 of the handbook should clarify that completion of a literacy achievement academy does not satisfy requirements for a provider of dyslexia instruction to be fully trained in the LEA's adopted instructional materials for students with dyslexia. The Texas State Teachers Association (TSTA) further commented that a sentence should be added stating that completion of a literacy achievement academy will satisfy continuing education requirements regarding new research and practices in educating students with dyslexia.

Response: The SBOE agrees that clarification may be beneficial and modified the handbook at adoption to address both comments.

Comment: TCTA commented that page 53 of the handbook should include the entire text of TEC, §21.4552(b-1), which refers to completion of a literacy achievement academy and how an academy satisfies certain training requirements. TSTA commented that the first part of TEC, §21.4552(b-1), which provides that the completion of an academy satisfies the continuing education requirements of TEC, §21.054(b), should be included.

Response: The SBOE agrees in part and has modified the handbook at adoption to specify that a literacy achievement academy satisfies continuing education requirements. The SBOE disagrees that adding the remainder of TEC, §21.4552, is necessary in this section, as the section addresses professional development for all teachers.

Comment: TCTA and TSTA recommended a revision to question 32 in the appendix.

Response: The SBOE disagrees, as the appendix has been removed at adoption.

Comment: A dyslexia specialist asked if districts can hire providers of dyslexia instruction if they are in training.

Response: The SBOE provides the following clarification. Under state law, to be able to provide dyslexia instruction, a provider must be fully trained in the district's adopted instructional materials for students with dyslexia.

Comment: Two individuals commented that there is no timeline included for PDIs to be trained.

Response: The SBOE disagrees that the handbook must address a timeline for the training of PDIs, as training timelines through different training centers varies significantly.

Comment: Two individuals commented that it is unclear if PDIs have to be teachers.

Response: The SBOE provides the following clarification. The requirement under state law for PDIs is that they are fully trained in the LEA's adopted instructional materials for students with dyslexia. A teaching certificate is not required under state law; however, an LEA could require a certification for this position.

Comment: An individual commented that a PDI must provide actual teaching rather than just provide a program.

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

Comment: A CALT asked how PDIs will test, attend ARD committee meetings regarding eligibility, and teach all day with fidelity without extra funding.

Response: The SBOE provides the following clarification. The requirements for Child Find apply regardless of changes to state law.

Comment: A CALT inquired about how districts will afford to staff programs to support students after the students complete a program but still require teaching supports.

Response: The SBOE provides the following clarification. The requirements of Child Find apply regardless of changes to state law.

Comment: A diagnostician commented that the handbook gives ambiguous guidance on dyslexia evaluations and puts the identification of dyslexia in the hands of one person.

Response: The SBOE disagrees that the handbook is ambiguous and that identification of dyslexia is put in the hands of one person. As is always the case for any full individual and initial evaluation (FIIE), an MDT is responsible for determining what data is needed. The MDT will conduct the evaluation and complete a report for the ARD committee to consider when the committee determines the presence of a qualifying disability and the need for special education and related services.

Comment: A diagnostician commented that LEA procedures don't take into consideration a student's adequate ability to learn and don't use that to determine if the preponderance of information shows that it is unexpected that the child is not reading.

Response: The SBOE cannot agree or disagree without knowing an individual LEA's procedures as noted by the commenter. However, the MDT is responsible for complying with all requirements associated with an FIIE.

Comment: A diagnostician commented that dyslexia exists on a continuum and that diagnosticians are told that a student cannot qualify with dyslexia and co-existing math disabilities.

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

Comment: Six individuals commented with varying opinions on whether formal cognitive batteries (i.e., IQ tests) are required for SLD evaluations and requested that the SBOE clarify the issue. One commenter specifically stated that only a Response to Intervention (RtI) model does not require them. TEDA stated that a pattern of strengths and weaknesses model must use the presence of linked cognitive and achievement weaknesses to determine whether someone qualifies as a student with an SLD.

Response: The SBOE provides the following clarification. While the SBOE is charged under state law to develop procedures for the testing and treatment of students with dyslexia specifically, the SBOE points out that federal regulations do not require the administration of formal cognitive batteries in the evaluation of SLD, including dyslexia, regardless of the identification model used. It is important to note that the term "cognitive processes," as listed in the handbook in relation to the areas of dyslexia evaluation, does not automatically equate to a cognitive battery of assessments. Neither does the term "cognitive skills." A pattern of strengths and weaknesses is not required by law to be determined by formal cognitive batteries. While many MDTs administer these types of batteries, as they can be helpful in the scope of a full evaluation, they are not required, nor can they be used exclusively to determine a disability. Each MDT must consider what data is required for each individual student, and each ARD committee will consider all data to determine if the student has a disability that requires the provision of special education and related services.

Comment: An assistant director commented that the word "unexpected" needs to be clarified. The commenter further questioned what a team is comparing "unexpectedness" to if a cognitive assessment isn't given.

Response: The SBOE disagrees that clarification is needed. In accordance with state rules, only when an intellectual disability is suspected would a formal cognitive assessment be required. Otherwise, the Individuals with Disabilities Education Act (IDEA) requires districts to use a variety of assessment tools, which might or might not include a standardized cognitive battery.

Comment: A CALT commented that the changes in the handbook allow any tested student with a low score in basic reading skills or reading fluency will qualify as a student with dyslexia. The commenter further stated that some who are identified with dyslexia are so challenged cognitively that they cannot complete any dyslexia curriculum.

Response: The SBOE disagrees that the information in the handbook changes requirements so that everyone with low scores in basic reading skills or reading fluency qualifies as a student with dyslexia. Further, students do not have to be of average intelligence to be identified with dyslexia. An MDT and ARD committee will follow the requirements to ultimately determine identification and eligibility. When data supports adaptations to a dyslexia program, an ARD committee would determine what specially designed instruction would be necessary for that student.

Comment: A parent commented that there are three guiding questions that help identify dyslexia but that guiding questions need to also be added to the dysgraphia section.

Response: The SBOE disagrees that guiding questions are not present in the dysgraphia section. Figure 5.3 contains those questions.

Comment: An evaluator and coordinator for dyslexia services commented that more clarity is needed on twice exceptional learners who have been identified with dyslexia.

Response: The SBOE disagrees that changes should be made at this time. However, the SBOE has instructed TEA to develop committees to discuss potential future changes to the handbook, which could include more information related to twice exceptional learners.

Comment: A coordinator for dyslexia services commented that more clarity is needed on the two prongs for qualifying for special education and related services.

Response: The SBOE disagrees that more clarification is needed. However, based on other comments, the SBOE has made changes to the handbook at adoption to clarify the process between the MDT and ARD committee when determining eligibility.

Comment: A coordinator for dyslexia services stated the need for more clarification on what "preponderance of data" means.

Response: The SBOE disagrees that more clarification is needed, as the handbook is clear that one single instrument or assessment cannot be used to determine dyslexia and that multiple sources of data are required. The MDT will review the data to determine if the preponderance of data indicates that the student meets criteria for dyslexia.

Comment: A coordinator for dyslexia services commented that the handbook should contain more procedures on identifying dysgraphia.

Response: The SBOE disagrees that more procedures are necessary at this time and has determined that the procedures in the handbook are appropriate as proposed.

Comment: A coordinator for dyslexia services commented that there is disagreement in the field about how a diagnostician and LDT would identify dyslexia.

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

Comment: A diagnostician commented that they support the removal of the term "unexpectedness" because it is used to sometimes disqualify students with co-occurring SLDs.

Response: The SBOE disagrees that the term unexpectedness needs to be removed from the handbook at this time, as this is part of the data analysis process to determine if a student has characteristics of dyslexia.

Comment: An individual requested that "unexpectedness" remain in the handbook because it prevents overidentification of students who may have more global struggles or other nonacademic factors affecting their reading.

Response: The SBOE agrees and notes that consideration of exclusionary factors is still a requirement for an ARD committee when determining eligibility for special education services.

Comment: An individual commented that further clarification of exclusionary factors is needed and described how the lack of consistent Tier 1 instruction factors into an evaluation.

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

Comment: A teacher asked if dyslexia would ever be removed if a student was reevaluated. The teacher further asked if what is really meant by the handbook is to say that dyslexia will be lifelong but that a student may no longer require services for it.

Response: The SBOE provides the following clarification. The handbook and guidance refer to a student's need for specially designed instruction or accommodations under Section 504, not whether the student no longer has dyslexia.

Comment: An administrator questioned whether an SLD in basic reading or reading fluency without the existence of dyslexia

is a common identification and asked how that determination is made. The commenter further stated that a continued lack of guidance has led districts to continually rely on dyslexia profiles and missing identifications.

Response: The SBOE provides the following clarification. An evaluation for dyslexia, which is an SLD, must consider the criteria in the handbook and abide by state and federal requirements for SLD evaluation.

Comment: Two administrators asked if math specialists must sign off on math evaluations.

Response: This comment is outside the scope of proposed rule-making.

Comment: An administrator asked what the state is doing about Tier 1 instruction and progress monitoring of interventions and whether diagnosticians are supposed to continue to deal with appropriately identifying between lack of instruction or a disability without having appropriate documentation.

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

Comment: A director of special education commented that the handbook stating that a weakness in phonological awareness processing is typically present but not required opens the flood-gates to students being inappropriately identified.

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

Comment: An evaluator asked if all SLDs in basic reading and reading fluency equate to an identification of dyslexia.

Response: The SBOE provides the following clarification. Determination of a student's eligibility for special education services, including the disabling condition under IDEA's requirements, is a duty of the MDT and ARD committee.

Comment: A diagnostician commented that the handbook makes it more ethically difficult to define a child with dyslexia and stated that increased funding is needed.

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

Comment: A diagnostician commented that these guidelines mean that every student will qualify as a student with dyslexia/SLD.

Response: The SBOE disagrees and points out that the handbook adheres to the IDEA and state requirements for evaluations for SLDs.

Comment: Four administrators commented that more guidance is necessary when a dyslexia therapist/specialist/PDI does not agree with a diagnostician on the presence of dyslexia.

Response: The SBOE provides the following clarification. Federal law in 34 CFR, §300.311(b), states that when a child is suspected of having an SLD, each group member must certify in writing whether the report reflects the member's conclusion. If it does not reflect the member's conclusion, the group member must submit a separate statement presenting the member's conclusions.

Comment: A teacher commented that because of widespread misunderstanding that dyslexia interventionists can identify a student with an SLD, students have been denied eligibility.

Response: The SBOE disagrees with the commenter's assertion that dyslexia interventionists can independently identify a student with an SLD. The handbook and IDEA require an MDT to evaluate and an ARD committee to determine the presence of an eligible disability and the need for special education and related services.

Comment: A teacher asked for an example of when a student with an SLD in basic reading or reading fluency would not have dyslexia.

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

Comment: An administrator commented that TEA has created a large rift between therapy providers and those tasked with identifying learning disabilities and that one member should not be allowed to determine the existence of a disability.

Response: The SBOE disagrees that TEA has created a large rift because neither SBOE nor TEA provides that one member is allowed to determine the existence of a disability.

Comment: A dyslexia coordinator commented that on page 40, figure 3.7, a statement should be added that average phonological scores as measured on phonological tests alone do not rule out dyslexia and that ongoing phonological deficits may be evidenced in word reading, decoding, and spelling.

Response: The SBOE disagrees that further clarification is needed. Figure 3.7 already states that average phonological scores alone do not rule out dyslexia.

Comment: A diagnostician commented that not all students will meet criteria for SLD because dyslexia is not severe enough and that dyslexia should be supported in both special education and under Section 504.

Response: The SBOE disagrees that criteria for SLD, including dyslexia, is conditional on a "severity" level.

Comment: A diagnostician commented that there is discrepancy in the field about the interpretation of dysgraphia and whether it is a separate disorder of written expression.

Response: The SBOE provides the following clarification. The identification of an SLD, including dysgraphia, would be an ARD committee decision based on the evaluation report.

Comment: A teacher commented that it is increasingly difficult to distinguish between SLD basic reading and dyslexia and that they are not one and the same. The teacher asked for more guidance.

Response: The SBOE disagrees that more guidance is necessary. Dyslexia is an example of and meets the definition of an SLD.

Comment: An occupational therapist (OT) commented that page 61 has sentences that contradict by stating that dysgraphia is not associated with generalized developmental, motor, or coordination difficulties, but a following section says that dysgraphia can be due to impaired feedback the brain is receiving from the fingers and problems with motor planning and sequencing.

Response: The SBOE cannot find the source of the comment and, therefore, disagrees that a contradiction is present.

Comment: A special education director asked whether the evaluation report would indicate the presence of dyslexia.

Response: The SBOE provides the following clarification. An evaluation report would indicate whether the team of qualified professionals has come to the conclusion that the student meets the criteria for an SLD, including dyslexia. However, the ARD committee has the responsibility to review the evaluation report to determine if the student meets eligibility for special education and related services as a student with an SLD and whether the student requires the provision of these services based on the disability. Changes to the handbook have been made at adoption based on similar comments to clarify the MDT and ARD committee responsibilities.

Comment: A special education director asked how an ARD committee could determine that the district's dyslexia program will not meet the student's needs if the student hasn't started the program yet.

Response: The SBOE provides the following clarification. If a student is not making expected progress, any ARD committee member may ask for an ARD committee meeting to review a student's individualized education program (IEP).

Comment: An education service center staff member and a diagnostician commented that Chapter 3 does not align with the Legal Framework and IDEA and that it appears that the term "504 procedures" has been substituted with "ARD committee" despite these processes serving different purposes. The commenters further stated that parents play a role in the identification process in a Section 504 meeting but under IDEA, the FIIE is responsible for identification. These and two other commenters stated that the provision about the ARD committee determining if the student has dyslexia on page 39 and the MDT including the parent on page 37 are misleading and will lead to confusion.

Response: The SBOE disagrees that the information in the handbook does not align with IDEA. However, the SBOE has modified text related to MDT and ARD committees at adoption. An FIIE will indicate whether the student meets the criteria for dyslexia, and the ARD committee has the authority to determine eligibility for special education services based on the identification of a disability and the need for these services. Additionally, a parent is naturally a part of an MDT since the LEA must provide prior written notice that describes the evaluation procedures the MDT (LEA) proposes to conduct. Further, the parent will be involved in submitting data to the MDT as part of its data gathering process.

Comment: A diagnostician commented that dyslexia testing should be done at the end of Grade 1, not Kindergarten.

Response: The SBOE disagrees. If a disability is suspected along with a possible need for special education and related services, the district must refer the student for a special education evaluation.

Comment: A CALP commented that unexpectedness should be kept in the definition for dyslexia and that figure 3.7 should remain in the handbook, including referring to "unexpectedness."

Response: The SBOE cannot locate the source of this comment and is, therefore, unable to agree or disagree.

Comment: A CALP commented that a "preponderance" of qualitative and quantitative data should be reviewed during an evaluation, not just looking at numbers on an assessment.

Response: The SBOE agrees.

Comment: One individual asked if dyslexia is synonymous with SLD in basic reading or reading fluency. If so, the categories should be collapsed.

Response: The SBOE provides the following clarification. IDEA lists specific areas of SLD, which include basic reading skills and reading fluency. The categories cannot be collapsed.

Comment: Two individuals commented that orthographic processing should be included with phonological processing on page 37, figure 3.4.

Response: The SBOE disagrees that changes are necessary at this time and has determined that figure 3.4 is appropriate as proposed. However, the SBOE will consider this for future iterations of the handbook.

Comment: A diagnostician commented that the requirement for a dyslexia specialist's signature on the evaluation is disappointing.

Response: The SBOE disagrees and notes that TEC, §29.0031(c), requires the MDT and ARD committee member who has the required knowledge of dyslexia instruction, dyslexia and related disorders, and the reading process to sign the evaluation report documenting their participation in the evaluation. To the extent that the commenter meant that the dyslexia specialist was this person, then the SBOE notes that the LEA must abide by state law.

Comment: A school psychologist commented that the handbook appears to have an underlying assumption that a child will have had great Tier 1 instruction, great RtI tiered intervention, and is absent any other factors that could impact reading abilities. The commenter further added that this is not the case and that schools continue to deal with COVID-19 impacts. Additionally, the commenter noted that some entire classrooms are resulting in students demonstrating at-risk status on dyslexia screeners.

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

Comment: A school psychologist commented that districts are using district of innovation status to exempt themselves from TEC, §28.0062, and to get around an approved screening measure, resulting in no norms, validity, or reliability data.

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

Comment: A school psychologist and assistant director commented that people are misinterpreting reading difficulties and at-risk designations on the screener to mean a disability and are going straight to special education referrals.

Response: The SBOE provides the following clarification. The handbook describes the data gathering process that should occur once a student is determined to be at risk for dyslexia.

Comment: An assistant special education director commented that if the state wants screeners to be mandated and given with fidelity, then the state should mandate which screener must be given.

Response: The SBOE disagrees that it should mandate the screener that must be given, as this is not within its statutory authority to do. However, the SBOE does dictate the criteria required for dyslexia screeners.

Comment: An administrator commented that without funding, schools will not be able to complete evaluations before the end

of Grade 1, even if a screener is conducted no later than the middle of the year.

Response: This comment is outside the scope of proposed rule-making. Districts are required to meet their Child Find obligations if they suspect a disability and the need for special education and related services.

Comment: An individual asked what it means to screen for related disorders and commented that Kindergarten and Grade 1 are too early to administer some screeners.

Response: The SBOE disagrees that Kindergarten and Grade 1 are too early to administer screeners. Currently the requirement for universal screeners applies to dyslexia only as the handbook does not discuss required criteria for dysgraphia screeners.

Comment: A dyslexia interventionist commented that page 28 still mentions tools even though a corresponding sentence about tools was removed.

Response: The SBOE agrees that this is confusing and has removed this statement at adoption.

Comment: A coordinator for dyslexia services stated that there is a contradiction in the handbook about screeners and cut points. The commenter stated that since dyslexia is a continuum of severity, it doesn't make sense to say that an LEA cannot modify cut points.

Response: The SBOE disagrees that a contradiction exists. Screeners should have cut points to determine at-risk designations. LEAs are responsible for inputting students determined to be at-risk into PEIMS. This is not the same as identifying students for dyslexia.

Comment: A coordinator for dyslexia services commented that screening for dysgraphia should be part of the required screeners.

Response: The SBOE disagrees. At this time, there are no required criteria for dysgraphia screeners, but the SBOE will consider this for future iterations of the handbook.

Comment: An individual commented that removal of dysgraphia screeners allows for additional time to research and develop one to determine those students who are at-risk.

Response: The SBOE provides the following clarification. There are no required criteria for dysgraphia screeners included in the handbook at this time.

Comment: An individual commented that there appears to be no training requirements for noncertified teachers at open-enrollment charter schools to administer screeners.

Response: The SBOE disagrees and provides the following clarification. Anyone conducting a screener must be trained in the administration of the screener.

Comment: A CALT commented that they are opposed to dysgraphia screeners for end of Kindergarten and Grade 1 and that this would add more to teachers who are already struggling.

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

Comment: An individual commented that dyslexia screeners should be required at the end of Grades 5 and 6.

Response: This comment is outside the scope of the proposed rulemaking, as the SBOE does not have statutory authority to require universal screeners at additional grade levels. However,

the SBOE provides the following clarification. Any time a student is suspected to be at risk of a disability, including dyslexia, at any grade level, steps should be taken to gather data to inform teachers and parents whether a disability is suspected that may require the provision of special education and related services.

Comment: An education specialist commented that there should be an exception listed to the dyslexia screeners if a child's Section 504 committee or ARD committee determine it is not appropriate or is already identified with dyslexia.

Response: The SBOE disagrees and has determined that the commenter's suggestion is not necessary to include in the handbook.

Comment: An education specialist asked that the sentence about educational aides not being able to administer screeners be bolded.

Response: The SBOE agrees that the statement is important but disagrees that bolding the statement is necessary. The SBOE has determined that the sentence is appropriate as proposed.

Comment: A director of special education commented that the new areas listed in the dyslexia screener are problematic.

Response: The SBOE disagrees and points out that there are no new criteria listed in the handbook for the required screeners.

Comment: A dyslexia coordinator commented that the timing of the Grade 1 screener is unclear and some districts screen at the beginning of the year.

Response: The SBOE agrees that the language could be interpreted differently. Therefore, at adoption, this has been clarified to read that the Grade 1 screeners must occur as close to the middle of the school year as possible but no later than January 31.

Comment: An assistant special education director commented that TEA should clarify whether dyslexia intervention is special education time.

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

Comment: A district staff member questioned whether students in bilingual programs who are receiving reading language arts instruction in Spanish will receive dyslexia instruction in Spanish if they score higher in English than Spanish on language testing, or if a student in Grade 5 would automatically receive instruction in English when they move to Grade 6.

Response: The SBOE provides the following clarification. The provision of dyslexia instruction for an emergent bilingual (EB) learner should be in accordance with the program model the student is currently receiving.

Comment: A dyslexia practitioner commented that a provider of dyslexia instruction must follow curriculum with fidelity and should not be able to adapt the curriculum.

Response: The SBOE agrees that whether a student is able to complete an evidence-based dyslexia program without adaptations should be a district's first consideration. However, because specially designed instruction is individualized and unique to a student, some adaptations might be necessary when data indicates a need for more intensive or supplemental supports.

Comment: A dyslexia specialist asked why a district has to choose a dyslexia program to use and why that same program cannot be used for reading intervention.

Response: The SBOE provides the following clarification: Because evidence-based dyslexia programs are considered specially designed instruction and, therefore, special education services, the provision of those services must follow IDEA requirements.

Comment: An individual commented that programs must be provided with fidelity, including group sizes.

Response: The SBOE agrees that an evidence-based dyslexia program must be provided with fidelity unless an ARD committee determines that modifications are necessary to intensify the program or provide additional supports.

Comment: Two individuals commented that schedule conflicts are a huge limitation to dyslexia instruction, including whether a district can remove students from special areas or electives.

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

Comment: Two individuals commented that group sizes should be mandatory or capped.

Response: The SBOE agrees that teaching a program with fidelity, including group sizes, is required when a student is able to participate in the program without more intensive supports. However, the SBOE cannot cap or provide a maximum group size as the recommended sizes vary based on each program.

Comment: A teacher commented that the standard definition needs to be removed from page 79.

Response: The SBOE disagrees, as the appendix has been removed at adoption.

Comment: A CALT asked when secondary students are supposed to receive dyslexia instruction if they cannot be removed from electives.

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

Comment: A CALT commented that schools cannot provide all instruction during homeroom time.

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

Comment: An assistant director commented that a mandate needs to be included around Tier 1 instruction. The commenter stated that so many noncertified teachers make instruction weak and, therefore, make it look like all children have dyslexia.

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

Comment: An assistant special education director commented in support of the removal of page 44 of the handbook.

Response: The SBOE agrees.

Comment: A director of special education commented that there is a conflict in the handbook among Section 504 evaluations, eligibility, and services. The commenter indicated that the flowchart on page 43 mentions referral for a Section 504 evaluation, and page 31 states that a parent can seek an IEE or an evaluation under Section 504.

Response: The SBOE agrees that there could be misinterpretation and has revised both sections at adoption.

Comment: A dyslexia specialist asked why the Section 504 option had to be removed.

Response: The SBOE provides the following clarification. TEC, §29.0031, acknowledges that dyslexia is an example of and meets the definition of an SLD under IDEA. Further, TEC, §7.028, requires changes to the handbook to no longer provide distinctions between types of dyslexia instruction. Therefore, students who require the provision of dyslexia instruction will receive this under IDEA. Students who only require accommodations to access the school environment may continue to receive accommodations under Section 504.

Comment: A special education teacher asked for clarification on the purpose of having to evaluate students already identified under Section 504 and asked whether this is possible overidentification. The teacher further commented that parents are opting out of testing and now these students will get removed from programs.

Response: The SBOE disagrees that this is overidentification. As stated in TEC, §29.0031, dyslexia is an example of and meets the definition of an SLD under IDEA. Dyslexia instruction is considered specially designed instruction.

Comment: A teacher commented that the language on page 31 could make a parent think a student could be tested for dyslexia under Section 504 and requested that language be added that an FIIE is used to determine dyslexia. A special education director made a similar comment.

Response: The SBOE agrees that this might be confusing to a parent. While a parent could request certain aids, accommodations, and services under Section 504, at adoption the SBOE has deleted this sentence since the placement of it doesn't align with the sentence above it regarding a parent's right to request an IEE (see page 31).

Comment: A director of special education and a diagnostician commented that schools need funding for handwriting interventions and for general education teachers to attend writing academies.

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

Comment: An individual commented that the word "targeted" should be added to figure 2.4 when referring to intervention history and should include progress monitoring data.

Response: The SBOE disagrees and has determined that figure 2.4 is appropriate as proposed.

Comment: An individual commented that the term "may" should be changed to "must" on page 24 for interpretation of data.

Response: The SBOE is unable to locate the source that generated the comment and is, therefore, unable to agree or disagree with the comment.

Comment: An individual commented that page 24 should include accumulated quantitative and qualitative data.

Response: The SBOE is unable to locate the source that generated the comment and is, therefore, unable to agree or disagree with the comment.

Comment: An individual commented that there should be an approved list of targeted intervention on page 24.

Response: The SBOE disagrees and has determined that a list is unnecessary.

Comment: An individual commented that the term "adequate instruction" should be defined.

Response: The SBOE disagrees that a definition is necessary, as this is left to the qualified group of professionals.

Comment: An individual commented that figure 2.5 should include the Grade 7 population and include more focus on tiered or targeted instruction rather than just screening.

Response: The SBOE disagrees. Screening for dyslexia is required only in Kindergarten and Grade 1 under TEC, §38.003. Figure 2.5 addresses those screeners.

Comment: An individual asked what an "accelerated reading program" is as listed on page 30 and whether there will be a list of programs.

Response: The SBOE provides the following clarification. The SBOE does not have the authority to interpret this statutory term.

Comment: An individual asked that the handbook explain the difference between research-based, scientifically based, and evidence-based.

Response: The SBOE disagrees and has determined that the terms do not need to be clarified at this time. However, the SBOE will consider this for future iterations of the handbook.

Comment: A community member recommended including knowledge and fidelity of the implementation of the language program model an EB student may use. The commenter further stated that sometimes the models are different, and this can cause slower progress for an EB student.

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

Comment: A community member asked that "needs and recommendations" be included on page 37.

Response: The SBOE is not able to locate the source that generated the comment and is, therefore, unable to agree or disagree with the comment.

Comment: An individual commented that page 46 of the handbook contains too many quotes and needs best practices and resources instead.

Response: The SBOE disagrees and has determined that no changes to this text are needed at this time. However, the SBOE will consider for future iterations of the handbook.

Comment: Six individuals asked whether there must be two progress reports for a student with dyslexia receiving dyslexia instruction through an IEP or if one is sufficient. Two of the six individuals asked what the progress report must specifically include. The commenters also pointed out typos in this section.

Response: The SBOE provides the following clarification. The handbook states that, to the extent the IEP progress report does not address the student's participation in dyslexia instruction, two progress reports must be issued. It is up to the ARD committee and PDI as to whether this equates to one or two progress reports based on how the IEP goal is written. At adoption, the handbook has been modified to correct the typos.

Comment: A director of special education and teacher commented that revisions should be made to the flowchart on page 43 to revise steps 4 and 5.

Response: The SBOE agrees, and edits have been made to the flowchart at adoption.

Comment: Four individuals commented that more guidelines should be given in relation to when and how LEAs could modify an evidence-based dyslexia program.

Response: The SBOE disagrees and has determined it is unnecessary to provide additional information at this time. However, the SBOE will consider this in future iterations of the handbook.

Comment: An individual asked where PDIs can receive training and recommended that information be listed in the handbook.

Response: The SBOE provides the following clarification. The providers in figure 4.1 can assist in PDI training.

Comment: An individual commented that dyslexia training should be included on page 52.

Response: The SBOE provides the following clarification. The training recommended by the commenter is already listed.

Comment: An individual commented that writing should be listed as a component of comprehensive literacy instruction on page 65.

Response: The SBOE is unable to agree or disagree because it is unclear where the commenter is requesting this change be made.

Comment: An individual asked what the guidelines are to demonstrate knowledge of dysgraphia.

Response: The SBOE provides the following clarification. The guidelines are determined locally by each MDT and ARD committee.

Comment: An individual and a teacher asked that more specificity be added related to the involvement of OTs on page 69, including whether they could provide writing instruction.

Response: The SBOE disagrees and has determined that additional specificity is not needed at this time. However, the SBOE will consider this in future iterations of the handbook.

Comment: An individual commented that an explanation should be included on how technology tools and typing responses into the online State of Texas Assessments of Academic Readiness (STAAR®) may have an impact on a student's physical ability to write.

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

Comment: Five individuals commented that the dyslexia handbook should go away altogether because there is no longer a need for it.

Response: The SBOE disagrees. The SBOE is required by state law to develop procedures related to screening of, testing of, and treatment for dyslexia and related disorders.

Comment: An individual commented that if the handbook is going to cite research, it needs to include current research.

Response: The SBOE agrees that current research is necessary and will continue to analyze the research cited in future iterations of the handbook.

Comment: One individual commented that page 31 addresses only one prong of special education eligibility.

Response: The SBOE agrees that clarification could be beneficial and has addressed the handbook at adoption by adding a suspicion of a disability and a need for special education and related services.

Comment: A dyslexia instructional coach commented that ineffective treatments, such as reading recovery, should be added to the list of ineffective treatments on page 59.

Response: The SBOE disagrees and has determined that a change is unnecessary at this time. However, the SBOE will consider updating this list in future iterations of the handbook.

Comment: An education specialist requested that the Talking Books Program be mentioned in the handbook.

Response: The SBOE disagrees and has determined that it is unnecessary to mention the program in the handbook. The SBOE does acknowledge that the program is a part of state law when a student is determined at-risk for dyslexia.

Comment: A teacher requested that the term "interventionist" be kept on page 30 as the student may not be identified with dyslexia yet.

Response: The SBOE agrees that this section might be confusing with the list of positions that might be reviewing a student's data. Revisions have been made at adoption to ensure the list is not seen as exhaustive or limiting. A change has also been made about the team who would interpret screening data.

Comment: A teacher asked what the PEIMS code would be used for a group of students who are receiving dyslexia instruction and are also receiving special education services.

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

Comment: A diagnostician commented that the handbook does not align with IDEA and questioned why.

Response: The SBOE cannot agree or disagree with the comment, as it is not clear what the commenter feels is misaligned.

Comment: A diagnostician commented that IDA should not be quoted in the handbook and that the state definition of dyslexia needs to be changed.

Response: The SBOE disagrees and has determined that it is unnecessary at this time to remove IDA references. However, the SBOE will consider this for future iterations of the handbook.

Comment: A diagnostician commented that the handbook is founded on antiquated ideas and should reflect the most recent research.

Response: The SBOE cannot agree or disagree with this comment, as the stated antiquated ideas are not referenced. This comment will be considered in future iterations of the handbook.

Comment: A diagnostician commented that page 40, which refers to dyslexia as an SLD, needs to be corrected.

Response: The SBOE agrees that this may be confusing. At adoption, page 40 has been modified to remove the parenthetical term "dyslexia" immediately following the phrase "basic reading skills."

Comment: A CALT/LDT commented that CALT-Qualified Instructor (QI) should be specifically referenced on page 37 as there are independent training centers.

Response: The SBOE disagrees and has determined that the commenter's suggestion does not need to be specifically referenced.

Comment: An assistant director and a director of special education commented that a special education teacher should not

have to be involved in the implementation of a student's IEP if a PDI is not certified. One commenter further recommended that the state treat this situation similarly to speech therapists.

Response: The SBOE disagrees. Speech therapy is authorized under 34 CFR, §300.39(a)(2), to be considered a special education service rather than a related service if allowed under state standards. PDIs do not have this authority.

Comment: An assistant director commented that Child Find should be a part of TEA trainings and that technical assistance should include clear guidance on dyslexia characteristics, the screening process, and critical evidence-based components of dyslexia instruction.

Response: The SBOE agrees, and training will continue to focus on these items.

Comment: An education specialist requested that page 41 include a statement that an ARD committee will determine the most appropriate way to serve the student.

Response: The SBOE agrees that a statement such as this could be beneficial, and the handbook has been modified at adoption to incorporate this suggestion.

Comment: An education specialist recommended bolding the sentence on page 47 about evidence-based dyslexia instruction being available to students served under IDEA.

Response: The SBOE disagrees and has determined that this change is not necessary.

Comment: A dyslexia therapist commented that special education teachers need more training.

Response: The SBOE agrees that all teachers and providers need training but disagrees that it is necessary to require any particular training in the handbook that is not already included.

Comment: An administrator asked why there are dyslexia diagnosticians.

Response: The SBOE provides the following clarification. The term "dyslexia diagnostician" is not used in the handbook or rule, so it cannot comment on that term.

Comment: A parent commented that children need all the help that is allowed and that teachers need help.

Response: This comment is outside the scope of the proposed rulemaking. However, the SBOE agrees that all children should be assisted to help them reach their maximum potential, and teachers should receive appropriate training.

Comment: A diagnostician commented that clearer standards are needed on the role of a special education teacher and dyslexia specialist.

Response: The SBOE disagrees that clearer standards are necessary. State and federal law determine required ARD committee members.

Comment: A special education director and a CALT disagreed with the assessment that the proposed rulemaking would have no fiscal impact.

Response: The SBOE disagrees. The rule and handbook do not introduce any fiscal impact in addition to what is required by IDEA and the district's Child Find obligations.

Comment: Two individuals commented that there is a lack of guidance on implementation of early interventions.

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

Comment: Two individuals commented that the flow chart on page 43 implies that a parent can request a Section 504 evaluation.

Response: The SBOE provides the following clarification. Section 504 eligibility is still based on an evaluation, so a parent could request this if the student does not qualify for special education and related services. However, changes have been made to the flowchart at adoption to clarify the process.

Comment: An individual commented in support of the removal of dysgraphia requirements.

Response: The SBOE is unsure what requirements the commenter is referring to and is, therefore, unable to agree or disagree with the comment.

Comment: Four individuals stated that more guidance is needed on graphomotor functions in relation to dysgraphia.

Response: The SBOE disagrees and has determined that it is unnecessary to make changes at this time. However, the SBOE will consider this in future iterations of the handbook.

Comment: Four individuals commented that OTs are not necessary for dysgraphia evaluations.

Response: The SBOE disagrees. The handbook does not require the presence of OTs; instead, it states that they may likely need to be a part of the MDT or ARD committee if the student experiences challenges with fine motor skills.

Comment: An LDT asked if question 19 on page 86 is saying that students who are not identified with dyslexia can be put in a dyslexia program through an ARD committee without meeting criteria.

Response: The SBOE provides the following clarification. The appendix has been removed at adoption, and TEA will revise the Q&A as necessary.

Comment: Three practitioners commented that the term "condition of" should be removed from dyslexia where this is listed in the handbook.

Response: The SBOE agrees that the phrase is unnecessary and has removed it at adoption.

Comment: Three practitioners commented that there is no current commissioner's list on page 21.

Response: The SBOE agrees and has deleted reference to that list, along with making a few other clarifying changes in that section.

Comment: A dyslexia coordinator asked if dysgraphia intervention is considered a special education service or a Section 504 accommodation.

Response: The SBOE provides the following clarification. This decision would be made by an ARD committee.

Comment: A dyslexia coordinator commented that a question is missing from Appendix A that was posted with the HB 3928 FAQ.

Response: The SBOE provides the following clarification. The appendix has been removed at adoption.

Comment: A dyslexia coordinator commented that clarification is needed on page 71 about a student identified with dysgraphia but not considered a student with a disability under IDEA.

Response: The SBOE agrees and has made changes at adoption to clarify the process.

Comment: A dyslexia coordinator stated that clarification is needed on if students in prekindergarten that are age 5 can be evaluated for an SLD.

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

Comment: A dyslexia coordinator asked if dyslexia instruction is available for students in prekindergarten if the student does not otherwise qualify for free prekindergarten by the state.

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

Comment: A CALT stated that the experts should not be deleted from page 8.

Response: The SBOE disagrees. The list referenced by the commenter identifies the 2018 committee, and the handbook has now been revised twice since that time.

Comment: A special education director suggested grammatical and punctuation changes on page 66.

Response: The SBOE disagrees and has determined that the suggested changes are unnecessary.

Comment: A special education director commented that dyslexia modules should be made specifically for school psychologists and diagnosticians.

Response: The SBOE provides the following clarification. The dyslexia modules are created by TEA and are primarily designed for evaluators.

Comment: One parent commented that protections and education for parents are being eroded by the move to special education and requested that more testimony be allowed before finalization.

Response: The SBOE disagrees. The changes to the handbook are primarily driven from changes to state law.

Comment: One parent commented that the attempts of the handbook to downplay the use of a cognitive evaluation is misleading and in conflict with federal law. The parent further commented that the handbook should not dictate the manner in which an SLD evaluation is conducted.

Response: The SBOE disagrees. State law requires the SBOE to develop procedures for the screening of, testing of, and treatment for dyslexia. The SBOE is not dictating a manner in which an SLD evaluation must be conducted.

Comment: A CALP commented that consideration should be given to parents who reject special education testing and that it is unfair to require special education testing for the identification of, and services for, dyslexia.

Response: The SBOE provides the following clarification. TEC, §29.0031, states that dyslexia is an example of and meets the definition of SLD under IDEA. Further, the SBOE is prohibited from distinguishing between different types of dyslexia instruction. Therefore, when a student is identified with dyslexia and requires the provision of dyslexia instruction, he or she needs a special education service.

Comment: A diagnostician commented that Chapter 3 is not needed.

Response: The SBOE disagrees as the SBOE is required to develop procedures for the screening of, testing of, and treatment for dyslexia and related disorders.

Comment: A diagnostician commented that the handbook should focus on instruction and intervention and not processes covered by the special education department.

Response: The SBOE disagrees as the SBOE is required to develop procedures for the screening of, testing of, and treatment for dyslexia and related disorders.

Comment: TCASE commented that the SBOE should consider how districts should address contracted staff who cannot be required by the district to attend any training or address this issue in guidance once rulemaking is complete.

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

§74.28(d)

Comment: TCASE and a school district commented that the word "trained" should be removed from proposed re-lettered subsection (d), as a PDI would already be required to have the necessary training. The commenters stated that retaining the word could imply that additional training is needed.

Response: The SBOE agrees and has made a change in subsection (d) at adoption to remove the word "trained."

STATUTORY AUTHORITY. The amendment is adopted under Texas Education Code (TEC), §7.102(c)(28), as amended by House Bill (HB) 3928, 88th Texas Legislature, Regular Session, 2023, which requires the State Board of Education (SBOE) to approve a program for screening and testing students for dyslexia and related disorders; TEC, §29.0031, as amended by HB 3928, 88th Texas Legislature, Regular Session, 2023, which requires that dyslexia is considered and meets the definition of specific learning disability, as this is defined in the Individuals with Disabilities Education Act. It also requires certain actions when a student is suspected of having dyslexia and in the evaluation for dyslexia; TEC, §29.0032, as amended by HB 3928, 88th Texas Legislature, Regular Session, 2023, which requires that providers of dyslexia instruction be fully trained in the local educational agency's materials in order to provide that instruction; TEC, §38.003(a), which requires that students enrolling in public schools be screened or tested, as appropriate, for dyslexia and related disorders at appropriate times in accordance with a program approved by the SBOE. The program must include screening at the end of the school year of each student in Kindergarten and each student in Grade 1; and TEC, §38.003(c), which requires the SBOE to adopt any rules and standards necessary to administer TEC, §38.003, Screening and Treatment for Dyslexia and Related Disorders.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§7.102(c)(28), 29.0031, and 29.0032, as amended by House Bill 3928, 88th Texas Legislature, Regular Session, 2023; and §38.003(a) and (c).

§74.28. *Students with Dyslexia and Related Disorders.*

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings.

(1) Screening a student for dyslexia or a related disorder, a term used in Texas Education Code (TEC), §38.003, means the administration of a universal screening instrument required for students in Kindergarten and Grade 1.

(2) Testing a student for dyslexia or a related disorder, a term used in TEC, §38.003, means a comprehensive evaluation as required under 34 Code of Federal Regulations (CFR), Part 300, and includes evaluation components as stated in the "Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders," referenced in subsection (c) of this section, for the identification of dyslexia or a related disorder.

(3) Treatment for a student identified with dyslexia or a related disorder, a term used in TEC §38.003, means any instructional accommodations through an accommodation plan under Section 504 or instructional accommodations, modifications, and/or the provision of dyslexia instruction in accordance with a student's individualized education program (IEP).

(4) Direct dyslexia instruction, a term used in TEC, §7.102(c)(28), or dyslexia instruction means evidence-based dyslexia instruction that includes the required components of dyslexia instruction and instructional delivery methods as outlined in the handbook referenced in subsection (c) of this section and as described by a student's IEP under TEC, §29.005.

(5) Provider of dyslexia instruction (PDI) means a provider who meets the requirements of TEC, §29.0032.

(b) The board of trustees of a school district or the governing body of an open-enrollment charter school must adopt and implement a policy requiring the district or school to comply with this section, inclusive of the handbook referenced in subsection (c) of this section and the provision of dyslexia instruction for students identified with dyslexia or a related disorder as determined by the student's admission, review, and dismissal (ARD) committee.

(c) A school district's or open-enrollment charter school's policy must be implemented according to the State Board of Education's (SBOE's) "Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders" provided in this subsection. Before adopting changes to the handbook, the SBOE will consider input provided by educators and professionals in the field of reading and dyslexia and related disorders, as well as parents and other stakeholders, from across the state.

Figure: 19 TAC §74.28(c)

(d) A school district or open-enrollment charter school must provide evidence-based dyslexia instruction by a PDI for students with dyslexia or a related disorder that includes the required instructional and delivery components found in the handbook referenced in subsection (c) of this section.

(e) Each school district and open-enrollment charter school shall report through the Texas Student Data System Public Education Information Management System (TSDS PEIMS) the results of the screening for dyslexia and related disorders required for each student in Kindergarten and each student in Grade 1 in accordance with TEC, §38.003(a).

(f) Each school district and open-enrollment charter school shall provide to parents of students enrolled in the district or school information on:

- (1) characteristics of dyslexia and related disorders;
- (2) evaluation and identification of dyslexia and related disorders;
- (3) effective instructional strategies for teaching students with dyslexia and related disorders;
- (4) qualifications of and contact information for PDIs at each campus or school;

(5) instructional accommodations and modifications;

(6) the steps in the special education process, as described in the form developed by the Texas Education Agency to comply with TEC, §29.0031(a)(1); and

(7) how to request a copy and access the electronic version of the handbook referenced in subsection (c) of this section.

(g) School districts and open-enrollment charter schools will be subject to monitoring for compliance with federal law and regulations in connection with this section. School districts and open-enrollment charter schools will be subject to auditing and monitoring for compliance with state dyslexia laws in accordance with administrative rules adopted by the commissioner of education as required by TEC, §38.003(c-1).

(h) School districts and open-enrollment charter schools must include the member required by TEC, §29.0031(b), on the multidisciplinary team and ARD committee, as appropriate, who meets the re-

quirements of TEC, §29.0031(b)(1) or (2), or who meets the training requirements established by the SBOE as described in the handbook referenced in subsection (c) of this section.

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 10, 2024.

TRD-202402548

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: June 30, 2024

Proposal publication date: March 1, 2024

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



TRANSFERRED RULES

The Government Code, §2002.058, authorizes the Secretary of State to remove or transfer rules within the Texas Administrative Code when the agency that promulgated the rules is abolished. The Secretary of State will publish notice of rule transfer or removal in this section of the *Texas Register*. The effective date of a rule transfer is the date set by the legislature, not the date of publication of notice. Proposed or emergency rules are not subject to administrative transfer.

Department of Aging and Disability Services

Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(b), specified the Department of Aging and Disability Services (DADS) be abolished September 1, 2017, after all its functions were transferred to HHSC in accordance with Texas Government Code, §531.0201 and §531.02011. Certain rule sections in the former DADS rules in Texas Administrative Code, Title 40, Part 1, Chapter 89, Advisory Committees are being transferred to Texas Administrative Code, Title 1, Part 15, Chapter 351, Coordinated Planning and Delivery of Health and Human Services, Subchapter B, Advisory Committees, Division 1, Committees.

The rules will be transferred in the Texas Administrative Code effective July 19, 2024.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 89

TRD-202402513

Texas Health and Human Services Commission

Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(b), specified the Department of Aging and Disability Services (DADS) be abolished September 1, 2017, after all its functions were transferred to HHSC in accordance with Texas Government Code, §531.0201 and §531.02011. Certain rule sections in the former DADS rules in Texas Administrative Code, Title 40, Part 1, Chapter 89, Advisory Committees are being transferred to Texas Administrative Code, Title 1, Part 15, Chapter 351, Coordinated Planning and Delivery of Health and Human Services, Subchapter B, Advisory Committees, Division 1, Committees.

The rules will be transferred in the Texas Administrative Code effective July 19, 2024.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 89

TRD-202402514

Figure: 40 TAC Chapter 89

Current Rules	Move to
Title 40. Social Services and Assistance Part 1. Department of Aging and Disability Services Chapter 89. Advisory Committees	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
§89.6. Nursing Facility Administrators Advisory Committee.	§351.838. Nursing Facility Administrators Advisory Committee.
§89.4. Aging Texas Well Advisory Committee.	§351.847. Aging Texas Well Advisory Committee.
§89.7. Texas Respite Advisory Committee.	§351.849. Texas Respite Advisory Committee.

Department of Assistive and Rehabilitative Services

Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished, and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(a), specified the Department of Assistive and Rehabilitative Services (DARS) be abolished September 1, 2017, after all its functions were transferred to HHSC or the Department of Family and Protective Services in accordance with Texas Government Code, §531.0201. The former DARS rules in Texas Administrative Code (TAC), Title 40, Part 2, Chapter 101, Administrative Rules and Procedures, Subchapter C, Councils, Board, and Committees, Division 4, Board for Evaluation of Interpreters Advisory Board are being transferred to 1 TAC Part 15, Chapter 351, Coordinated Planning and Delivery of Health and Human Services, Subchapter B, Advisory Committees, Division 2, Board for Evaluation of Interpreters Advisory Board.

The rules will be transferred in the Texas Administrative Code effective July 19, 2024.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 101, Subchapter C, Division 4

TRD-202402515

Texas Health and Human Services Commission

Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished, and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(a), specified the Department of Assistive and Rehabilitative Services (DARS) be abolished September 1, 2017, after all its functions were transferred to HHSC or the Department of Family and Protective Services in accordance with Texas Government Code, §531.0201. The former DARS rules in Texas Administrative Code (TAC), Title 40, Part 2, Chapter 101, Administrative Rules and Procedures, Subchapter C, Councils, Board, and Committees, Division 4, Board for Evaluation of Interpreters Advisory Board are being transferred to 1 TAC Part 15, Chapter 351, Coordinated Planning and Delivery of Health and Human Services, Subchapter B, Advisory Committees, Division 2, Board for Evaluation of Interpreters Advisory Board.

The rules will be transferred in the Texas Administrative Code effective July 19, 2024.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 101, Subchapter C, Division 4

TRD-202402516

Figure: 40 TAC Chapter 101, Subchapter C, Division 4

Current Rules	Move to
Title 40. Social Services and Assistance	Title 1. Administration
Part 2. Department of Assistive and Rehabilitative Services	Part 15. Texas Health and Human Services Commission
Chapter 101. Administrative Rules and Procedures	Chapter 351. Coordinated Planning and Delivery of Health and Human Services
Subchapter C. Councils, Board, and Committees	Subchapter B. Advisory Committees
Division 4. Board for Evaluation of Interpreters Advisory Board	Division 2. Board for Evaluation of Interpreters Advisory Board
§101.601. Purpose.	§351.1201. Purpose.
§101.603. Legal Authority.	§351.1203. Legal Authority.
§101.605. Definitions.	§351.1205. Definitions.
§101.607. Substantive Rules.	§351.1207. Substantive Rules.
§101.609. Duration of BEI Advisory Board.	§351.1209. Duration of BEI Advisory Board.



REVIEW OF AGENCY RULES

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

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

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

Proposed Rule Reviews

Texas Health and Human Services Commission

Title 1, Part 15

The Texas Health and Human Services Commission (HHSC) proposes to review and consider for re adoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 1, Part 15, of the Texas Administrative Code (TAC):

Chapter 370, State Children's Health Insurance Program

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

Comments on the review of Chapter 370, State Children's Health Insurance Program, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to hhsrulescoordinationoffice@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 370" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published but may be found in Title 1, Part 15, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings (www.sos.texas.gov).

TRD-202402500

Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: June 5, 2024



The Texas Health and Human Services Commission (HHSC) proposes to review and consider for re adoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 1, Part 15, of the Texas Administrative Code (TAC):

Chapter 380, Medical Transportation Program

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

Comments on the review of Chapter 380, Medical Transportation Program, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to MCSRulesPublicComments@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 380" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published but may be found in Title 1, Part 15, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings (www.sos.texas.gov).

TRD-202402508

Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: June 6, 2024



Department of State Health Services

Title 25, Part 1

The Texas Health and Human Services Commission (HHSC) proposes to review and consider for re adoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 25, Part 1, of the Texas Administrative Code:

Chapter 131, Freestanding Emergency Medical Care Facilities

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

Comments on the review of Chapter 131, Freestanding Emergency Medical Care Facilities, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to HCR_PRU@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 131" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published but may be found in Title 25, Part 1, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings (www.sos.texas.gov).

TRD-202402526

Jessica Miller
Director, Rules Coordination Office
Department of State Health Services
Filed: June 7, 2024



The Texas Health and Human Services Commission (HHSC) proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 25, Part 1, of the Texas Administrative Code:

Chapter 138, Disposition of Embryonic and Fetal Tissue Remains

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

Comments on the review of Chapter 138, Disposition of Embryonic and Fetal Tissue Remains, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to HCR_PRU@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 138" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published but may be found in Title 25, Part 1, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings (www.sos.texas.gov).

TRD-202402527
Jessica Miller
Director, Rules Coordination Office
Department of State Health Services
Filed: June 7, 2024



The Texas Health and Human Services Commission (HHSC) proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 25, Part 1, of the Texas Administrative Code:

Chapter 139, Abortion Facility Reporting and Licensing

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

Comments on the review of Chapter 139, Abortion Facility Reporting and Licensing, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to HCR_PRU@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 139" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published but may be found in Title 25, Part 1, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings (www.sos.texas.gov).

TRD-202402528

Jessica Miller
Director, Rules Coordination Office
Department of State Health Services
Filed: June 7, 2024



The Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of State Health Services (DSHS), proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 25, Part 1, of the Texas Administrative Code:

Chapter 200, Reporting of Health Care-Associated Infections and Preventable Adverse Events

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

Comments on the review of Chapter 200, Reporting of Health Care-Associated Infections and Preventable Adverse Events, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to HAITexas@dshs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 200" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published but may be found in Title 25, Part 1, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings (www.sos.texas.gov).

TRD-202402565
Jessica Miller
Director, Rules Coordination Office
Department of State Health Services
Filed: June 11, 2024



Texas Health and Human Services Commission

Title 26, Part 1

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

Chapter 506, Special Care Facilities

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

Comments on the review of Chapter 506, Special Care Facilities, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to HCR_PRU@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 506" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

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

TRD-202402525

Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: June 7, 2024



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

Chapter 510, Private Psychiatric Hospitals and Crisis Stabilization Units

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

Comments on the review of Chapter 510, Private Psychiatric Hospitals and Crisis Stabilization Units, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to HCR_PRU@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 510" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

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

TRD-202402524

Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: June 7, 2024



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

Chapter 745, Licensing

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

Comments on the review of Chapter 745, Licensing, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to CCRRules@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 745" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

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

TRD-202402523

Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: June 7, 2024



Texas Juvenile Justice Department

Title 37, Part 11

The Texas Juvenile Justice Department (TJJD) proposes the review of Title 37, Texas Administrative Code, Chapter 380, Subchapter C (concerning Program Services), Subchapter D (concerning Youth Rights and Remedies), Subchapter E (concerning Behavior Management and Youth Discipline), Subchapter F (concerning Security and Control), and Subchapter G (concerning General Provisions), in accordance with §2001.039, Texas Government Code.

An assessment will be made by TJJD to determine whether the reasons for adopting or re-adopting the rules in the given subchapters continue to exist and whether the rules reflect current legal and policy considerations and current TJJD procedure.

Comments on the review may be submitted within 30 days after publication of this notice to Texas Juvenile Justice Department, Policy and Standards Section, P.O. Box 12757, Austin, Texas 78711, or via email to policy.proposals@tjjd.texas.gov.

TRD-202402518

Jana L. Jones

General Counsel

Texas Juvenile Justice Department

Filed: June 6, 2024



Texas Commission on Fire Protection

Title 37, Part 13

The Texas Commission on Fire Protection (the Commission) files this notice of intention to review and consider for re-adoption, revision, or repeal of, Texas Administrative Code, Title 37, Part 13, Chapter 401, concerning Practice and Procedure. Chapter 401 consists of Subchapter A, General Provisions and Definitions, §401.1, Purpose and Scope, §401.3, Definitions, §401.5, Delegation of Authority, §401.7, Construction, §401.9, Records of Official Action, §401.11, Conduct of Commission and Advisory Meetings, §401.13, Computation of Time, §401.15, Agreements To Be in Writing; Subchapter B, Rulemaking Proceedings, §401.17, Requirements, §401.19, Petition for Adoption of Rules; Subchapter C, Examination Appeals Process, §401.21, Examination Challenge, §401.23, Examination Waiver Request; Subchapter D, Disciplinary Proceedings, §401.31, Disciplinary Proceedings in Contested Cases; Subchapter E, Prehearing Proceedings, §401.41, Preliminary Staff Conference; Subchapter F, Contested Cases, §401.51, Opportunity for Hearing, §401.53, Contested Case Hearing, §401.57, Filing of Exceptions and Replies to Proposal for Decision, §401.59, Orders, §401.61, Record, §401.63, Final Decision and Orders, §401.67, Motions for Rehearing; Subchapter G, Conduct and Decorum, Sanctions, and Penalties, §401.105, Administrative Penalties; Subchapter H, Reinstatement, §401.111, Application for Reinstatement of License or Certificate, §401.113, Evaluation for

Reinstatement, §401.115, Procedure upon Request for Reinstatement, §401.117, Commission Action Possible upon Reinstatement, §401.119, Failure to Appear for Reinstatement; Subchapter I, Notice and Processing Periods for Certificate Applications, §401.121, Purpose of Establishing Time Periods, §401.123, Notice of Deficiency, §401.125, Processing Periods, and §401.127, Appeal; Subchapter J, Charges for Public Records, §401.129, Charges for Public Records; and Subchapter K, Historically Underutilized Businesses, §401.131, Historically Underutilized Businesses.

This review will be conducted pursuant to Texas Government Code §2001.039. The commission will accept comments for 30 days following publication of this notice in the *Texas Register* as to whether the reason for the rule continues to exist.

The Commission, which administers these rules, believes that the reason for the rules contained in this chapter continues to exist. Any questions or written comments pertaining to this notice of intention to review should be directed to Frank King, General Counsel, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas, 78768-2286 or by email at frank.king@tcfp.texas.gov. Any proposed changes to the rules as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be open for an additional 30-day public comment period prior to final adoption or repeal by the commission.

TRD-202402529
Frank King
General Counsel
Texas Commission on Fire Protection
Filed: June 7, 2024



The Texas Commission on Fire Protection (the Commission) files this notice of intention to review and consider for re-adoption, revision, or repeal of, the Texas Administrative Code, Title 37, Part 13, Chapter 403, concerning Criminal Convictions and Eligibility for Certification. Chapter 403 consists of §403.1 Purpose, §403.3, Scope, §403.5, Access to Criminal History Record Information, §403.7, Criminal Convictions Guidelines, §403.9 Mitigating Factors, §403.11, Procedures for Suspension, Revocation, or Denial of a Certificate to Persons with Criminal Backgrounds, §403.15, Report of Convictions by an Individual or Department.

This review will be conducted pursuant to Texas Government Code §2001.039. The Commission will accept comments for 30 days following publication of this notice in the *Texas Register* as to whether the reason for the rule continues to exist.

The Commission, which administers these rules, believes the reason for the rules contained in this chapter continues to exist. Any questions or written comments pertaining to this notice of intention to review should be directed to Frank King, General Counsel, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas, 78768-2286 or by email to frank.king@tcfp.texas.gov. Any proposed changes to the rules as a result of the review will be published in the *Texas Register* in compliance with Texas Government Code, Chapter 2001, and will be open for the required public comment period prior to final adoption or repeal by the commission.

TRD-202402530
Frank King
General Counsel
Texas Commission on Fire Protection
Filed: June 7, 2024



The Texas Commission on Fire Protection (the Commission) files this notice of intention to review and consider for re-adoption, revision, or repeal, Texas Administrative Code, Title 37, Part 13, Chapter 421, concerning Standards for Certification. Chapter 421 consists of §421.1, Procedures for Meetings, §421.3, Minimum Standards Set by the Commission, §421.5, Definitions, §421.9, Designation of Fire Protection Duties, §421.11, Requirement to Be Certified Within One Year, §421.13, Individual Certificate Holders, §421.15, Extension of Training Period, and §421.17, Requirement to Maintain Certification.

This review will be conducted pursuant to Texas Government Code §2001.039. The Commission will accept comments for 30 days following publication of this notice in the *Texas Register* as to whether the reason for the rule continues to exist.

The Commission, which administers these rules, believes that the reason for the rules contained in this chapter continues to exist. Any questions or written comments pertaining to this notice of intention to review should be directed to Frank King, General Counsel, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas, 78768-2286 or by email at frank.king@tcfp.texas.gov. Any proposed changes to the rules as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be open for an additional 30-day public comment period prior to final adoption or repeal by the commission.

TRD-202402531
Frank King
General Counsel
Texas Commission on Fire Protection
Filed: June 7, 2024



The Texas Commission on Fire Protection (the Commission) files this notice of intention to review and consider for re-adoption, revision, or repeal of the Texas Administrative Code, Title 37, Part 13, Chapter 449, concerning Head of a Fire Department. Chapter 449 consists of Subchapter A, Minimum Standards For Head of a Suppression Fire Department, §449.1, Minimum Standards for the Head of a Suppression Fire Department, §449.3, Minimum Standards for Head of a Suppression Fire Department Certification, and Subchapter B, Minimum Standards for Head of a Prevention Only Fire Department, §449.201, Minimum Standards for the Head of a Prevention Only Department, and §449.203, Minimum Standards for Head of a Prevention Only Fire Department Certification.

This review will be conducted pursuant to Texas Government Code §2001.039. The commission will accept comments for 30 days following publication of this notice in the *Texas Register* as to whether the reason for the rule continues to exist.

The Commission, which administers these rules, believes that the reason for the rules contained in this chapter continues to exist. Any questions or written comments pertaining to this notice of intention to review should be directed to Frank King, General Counsel, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286 or by email at frank.king@tcfp.texas.gov. Any proposed changes to the rules as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be open for an additional 30-day public comment period prior to final adoption or repeal by the commission.

TRD-202402532

Frank King
General Counsel
Texas Commission on Fire Protection
Filed: June 7, 2024

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Adopted Rule Reviews

Texas State Library and Archives Commission

Title 13, Part 1

The Texas State Library and Archives Commission (commission) has completed its review of Texas Administrative Code, Title 13, Part 1, Chapter 4, concerning School Library Programs, consisting of §4.1, School Library Programs: Standards and Guidelines for Texas, and §4.2, School Library Programs: Collection Development Standards, in accordance with Texas Government Code §2001.039.

The commission published its Notice of Intent to Review these rules in the April 26, 2024, issue of the *Texas Register* (49 TexReg 2789). The commission received one comment on the proposed rule review from the Texas Library Association (TLA).

Comment: TLA commented that the school library program standards and collection development standards form the foundation of highly effective school library programs which positively impact student achievement. TLA also noted that the need for school library program standards and guidelines, and the support the commission provides to school libraries in these areas, is essential and should continue.

Response: The commission appreciates the comment.

As a result of the review, the commission finds that the reasons for initially adopting the rules continue to exist and readopts the rules in accordance with the requirements of Government Code, §2001.039.

This concludes the commission's review of Chapter 4 as required by Government Code, §2001.039.

TRD-202402551
Sarah Swanson
General Counsel
Texas State Library and Archives Commission
Filed: June 10, 2024

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The Texas State Library and Archives Commission (commission) has completed its review of Texas Administrative Code, Title 13, Part 1, Chapter 8, concerning TexShare Library Consortium, consisting of §8.1, Definitions; §8.2, Purpose; §8.3, Consortium Membership and Affiliated Membership; §8.4, Advisory Board; and §8.5, Programs; in accordance with Texas Government Code §2001.039.

The commission published its Notice of Intent to Review these rules in the April 26, 2024, issue of the *Texas Register* (49 TexReg 2789). The commission received one comment on the proposed rule review from the Texas Library Association (TLA).

Comment: TLA commented that the TexShare Library Consortium's statewide resource sharing programs, and the support TSLAC provides to consortium members, are essential to meeting the educational, informational, and economic needs of Texans.

Response: The commission appreciates the comment.

As a result of the review, the commission finds that the reasons for initially adopting the rules continue to exist and readopts the rules in accordance with the requirements of Government Code, §2001.039.

This concludes the commission's review of Chapter 8 as required by Government Code, §2001.039.

TRD-202402552
Sarah Swanson
General Counsel
Texas State Library and Archives Commission
Filed: June 10, 2024

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Texas Juvenile Justice Department

Title 37, Part 11

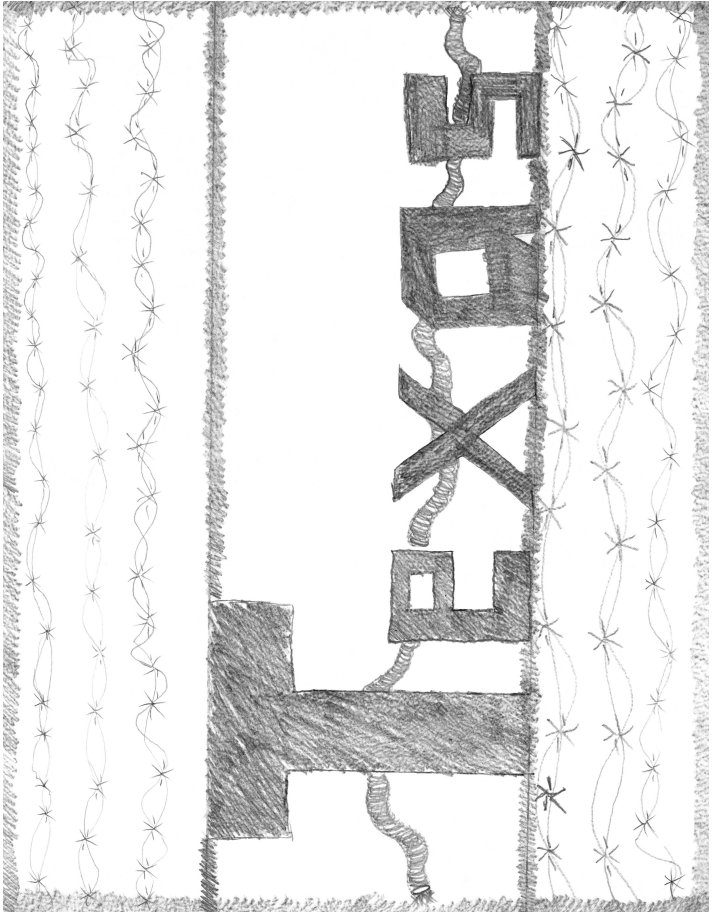
The Texas Juvenile Justice Department (TJJD) has completed its review of Title 37, Texas Administrative Code, Chapter 380, Subchapter A: Admission, Placement, Release, and Discharge, in accordance with §2001.039, Government Code. TJJD published its Notice of Intent to Review these rules in the August 25, 2023, issue of the *Texas Register* (48 TexReg 4677). TJJD received no public comments on the proposed rule review.

As a result of the review, TJJD finds the reasons for adopting the following rules continue to exist and readopts them: §380.8501, Definitions; §380.8502, Legal Requirements for Admission; §380.8505, Initial Assessment; §380.8521, Facility Assignment System; §380.8524, Assessment for Safe Housing Placement; §380.8525, Minimum Length of Stay/Minimum Period of Confinement; §380.8527, Program Restriction Levels; §380.8531, Temporary Admission Awaiting Transportation; §380.8533, Temporary Admission Awaiting Permanent Placement; §380.8535, Undocumented Foreign Nationals; §380.8539, Home Placement; §380.8545, Movement before Program Completion; §380.8555, Program Completion for Non-Sentenced Offenders; §380.8557, Release Review Panel; §380.8559, Program Completion for Youth with Determinate Sentences; §380.8565, Discharge of Youth with Determinate Sentences upon Transfer to TDCJ or Expiration of Sentence; §380.8569, Transfer of Youth with Determinate Sentences Adjudicated for Capital Murder; §380.8581, Supervision Levels in Parole Home Placement; §380.8583, Financial Support for Reentry; and §380.8595, Parole Completion and Discharge

In addition, TJJD finds the reasons for adopting the following rule continue to exist but with amendments needed: §380.8503, Intake and Admission Process.

Amendments will be proposed in a future issue of the *Texas Register*. This concludes TJJD's review of Texas Administrative Code, Chapter 380, Subchapter A: Admission, Placement, Release, and Discharge.

TRD-202402517
Jana L. Jones
General Counsel
Texas Juvenile Justice Department
Filed: June 6, 2024



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.

Coastal Bend Workforce Development Board

Request for Applications For Professional Development Trainers To Provide Training to Child Care Providers (RFA 24-01)

Workforce Solutions Coastal Bend (WFSCB) is soliciting applications from qualified firms or individuals to provide specialized professional development training to the Coastal Bend region's child care providers on an as needed basis. Training topics will include early childhood education and business management. **Applications will be accepted through Friday, August 16, 2024 at 4:00 p.m.**

The RFA can be accessed on our website at: www.workforcesolutionscb.org or by contacting Esther Velazquez at 361.885.3013 or esther.velazquez@workforcesolutionscb.org.

Applications may be submitted via email to esther.velazquez@workforcesolutionscb.org or may be hand delivered or mailed to: Workforce Solutions Coastal Bend, 400 Mann Street, Suite 800, Corpus Christi, Texas 78401.

Workforce Solutions Coastal Bend is an Equal Opportunity Employer/Program. Auxiliary aids and services are available upon

request to individuals with disabilities. Relay Texas: (800) 735-2989 (TDD) and (800) 735-2988 or 711 (Voice). Historically Underutilized Businesses (HUBs) are encouraged to apply.

Este documento contiene información importante sobre los requisitos, los derechos, las determinaciones y las responsabilidades del acceso a los servicios del sistema de la fuerza laboral. Hay disponibles servicios de idioma, incluida la interpretación y la traducción de documentos, sin ningún costo y a solicitud.

TRD-202402533

Alba Silvas

Chief Operating Officer

Coastal Bend Workforce Development Board

Filed: June 10, 2024

Comptroller of Public Accounts

Local Sales Tax Rate Changes Effective July 1, 2024

The additional 1/2 percent city sales and use tax for improving and promoting economic and industrial development as permitted under Chapter 505 of the Texas Local Government Code, Type B Corporations (4B) will be reduced to 1/8 percent effective June 30, 2024 and an additional 3/8 percent city sales and use tax for Municipal Street Maintenance and Repair as permitted under Chapter 327 of the Texas Tax Code will become effective July 1, 2024 in the city listed below.

CITY NAME	LOCAL CODE	LOCAL RATE	TOTAL RATE
Bastrop (Bastrop Co)	2011025	.020000	.082500

The special purpose district has changed its legal name as listed below. The change is effective July 1, 2024.

SPD NAME	LOCAL CODE	LOCAL RATE	TOTAL RATE
Audubon Management District (formerly Montgomery County Management District No. 1)	5170843	.020000	.082500

A 1/2 percent special purpose district sales and use tax will become effective July 1, 2024 in the special purpose district listed below.

SPD NAME	LOCAL CODE	NEW RATE	DESCRIPTION
Aurora Municipal Development District	5249537	.005000	SEE NOTE 1

The combined area has been created to administer the local sales and use tax between overlapping local jurisdictions as permitted under Chapter 321 of the Texas Tax Code, effective July 1, 2024 in the entities listed below.

COMBINED AREA NAME	LOCAL CODE	NEW RATE	DESCRIPTION
Amarillo/Potter County Assistance District No. 1	6188601	.020000	SEE NOTE 2
Godley/Johnson County Emergency Services District No. 1-B	6126624	.020000	SEE NOTE 3
Simonton/Waller-Harris Emergency Services District No. 200	6237620	.020000	SEE NOTE 4
Universal City/Guadalupe County	6094604	.020000	SEE NOTE 5
Willow Park/Parker County Emergency Services District No. 1-A	6184632	.015000	SEE NOTE 6

NOTE 1: The Aurora Municipal Development District has the same boundaries as the Aurora extraterritorial jurisdiction, which includes the city of Aurora. Contact the district representative at 817-636-2783 for additional boundary information.

NOTE 2: The Amarillo/Potter County Assistance District No. 1 combined area is the area within Potter County Assistance District No. 1 annexed by the city of Amarillo on or after January 9, 2024.

NOTE 3: The Godley/Johnson County Emergency Services District No. 1-B combined area is the area within Johnson County Emergency Services District No. 1-B annexed by the city of Godley on or after April 16, 2024.

NOTE 4: The Simonton/Waller-Harris Emergency Services District No. 200 combined area is the area

within Waller-Harris Emergency Services District No. 200 annexed for limited purposes by the city of Simonton which includes a strategic partnership agreement with Waller County Municipal Utility District No. 2.

NOTE 5: The Universal City/Guadalupe County combined area is the area within Guadalupe County annexed by the city of Universal City on or after December 1, 2020.

NOTE 6: The Willow Park/Parker County Emergency Services District No. 1-A combined area is the area within Parker County Emergency Services District No. 1-A annexed by the city of Willow Park on or after January 9, 2024.

TRD-202402507
Jenny Burleson
Director, Tax Policy
Comptroller of Public Accounts
Filed: June 6, 2024

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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 06/17/24 - 06/23/24 is 18.00% for consumer¹ credit.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 06/17/24 - 06/23/24 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-202402567
Leslie L. Pettijohn
Consumer Credit Commissioner
Office of Consumer Credit Commissioner
Filed: June 12, 2024

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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 **July 23, 2024**. 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 **July 23, 2024**. 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: 360 Comal Storage, LLC; DOCKET NUMBER: 2023-1744-EAQ-E; IDENTIFIER: RN111774238; LOCATION: New Braunfels, Comal County; TYPE OF FACILITY: construction site; RULE VIOLATED: 30 TAC §213.4(a)(1), by failing to obtain approval of an Edwards Aquifer Protection Plan prior to conducting regulated activities over the Edwards Aquifer Recharge Zone; PENALTY: \$27,000; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$10,800; ENFORCEMENT COORDINATOR: Megan Crinklaw, (512) 239-1129; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(2) COMPANY: Alberto Loreda dba Loreda Trucking; DOCKET NUMBER: 2022-0231-MLM-E; IDENTIFIER: RN106581549; LOCATION: Waco, McLennan County; TYPE OF FACILITY: aggregate production operation; RULES VIOLATED: 30 TAC §281.25(a)(4) and 40 Code of Federal Regulations §122.26(c), by failing to maintain authorization to discharge stormwater associated with industrial activities; and 30 TAC §334.127(a)(1) and TWC, §26.346(a), by failing to obtain an aboveground storage tank (AST) registration for an AST larger than 1,100 gallons; PENALTY: \$9,000; ENFORCEMENT COORDINATOR: Mark Gamble, (512) 239-2587; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(3) COMPANY: City of Troy; DOCKET NUMBER: 2022-0708-MWD-E; IDENTIFIER: RN102844321; LOCATION: Troy, Bell County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0015847001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: \$13,500; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$10,800; ENFORCEMENT COOR-

DINATOR: Kolby Farren, (512) 239-2098; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(4) COMPANY: Cypress Hill Municipal Utility District Number 1; DOCKET NUMBER: 2023-1504-MWD-E; IDENTIFIER: RN103102125; LOCATION: Houston, Harris County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0012327001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with effluent limitations; PENALTY: \$8,438; ENFORCEMENT COORDINATOR: Madison Stringer, (512) 239-1126; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(5) COMPANY: ETC Texas Pipeline, Ltd.; DOCKET NUMBER: 2023-0788-AIR-E; IDENTIFIER: RN111538815; LOCATION: La Grange, Fayette County; TYPE OF FACILITY: natural gas processing plant; RULES VIOLATED: 30 TAC §101.201(a)(1)(B) and Texas Health and Safety Code (THSC), §382.085(b), by failing to submit an initial notification for a reportable emissions event no later than 24 hours after the discovery of an emissions event; and 30 TAC §106.6(b), Permit by Rule Registration Number 95870, and THSC, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$11,438; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$4,575; ENFORCEMENT COORDINATOR: Yuliya Dunaway, (210) 403-4077; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 492-3096.

(6) COMPANY: Evonik Active Oxygens, LLC; DOCKET NUMBER: 2023-0865-AIR-E; IDENTIFIER: RN100215417; LOCATION: Pasadena, Harris County; TYPE OF FACILITY: chemical manufacturing plant; RULES VIOLATED: 30 TAC §116.115(b)(2)(F) and (c) and §122.143(4), New Source Review Permit Number 6532, Special Conditions Number 1, Federal Operating Permit Number O1309, General Terms and Conditions and Special Terms and Conditions Number 9, and Texas Health and Safety Code, §382.085(b), by failing to comply with the maximum allowable emissions rate; PENALTY: \$25,200; ENFORCEMENT COORDINATOR: Yuliya Dunaway, (210) 403-4077; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 492-3096.

(7) COMPANY: Ford Wagner and LouAnn Wagner; DOCKET NUMBER: 2022-0771-MLM-E; IDENTIFIER: RN111492237; LOCATION: New Braunfels, Comal County; TYPE OF FACILITY: commercial development; RULES 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; and 30 TAC §281.25(a)(4) and 40 Code of Federal Regulations §122.26(c), by failing to obtain authorization to discharge stormwater associated with construction activities; PENALTY: \$17,250; ENFORCEMENT COORDINATOR: Megan Crinklaw, (512) 239-1129; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(8) COMPANY: J-M Manufacturing Company, Incorporated; DOCKET NUMBER: 2024-0147-WQ-E; IDENTIFIER: RN100868983; LOCATION: Wharton, Wharton County; TYPE OF FACILITY: plastic pipe manufacturing facility; RULES VIOLATED: 30 TAC §281.25(a)(4) and 40 Code of Federal Regulations §122.26(c), by failing to maintain authorization to discharge stormwater associated with industrial activities; and TWC, §26.121(a)(1), by failing to prevent an unauthorized discharge of waste into or adjacent to any water in the state; PENALTY: \$56,788; ENFORCEMENT COORDINATOR: Kolby Farren, (512) 239-2098; REGIONAL

OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(9) COMPANY: Lee Denena; DOCKET NUMBER: 2024-0426-WR-E; IDENTIFIER: RN111799888; LOCATION: Calvert, Robertson County; TYPE OF FACILITY: farm; RULES VIOLATED: 30 TAC §304.13(a), by failing to obtain authorization prior to installing a measuring device; and 30 TAC §304.15 (a) and (b) and §304.32(a)(1) and TWC, §11.081, by failing to submit to the watermaster a declaration expressing the diverter's intent prior to diverting state water; PENALTY: \$11,925; ENFORCEMENT COORDINATOR: Mark Gamble, (512) 239-2587; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(10) COMPANY: Monument Chemical Port Arthur, LLC; DOCKET NUMBER: 2023-1552-AIR-E; IDENTIFIER: RN100640283; LOCATION: Port Arthur, Jefferson County; TYPE OF FACILITY: custom chemical processing facility; RULES VIOLATED: 30 TAC §116.115(c), New Source Review Permit Number 74398, Special Conditions Number 1, and Texas Health and Safety Code, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$9,075; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$3,630; ENFORCEMENT COORDINATOR: Christina Ferrara, (512) 239-5081; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(11) COMPANY: MULTI-CHEM GROUP LLC; DOCKET NUMBER: 2023-1084-AIR-E; IDENTIFIER: RN105159115; LOCATION: Longview, Harrison County; TYPE OF FACILITY: chemical storage and distribution; RULES VIOLATED: 30 TAC §106.6(b), Permit by Rule Registration Number 91648, and Texas Health and Safety Code, §382.085(a) and (b), by failing to prevent unauthorized emissions; PENALTY: \$10,000; ENFORCEMENT COORDINATOR: Krystina Sepulveda, (956) 430-6045; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(12) COMPANY: OCI Beaumont LLC; DOCKET NUMBER: 2021-1523-AIR-E; IDENTIFIER: RN102559291; LOCATION: Nederland, Jefferson County; TYPE OF FACILITY: chemical manufacturing plant; RULES VIOLATED: 30 TAC §§101.20(3), 116.115(b)(2)(F) and (c), and 122.143(4), New Source Review (NSR) Permit Numbers 901 and PSDTX1334, Special Conditions (SC) Number 1, Federal Operating Permit (FOP) Number O1645, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) Number 16, and Texas Health and Safety Code (THSC), §382.085(b), by failing to comply with the maximum allowable emissions rates; 30 TAC §§101.20(3), 116.115(c), and 122.143(4), NSR Permit Numbers 901 and PSDTX1334, SC Number 1, FOP Number O1645, GTC and STC Number 16, and THSC, §382.085(b), by failing to prevent unauthorized emissions; 30 TAC §101.201(a)(1)(B) and §122.143(4), FOP Number O1645, GTC and STC Number 2.F., and THSC, §382.085(b), by failing to submit an initial notification for a reportable emissions event no later than 24 hours after the discovery of an emissions event; and 30 TAC §122.143(4) and §122.145(2)(A), FOP Number O1645, GTC, and THSC, §382.085(b), by failing to report all instances of deviations; PENALTY: \$186,920; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$93,460; ENFORCEMENT COORDINATOR: Yuliya Dunaway, (210) 403-4077; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 492-3096.

(13) COMPANY: Somervell County Water District; DOCKET NUMBER: 2023-1668-PWS-E; IDENTIFIER: RN105491443; LOCATION: Glen Rose, Somervell County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.115(f)(1) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 0.080 milligrams per liter for

total trihalomethanes, based on the locational running annual average; PENALTY: \$5,250; ENFORCEMENT COORDINATOR: Rachel Vulk, (512) 239-6730; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(14) COMPANY: Soto Sand and Gravel, Incorporated; DOCKET NUMBER: 2023-1645-WQ-E; IDENTIFIER: RN107089690; LOCATION: El Paso, El Paso County; TYPE OF FACILITY: aggregate production operation; RULES VIOLATED: 30 TAC §281.25(a)(4) and 40 Code of Federal Regulations §122.26(c), by failing to maintain authorization to discharge stormwater associated with industrial activities; PENALTY: \$22,500; ENFORCEMENT COORDINATOR: Madison Stringer, (512) 239-1126; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(15) COMPANY: T RYAN INCORPORATED; DOCKET NUMBER: 2023-0730-WQ-E; IDENTIFIER: RN111597035; LOCATION: Wylie, Dallas County; TYPE OF FACILITY: construction site; RULES VIOLATED: 30 TAC §281.25(a)(4) and 40 Code of Federal Regulations §122.26(c), by failing to obtain authorization to discharge stormwater associated with construction activities; PENALTY: \$20,000; ENFORCEMENT COORDINATOR: Monica Larina, (361) 881-6965; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401, (361) 881-6900.

(16) COMPANY: Vopak Logistics Services USA Incorporated; DOCKET NUMBER: 2023-0572-IWD-E; IDENTIFIER: RN100223007; LOCATION: Deer Park, Harris County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0001731000, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: \$10,500; ENFORCEMENT COORDINATOR: Mistie Gonzales, (254) 761-3056; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

TRD-202402533

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: June 7, 2024



Combined Notice of Public Meeting and Notice of Application and Preliminary Decision for Land Applications of Biosolids Permit New Proposed Permit No. WQ0005448000

APPLICATION AND PRELIMINARY DECISION. Denali Water Solutions LLC, P.O. Box 550, Russellville, Arkansas 72811, has applied to the Texas Commission on Environmental Quality (TCEQ) for new TCEQ Permit No. WQ0005448000, to authorize the land application of Class B wastewater treatment plant biosolids and water treatment plant residuals for beneficial use on 57 acres. The anticipated date of the first application of Class B biosolids and water treatment residuals, subject to the issuance of the permit, is October 1, 2024. This permit will not authorize a discharge of pollutants into water in the state. TCEQ received this application on October 30, 2023.

The land application unit will be located at 500 Van Zandt County Road 2808, near the City of Mabank, in Van Zandt County, Texas 75147.

The land application unit will be located within the drainage basin of Cedar Creek Reservoir in Segment No. 0818 of the Trinity River Basin.

The TCEQ Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if ap-

proved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at Van Zandt County Library, 317 First Monday Lane, Canton, Texas. This link to an electronic map of the facility's location is provided as a public courtesy and not part of the application or notice. For the exact location, refer to the application.

<https://gisweb.tceq.texas.gov/LocationMapper/?marker=-96.031111,32.396111&level=18>

ALTERNATIVE LANGUAGE NOTICE. Alternative language notice in Spanish is available at <https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notice>. El aviso de idioma alternativo en español está disponible en <https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notice>.

PUBLIC COMMENT / PUBLIC MEETING. You may submit public comments or request a public meeting about this application. The TCEQ will hold a public meeting on this application because it was requested by a state senator and a state representative.

The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. A public meeting will be held and will consist of two parts, an Informal Discussion Period and a Formal Comment Period. A public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public will be encouraged to ask questions of the applicant and TCEQ staff concerning the permit application. The comments and questions submitted orally during the Informal Discussion Period will not be considered before a decision is reached on the permit application and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period on the permit application, members of the public may state their formal comments orally into the official record. A written response to all timely, relevant and material, or significant comments will be prepared by the Executive Director. All formal comments will be considered before a decision is reached on the permit application. A copy of the written response will be sent to each person who submits a formal comment or who requested to be on the mailing list for this permit application and provides a mailing address. Only relevant and material issues raised during the Formal Comment Period can be considered if a contested case hearing is granted on this permit application.

The Public Meeting is to be held:

Thursday, July 25, 2024 at 7:00 p.m.

Farm Bureau

220 Burnett Trail

Canton, Texas 75103

Persons with disabilities who need special accommodations at the meeting should call the Office of the Chief Clerk at (512) 239-3300 or (800) RELAY-TX (TDD) at least five business days prior to the meeting.

OPPORTUNITY FOR A CONTESTED CASE HEARING. After the deadline for public comments, the Executive Director will consider the comments and prepare a response to all relevant and material, or significant public comments. **The response to comments, along with the Executive Director's decision on the application, will be mailed to everyone who submitted public comments or who requested to**

be on a mailing list for this application. If comments are received, the mailing will also provide instructions for requesting a contested case hearing or reconsideration of the Executive Director's decision. A contested case hearing is a legal proceeding similar to a civil trial in a state district court.

TO REQUEST A CONTESTED CASE HEARING, YOU MUST INCLUDE THE FOLLOWING ITEMS IN YOUR REQUEST: your name, address, phone number; applicant's name and proposed permit number; the location and distance of your property/activities relative to the proposed facility; a specific description of how you would be adversely affected by the facility in a way not common to the general public; a list of all disputed issues of fact that you submit during the comment period; and the statement "[I/we] request a contested case hearing." If the request for contested case hearing is filed on behalf of a group or association, the request must designate the group's representative for receiving future correspondence; identify by name and physical address an individual member of the group who would be adversely affected by the proposed facility or activity; provide the information discussed above regarding the affected member's location and distance from the facility or activity; explain how and why the member would be affected; and explain how the interests the group seeks to protect are relevant to the group's purpose.

Following the close of all applicable comment and request periods, the Executive Director will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

The Commission may only grant a request for a contested case hearing on issues the requestor submitted in their timely comments that were not subsequently withdrawn. **If a hearing is granted, the subject of a hearing will be limited to disputed issues of fact or mixed questions of fact and law relating to relevant and material water quality concerns submitted during the comment period.**

EXECUTIVE DIRECTOR ACTION. The Executive Director may issue final approval of the application unless a timely contested case hearing request or a timely request for reconsideration is filed. If a timely hearing request or request for reconsideration is filed, the Executive Director will not issue final approval of the permit and will forward the application and requests to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

MAILING LIST. If you submit public comments, a request for a contested case hearing or a reconsideration of the Executive Director's decision, you will be added to the mailing list for this specific application to receive future public notices mailed by the Office of the Chief Clerk. In addition, you may request to be added to: (1) the permanent list for a specific applicant name and permit number; and (2) the mailing list for a specific county. If you wish to be placed on the permanent and the county mailing list, clearly specify which list(s) and send your request to TCEQ Office of the Chief Clerk at the address below.

All written public comments and public meeting requests must be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at <https://www.tceq.texas.gov/goto/comment> within 30 days from the date of newspaper publication of this notice or by the date of the public meeting, whichever is later.

INFORMATION AVAILABLE ONLINE. For details about the status of the application, visit the Commissioners' Integrated Database at <https://www.tceq.texas.gov/goto/CID/>. Search the database using the permit number for this application, which is provided at the top of this notice.

AGENCY CONTACTS AND INFORMATION. Public comments and requests must be submitted either electronically at <https://www.tceq.texas.gov/goto/comment>, or in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087. Please be aware that any contact information you provide, including your name, phone number, email address, and physical address will become part of the agency's public record. For more information about this permit application or the permitting process, please call the TCEQ Public Education Program, toll free, at (800) 687-4040 or visit their website at <https://www.tceq.texas.gov/agency/decisions/participation/permitting-participation>. Si desea información en español, puede llamar al (800) 687-4040.

Further information may also be obtained from Denali Water Solutions LLC at the address stated above or by calling Mr. Gabe Timby, Director of Environmental - Central Region, at (479) 518-1554.

Issued: June 10, 2024

TRD-202402568

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: June 12, 2024



Combined Notice of Public Meeting and Notice of Receipt of Application and Intent to Obtain Water Quality Permit (NORI) and Notice of Application and Preliminary Decision for TPDES Permit for Municipal Wastewater New Permit No. WQ0016440001

APPLICATION AND PRELIMINARY DECISION. Sun Terrell TX WWTP LLC, 27777 Franklin Road, Suite 300, Southfield, Michigan 48034, has applied to the Texas Commission on Environmental Quality (TCEQ) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016440001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 300,000 gallons per day. TCEQ received this application on October 24, 2023.

This combined notice is being issued to correct the description of the discharge route, and change in the contact person and the phone number that was included in the NORI.

The facility will be located approximately 0.95 miles northeast of the intersection of Flowers Lane (County Road 319) and State Highway 34, in Kaufman County, Texas 75161. **The treated effluent will be discharged to a man-made pond, thence to an unnamed tributary, thence to an unnamed impoundment, thence to an unnamed tributary, thence to Kings Creek, thence to Cedar Creek Reservoir in Segment 0818 of the Trinity River Basin.** The unclassified receiving water use is limited aquatic life use for the man-made pond, the unnamed tributary, and the unnamed impoundment. The designated uses for Segment No. 0818 are primary contact recreation, public water supply, and high aquatic life use. In accordance with 30 Texas Administrative Code §307.5 and TCEQ's *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010), an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. This review has preliminarily determined that no water bodies with exceptional, high, or intermediate aquatic life uses are present within the stream reach assessed; therefore, no Tier 2 degradation determination is required.

No significant degradation of water quality is expected in water bodies with exceptional, high, or intermediate aquatic life uses downstream, and existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received. This link to an electronic map of the site or facility's general location is provided as a public courtesy and is not part of the application or notice. For the exact location, refer to the application.

<https://gisweb.tceq.texas.gov/LocationMapper/?marker=-96.236944,32.772777&level=18>

The TCEQ Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at Riter C. Hulsey Public Library, 301 North Rockwall Avenue, Terrell, Texas.

ALTERNATIVE LANGUAGE NOTICE. Alternative language notice in Spanish is available at <https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices>. El aviso de idioma alternativo en español está disponible en <https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices>.

PUBLIC COMMENT / PUBLIC MEETING. You may submit public comments or request a public meeting about this application. The TCEQ will hold a public meeting on this application if it was requested by a local representative.

The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. A public meeting will be held and will consist of two parts, an Informal Discussion Period and a Formal Comment Period. A public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public will be encouraged to ask questions of the applicant and TCEQ staff concerning the permit application. The comments and questions submitted orally during the Informal Discussion Period will not be considered before a decision is reached on the permit application and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period on the permit application, members of the public may state their formal comments orally into the official record. A written response to all timely, relevant and material, or significant comments will be prepared by the Executive Director. All formal comments will be considered before a decision is reached on the permit application. A copy of the written response will be sent to each person who submits a formal comment or who requested to be on the mailing list for this permit application and provides a mailing address. Only relevant and material issues raised during the Formal Comment Period can be considered if a contested case hearing is granted on this permit application.

The Public Meeting is to be held:

Tuesday, July 23, 2024 at 7:00 p.m.

Terrell Performing Arts Center

400 Poetry Road

Terrell, Texas 75160

Persons with disabilities who need special accommodations at the meeting should call the Office of the Chief Clerk at (512) 239-3300 or (800) RELAY-TX (TDD) at least five business prior to the meeting.

OPPORTUNITY FOR A CONTESTED CASE HEARING. After the deadline for submitting public comments, the Executive Director will consider all timely comments and prepare a response to all relevant and material or significant public comments. **Unless the application is directly referred for a contested case hearing, the response to comments will be mailed to everyone who submitted public comments and to those persons who are on the mailing list for this application. If comments are received, the mailing will also provide instructions for requesting a contested case hearing or reconsideration of the Executive Director's decision.** A contested case hearing is a legal proceeding similar to a civil trial in a state district court.

TO REQUEST A CONTESTED CASE HEARING, YOU MUST INCLUDE THE FOLLOWING ITEMS IN YOUR REQUEST: your name, address, phone number; applicant's name and proposed permit number; the location and distance of your property/activities relative to the proposed facility; a specific description of how you would be adversely affected by the facility in a way not common to the general public; a list of all disputed issues of fact that you submit during the comment period; and the statement "[I/we] request a contested case hearing." If the request for contested case hearing is filed on behalf of a group or association, the request must designate the group's representative for receiving future correspondence; identify by name and physical address an individual member of the group who would be adversely affected by the proposed facility or activity; provide the information discussed above regarding the affected member's location and distance from the facility or activity; explain how and why the member would be affected; and explain how the interests the group seeks to protect are relevant to the group's purpose.

Following the close of all applicable comment and request periods, the Executive Director will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

The Commission may only grant a request for a contested case hearing on issues the requestor submitted in their timely comments that were not subsequently withdrawn. **If a hearing is granted, the subject of a hearing will be limited to disputed issues of fact or mixed questions of fact and law relating to relevant and material water quality concerns submitted during the comment period.**

EXECUTIVE DIRECTOR ACTION. The Executive Director may issue final approval of the application unless a timely contested case hearing request or request for reconsideration is filed. If a timely hearing request or request for reconsideration is filed, the Executive Director will not issue final approval of the permit and will forward the application and request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

MAILING LIST. If you submit public comments, a request for a contested case hearing or a reconsideration of the Executive Director's decision, you will be added to the mailing list for this specific application to receive future public notices mailed by the Office of the Chief Clerk. In addition, you may request to be placed on: (1) the permanent mailing list for a specific applicant name and permit number; and/or (2) the mailing list for a specific county. If you wish to be placed on the permanent and/or the county mailing list, clearly specify which list(s) and send your request to TCEQ Office of the Chief Clerk at the address below.

All written public comments and public meeting requests must be submitted to the Office of the Chief Clerk, MC 105, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at www.tceq.texas.gov/goto/comment

within 30 days from the date of newspaper publication of this notice, or by the date of the public meeting, whichever is later.

INFORMATION AVAILABLE ONLINE. For details about the status of the application, visit the Commissioners' Integrated Database at www.tceq.texas.gov/goto/cid. Search the database using the permit number for this application, which is provided at the top of this notice.

AGENCY CONTACTS AND INFORMATION. Public comments and requests must be submitted either electronically at www.tceq.texas.gov/goto/comment, or in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC 105, P.O. Box 13087, Austin, Texas 78711-3087. Any personal information you submit to the TCEQ will become part of the agency's record; this includes email addresses. For more information about this permit application or the permitting process, please call the TCEQ Public Education Program, Toll Free, at (800) 687-4040 or visit their website at www.tceq.texas.gov/goto/pep. Si desea información en español, puede llamar al (800) 687-4040.

Further information may also be obtained from Sun Terrell TX WWTP LLC at the address stated above or by calling **Ms. Kendall Longbotham, P.E., reUse Engineering, Inc., at (737) 275-2271.**

Issuance Date: June 07, 2024

TRD-202402569

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: June 12, 2024



Enforcement Orders

An agreed order was adopted regarding Jan Tofell, Docket No. 2021-1050-AGR-E on June 11, 2024 assessing \$3,750 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Georgette Oden, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding CIRCLE K STORES INC. dba Circle K Store 2741192, Docket No. 2022-0872-PST-E on June 11, 2024 assessing \$7,500 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Cynthia Sirois, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202402572

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: June 12, 2024



Enforcement Orders

An agreed order was adopted regarding Targa Midstream Services LLC, Docket No. 2020-1162-AIR-E on June 12, 2024 assessing \$406,204 in administrative penalties with \$81,240 deferred. Information concerning any aspect of this order may be obtained by contacting Mackenzie Mehlmann, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Buckeye Texas Processing LLC, Docket No. 2021-1128-AIR-E on June 12, 2024 assessing

\$18,576 in administrative penalties with \$3,715 deferred. Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Leedo Manufacturing Co., L.P., Docket No. 2021-0772-AIR-E on June 12, 2024 assessing \$39,250 in administrative penalties with \$7,850 deferred. Information concerning any aspect of this order may be obtained by contacting Mackenzie Mehlmann, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Oxy Vinyls, LP, Docket No. 2021-0353-AIR-E on June 12, 2024 assessing \$69,863 in administrative penalties with \$13,972 deferred. Information concerning any aspect of this order may be obtained by contacting Johnnie Wu, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Intercontinental Terminals Company LLC, Docket No. 2022-0460-AIR-E on June 12, 2024 assessing \$10,500 in administrative penalties with \$2,100 deferred. Information concerning any aspect of this order may be obtained by contacting Desmond Martin, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding DSM Nutritional Products, LLC, Docket No. 2023-0102-AIR-E on June 12, 2024 assessing \$12,000 in administrative penalties with \$2,400 deferred. Information concerning any aspect of this order may be obtained by contacting Danielle Porras, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding INEOS US Chemicals Company, Docket No. 2023-0121-AIR-E on June 12, 2024 assessing \$10,800 in administrative penalties with \$2,160 deferred. Information concerning any aspect of this order may be obtained by contacting Danielle Porras, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding INSTEEL WIRE PRODUCTS COMPANY, Docket No. 2022-0572-IHW-E on June 12, 2024 assessing \$37,200 in administrative penalties with \$7,440 deferred. Information concerning any aspect of this order may be obtained by contacting Stephanie McCurley, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding LATITUDE LIQUIDS LLC, Docket No. 2023-0516-IHW-E on June 12, 2024 assessing \$31,500 in administrative penalties with \$6,300 deferred. Information concerning any aspect of this order may be obtained by contacting Karolyn Kent, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding CSWR-Texas Utility Operating Company, LLC, Docket No. 2022-0820-MLM-E on June 12, 2024 assessing \$37,250 in administrative penalties with \$7,450 deferred. Information concerning any aspect of this order may be obtained by contacting Samantha Salas, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Quinlan, Docket No. 2019-1762-MWD-E on June 12, 2024 assessing \$31,874 in administrative penalties with \$6,374 deferred. Information concerning any aspect of this order may be obtained by contacting Harley Hobson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Arp, Docket No. 2021-1294-MWD-E on June 12, 2024 assessing \$81,375 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Samantha Smith, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Town of Windom, Docket No. 2021-1220-MWD-E on June 12, 2024 assessing \$51,750 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Samantha Smith, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Maud, Docket No. 2021-0991-MWD-E on June 12, 2024 assessing \$15,187 in administrative penalties with \$3,037 deferred. Information concerning any aspect of this order may be obtained by contacting Samantha Smith, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Acton Municipal Utility District, Docket No. 2022-1633-MWD-E on June 12, 2024 assessing \$8,250 in administrative penalties with \$1,650 deferred. Information concerning any aspect of this order may be obtained by contacting Harley Hobson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Dumas, Docket No. 2022-0783-MWD-E on June 12, 2024 assessing \$42,625 in administrative penalties with \$8,525 deferred. Information concerning any aspect of this order may be obtained by contacting Taylor Williamson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Quail Run Services, LLC, Docket No. 2023-0742-MWD-E on June 12, 2024 assessing \$9,900 in administrative penalties with \$1,980 deferred. Information concerning any aspect of this order may be obtained by contacting Shane Glantz, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding LUFKIN LLC dba Gas N Go, Docket No. 2022-0619-PST-E on June 12, 2024 assessing \$7,876 in administrative penalties with \$1,575 deferred. Information concerning any aspect of this order may be obtained by contacting Tiffany Chu, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding GREEN ACRES RV PARK & RENTALS LLC, Docket No. 2020-0945-PWS-E on June 12, 2024 assessing \$758 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting William Hogan, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Los Botines Water Supply Corporation, Docket No. 2021-1011-PWS-E on June 12, 2024 assessing \$143,830 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Ronica Rodriguez

Scott, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Duval County Conservation and Reclamation District, Docket No. 2022-0937-PWS-E on June 12, 2024 assessing \$1,250 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Nick Lohret-Froio, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Stay A While RV Park LLC, Docket No. 2022-0467-PWS-E on June 12, 2024 assessing \$8,677 in administrative penalties with \$1,735 deferred. Information concerning any aspect of this order may be obtained by contacting Epifanio Villarreal, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Pilot Texas West LLC, Docket No. 2022-1669-PWS-E on June 12, 2024 assessing \$4,500 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Emerson Rinewalt, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Central Washington County Water Supply Corporation, Docket No. 2022-1061-PWS-E on June 12, 2024 assessing \$1,250 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Claudia Bartley, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Mathis, Docket No. 2022-0683-PWS-E on June 12, 2024 assessing \$5,000 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Ronica Rodriguez Scott, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding ERICKSDAHL WATER SUPPLY CORPORATION, Docket No. 2023-0549-PWS-E on June 12, 2024 assessing \$3,000 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Ilia Perez-Ramirez, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Trinity Rural Water Supply Corporation, Docket No. 2023-0400-PWS-E on June 12, 2024 assessing \$2,800 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Miles Caston, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Maria Alvarado dba Alanis RV Park, Docket No. 2023-0312-PWS-E on June 12, 2024 assessing \$5,250 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Ilia Perez-Ramirez, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding North Harrison Water Supply Corporation, Docket No. 2023-0214-PWS-E on June 12, 2024 assessing \$2,750 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Wyatt Throm, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Oliver & Thompson Companies, LLC dba Rangers RV, Docket No. 2023-0168-PWS-E on June 12, 2024 assessing \$6,100 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Epifanio Villarreal, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Eagles Peak Ranch Water Supply Corporation, Docket No. 2023-1202-PWS-E on June 12, 2024 assessing \$1,437 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Hannah Shakir, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Utilities Investment Company, Inc., Docket No. 2023-1628-PWS-E on June 12, 2024 assessing \$16,456 in administrative penalties with \$3,291 deferred. Information concerning any aspect of this order may be obtained by contacting Ronica Rodriguez Scott, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Rivers Edge Interests, Ltd., Docket No. 2022-0141-WQ-E on June 12, 2024 assessing \$16,875 in administrative penalties with \$3,375 deferred. Information concerning any aspect of this order may be obtained by contacting Harley Hobson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202402573

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: June 12, 2024



Notice of Correction to Agreed Order Number 29

In the May 31, 2024, issue of the *Texas Register* (49 TexReg 3947), the Texas Commission on Environmental Quality (commission) published notice of Agreed Orders, specifically Item Number 29, for Trophy Materials, LLC; Docket Number 2022-0578-WQ-E. The error is as submitted by the commission.

The reference to the penalty should be corrected to read: "\$9,500."

For questions concerning the error, please contact Michael Parrish at (512) 239-2548.

TRD-202402534

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: June 7, 2024



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 **July 23, 2024**. 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 July 23, 2024**. 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: BPR ENTERPRISES, L.L.C.; DOCKET NUMBER: 2022-0453-PWS-E; TCEQ ID NUMBER: RN111449104; LOCATION: 10303 East Bankhead Highway Suite 103 near Aledo, Parker County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.42(b)(1) and (e)(3), by failing to provide disinfection facilities for the groundwater supply for the purpose of microbiological control and distribution protection; 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: \$2,125; STAFF ATTORNEY: Marilyn Norrod, Litigation, MC 175, (512) 239-5916; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

TRD-202402559

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: June 11, 2024



Notice of Opportunity to Comment on Default Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) staff is providing an opportunity for written public comment on the listed Default Orders (DOs). The commission staff proposes a DO 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 **July 23, 2024**. 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 July 23, 2024**. 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: Benton Rainey; DOCKET NUMBER: 2021-0212-PST-E; TCEQ ID NUMBER: RN102839560; LOCATION: 301 West Dallas Avenue, Cooper, Delta County; TYPE OF FACILITY: underground storage tank (UST) system; RULES VIOLATED: TWC, §26.3475(d) and 30 TAC §334.49(c)(2)(C) and (4)(C) and §334.54(b)(3) and (e)(5), by failing to adequately protect a temporarily out-of-service UST system from corrosion and failed to empty the UST system and perform a site check as well as necessary corrective actions for a temporarily out of service UST system that would meet financial assurance exemption requirements; 30 TAC §334.602(a), by failing to identify and designate at least one named individual for each class of operator Class A, B, and C for the UST facility; TWC, §26.3475(c)(1), 30 TAC §334.50(b)(1)(A) and §334.54(c)(1), and TCEQ Docket Number 2016-0964-PST-E, Ordering Provision Number 2.b., by failing to monitor a temporarily out-of-service UST system for releases at least once every 30 days; and 30 TAC §334.7(d)(1)(B) and (3), by failing to notify the agency of any change or additional information regarding the UST system within 30 days of the occurrence of the change or addition; PENALTY: \$74,194; STAFF ATTORNEY: David Keagle, Litigation, MC 175, (512) 239-3923; REGIONAL OFFICE: Tyler Regional Office, 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(2) COMPANY: Kenneth Fox Supply Company; DOCKET NUMBER: 2020-1336-AIR-E; TCEQ ID NUMBER: RN100620954; LOCATION: 2200 Fox Drive, McAllen, Hidalgo County; TYPE OF FACILITY: printing press; RULES VIOLATED: Texas Health and Safety Code, §382.085(b), 30 TAC §116.115(b)(2)(F) and (c), and New Source Review Permit Number 148159, Special Conditions Number 1., by failing to comply with the maximum allowable emissions rates; PENALTY: \$8,437; STAFF ATTORNEY: David Keagle, Litigation, MC 175, (512) 239-3923; REGIONAL OFFICE: Harlingen Regional Office, 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

TRD-202402560
Gitanjali Yadav
Deputy Director, Litigation
Texas Commission on Environmental Quality
Filed: June 11, 2024



Request for Preliminary Comments for Review and Revision
of the Texas Surface Water Quality Standards

The Texas Commission on Environmental Quality (TCEQ) is requesting preliminary written comments on the Texas Surface Water Quality Standards (30 Texas Administrative Code Chapter 307) (Standards). This request for written comments is in preparation of review and revision as needed of the Standards.

The Standards establish instream water quality requirements for Texas streams, rivers, lakes, estuaries, and other surface water bodies. The TCEQ is directed to establish water quality standards in the Texas Water Code, §26.023. The federal Clean Water Act, §303(c), requires that states publicly review and revise their water quality standards as needed every three years. Revisions are made to: (1) incorporate new information on potential pollutants, (2) include additional data about water quality conditions in specific water bodies, (3) address new state and federal regulatory requirements, and (4) accommodate public concerns and public goals for water quality in the state.

The TCEQ will review and consider preliminary comments during the development of draft proposals for revisions of the Standards. Written responses to these preliminary comments will not be provided. Any proposed revisions, whether resulting from these comments or not, will be subject to a formal public hearing and a public comment period prior to adoption.

Written comments on the Standards may be submitted to Ms. Debbie Miller, MC-234, Water Quality Planning Division, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4410. Electronic comments may be submitted via email to standards@tceq.texas.gov. File size restrictions may apply to comments being submitted via e-mail. All comments should reference the Texas Surface Water Quality Standards.

The preliminary comment period closes at 5:00 p.m. on July 23, 2024.

A copy of the 2022 version of the Standards is available on the Office of the State Secretary's website at: [https://texreg.sos.state.tx.us/public/readact\\$ext.ViewTAC?tac_view=4&ti=30&pt=1&ch=307&rl=Y](https://texreg.sos.state.tx.us/public/readact$ext.ViewTAC?tac_view=4&ti=30&pt=1&ch=307&rl=Y).

For further information on the Standards, please contact Ms. Debbie Miller, Water Quality Planning Division, at (512) 239-1703 or via email to standards@tceq.texas.gov.

Este documento está disponible en español en el siguiente sitio web: https://www.tceq.texas.gov/waterquality/standards/WQ_standards_revisions.html

TRD-202402571
Charmaine Backens
Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: June 12, 2024



General Land Office

Surveying Services Coastal Boundary Survey

Project: Riverfront Park, Noah Tevis Survey/Abstract-52

Project No: CL 880016

Project Manager: Amy Nunez, Dianna Ramirez, Coastal Field Offices.

Surveyor: Nedra Foster-Townsend, Licensed State Land Surveyor

Description: Coastal Boundary Survey dated September 24, 2020, delineating the line of mean higher high water along a portion of the Noah Tevis Survey, Abstract 52, and the Neches River in Jefferson County, Texas, in connections with GLO No. CL880016. Centroid coordinates

30.083056 N, 94.094167 W. A copy of the survey has been filed under No. 2020032975, Official Public Records Jefferson County, Texas.

A Coastal Boundary Survey for the above-referenced project has been reviewed and accepted by Surveying Services; upon completion of public notice requirements, the survey will be filed in the Texas General Land Office, Archives and Records, in accordance with provisions of the Tex. Nat. Res. Code §33.136.

by:

Signed: David Klotz, LSLs

Surveying Services Date: 6/4/24

Pursuant to Tex. Nat. Res. Code §33.136, the herein described Coastal Boundary Survey is approved by Dawn Buckingham, M.D., Commissioner of the Texas General Land Office.

by:

Signed: Mark Havens, Chief Clerk

Date: 6/6/24

Filed as: Tex. Nat. Res. Code §33.136, Jefferson County, Sketch No. 15.

TRD-202402502

Mark Havens

Chief Clerk

General Land Office

Filed: June 6, 2024



Surveying Services Coastal Boundary Survey

Project: San Leon Townsite, Amos Edwards League, Abstract-10, Bulkhead

Project No: LC20050041

Project Manager: Amy Nunez, Dianna Ramirez, Coastal Field Operations

Surveyor: Stephen Blaskey, Licensed State Land Surveyor

Description: Coastal Boundary Survey dated July 15, 2020, delineating the littoral boundary of portions of Galveston Bay, State Submerged Tract 308, and the Amos Edwards League, Abstract 10 in Galveston County, Texas, in connection with GLO No. LC20050041. Centroid coordinates 29.4915 N, 94.9115 W, WGS84. A copy of the survey has been filed in Book I, Page 257 in Galveston County Surveyors Records in the Galveston County Engineers Office.

A Coastal Boundary Survey for the above-referenced project has been reviewed and accepted by Surveying Services; upon completion of public notice requirements, the survey will be filed in the Texas General Land Office, Archives and Records, in accordance with provisions of the Tex. Nat. Res. Code §33.136.

by:

Signed: David Klotz, LSLs

Surveying Services Date: 6/4/24

Pursuant to Tex. Nat. Res. Code §33.136, the herein described Coastal Boundary Survey is approved by Dawn Buckingham, M.D., Commissioner of the Texas General Land Office.

by:

Signed: Mark Havens, Chief Clerk

Date: 6/6/24

Filed as: Tex. Nat. Res. Code §33.136, Galveston County, Sketch No. 93.

TRD-202402503

Mark Havens

Chief Clerk

General Land Office

Filed: June 6, 2024



Surveying Services Coastal Boundary Survey

Project: Matagorda Bay Foundation-Seadrift Area, Calhoun County.

Project No: TGLO CMP No.23-020-013-D607

Project Manager: Jessica Chappell, TGLO Coastal Management Program

Surveyor: Kim Thomas Doyle, Licensed State Land Surveyor

Description: Coastal Boundary Survey dated July 18, 2023, delineating the mean higher high-water line of the east shoreline of San Antonio Bay adjacent to the Jose Felix de la Fuentes Survey, Abstract 13 and the Maximo Campos Survey, Abstract 4, in Calhoun County, Texas in connection with TGLO CMP No.23-020-013-D607. Centroid coordinates N 28.405641°, W 96.707053° (N 28° 24' 20", W 96° 42' 25"), WGS84. A copy of the survey has been filed in Instrument: 2024-00436, Slide 720A & 720B, Map or Plat Records of Calhoun County, Texas.

A Coastal Boundary Survey for the above-referenced project has been reviewed and accepted by Surveying Services; upon completion of public notice requirements, the survey will be filed in the Texas General Land Office, Archives and Records, in accordance with provisions of the Tex. Nat. Res. Code §33.136.

by:

Signed: David Klotz, LSLs

Surveying Services Date: 6/4/24

Pursuant to Tex. Nat. Res. Code §33.136, the herein described Coastal Boundary Survey is approved by Dawn Buckingham, M.D., Commissioner of the Texas General Land Office.

by:

Signed: Mark Havens, Chief Clerk

Date: 6/6/24

Filed as: Tex. Nat. Res. Code §33.136, Calhoun County, Sketch No. 11.

TRD-202402504

Mark Havens

Chief Clerk

General Land Office

Filed: June 6, 2024



Surveying Services Coastal Boundary Survey

Project: East Matagorda Bay, Claus Hanson Survey, Abstract-206

Project No: CL20240006

Project Manager: Amy Nunez, Dianna Ramirez, Coastal Field Operations.

Surveyor: William E. Merten, Licensed State Land Surveyor

Description: Coastal Boundary Survey dated February 2, 2022, delineating the line of Mean High Water of East Matagorda Bay Submerged Tract 77 along a remnant portion of the Claus Hanson Survey, Abstract Number 206, Matagorda County, Texas, in connections with GLO No. LC20240006. Centroid coordinates 28.731389 N, 95.760833 W, WGS84. A copy of the survey has been filed in Book 2023, Page 21, on October 20, 2023, County Surveyors Records, Matagorda County Texas.

A Coastal Boundary Survey for the above-referenced project has been reviewed and accepted by Surveying Services; upon completion of public notice requirements, the survey will be filed in the Texas General Land Office, Archives and Records, in accordance with provisions of the Tex. Nat. Res. Code §33.136.

by:

Signed: David Klotz, LSL

Surveying Services Date: 6/3/24

Pursuant to Tex. Nat. Res. Code §33.136, the herein described Coastal Boundary Survey is approved by Dawn Buckingham, M.D., Commissioner of the Texas General Land Office.

by:

Signed: Mark Havens, Chief Clerk

Date: 6/6/24

Filed as: Tex. Nat. Res. Code §33.136, Matagorda County, Sketch No. 16

TRD-202402505

Mark Havens

Chief Clerk

General Land Office

Filed: June 6, 2024

Texas Health and Human Services Commission

Public Notice: Amendments to the Texas State Plan for Medical Assistance

The Texas Health and Human Services Commission (HHSC) announces its intent to submit Transmittal Number 24-0006 to the Texas State Plan for Medical Assistance under Title XIX of the Social Security Act.

The purpose of this proposed amendment is to implement state statutory requirements in House Bill (H.B.) 1575, related to expanding the types of providers who can provide Case Management for Children and Pregnant Women (CPW) services. The two new provider types are doulas and community health workers.

Additionally, the 88th Legislature modified the eligible postpartum period in H.B. 12 to require continued medical assistance to eligible pregnant women for 12 months. This amendment includes conforming changes made by TN 23-0028 implementing H.B. 12. Other non-substantive updates have been done to formatting and language.

The proposed amendment is effective September 1, 2024.

The proposed amendment is estimated to have no fiscal impact. The addition of new provider types, doulas and community health workers, as eligible Medicaid providers case management services is not expected to increase Medicaid utilization or cost because HHSC already reimburses the existing CPW providers at the same rate for the same services provided by licensed nurses and social workers. Eligi-

ble pregnant recipients must continue to qualify by having a high-risk condition.

To obtain copies of the proposed amendment, interested parties may contact Nicole Hotchkiss, State Plan Coordinator, 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 email at Medicaid_Chip_SPA_Inquiries@hhsc.state.tx.us. The Access and Eligibility Services for local benefit offices will post and have copies of the amendment available for review.

TRD-202402506

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: June 6, 2024

Public Notice - Texas Managed Care Quality Strategy

The Texas Health and Human Services Commission (HHSC) announces its intent to submit to the Centers for Medicare & Medicaid Services (CMS) an updated *Texas Managed Care Quality Strategy*.

Proposed Update. In accordance with 42 CFR §438.340, each state contracting with a managed care organization (MCO) must draft and implement a written quality strategy for assessing and improving the quality of health care and services furnished by the MCO. The state must review and update the quality strategy as needed, but no less than once every three years. The current quality strategy was posted to the HHSC website and submitted to CMS in September 2021. HHSC will submit the 2024 Texas Managed Care Quality Strategy to CMS in September 2024.

Key updates include:

- Consolidating the goals to add clarity and efficiency;
- Adding objectives for each goal to ensure that each quality initiative and directed payment program works toward an objective;
- Adding new sections for Healthy Texas Women; Nonemergency Medical--Transportation; the Nonmedical Drivers of Health action plan; Aligning technology by Linking Interoperable Systems; and the Comprehensive Hospital Increase Reimbursement Program;
- Adding visual elements for connections between the goals and objectives and the HHSC quality initiatives implemented to achieve the goals and objectives; and
- Adding an appendix of quality performance measures, their associated HHSC initiatives, and objectives.

Copy of Proposed Update. The Draft 2024 *Texas Managed Care Quality Strategy* is available on the HHSC website, which can be viewed at this link: <https://hhs.texas.gov/about-hhs/process-improvement/improving-services-texans/medicaid-chip-quality-efficiency-improvement/quality-strategy>. For reference, the current *Texas Managed Care Quality Strategy* is also available via that link.

Public Comment Period. Comments about the draft 2024 Texas Managed Care Quality Strategy must be submitted to HHSC by July 21, 2024. Comments on the proposed update may be made by U.S. mail, overnight mail, special delivery mail, telephone, fax or email:

U.S. Mail

Texas Health and Human Services Commission

Attention: Julyya Alvarez, Waiver Coordinator, Federal Coordination, Rules, and Committees

Mail Code H-310
Winters Building
701 West 51st Street
Austin, Texas 78751

Overnight mail or special delivery mail

Texas Health and Human Services Commission
Attention: Julyya Alvarez,

Mail Code H-310
Winters Building
701 West 51st Street
Austin, Texas 78751

Telephone

(512) 438-4330

Fax

Attention: Julyya Alvarez at (512) 323-1905

Email

TX_Medicaid_Waivers@hhs.texas.gov

TRD-202402519

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: June 7, 2024

Department of State Health Services

Correction of Error

The Texas Health and Human Services Commission (HHSC) proposed amendments to 25 TAC Chapter 289 in the June 14, 2024, issue of the *Texas Register* (49 TexReg 4200). Due to an error by the Texas Register, the proposed amendments included an incorrect symbol for "microcuries". The symbol was published as "Ci". The correct symbol should be " μ Ci".

TRD-202402570

Texas Department of Insurance

Company Licensing

Application to do business in the state of Texas for PrimeOne Insurance Company, a foreign fire and/or casualty company. The home office is in Salt Lake City, Utah.

Any objections must be filed with the Texas Department of Insurance, within twenty (20) calendar days from the date of the *Texas Register* publication, addressed to the attention of John Carter, 1601 Congress Ave., Suite 6.900, Austin, Texas 78711.

TRD-202402501

Justin Beam

Chief Clerk

Texas Department of Insurance

Filed: June 6, 2024

Texas Lottery Commission

Scratch Ticket Game Number 2591 "ULTIMATE RICHES"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2591 is "ULTIMATE RICHES". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2591 shall be \$30.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2591.

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: 01, 03, 04, 06, 07, 08, 09, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 2X SYMBOL, 5X SYMBOL, 10X SYMBOL, 20X SYMBOL, \$50.00, \$75.00, \$100, \$200, \$300, \$500, \$3,000, \$30,000 and \$2,000,000.

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. 2591 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
03	THR
04	FOR
06	SIX
07	SVN
08	EGT
09	NIN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWV
26	TWSX
27	TWSV
28	TWET
29	TWNI
30	TRTY
31	TRON
32	TRTO
33	TRTH

34	TRFR
35	TRFV
36	TRSX
37	TRSV
38	TRET
39	TRNI
40	FRTY
41	FRON
42	FRT0
43	FRTH
44	FRFR
45	FRFV
46	FRSX
47	FRSV
48	FRET
49	FRNI
50	FFTY
2X SYMBOL	DBL
5X SYMBOL	WINX5
10X SYMBOL	WINX10
20X SYMBOL	WINX20
\$50.00	FFTY\$
\$75.00	SVFV\$
\$100	ONHN
\$200	TOHN
\$300	THHN
\$500	FVHN
\$3,000	THTH
\$30,000	30TH
\$2,000,000	TPPZ

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 (2591), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 025 within each Pack. The format will be: 2591-0000001-001.

H. Pack - A Pack of the "ULTIMATE RICHES" Scratch Ticket Game contains 025 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The Packs will alternate. One will show the front of Ticket 001 and back of 025 while the other fold will show the back of Ticket 001 and front of 025.

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 "ULTIMATE RICHES" Scratch Ticket Game No. 2591.

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. A prize winner in the "ULTIMATE RICHES" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose fifty-nine (59) Play Symbols. BONUS PLAY INSTRUCTIONS: If a player reveals 2 matching prize amounts in the same BONUS, the player wins that amount. ULTIMATE RICHES PLAY INSTRUCTIONS: If the player matches any of the YOUR NUMBERS Play Symbols to any of the WINNING NUMBERS Play Symbols, the player wins the prize for that number. If the player reveals a "2X" Play Symbol, the player wins DOUBLE the prize for that symbol. If the player reveals a "5X" Play Symbol, the player wins 5 TIMES the prize for that symbol. If the player reveals a "10X" Play Symbol, the player wins 10 TIMES the prize for that symbol. If the player reveals a "20X" Play Symbol, the player wins 20 TIMES the prize for that symbol. 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 fifty-nine (59) 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 fifty-nine (59) 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 fifty-nine (59) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the fifty-nine (59) 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: The top Prize Symbol will appear on every Ticket, unless restricted by other parameters, play action or 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. BONUS: A non-winning Prize Symbol in a BONUS play area will never match a winning Prize Symbol in the other BONUS play area.

D. BONUS: A Ticket will not have matching non-winning Prize Symbols across the two (2) BONUS play areas.

E. KEY NUMBER MATCH: No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., 50 and \$50).

F. KEY NUMBER MATCH: There will be no matching non-winning YOUR NUMBERS Play Symbols on a Ticket.

G. KEY NUMBER MATCH: There will be no matching WINNING NUMBERS Play Symbols on a Ticket.

H. KEY NUMBER MATCH: A non-winning Prize Symbol will never match a winning Prize Symbol.

I. KEY NUMBER MATCH: A Ticket may have up to five (5) matching non-winning Prize Symbols, unless restricted by other parameters, play action or prize structure.

J. KEY NUMBER MATCH: The "2X" (DBL) Play Symbol will only appear on winning Tickets, as dictated by the prize structure.

K. KEY NUMBER MATCH: The "5X" (WINX5) Play Symbol will only appear on winning Tickets, as dictated by the prize structure.

L. KEY NUMBER MATCH: The "10X" (WINX10) Play Symbol will only appear on winning Tickets, as dictated by the prize structure.

M. KEY NUMBER MATCH: The "20X" (WINX20) Play Symbol will only appear on winning Tickets, as dictated by the prize structure.

2.3 Procedure for Claiming Prizes.

A. To claim a "ULTIMATE RICHES" Scratch Ticket Game prize of \$50.00, \$75.00, \$100, \$200, \$300 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 \$50.00, \$75.00, \$100, \$200, \$300 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 "ULTIMATE RICHES" Scratch Ticket Game prize of \$3,000, \$30,000 or \$2,000,000, 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 "ULTIMATE RICHES" 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 "ULTIMATE RICHES" 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 "ULTIMATE RICHES" 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 6,000,000 Scratch Tickets in Scratch Ticket Game No. 2591. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2591 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$50.00	480,000	12.50
\$75.00	360,000	16.67
\$100	420,000	14.29
\$200	75,000	80.00
\$300	50,000	120.00
\$500	6,500	923.08
\$3,000	100	60,000.00
\$30,000	15	400,000.00
\$2,000,000	4	1,500,000.00

*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 4.31. 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. 2591 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. 2591, 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-202402575
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: June 12, 2024

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North Central Texas Council of Governments

Notice of Contract Award for Bus Transportation Services for 2024 Wings over Cowtown Air Show

Pursuant to the provisions of Government Code, Chapter 2254, the North Central Texas Council of Governments publishes this notice of contract award. The request appeared in the December 8, 2023, issue of the *Texas Register* (48 TexReg 7222). The selected entity will perform technical and professional work for Bus Transportation Services for 2024 Wings Over Cowtown Air Show.

The entity selected for this project is GETZ Transportation Solutions, LLC, 1708 Spring Green Blvd., Suite 120-26, Katy, Texas 77494 for a contract not to exceed \$196,000.

Issued in Arlington, Texas on April 2, 2024.

TRD-202402497

R. Michael Eastland

Executive Director

North Central Texas Council of Governments

Filed: June 5, 2024



Notice of Contract Award for Engineering Services to Support the Transportation and Stormwater Infrastructure (TSI) Hydrologic & Hydraulic Assessment

Pursuant to the provisions of Government Code, Chapter 2254, the North Central Texas Council of Governments publishes this notice of contract award. The request appeared in the December 15, 2023, issue of the *Texas Register* (48 TexReg 7665). The selected entity will perform technical and professional work for Engineering Services to Support the Transportation and Stormwater Infrastructure (TSI) Hydrologic & Hydraulic Assessment.

The entity selected for this project is Freese and Nichols, 12770 Merit Drive, Suite 900, Dallas, Texas 75251 for a contract not to exceed \$975,000.

Issued in Arlington, Texas on May 30, 2024.

TRD-202402564

R. Michael Eastland

Executive Director

North Central Texas Council of Governments

Filed: June 11, 2024



Texas Optometry Board

Correction of Error

The Texas Optometry Board proposed the repeal of 22 TAC §280.2 in the June 14, 2024, issue of the *Texas Register* (49 TexReg 4143).

Due to an error by the Texas Register, the rule was incorrectly listed in the proposed repeal.

The first paragraph of the proposed repeal should read as follows:

The Texas Optometry Board proposes the repeal of 22 TAC Chapter 280 Therapeutic Optometry. The Board is repealing the following rules: §280.2 Required Education; §280.3 Certified Therapeutic Optometrist Examination; and §280.8 Optometric Glaucoma Specialist: Required Education, Examination and Clinical Skills Evaluation.

Also, the repeal was published with the wrong section number. The information should have been published as follows:

§280.2. Required Education.

TRD-202402554



Supreme Court of Texas

Preliminary Approval of Amendments to Texas Rules of Civil Procedure 103 and 107

Supreme Court of Texas

Misc. Docket No. 24-9034

Preliminary Approval of Amendments to Texas Rules of Civil Procedure 103 and 107

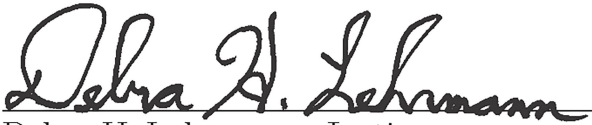
ORDERED that:

1. The Court invites public comments on proposed amendments to Texas Rules of Civil Procedure 103 and 107.
2. Comments regarding the proposed amendments should be submitted in writing to rulescomments@txcourts.gov by November 1, 2024.
3. The Court will issue an order finalizing the rules after the close of the comment period. The Court may change the rules in response to public comments. The Court expects the amendments to take effect on December 1, 2024.
4. 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*.

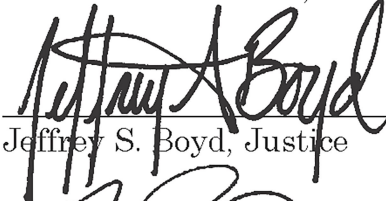
Dated: June 11, 2024.



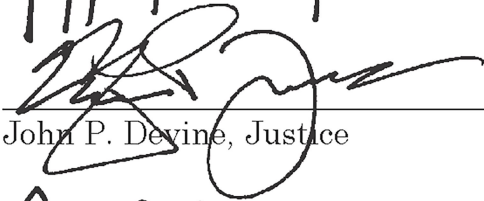
Nathan L. Hecht, Chief Justice



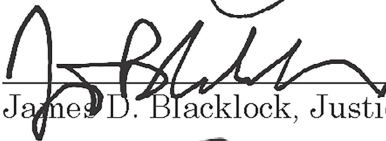
Debra H. Lehrmann, Justice



Jeffrey S. Boyd, Justice



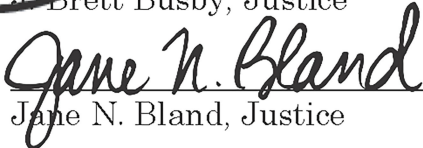
John P. Devine, Justice



James D. Blacklock, Justice



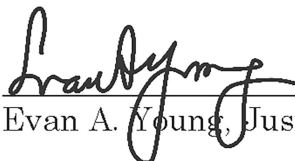
Brett Busby, Justice



Jane N. Bland, Justice



Rebeca A. Huddle, Justice



Evan A. Young, Justice

TEXAS RULES OF CIVIL PROCEDURE

RULE 103. WHO MAY SERVE

Process including citation and other notices, writs, orders, and other papers issued by the court may be served anywhere by (1) any sheriff or constable or other person authorized by law, (2) any person authorized by law or by written order of the court who is not less than eighteen years of age, or (3) any person certified ~~under order of the Supreme Court~~ by the Judicial Branch Certification Commission. Service by registered or certified mail and citation by publication must, if requested, be made by the clerk of the court in which the case is pending. But no person who is a party to or interested in the outcome of a suit may serve any process in that suit, and, unless otherwise authorized by a written court order, only a sheriff or constable may serve a citation in an action of forcible entry and detainer, a writ that requires the actual taking of possession of a person, property or thing, or process requiring that an enforcement action be physically enforced by the person delivery the process. The order authorizing a person to serve process may be made without written motion and no fee may be imposed for issuance of such order.

Notes and Comments

Comment to 1988 change: The amendment makes clear that the courts are permitted to authorize persons other than Sheriffs or Constables to serve Citation. Further, Sheriffs or Constables are not restricted to service in their county. The last sentence is added to avoid the necessity of motions and fees.

Comment- 2005: The rule is amended to include among the persons authorized to effect service those who meet certification requirements promulgated by the Supreme Court and to prohibit private individuals from serving certain types of process unless, in rare circumstances, a court authorizes an individual to do so.

RULE 107. RETURN OF SERVICE

- (a) The officer or authorized person executing the citation must complete a return of service. The return may, but need not, be endorsed on or attached to the citation.
- (b) The return, together with any documents to which it is attached, must include the following information:
 - (1) the cause number and case name;

- (2) the court in which the case is filed;
 - (3) a description of what was served;
 - (4) the date and time the process was received for service;
 - (5) the person or entity served;
 - (6) the address served;
 - (7) the date of service or attempted service;
 - (8) the manner of delivery of service or attempted service;
 - (9) the name of the person who served or attempted to serve the process;
 - (10) if the person named in (9) is a process server certified ~~under order of the Supreme Court~~ by the Judicial Branch Certification Commission, his or her identification number and the expiration date of his or her certification; and
 - (11) any other information required by rule or law.
- (c) When the citation was served by registered or certified mail as authorized by Rule 106, the return by the officer or authorized person must also contain the return receipt with the addressee's signature.
- (d) When the officer or authorized person has not served the citation, the return shall show the diligence used by the officer or authorized person to execute the same and the cause of failure to execute it, and where the defendant is to be found, if ascertainable.
- (e) The officer or authorized person who serves or attempts to serve a citation must sign the return. If the return is signed by a person other than a sheriff, constable, or the clerk of the court, the return must either be verified or be signed under penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

"My name is _____, my date of birth is _____, and
(First) (Middle) (Last)

“My name is _____, I am at least 18 years old, and
(First, Middle, Last)

my address is _____, _____, _____, _____, and
(Street) (City) (State) (Zip Code)

_____. I declare under penalty of perjury that the foregoing is true and correct.
(Country)

Executed in _____ County, State of _____, on the _____ day of _____,
(Month)

_____.
(Year)

_____.”
(Declarant)

- (f) Where citation is executed by an alternative method as authorized by Rule 106, proof of service shall be made in the manner ordered by the court.
- (g) The return and any document to which it is attached must be filed with the court and may be filed electronically or by facsimile, if those methods of filing are available.
- (h) No default judgment shall be granted in any cause until proof of service as provided by this rule or by Rules 108 or 108a, or as ordered by the court in the event citation is executed by an alternative method under Rule 106, shall have been on file with the clerk of the court ten days, exclusive of the day of filing and the day of judgment.

Notes and Comments

Comment to 1988 change: Amendments are made to conform to changes in Rule 103.

Comment to 1990 change: To state more directly that a default judgment can be obtained when the defendant has been served with process in a foreign country pursuant to the provisions of Rules 108 or 108a.

2021 Comment: Certain default orders, like those in suits for protection from family violence, may be exempt by statute from the ten-day requirement in paragraph (h). *See, e.g.,* TEX. FAM. CODE § 85.006.

TRD-202402574
Jaclyn Daumerie
Rules Attorney
Supreme Court of Texas
Filed: June 12, 2024

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Texas Workforce Commission

**Request for Comment Regarding the Management Fee Rate
Charged by WorkQuest**

Notice is hereby given that the Texas Workforce Commission (Commission) will review and make a decision on the management fee rate charged by the central nonprofit agency, WorkQuest, for its services to the community rehabilitation programs and operation of the State Use Program for Fiscal Year 2025 as required by Texas Human Resources Code, §122.019(e).

This review will be considered by the Commission no earlier than Tuesday, August 27, 2024, in a duly posted open meeting. WorkQuest has

requested that the Commission set the Fiscal Year 2025 management fee rate at 6 percent of the sales price for products, 6 percent of the contract price for services, and 5 percent of the contract price for temporary staffing services. The Commission seeks public comment on WorkQuest's management fee rate request as required by Texas Human Resources Code, §122.030.

Comments should be submitted in writing on or before Tuesday, August 20, 2024, to Kelvin Moore at Texas Workforce Commission, 1117 Trinity, Room 214T, Austin, Texas 78711, or via email to purchasingfrompeoplewithdisabilities@twc.texas.gov. For all other questions, contact (512) 463-3244.

TRD-202402557
Les Trobman
General Counsel
Texas Workforce Commission
Filed: June 11, 2024

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 24 of Volume 49 (2024) is cited as follows: 49 TexReg 24.

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 “49 TexReg 2 issue date,” while on the opposite page, page 3, in the lower right-hand corner, would be written “issue date 49 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: <http://www.sos.state.tx.us>. 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
26. Health and Human 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 §27.15: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 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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