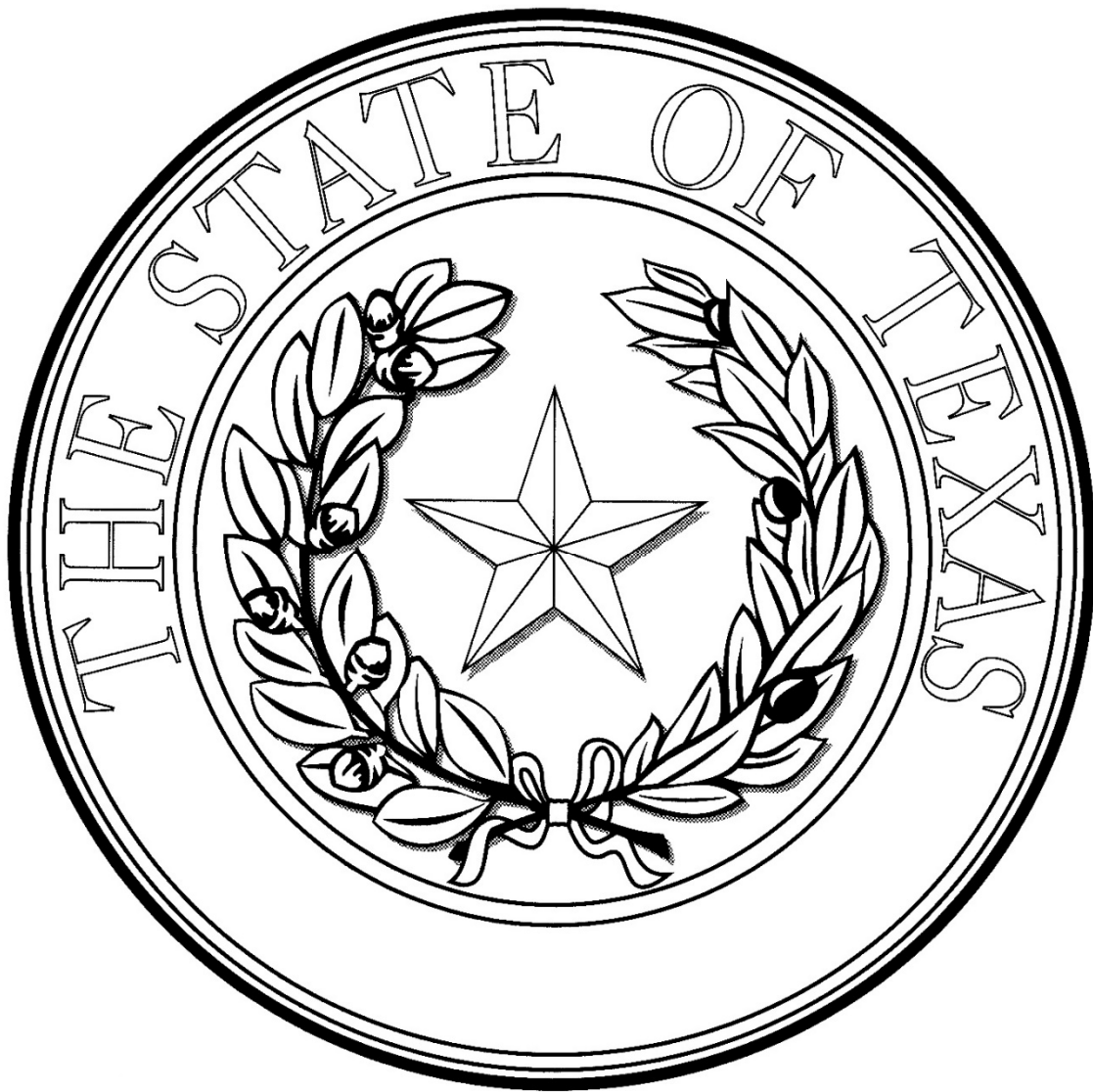

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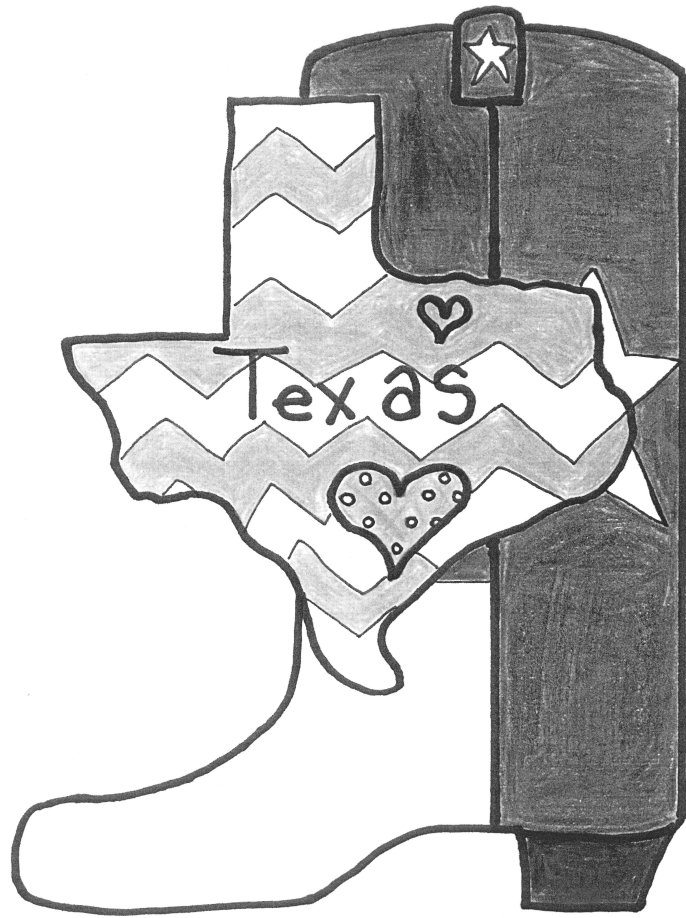
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THE GOVERNOR

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

Appointments

Appointments for November 19, 2024

Appointed to the Texas Board of Occupational Therapy Examiners for a term to expire February 1, 2027, Beverly J. Ferguson of League City, Texas (replacing Jacob W. Boggus of Harlingen, who resigned).

Greg Abbott, Governor

TRD-202405642



Executive Order GA-47

Relating to the prevention of harassment or coercion of Texans by foreign adversaries.

WHEREAS, on October 28, 2020, Federal Bureau of Investigation Director Christopher Wray announced criminal charges against eight defendants in connection with a campaign to harass, stalk, and coerce U.S. residents to return to the People's Republic of China (PRC); and

WHEREAS, this operation by the PRC, known as Operation Fox Hunt, is part of a broader effort by the Chinese Communist Party (CCP) to forcibly return Chinese dissidents to the PRC; and

WHEREAS, these dissidents are often "guilty" of nothing more than opposing the PRC government or CCP actions, including by exposing corruption; and

WHEREAS, the PRC forces targeted dissidents to return in several ways, including threatening dissidents' families still residing in China, using PRC assets to target dissidents abroad in their host countries, and kidnapping and smuggling dissidents back into the PRC; and

WHEREAS, according to Safeguard Defenders—a human rights non-profit focused on protecting people's basic rights and enhancing the rule of law in Asia—as of 2022, the PRC has at least 102 illicit overseas "police service stations" worldwide, including some in the United States, which carry out this unlawful campaign of threats, harassment, and harm against U.S. citizens and lawful U.S. residents of Chinese origin or descent; and

WHEREAS, the FBI has shut down one PRC "police service station" in New York City, and Safeguard Defenders believes there are at least six more in the United States, including one in Houston; and

WHEREAS, these illicit "police service stations" are also used to further the PRC's espionage goals within the United States; and

WHEREAS, Texas is home to more than 250,000 individuals of Chinese descent; and

WHEREAS, the Chinese people, including the Chinese diaspora communities across America and within Texas, are often the primary victims of these PRC and CCP intimidation efforts; and

WHEREAS, it is a fundamental duty of a state government to protect the safety and welfare of its residents; and

WHEREAS, all residents of Texas deserve the utmost security and protection that can be provided by the State of Texas, including against foreign adversaries; and

WHEREAS, under Section 411.002 of the Texas Government Code, the Texas Department of Public Safety (DPS) is a state agency with the duty to protect public safety and provide for the prevention and detection of crime; and

WHEREAS, any potential harassment or coercion of individuals in Texas by the PRC or CCP is unacceptable and will not be tolerated by my administration;

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby order DPS to take the following actions to protect Texans, including Texans of Chinese descent, from the unlawful and repressive actions of the PRC, the CCP, and their proxies in Texas:

1. Identify and bring appropriate criminal charges against individuals preying on dissidents on behalf of any foreign adversary.
2. Work with local and federal law enforcement partners through the Texas Fusion Center to assess the incidence of transnational repression executed by foreign adversaries occurring within the State of Texas.
3. Uncover and document suspected actors planning, attempting, or carrying out acts of repression, and-by January 15, 2025—provide policy recommendations to the Governor, Lieutenant Governor, and Speaker on how to effectively counter such threats and develop training programs that can be used by governmental and nongovernmental organizations to identify and report this kind of illicit activity to DPS.
4. Create and publicize a hotline, and update the iWatch Texas Community Reporting System, so Texans can report potential acts of oppression or coercion by the PRC or CCP actors, or other foreign adversaries, against Texans.

This executive order supersedes all previous orders in conflict or inconsistent with its terms and shall remain in effect and in full force until modified, amended, rescinded, or superseded by the Governor.

Given under my hand this the 18th day of November, 2024.

Greg Abbott, Governor

TRD-202405605



Executive Order GA-48

Relating to the hardening of state government.

WHEREAS, the United States Department of Commerce has identified as "foreign adversaries" the People's Republic of China (PRC), the Democratic People's Republic of North Korea (North Korea), the Islamic Republic of Iran (Iran), the Republic of Cuba (Cuba), the Russian Federation (Russia), and Venezuelan politician Nicolas Maduro because they "have engaged in a long-term pattern or serious instances of conduct significantly adverse to the national security of the United

States or security and safety of United States persons," 86 Fed. Reg. 4909, 4914 (2021); and

WHEREAS, while all of the above foreign adversaries pose a risk to the United States, Federal Bureau of Investigation (FBI) Director Christopher Wray has stated that the government of the PRC and the Chinese Communist Party (CCP) are the greatest long term threat to the United States' economy and national security; and

WHEREAS, the threat from the PRC is from the government of the PRC and the CCP itself, and not from Chinese-Americans or the Chinese people, who are often the primary victims of the PRC and the CCP; and

WHEREAS, the U.S. House Oversight Committee recently conducted an investigation into the CCP's engagement in the United States and concluded, in a statement issued on September 24, 2024, that "the Biden-Harris Administration has no government-wide strategy to combat CCP warfare" in the American homeland; and

WHEREAS, the Director of National Intelligence's National Counterintelligence and Security Center published a series of memos between 2022 and 2024 outlining threats to state and local governments by PRC intelligence operations, which include engaging in cultural exchanges, providing gifts, and offering other incentives to Americans in exchange for advocating for policies that advance PRC interests; and

WHEREAS, the risk of foreign-adversary infiltration of state governments was recently highlighted when the U.S. Department of Justice charged Linda Sun, a former senior aide to former New York Governor Andrew Cuomo and current New York Governor Kathy Hochul, for acting as an undisclosed foreign agent of the PRC while working for both governors, accepting gifts and travel from the PRC, and providing the PRC with private state-government communications; and

WHEREAS, the infiltration of New York state government is not an isolated occurrence, for in California, suspected Chinese intelligence operative Christine Fang (also known as Fang Fang) developed deep connections with local and national politicians, including multiple mayors, a state legislator, and a U.S. congressman; and

WHEREAS, according to the FBI, the PRC courts local and state officials as part of its strategy to use "the local to surround the center," and thus to manipulate local political leaders "to turn Americans against their own government's interests and their society's interests"; and

WHEREAS, foreign adversaries seek to sabotage and corrupt key information software and systems and to steal intellectual property, information on critical infrastructure, and personal information at every level of government; and

WHEREAS, the State of Texas is a national leader in protecting critical infrastructure by prohibiting companies from procuring certain key components of critical infrastructure from companies located in or controlled by the PRC, Iran, Russia, and North Korea; and

WHEREAS, protecting critical infrastructure is not just about ensuring the components of that infrastructure are not sourced by foreign adversaries but also ensuring the people who have access to that infrastructure will not compromise it; and

WHEREAS, the PRC's National Security Law requires all organizations and citizens of the PRC to "support, assist, and cooperate with the state intelligence work"; and

WHEREAS, the risk the PRC poses to the State of Texas is why I directed state agencies to prohibit Tik Tok, which the FBI has said is controlled by the PRC and is a national security threat, on state governmental devices and personal devices used in the workplace; and

WHEREAS, there remains more work to be done pursuant to the fundamental power of state government to protect the health, safety, and welfare of its residents, including by protecting critical infrastructure and information from being accessed by foreign adversaries that attempt to infiltrate state governments;

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby order the following:

1. All state agencies controlled by gubernatorially appointed heads, and all public institutions of higher education, shall require any company that submits a bid or proposal with respect to a contract for goods or services to the agency or institution of higher education to certify that the company, and, if applicable, any of its holding companies or subsidiaries, is not:

a. Listed in Section 889 of the 2019 National Defense Authorization Act (NDAA); or

b. Listed in Section 1260H of the 2021 NDAA; or

c. Owned by the government of a country on the U.S. Department of Commerce's foreign adversaries list under 15 C.F.R. § 791.4; or

d. Controlled by any governing or regulatory body located in a country on the U.S. Department of Commerce's foreign adversaries list under 15 C.F.R. § 791.4.

A covered agency or public institution of higher education cannot enter into a new contract, contract extension, or contract renewal for a good or service with any company that meets any of the above-listed criteria. However, if the agency or public institution of higher education can sufficiently demonstrate that (a) the good or service is necessary for the covered agency or institution of higher education to fulfill a core function that directly benefits Texans and (b) the good or service can only be provided by an entity that meets one of the above-listed criteria, then the covered agency or public institution of higher education may enter into a new contract, contract renewal, or contract extension with such an entity for no more than one year from the date of the issuance of this order, and never thereafter.

2. No personnel of a state agency controlled by gubernatorially appointed heads, or of public institutions of higher education, shall accept any gift, regardless of value, from an entity associated with or travel to, for professional purposes, a country on the U.S. Department of Commerce's foreign adversaries list under 15 C.F.R. § 791.4. All agencies and public institutions of public higher education affected by this order shall include this prohibition in their ethics policies and create a mechanism by which their employees can report being approached by groups representing these countries, that offer gifts or travel, or alleged violations of this ethics policy.

3. The Texas Workforce Commission shall amend the state application to include an attestation by applicants that they are not employed by and do not have any connection or continuous connections to any governmental entity or political apparatus of a country listed in 15 C.F.R. § 791.4.

4. The Office of the Governor, Texas Department of Public Safety, Texas Military Department, Public Utility Commission of Texas, Department of Information Resources, Texas Commission on Environmental Quality, Texas Division of Emergency Management, Office of Public Utility Counsel, Texas Department of Transportation, Texas Health and Human Services Commission, Texas Department of State Health Services, and public institutions of higher education must create processes by which their employees will notify the agency of any personal travel to a foreign-adversary nation prior to their travel

and submit a post-travel brief outlining details of the trip, including the dates and purpose of travel, to their employer.

5. Agencies controlled by gubernatorially appointed heads, and public institutions of higher education, must include in the minimum qualifications of the job descriptions of all positions that research, work on, or have access to critical infrastructure as defined in Section 113.001(2), Business and Commerce Code, that a requirement to be hired for and to continue to be employed in that position is the ability to maintain the security or integrity of the infrastructure.

Further, all the above-described personnel, and similarly situated state contractors, must be routinely reviewed to determine whether or not things such as criminal history or continuous connections to the government or political apparatus of a foreign adversary that might prevent the applicant, employee, or contractor from being able to maintain the security or integrity of the infrastructure.

To facilitate these reviews, DPS shall contract with a cyber intelligence company or other similar third-party that can conduct these reviews for agencies and public institutions of higher education. Alternatively, if an agency or public institution of higher education would like to directly contract for these review services, the agency or institution shall consult with DPS before procuring services.

6. All public institutions of higher education that are required to submit reporting on foreign-gift and contract disclosures to the U.S. Department of Education under Section 117 of the Higher Education Act of 1965, must submit the same reporting to the Texas Higher Education Coordinating Board (THECB). THECB shall submit a report outlining the data it receives from public institutions of higher education to the Governor, Lieutenant Governor, and Speaker by December 1st each year.

7. All public institutions of higher education shall include in their employment manuals a prohibition on their faculty and employees from taking part in any foreign recruitment program by a foreign-adversary nation, such as the PRC's Thousand Talents Program.

All affected agencies and public institutions of higher education shall certify with, and submit documentation supporting their certification to, the Office of the Governor that they have effectuated the requirements of this order by the 60th day after the adjournment of the 89th Regular Session of the Texas Legislature.

This executive order supersedes all previous orders in conflict or inconsistent with its terms and shall remain in effect and in full force until modified, amended, rescinded, or superseded by the Governor.

Given under my hand this the 19th day of November, 2024.

Greg Abbott, Governor

TRD-202405611



Executive Order GA-49

Relating to the protection of critical infrastructure.

WHEREAS, on April 18, 2024, Federal Bureau of Investigation Director Christopher Wray stated that the People's Republic of China (PRC) "has made it clear that it considers every sector that makes our society run as fair game in its bid to dominate on the world stage, and that its plan is to land low blows against civilian infrastructure to try to induce panic and break America's will to resist"; and

WHEREAS, in the same speech, FBI Director Wray stated that "the PRC's targeting of our critical infrastructure is both broad and unrelenting" and that the PRC is working to "give itself the ability to physically

wreak havoc on our critical infrastructure at a time of its choosing"; and

WHEREAS, the National Security Agency and Cybersecurity and Infrastructure Security Agency have raised similar alarms, stating, "PRC state-sponsored actors compromise and maintain persistent access to U.S. critical infrastructure"; and

WHEREAS, as recently as April 2024, the PRC's goal of accessing and compromising critical infrastructure was on display in a campaign of cyberattacks by Volt Typhoon, a PRC-sponsored actor based in China, that specifically targeted communications, energy, transportation, water, and wastewater systems across the United States and its territories; and

WHEREAS, the purpose of compromising this infrastructure is "to cause real-world harm to American citizens and communities in an event of conflict" between the United States and the PRC, according to FBI Director Wray; and

WHEREAS, this "real-world harm" directly threatens Texans, as Texas contains a significant amount of the United States' military bases, oil and gas production and refining, industrial manufacturing, energy generation, agriculture and food production, and semiconductor and electronics manufacturing; and

WHEREAS, while the federal law enforcement community has worked to investigate and pursue these attacks after the fact, Texas must respond immediately to prevent future attacks by removing vulnerabilities to critical infrastructure in the state; and

WHEREAS, Section 418.177 of the Government Code generally makes confidential certain governmental information that seeks to prevent, detect, or investigate acts of terrorism or criminal activity and the vulnerability of persons or property, including critical infrastructure, to such acts; and

WHEREAS, Section 418.181 of the Government Code generally makes confidential certain governmental information that seeks to identify the technical details of particular vulnerabilities of critical infrastructure to such acts; and

WHEREAS, it is a fundamental duty of state government to protect the health, safety, and welfare of its residents, including in the event of an Indo-Pacific conflict initiated by the PRC, for which the PRC has openly said it wants to be ready by the end of the decade; and

WHEREAS, I signed the Lone Star Infrastructure Protection Act in 2021 to prohibit governmental entities and businesses from entering into contracts that would allow companies owned or controlled by hostile foreign nations to gain access to Texas' critical infrastructure; and

WHEREAS, much more work must be done to protect Texas' critical infrastructure from foreign threats;

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby order the following:

1. The Texas Division of Emergency Management (TDEM) shall, in coordination with relevant state agencies, convene a task force that surveys the vulnerabilities of the state government, local governments, and critical infrastructure (including but not limited to oil and gas production and delivery systems; water supply, refinement, storage, and delivery systems; communications networks; electrical power delivery systems; emergency services; transportation systems and services; and personal data or otherwise classified information storage systems) in the event of a conflict. The task force shall recommend policies and best practices to address any vulnerabilities.

2. The Public Utility Commission shall convene a committee of relevant state agencies that will conduct an annual tabletop exercise on how the State will respond to a black start event and recommend policies the State should adopt and best practices for the private sector to prepare for a black start event in the event of an Indo-Pacific conflict.

3. TDEM shall, in coordination with relevant state agencies, lead an annual tabletop exercise simulating a cyberattack by a foreign adversary on a sector of the Texas economy, and its cascading affects, and shall recommend policies and best practices to prevent, contain, and mitigate damage from such an attack. Each year, the exercise should focus on a different sector of Texas' economy that is vulnerable to attack.

4. TDEM shall assemble relevant state agencies to develop and evaluate emergency planning and response procedures related to electromagnetic threats and shall recommend policies and best practices to protect critical infrastructure from such threats. TDEM shall also coordinate with any applicable federal government agencies to assist in identifying resources to aid the creation of plans, procedures, policies, and best practices.

5. The Electricity Reliability Council (ERCOT) of Texas shall create a secure, dedicated communications channel for telecommunication and electrical infrastructure companies to use to help ERCOT prioritize load requests during a critical grid incident. ERCOT shall have this communications channel operational by June 30, 2025.

Recommendations for orders one through four shall be submitted yearly to the Office of the Governor, the Lieutenant Governor, and the Speaker no later than January 15, 2025, the first year, and December 1 each year thereafter.

This executive order supersedes all previous orders in conflict or inconsistent with its terms and shall remain in effect and in full force until modified, amended, rescinded, or superseded by the Governor.

Given under my hand this the 19th day of November, 2024.

Greg Abbott, Governor

TRD-202405635



Proclamation 41-4151

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, GREG ABBOTT, Governor of the State of Texas, issued a disaster proclamation on October 14, 2024, certifying that elevated fire weather conditions pose an imminent threat of widespread or severe damage, injury, or loss of life or property in several counties; and

WHEREAS, the Texas Division of Emergency Management has confirmed that those same elevated fire weather conditions persist in certain counties in Texas;

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby amend and renew the aforementioned proclamation and declare a disaster in Aransas, Atascosa, Bastrop, Bee, Caldwell, Calhoun, Colorado, DeWitt, Fayette, Frio, Goliad, Gonzales, Guadalupe, Jim Wells, Karnes, La Salle, Lavaca, Live Oak, McMullen, Nueces, Refugio, San Patricio, Taylor, Victoria, and Wilson Counties.

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 13th day of November, 2024.

Greg Abbott, Governor

TRD-202405516



Proclamation 41-4152

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, Greg Abbott, Governor of Texas, issued an executive order on November 19, 2024, relating to the hardening of state government against threats from foreign adversaries; and

WHEREAS, the executive order directed all state agencies controlled by gubernatorially appointed heads and all public institutions of higher education to take certain actions to protect critical infrastructure and information from being accessed by foreign adversaries that attempt to infiltrate state governments;

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby amend the first paragraph of point 5 on page 3 of Executive Order GA-48 to read as follows:

5. Agencies controlled by gubernatorially appointed heads, and public institutions of higher education, must include in the minimum qualifications of the job descriptions of all positions that research, work on, or have access to critical infrastructure, as defined in Section 2275.0101(2) of the Government Code and Section 117.001(2) of the Business and Commerce Code, that a requirement to be hired for and to continue to be employed in that position is the ability to maintain the security or integrity of the infrastructure.

This proclamation shall remain in effect and in full force for as long as Executive Order GA-48 is in effect and in full force, unless otherwise modified, amended, rescinded, or superseded by the governor.

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 21st day of November, 2024.

Greg Abbott, Governor

TRD-202405700



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-0571-KP

Requestor:

The Honorable Layne Thompson

Angelina County District Attorney

Post Office Box 908

Lufkin, Texas 75902-0908

Re: Enforceability of bond conditions (RQ-0571-KP)

Briefs requested by December 16, 2024

RQ-0573-KP

Requestor:

The Honorable Fred H. Weber

Caldwell County Criminal District Attorney

1703 South Colorado Street, Box #5

Lockhart, Texas 78644

Re: Scope of county authority and liability involving utility cables buried along rights-of-way (RQ-0573-KP)

Briefs requested by December 16, 2024

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

TRD-202405617

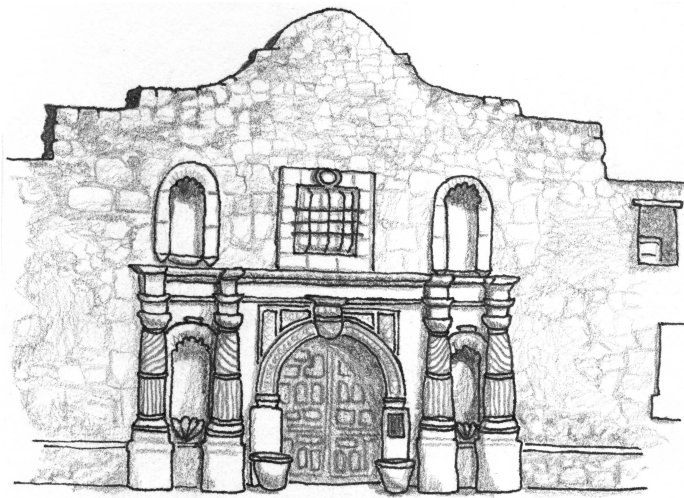
Justin Gordon

General Counsel

Office of the Attorney General

Filed: November 19, 2024





TEXAS ETHICS COMMISSION

The Texas Ethics Commission is authorized by the Government Code, §571.091, to issue advisory opinions in regard to the following statutes: the Government Code, Chapter 302; the Government Code, Chapter 305; the Government Code, Chapter 572; the Election Code, Title 15; the Penal Code, Chapter 36; and the Penal Code, Chapter 39. Requests for copies of the full text of opinions or questions on particular submissions should be addressed to the Office of the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

Ethics Advisory Opinion Question

Whether an officer of a state agency meets the definition of an "appointed officer" in Chapter 572 of the Government Code when the officer is not appointed to a term of service fixed in statute or state constitution beyond the default maximum term specified by Article XVI, Section 30(a) of the Texas Constitution. (AOR-717-CI.)

The Texas Ethics Commission is authorized by section 571.091 of the Government Code to issue advisory opinions in regard to the following statutes: (1) Chapter 572, Government Code; (2) Chapter 302, Government Code; (3) Chapter 303, Government Code; (4) Chapter 305, Government Code; (5) Chapter 2004, Government Code; (6) Title 15, Election Code; (7) Chapter 159, Local Government Code; (8) Chapter 36, Penal Code; (9) Chapter 39, Penal Code; (10) Section 2152.064, Government Code; and (11) Section 2155.003, Government Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Capitol Station, Austin, Texas 78711-2070, (512) 463-5800 or opinions@ethics.state.tx.us.

Issued in Austin, Texas, on November 20, 2024.

TRD-202405633

Jim Tinley

General Counsel

Texas Ethics Commission

Filed: November 20, 2024

Ethics Advisory Opinion Request

Whether a particular communication is political advertising, as defined by Section 251.001(16) of the Election Code. (AOR 703.)

The Texas Ethics Commission is authorized by section 571.091 of the Government Code to issue advisory opinions in regard to the following statutes: (1) Chapter 572, Government Code; (2) Chapter 302, Government Code; (3) Chapter 303, Government Code; (4) Chapter 305, Government Code; (5) Chapter 2004, Government Code; (6) Title 15, Election Code; (7) Chapter 159, Local Government Code; (8) Chapter 36, Penal Code; (9) Chapter 39, Penal Code; (10) Section 2152.064, Government Code; and (11) Section 2155.003, Government Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Capitol Station, Austin, Texas 78711-2070, (512) 463-5800 or opinions@ethics.state.tx.us.

Issued in Austin, Texas, on November 20, 2024.

TRD-202405631

Jim Tinley

General Counsel

Texas Ethics Commission

Filed: November 20, 2024

Does the rule defining a "principal purpose" of a political committee (TEC Rule § 20.1(17)) apply to a nonprofit corporation? If so, what threshold must a nonprofit corporation remain below to avoid becoming a political committee? (AOR-707.)

The Texas Ethics Commission is authorized by section 571.091 of the Government Code to issue advisory opinions in regard to the following statutes: (1) Chapter 572, Government Code; (2) Chapter 302, Government Code; (3) Chapter 303, Government Code; (4) Chapter 305, Government Code; (5) Chapter 2004, Government Code; (6) Title 15, Election Code; (7) Chapter 159, Local Government Code; (8) Chapter 36, Penal Code; (9) Chapter 39, Penal Code; (10) Section 2152.064, Government Code; and (11) Section 2155.003, Government Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Capitol Station, Austin, Texas 78711-2070, (512) 463-5800 or opinions@ethics.state.tx.us.

Issued in Austin, Texas, on November 20, 2024.

TRD-202405632

Jim Tinley

General Counsel

Texas Ethics Commission

Filed: November 20, 2024

Whether the generally applicable lobby registration and disclosure requirements apply to a person who lobbies on behalf of a tribal nation. (AOR-718.)

The Texas Ethics Commission is authorized by section 571.091 of the Government Code to issue advisory opinions in regard to the following statutes: (1) Chapter 572, Government Code; (2) Chapter 302, Government Code; (3) Chapter 303, Government Code; (4) Chapter 305, Government Code; (5) Chapter 2004, Government Code; (6) Title 15, Election Code; (7) Chapter 159, Local Government Code; (8) Chapter 36, Penal Code; (9) Chapter 39, Penal Code; (10) Section 2152.064, Government Code; and (11) Section 2155.003, Government Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Capitol Station, Austin, Texas 78711-2070, (512) 463-5800 or opinions@ethics.state.tx.us.

Issued in Austin, Texas, on November 20, 2024.

TRD-202405634

Jim Tinley

General Counsel

Texas Ethics Commission

Filed: November 20, 2024



EMERGENCY RULES

Emergency Rules include new rules, amendments to existing rules, and the repeals of existing rules. A state agency may adopt an emergency rule without prior notice or hearing if the agency finds that an imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires adoption of a rule on fewer than 30 days' notice. An emergency rule may be effective for not longer than 120 days and may be renewed once for not longer than 60 days (Government Code, §2001.034).

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 11. TEXAS JUVENILE JUSTICE DEPARTMENT

CHAPTER 343. SECURE JUVENILE PRE-ADJUDICATION DETENTION AND POST-ADJUDICATION CORRECTIONAL FACILITIES

SUBCHAPTER B. PRE-ADJUDICATION AND POST-ADJUDICATION SECURE FACILITY STANDARDS

37 TAC §343.261

The Texas Juvenile Justice Department (TJJD) adopts, on an emergency basis, new 37 TAC §343.261, Resident Supervision. The new section requires pre-adjudication and post-adjudication juvenile secure correctional facilities to adopt policies that prohibit the obstruction of observation windows in facilities.

The new section is adopted on an emergency basis due to the finding of TJJD's Governing Board that obstructed observation windows present an imminent peril to public health, namely the safety of juveniles in local facilities.

The new section is adopted under §221.002, Human Resources Code, which requires the TJJD Board to adopt rules to govern juvenile boards, probation departments, probation officers, programs, and facilities.

The new section is also adopted on an emergency basis pursuant to §2001.034, Government Code, which authorizes the adoption of a rule on an emergency basis without prior notice and comment based upon a determination of imminent peril to the public health, safety, or welfare.

No other statute, code, or article is affected by this emergency adoption.

§343.261. Resident Supervision.

(a) Facility policy must prohibit the blocking of viewing windows that are used to observe residents. The policy must instruct staff of the actions to take if a viewing window is blocked.

(b) The refusal to remove an item obstructing the viewing window is considered a serious threat to facility safety and/or security.

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

Filed with the Office of the Secretary of State on November 11, 2024.

TRD-202405479

Jana Jones

General Counsel

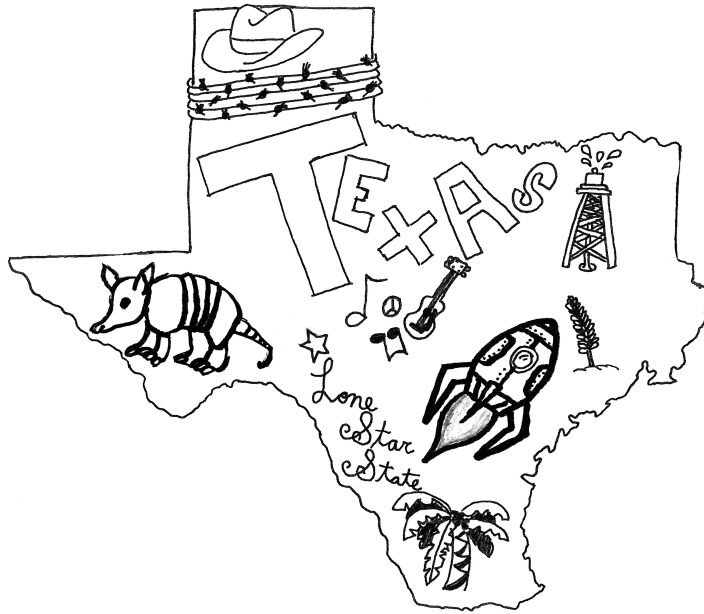
Texas Juvenile Justice Department

Effective date: November 11, 2024

Expiration date: March 10, 2025

For further information, please call: (512) 490-7278





PROPOSED RULES

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

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

TITLE 16. ECONOMIC REGULATION

PART 3. TEXAS ALCOHOLIC BEVERAGE COMMISSION

CHAPTER 33. LICENSING

The Texas Alcoholic Beverage Commission (TABC) proposes to amend 16 TAC §33.2, relating to Application and Fee Payment Procedures, 16 TAC §33.23, relating to License and Permit Fees, 16 TAC §33.44, relating to Excise Tax Bonds, 16 TAC §33.45, relating to Bonds for Alternating Brewery Proprietorships and Contract Brewing Arrangements, 16 TAC §33.57, relating to Application Withdrawn, 16 TAC §33.75, relating to Penalties and Suspension, 16 TAC §33.93, relating to Notification Requirements, 16 TAC §33.100, relating to General Provisions, 16 TAC §33.103, relating to Notice and Opportunity for Hearing, and 16 TAC §33.104, relating to Contents of Emergency Order. TABC also proposes to repeal 16 TAC §33.101, relating to Authority of the Executive Director, and 16 TAC §33.105, relating to Appeals of Emergency Orders.

The proposed amendment to §33.2(a) removes a reference to physical application forms provided by TABC to reflect the fact that applications may now be filled out and submitted in a digital format through the agency's online business portal.

The proposed amendment to §33.23(c) reduces the minimum number of days that a nonprofit temporary event permit may be issued from two days to one day. The agency's goal is to reduce the regulatory burden on applicants.

The proposed amendments to §§33.44(b) and 33.75(c) update internal rule citations to the appropriate, current rules to conform with previous changes to rule numbering.

The proposed amendments to §33.45 remove references to statutes and terms that correspond with the former brewer's permit that was eliminated by House Bill 1545 (2019).

The proposed amendment to §33.57(b) alters the method for calculating the minimum number of days that must elapse before the agency may withdraw an application. Currently, §33.57(b) provides that TABC may consider an application withdrawn if an applicant fails to respond to requests from the agency for additional information or for remittance of a fee within ten business days. The proposed amendment changes that timeline to ten calendar days to account for the fact that the agency's online business portal is generally accessible 24 hours a day, seven days a week. However, the agency still retains discretion to withdraw the application after that time period.

The proposed amendment to §33.93(b) removes a reference to reporting changes to the contact information for seller-server schools. The requirements for seller server school certificates

are found in Chapter 50 and the agency is proposing to relocate that language to §50.24 in a separate and simultaneous rule-making.

The proposed amendments to §33.100: (1) clarify that emergency orders suspending licenses or permits are initially issued without a hearing, as provided by Alcoholic Beverage Code §11.614; (2) better align the rule language with the statutory language in §11.614(a); and (3) remove obsolete and redundant language regarding the applicability of the Open Meetings Act and Administrative Procedure Act. TABC also proposes to repeal §33.101 because it is redundant due to the proposed amendments to §33.100. The proposed amendments to §33.103 better align the rule language with the statutory language in §11.614(c) and clarify that the administrative law judge's decision to affirm, modify, or set aside the order is final. The proposed changes to §33.103 render §33.105 obsolete, therefore TABC is proposing to repeal §33.105. Finally, the proposed amendment to §33.104 simply adds language clarifying that the term of the suspension must be in the agency's emergency order.

TABC presented the proposed amendments at a stakeholder meeting on October 3, 2024, and received comments. TABC considered these comments when drafting this proposal.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Andrea Maceyra, Chief of Regulatory Affairs, has determined that during each year of the first five years the proposed amendments are in effect, there will be no fiscal impact on state or local governments because of enforcing or administering the amended rules. Mrs. Maceyra made this determination because the proposed amendments do not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the amended rules. Mrs. Maceyra also does not anticipate any measurable effect on local employment or the local economy because of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendments are in effect, Mrs. Maceyra expects that enforcing or administering the amended rules will have the public benefit of ensuring current rules align with existing statutes and clarify existing regulations. Mrs. Maceyra does not expect the proposed amendments will impose economic costs on persons required to comply with the amended rules.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TABC has determined that the proposed amendments will not have an adverse economic effect on small or micro businesses, or on rural communities. As a result, and in accordance with Government Code §2006.002(c), TABC is not required to prepare a regulatory flexibility analysis.

GOVERNMENT GROWTH IMPACT STATEMENT. TABC has determined that for each year of the first five years that the proposed amendments are in effect, they:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing 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 create a new regulation;
- will expand, limit, or repeal an existing regulation;
- will not increase or decrease the number of individuals subject to the rule's applicability; and
- will not positively or adversely affect the Texas economy.

TAKINGS IMPACT ASSESSMENT. TABC has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. TABC will consider any written comments on the proposal that are received by TABC no later than 5:00 p.m., central time, December 29, 2024. Send your comments to rules@tabc.texas.gov or to the Office of the General Counsel, Texas Alcoholic Beverage Commission, P.O. Box 13127, Austin, Texas 78711-3127. TABC staff will hold a public hearing to receive oral comments on the proposed rule at 10:00 a.m. on December 19, 2024. Interested persons should visit the TABC's public website at www.tabc.texas.gov or contact TABC Legal Assistant Kelly Johnson at (512) 206-3367, prior to the meeting date to receive further instructions.

SUBCHAPTER A. APPLICATIONS

16 TAC §33.2

STATUTORY AUTHORITY. TABC proposes the amendments pursuant to TABC's rulemaking authority under Texas Alcoholic Beverage Code §§5.31, 11.614(d), 30.08(2), 62.14(d), 63.05(d). Section 5.31 authorizes TABC to prescribe and publish rules necessary to carry out the provisions of the Alcoholic Beverage Code. Section 11.614(d) authorizes TABC to "prescribe procedures for the determination and appeal of an emergency order issued under section 11.614." Section 30.08(2) directs TABC to "adopt rules which it determines to be necessary to implement and administer the provisions of Chapter 30, including "the duration for a permit issued under Chapter 30." Sections 62.14(d) and 63.05(d) both authorize TABC "by rule to require an entity that is a party to an alternating brewery proprietorship or contract brewing arrangement to post with the commission a bond in an amount determined by the commission."

CROSS-REFERENCE TO STATUTE. The proposed amendment to §33.2 implements Alcoholic Beverage Code §§5.55(a), 11.33, and 61.31(a). The proposed amendment to §33.23 implements Alcoholic Beverage Code §30.02. The proposed

amendment to §33.44 implements Chapter 204 of the Alcoholic Beverage Code. The proposed amendments to §33.45 implement Alcoholic Beverage Code §§62.14 and 63.05. The proposed amendment to §33.57 implements Alcoholic Beverage Code §§5.31(b)(5) and 11.43(j). The proposed amendment to §33.75 implements Alcoholic Beverage Code §§14.09, 16.08, 16.12, 25.16, 28.19, 28.20, 30.02, 32.25, and 69.18. The proposed amendment to §33.93 implements Alcoholic Beverage Code §106.14. The proposed amendments to §§33.100 - 33.105 implement Alcoholic Beverage Code §11.614.

§33.2. *Application and Fee Payment Procedures.*

(a) Applications for licenses, permits and certificates shall be made by an applicant in such a manner as may be directed by the executive director [upon forms provided by the commission].

(b) - (e) (No change.)

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 November 15, 2024.

TRD-202405547

Matthew Cherry

Senior Counsel

Texas Alcoholic Beverage Commission

Earliest possible date of adoption: December 29, 2024

For further information, please call: (512) 206-3491



SUBCHAPTER B. FEES AND PAYMENTS

16 TAC §33.23

STATUTORY AUTHORITY. The amendments are proposed pursuant to TABC's rulemaking authority under §§5.31 and 30.08(2) of the Texas Alcoholic Beverage Code. Section 5.31 provides that TABC may prescribe and publish rules necessary to carry out the provisions of the Texas Alcoholic Beverage Code. Section 30.08(2) directs TABC to "adopt rules which it determines to be necessary to implement and administer the provisions of Chapter 30, including the duration for a permit issued under Chapter 30."

§33.23. *License and Permit Fees.*

(a) - (b) (No change.)

(c) An applicant for a Nonprofit Entity Temporary Event authorization shall pay a fee of \$50 per day [with a two-day minimum], pursuant to §33.78 of this title. The authorization must be in effect for all days that alcoholic beverages will be present at the temporary event location, from delivery to removal.

(d) - (e) (No change.)

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 November 15, 2024.

TRD-202405548
Matthew Cherry
Senior Counsel
Texas Alcoholic Beverage Commission
Earliest possible date of adoption: December 29, 2024
For further information, please call: (512) 206-3491



SUBCHAPTER C. BONDS

16 TAC §33.44, §33.45

STATUTORY AUTHORITY. The amendments are proposed pursuant to TABC's rulemaking authority under §§5.31, 62.14(d) and 63.05(d) of the Texas Alcoholic Beverage Code. Section 5.31 provides that TABC may prescribe and publish rules necessary to carry out the provisions of the Texas Alcoholic Beverage Code. Sections 62.14(d) and 63.05(d) both authorize TABC "by rule to require an entity that is a party to an alternating brewery proprietorship or contract brewing arrangement to post with the commission a bond in an amount determined by the commission."

§33.44. *Excise Tax Bonds.*

(a) (No change.)

(b) Each bond required under this section shall be set by the executive director at an amount determined pursuant to §41.39[§41.42] of this title that will protect the state against the anticipated tax liability of the principal for any six-week period based on previous average alcoholic beverage sales or estimates of the future average volume of sales.

(c) - (h) (No change.)

§33.45. *Bonds for Alternating Brewery Proprietorships and Contract Brewing Arrangements.*

(a) This section relates to Alcoholic Beverage Code §§62.14 and 63.05 [§§11.71, 12.01(a)(6), 13.04(e), 61.41(d) and 62.01(a)(5)].

(b) (No change.)

(c) A licensee [or permittee] who was not subject to the bond requirements of subsection (b) [or (e)] of this section at the time of application must post the required bond at the time it becomes subject to those requirements.

(d) The licensee [or permittee] may, within 30 days of the notice specified in §33.40(l)(1) of this title request a hearing on the question of whether the criteria established by this section for forfeiture of a bond have been satisfied. The hearing shall be conducted in accordance with Chapter 2001 of the Government Code.

(e) Release of Surety. A license [or permit] holder may request release and return of the surety required by subsection (b) [or (e)] of this section upon:

- (1) expiration of the license [or permit];
- (2) voluntary cancellation of the license [or permit];

(3) verification that the applicant or license [or permit] holder has acquired fee interest in a brewing [or manufacturing] facility (as appropriate in reference to subsection (b) [subsections (b) and (e)] of this section); or

(4) verification that the license [or permit] holder no longer is a party to an alternating brewery proprietorship or contract brewing arrangement.

(f) (No change.)

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 November 15, 2024.

TRD-202405549
Matthew Cherry
Senior Counsel
Texas Alcoholic Beverage Commission
Earliest possible date of adoption: December 29, 2024
For further information, please call: (512) 206-3491



SUBCHAPTER D. APPLICATION REVIEW AND PROTESTS

16 TAC §33.57

STATUTORY AUTHORITY. The amendments are proposed pursuant to TABC's rulemaking authority under §5.31 of the Texas Alcoholic Beverage Code. Section 5.31 provides that TABC may prescribe and publish rules necessary to carry out the provisions of the Texas Alcoholic Beverage Code.

§33.57. *Application Withdrawn.*

(a) (No change.)

(b) If an applicant fails to respond to requests from the TABC for additional information or for remittance of a license or permit fee within ten (10) calendar [business] days of the request, the TABC may consider the application withdrawn by the applicant.

(c) (No change.)

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 November 15, 2024.

TRD-202405550
Matthew Cherry
Senior Counsel
Texas Alcoholic Beverage Commission
Earliest possible date of adoption: December 29, 2024
For further information, please call: (512) 206-3491



SUBCHAPTER E. EVENTS AT A TEMPORARY LOCATION

16 TAC §33.75

STATUTORY AUTHORITY. The amendments are proposed pursuant to TABC's rulemaking authority under §5.31 of the Texas Alcoholic Beverage Code. Section 5.31 provides that TABC may prescribe and publish rules necessary to carry out the provisions of the Texas Alcoholic Beverage Code.

§33.75. *Penalties and Suspension.*

(a) - (b) (No change.)

(c) The executive director may temporarily suspend an applicant's right to apply for a temporary authorization for violations of offenses against the general welfare under §34.3[§35.34] of this title that occur in connection with the use of a temporary authorization.

(d) (No change.)

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 November 15, 2024.

TRD-202405551
Matthew Cherry
Senior Counsel
Texas Alcoholic Beverage Commission
Earliest possible date of adoption: December 29, 2024
For further information, please call: (512) 206-3491



SUBCHAPTER F. LICENSE AND PERMIT ACTION

16 TAC §33.93

STATUTORY AUTHORITY. The amendments are proposed pursuant to TABC's rulemaking authority under §5.31 of the Texas Alcoholic Beverage Code. Section 5.31 provides that TABC may prescribe and publish rules necessary to carry out the provisions of the Texas Alcoholic Beverage Code.

§33.93. Notification Requirements.

(a) (No change.)

(b) A person who holds a license, permit, or certificate issued by the Alcoholic Beverage Commission shall file a notice of change of mailing address with the Commission within seven (7) business days of the change. [A person who holds a certificate issued by the Commission shall file the change of address with the Seller/Server Training Division at TABC, P.O. Box 13127, Austin, Texas 78711.]

(c) (No change.)

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 November 15, 2024.

TRD-202405552
Matthew Cherry
Senior Counsel
Texas Alcoholic Beverage Commission
Earliest possible date of adoption: December 29, 2024
For further information, please call: (512) 206-3491



SUBCHAPTER G. EMERGENCY ORDERS

16 TAC §§33.100, 33.103, 33.104

STATUTORY AUTHORITY. The amendments are proposed pursuant to TABC's rulemaking authority under §§5.31 and 11.614

of the Texas Alcoholic Beverage Code. Section 5.31 provides that TABC may prescribe and publish rules necessary to carry out the provisions of the Texas Alcoholic Beverage Code. Section 11.614 authorizes TABC to prescribe procedures for the determination and appeal of an emergency orders temporarily suspending a license.

§33.100. General Provisions.

(a) The purpose of this subchapter is to implement the commission's authority under Texas Alcoholic Beverage Code Section 11.614 to issue an emergency order temporarily suspending a permit or license without a hearing.

(b) The commission, executive director, or executive director's designee may issue an emergency order suspending the permit or license of a business without a hearing if the commission, executive director, or executive director's designee determines that the continued operation of the business constitutes a continuing threat to the public welfare.

~~[(c) All hearings under this subchapter, including appeals, may be held by teleconference or videoconference in compliance with applicable provisions of the Texas Open Meetings Act (Tex. Gov't Code Ch. 551) and the Administrative Procedure Act (Tex. Gov't Code Ch. 2001).]~~

§33.103. Notice and Opportunity for Hearing.

If an emergency order is issued without a hearing, the executive director or his designee shall set the time and place for a hearing to affirm, modify, or set aside [or] the emergency order [to be conducted by the State Office of Administrative Hearings]. The hearing shall be conducted by the State Office of Administrative Hearings and the decision rendered by the Administrative Law Judge is final.

§33.104. Contents of Emergency Order.

An emergency order issued under this subchapter shall contain at least the following:

- (1) the name and address of the license or permit holder and information sufficient to identify the premises affected by the order;
- (2) a brief statement of fact supporting the issuance of the order;
- (3) a determination that the continued operation of a permitted or licensed business would constitute a continuing threat to the public welfare; and
- (4) a statement of the term of the suspension [order], including the date on which it begins and ends.

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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Matthew Cherry
Senior Counsel
Texas Alcoholic Beverage Commission
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For further information, please call: (512) 206-3491



16 TAC §§33.101, §33.105

STATUTORY AUTHORITY. The repeals are proposed pursuant to TABC's rulemaking authority under §§5.31 and 11.614 of the Texas Alcoholic Beverage Code. Section 5.31 provides that TABC may prescribe and publish rules necessary to carry out the provisions of the Texas Alcoholic Beverage Code. Section 11.614 authorizes TABC to prescribe procedures for the determination and appeal of an emergency orders temporarily suspending a license.

§33.101. *Authority of the Executive Director.*

§33.105. *Appeals of Emergency Orders.*

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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Matthew Cherry

Senior Counsel

Texas Alcoholic Beverage Commission

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CHAPTER 45. MARKETING PRACTICES

The Texas Alcoholic Beverage Commission (TABC) proposes to amend 16 TAC §45.9, relating to Withdrawal of Application, 16 TAC §45.11, relating to When Reapplication is Required, 16 TAC §45.12, relating to Application Procedures During Interruption of Federal Agency Operations, 16 TAC §45.20, relating to Exhibiting Certificates to Representatives of the Commission, 16 TAC §45.23, relating to Alteration of Labels, 16 TAC §45.30, relating to Certificates of Registration for a Distilled Spirit Product, 16 TAC §45.40, related to Certificate of Registration for a Malt Beverage Product, 16 TAC §45.50, relating to Certificate of Registration for Wine, and 16 TAC §45.105, relating to Advertising.

The proposed amendment to §45.9 adds language to mirror the process for license and permit application withdrawals found in §33.57. This change is intended to provide clarity for applicants and consistency for the agency. The proposed amendments to §§45.11, 45.12, and 45.20 remove redundant language in references to a Certificate of Label Approval (COLA) and change references to the product registration certificate for consistency. The proposed amendment to §45.23 allows the executive director to name a designee to approve relabeling of bottled alcoholic beverages to ensure agency efficiency and removes redundant language. The proposed amendments to §§45.30, 45.40, and 45.50 make corresponding changes in each section to update the product registration process for distilled spirits, malt beverages, and wine, to mirror existing agency practices.

The proposed amendments to §45.105 provide clarity on the permissible forms of outdoor advertising at retail establishments. Pursuant to Alcoholic Beverage Code §108.52, "no outdoor advertising is permitted in this state except that which is authorized by this section or under rules of the commission..." Currently, §45.105(a) references a restriction on certain types of outdoor advertising and creates an inference that the rule also authorizes other forms of outdoor advertising. Proposed subsection (a)(2) is intended to clarify that, unless otherwise prohibited under the rule, outdoor advertising is permissible. For

additional clarity, the subsection also incorporates the Alcoholic Beverage Code's definitions for outdoor advertising, billboards, and electric signs. Proposed subsection (a)(5) reiterates the inducement prohibitions in §45.110 and Alcoholic Beverage Code §§102.04, 102.07, 102.15, and 108.06. Proposed subsection (a)(6) acknowledges the permissible avenues for upper-tier members to sell or provide signage to retailers under §§45.113(d) and 45.117(d), which may meet the definition of outdoor advertising, so that the prohibition in subsection (a)(5) does not conflict with those authorizations. Lastly, proposed subsection (a)(6) also allows the signage provided to a retailer by an upper-tier member under §§45.113 and 45.117 to be placed on the exterior walls of the building or enclosure on the retailer's premises. This change is intended to reduce the regulatory burden on retailers.

TABC presented the proposed amendments at a stakeholder meeting on October 3, 2024, and received comments. TABC considered these comments when drafting this proposal.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Andrea Maceyra, Chief of Regulatory Affairs, has determined that during each year of the first five years the proposed amendments are in effect, there will be no fiscal impact on state or local governments because of enforcing or administering the amended rules. Mrs. Maceyra made this determination because the proposed amendments do not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the amended rules. Mrs. Maceyra also does not anticipate any measurable effect on local employment or the local economy because of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendments are in effect, Mrs. Maceyra expects that enforcing or administering the amended rules will have the public benefit of ensuring current rules align with existing statutes and clarify regulatory requirements. The proposal also reduces the regulatory burden on certain licensees and permittees. Mrs. Maceyra does not expect the proposed amendments will impose economic costs on persons required to comply with the amended rules.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TABC has determined that the proposed amendments will not have an adverse economic effect on small or micro businesses, or on rural communities. As a result, and in accordance with Government Code §2006.002(c), TABC is not required to prepare a regulatory flexibility analysis.

GOVERNMENT GROWTH IMPACT STATEMENT. TABC has determined that for each year of the first five years that the proposed amendments are in effect, they:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing 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 create a new regulation;
- will expand, limit, or repeal an existing regulation;
- will not increase or decrease the number of individuals subject to the rule's applicability; and

- will not positively or adversely affect the Texas economy.

TAKINGS IMPACT ASSESSMENT. TABC has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. TABC will consider any written comments on the proposal that are received by TABC no later than 5:00 p.m., central time, December 29, 2024. Send your comments to rules@tabc.texas.gov or to the Office of the General Counsel, Texas Alcoholic Beverage Commission, P.O. Box 13127, Austin, Texas 78711-3127. TABC staff will hold a public hearing to receive oral comments on the proposed rule at 10:00 a.m. on December 19, 2024. Interested persons should visit the TABC's public website at www.tabc.texas.gov or contact TABC Legal Assistant Kelly Johnson at (512) 206-3367, prior to the meeting date to receive further instructions.

SUBCHAPTER A. GENERAL PROVISIONS

16 TAC §§45.9, 45.11, 45.12

STATUTORY AUTHORITY. TABC proposes the amendments pursuant to TABC's rulemaking authority under §§5.31, 101.67, 101.671, and 108.52(c) of the Texas Alcoholic Beverage Code. Section 5.31 provides that TABC may prescribe and publish rules necessary to carry out the provisions of the Texas Alcoholic Beverage Code. Sections 101.67 and 101.671 direct TABC to prescribe rules for the registration of alcoholic beverage products with the state. Section 108.52(c) directs the agency to adopt reasonable rules relating to the type of outdoor advertising retail licensees and permittees may erect or maintain on the retailer's premises.

CROSS-REFERENCE TO STATUTE. The proposed amendments to §§45.9, 45.11, 45.12, 45.20, 45.23, 45.30, 45.40 and 45.50 implement Alcoholic Beverage Code §§5.31, 101.67, and 101.671. The proposed amendments to §45.105 implement Alcoholic Beverage Code §108.52.

§45.9. *Withdrawal of Application.*

(a) An applicant may unconditionally withdraw their application for product registration at any time prior to [~~product registration or~~] issuance of a certificate of product registration or a notification of denial.

(b) If an applicant fails to respond to requests from the TABC for additional information or for remittance of a product registration fee within ten (10) calendar days of the request, the TABC may consider the application withdrawn by the applicant.

(c) An application that is withdrawn is not considered denied and may be refiled at any time. Withdrawal of an application, whether affirmatively by the applicant or due to the applicant's failure to respond to requests for information or fees, does not trigger the right to appeal or any other due process rights.

§45.11. *When Reapplication is Required.*

(a) For products registered with the commission using a [~~federal~~] COLA, any change to the label or product that requires issuance of a new COLA requires reapplication for product registration with the commission.

(b) For products registered with the commission that are not eligible for a [~~federal~~] COLA, any change to the label or product requires

reapplication for product registration with the commission, except for the following permissible label revisions:

(1) Deleting any non-mandatory label information, including text, illustrations, graphics, and ingredients;

(2) Repositioning any label information, including text, illustrations, and graphics;

(3) Changing the color of the background or text, the shape, or the proportionate size of labels;

(4) Changing the type size or font or make appropriate changes to the spelling (including punctuation marks and abbreviations) of words;

(5) Changing the type of container or net contents statement;

(6) Adding, deleting, or changing optional information referencing awards, medals or a rating or recognition provided by an organization as long as the rating or recognition reflects simply the opinion of the organization and does not make a specific substantive claim about the product or its competitors;

(7) Adding, deleting, or changing holiday or seasonal-themed graphics, artwork, or salutations;

(8) Adding, deleting, or changing promotional sponsorship-themed graphics, logos, artwork, dates, event locations or other sponsorship-related information; [~~and~~]

(9) Adding, deleting or changing references to a year or date; and [-]

(10) Any TTB-authorized allowable revisions to an approved COLA that do not require application for a new COLA.

(c) Not later than September 1, 2023, producers of products required to obtain a first [~~federal~~] COLA pursuant to Alcoholic Beverage Code §101.67(a) must reapply for commission registration of any such product that will be shipped or imported into the state, manufactured and offered for sale, or distributed or sold on or after Sept. 1, 2023, unless granted an exception under subsection (d) of this section.

(d) The executive director may issue a temporary certificate [~~Certificate~~] of product registration [~~Registration~~] containing an expiration date at the request of a producer demonstrating that the producer requires additional time beyond September 1, 2023, to use up products bearing labels approved by the commission and printed before December 31, 2020.

§45.12. *Application Procedures during Interruption of Federal Agency Operations.*

(a) - (d) (No change.)

(e) If the TTB grants the COLA or exemption application, the applicant must re-apply with the commission for product registration within 30 calendar days of receipt of the [~~federal~~] COLA or exemption.

(f) (No change.)

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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Matthew Cherry
Senior Counsel
Texas Alcoholic Beverage Commission
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SUBCHAPTER B. ENFORCEMENT

16 TAC §45.20, §45.23

STATUTORY AUTHORITY. The amendments are proposed pursuant to TABC's rulemaking authority under §§5.31, 101.67, and 101.671 of the Texas Alcoholic Beverage Code. Section 5.31 provides that TABC may prescribe and publish rules necessary to carry out the provisions of the Texas Alcoholic Beverage Code. Sections 101.67 and 101.671 direct TABC to prescribe rules for the registration of alcoholic beverage products with the state.

§45.20. *Exhibiting Certificates to Representatives of the Commission.*

It shall be unlawful for any person to fail or refuse to exhibit, upon demand or request by any authorized representative of the commission, the certificate of product registration [~~approval as~~] issued by the United States Department of the Treasury or the commission [~~executive director~~].

§45.23. *Alteration of Labels.*

No person may alter, mutilate, destroy, obliterate, or remove any mark, brand, or label on an alcoholic beverage product held for sale in this state except:

(1) as authorized by Texas law; and

(2) that the executive director or their designee may, on written application, permit additional labeling or relabeling of bottled alcoholic beverages with labels [~~covered by certificates of label approval~~] that comply with the requirements of this subchapter and with state law.

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 C. SPECIFIC REQUIREMENTS FOR DISTILLED SPIRITS

16 TAC §45.30

STATUTORY AUTHORITY. The amendments are proposed pursuant to TABC's rulemaking authority under §§5.31, 101.67, and 101.671 of the Texas Alcoholic Beverage Code. Section 5.31 provides that TABC may prescribe and publish rules necessary to carry out the provisions of the Texas Alcoholic Beverage Code.

Sections 101.67 and 101.671 direct TABC to prescribe rules for the registration of alcoholic beverage products with the state.

§45.30. *Certificate of Registration for a Distilled Spirit Product.*

(a) No distilled spirit may be shipped into the state or sold within the state without a certificate [~~Certificate~~] of product registration [~~Registration~~] issued by the commission.

(b) An applicant for a certificate [~~Certificate~~] under this section must hold a distiller's and rectifier's permit or a nonresident seller's permit issued by the commission.

(c) The application [~~An applicant must submit an application~~] to register a distilled spirit product [~~on the prescribed commission form~~. ~~The application~~] must contain the following:

(1) a legible copy of the product's COLA; [~~the product COLA issued by the TTB;~~]

(2) all information required to complete the application [~~form~~]; and

(3) an [~~the~~] application fee of \$25.

~~[(d) A legible copy of the COLA must be included with the application. If the COLA is not legible, an actual label that is affixed to the distilled spirit as shipped or sold, or an exact color copy of a label must be included with the application.]~~

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

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SUBCHAPTER D. SPECIFIC REQUIREMENTS FOR MALT BEVERAGES

16 TAC §45.40

STATUTORY AUTHORITY. The amendments are proposed pursuant to TABC's rulemaking authority under §§5.31, 101.67, and 101.671 of the Texas Alcoholic Beverage Code. Section 5.31 provides that TABC may prescribe and publish rules necessary to carry out the provisions of the Texas Alcoholic Beverage Code. Sections 101.67 and 101.671 direct TABC to prescribe rules for the registration of alcoholic beverage products with the state.

§45.40. *Certificate of Registration for a Malt Beverage Product.*

(a) No malt beverage may be shipped into the state or sold within the state without a certificate [~~Certificate~~] of product registration [~~Registration~~] issued by the commission.

(b) An applicant for a certificate [~~Certificate~~] under this section must hold a brewer's license, nonresident brewer's license, or brewpub license issued by the commission.

(c) A nonresident brewer's agent may file an application for a certificate [~~Certificate~~] of product registration [~~Registration~~] on behalf of a holder of a nonresident brewer's license.

(d) The application to register a malt beverage product must contain the following [An applicant must submit an Application to Register a Malt Beverage on the form prescribed by the commission along with the application fee to the commission. The application must contain the following]:

(1) If the product is eligible for a COLA:

(A) a legible copy of the product's COLA;

~~[(B) an actual label that is affixed to the malt beverage as shipped or sold, or a legible exact color copy of a label; and]~~

~~[(B) [(C)] all information required to complete the application form; and[.]]~~

(C) an application fee of \$25.

(2) If the product is not eligible for a COLA:

~~(A) [an actual label that is affixed to the malt beverage as shipped or sold, or] a legible exact color copy of the label;~~

(B) a TTB formulation; [and]

~~(C) all information required to complete the application; and [form.]]~~

(D) an application fee of \$25.

(e) (No change.)

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. SPECIFIC REQUIREMENTS FOR WINE

16 TAC §45.50

STATUTORY AUTHORITY. The amendments are proposed pursuant to TABC's rulemaking authority under §§5.31, 101.67, and 101.671 of the Texas Alcoholic Beverage Code. Section 5.31 provides that TABC may prescribe and publish rules necessary to carry out the provisions of the Texas Alcoholic Beverage Code. Sections 101.67 and 101.671 direct TABC to prescribe rules for the registration of alcoholic beverage products with the state.

§45.50. *Certificate of Registration for Wine.*

(a) Except as provided by §45.4(b) of this title, no wine may be shipped into the state or sold within the state without a certificate [Certificate] of product registration [Registration] issued by the commission.

(b) An applicant for a certificate [Certificate] under this section must hold a winery permit or a nonresident seller's permit issued by the commission.

(c) The application to register a wine product must contain the following [An applicant must submit an Application to Register a Wine on the form prescribed by the commission along with the application fee to the commission. The application must contain the following]:

(1) If the product is eligible for a COLA:

(A) a legible copy of the product's COLA [a legible copy of the COLA];

~~[(B) an actual label that is affixed to the wine as shipped or sold, or a legible exact color copy of a label; and]~~

~~[(B) [(C)] all information required to complete the application; and [form.]]~~

(C) an application fee of \$25.

(2) If the product is not eligible for a COLA:

~~(A) [an actual label that is affixed to the wine as shipped or sold, or] a legible exact color copy of the label;~~

(B) the TTB formulation, if required by the TTB; [and]

~~(C) all information required to complete the application form; and[.]]~~

(D) an application fee of \$25.

(d) (No change.)

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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Matthew Cherry

Senior Counsel

Texas Alcoholic Beverage Commission

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SUBCHAPTER F. ADVERTISING AND PROMOTION

16 TAC §45.105

STATUTORY AUTHORITY. The amendments are proposed pursuant to TABC's rulemaking authority under §§5.31 and 108.52 of the Texas Alcoholic Beverage Code. Section 5.31 provides that TABC may prescribe and publish rules necessary to carry out the provisions of the Texas Alcoholic Beverage Code. Section 108.52(c) directs TABC to adopt reasonable rules relating to the type of outdoor advertising retail licensees and permittees may erect or maintain on the retailer's premises.

§45.105. *Advertising.*

(a) Retailer Establishments.

(1) This subsection relates to Alcoholic Beverage Code §§108.07, 108.51, and 108.52.

(2) Retail-tier licensees and permittees may, in accordance with this section, erect and maintain on the retailer's premises:

(A) outdoor advertising, as defined in Alcoholic Beverage Code §108.51(1);

(B) billboards, as defined in Alcoholic Beverage Code §108.51(2); and

(C) electric signs, as defined in Alcoholic Beverage Code §108.51(3).

(3) [(2)] Except as provided in paragraph (4) [(3)] of this subsection, retail-tier license and permit holders may not advertise any price for an alcoholic beverage on any sign, billboard, marquee, or other display located on the retailer's premises in such a manner that the price may be read by persons outside of the premises.

(4) [(3)] It is an exception to the restriction in paragraph (3) [(2)] of this subsection if:

(A) the holder of a food and beverage certificate places a menu on the exterior wall of the premises so that it can be read outside of the premises only by a pedestrian close to the menu. To qualify for the exception granted in this paragraph, the menu visible outside of the premises must be of the same size and in the same sized font as the menu presented to the establishment's customers, and must show both food and beverage prices; or

(B) the holder of a wine and malt beverage retailer's permit, brewpub license, retail dealer's on-premise license, or a license or permit authorizing sales of alcoholic beverages for pickup under Alcoholic Beverage Code §§28.1001 or 32.155 places a menu in a drive-through lane so that it can be read outside of the premises only by a person in a vehicle in the drive-through lane.

(5) Licensees and permittees in the manufacturing and wholesaling tiers may not, directly or indirectly, pay a retailer for any outdoor advertising, billboards, or electric signs displayed on the retailer's premises.

(6) Licensees and permittees in the manufacturing and wholesaling tiers may furnish, give, or sell interior signs to retailers in accordance with §45.113(d) and §45.117(d) of this title. Retailers may use the interior signs for outdoor advertising purposes only on the exterior walls or enclosure of the building where the license or permit is issued and inside the building.

(b) - (d) (No change.)

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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Matthew Cherry

Senior Counsel

Texas Alcoholic Beverage Commission

Earliest possible date of adoption: December 29, 2024

For further information, please call: (512) 206-3491



CHAPTER 50. ALCOHOLIC BEVERAGE SELLER SERVER AND DELIVERY DRIVER TRAINING

SUBCHAPTER C. SELLER SERVER SCHOOL CERTIFICATES AND REQUIREMENTS

16 TAC §50.24

The Texas Alcoholic Beverage Commission (TABC) proposes to amend 16 TAC §50.24, relating to Seller Server School Certificates and Requirements. The proposed amendment adds language clarifying that the holder of a seller server certificate must maintain a current mailing address, telephone number, and email address on file with TABC. The proposed amendment also requires the holder of such a certificate to update that information within seven business days of any changes. This proposal is intended to ensure the agency has current contact information for all certificate holders. This proposal is made in conjunction with proposed amendments to 16 TAC §33.93, which were done in a separate and simultaneous rulemaking.

TABC presented the proposed amendment at a stakeholder meeting on October 3, 2024, and received no comments.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Andrea Maceyra, Chief of Regulatory Affairs, has determined that during each year of the first five years the proposed amendment is in effect, there will be no fiscal impact on state or local governments because of enforcing or administering the amended rule. Mrs. Maceyra made this determination because the proposed amendment does not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the amended rule. Mrs. Maceyra also does not anticipate any measurable effect on local employment or the local economy because of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendment is in effect, Mrs. Maceyra expects that enforcing or administering the amended rule will have the public benefit of ensuring current rules related to seller server training are easier for interested parties to locate. The proposed amendment also helps ensure the agency has updated contact information for each certificate holder, which helps the agency better administer the Alcoholic Beverage Code. Mrs. Maceyra does not expect the proposed amendment will impose economic costs on persons required to comply with the amended rule.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TABC has determined that the proposed amendment will not have an adverse economic effect on small or micro businesses, or on rural communities. As a result, and in accordance with Government Code §2006.002(c), TABC is not required to prepare a regulatory flexibility analysis.

GOVERNMENT GROWTH IMPACT STATEMENT. TABC has determined that for each year of the first five years that the proposed amendment is in effect, it:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing 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 create a new regulation;
- will not expand, limit, or repeal an existing regulation;
- will not increase or decrease the number of individuals subject to the rule's applicability; and
- will not positively or adversely affect the Texas economy.

TAKINGS IMPACT ASSESSMENT. TABC has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. TABC will consider any written comments on the proposal that are received by TABC no later than 5:00 p.m., central time, December 29, 2024. Send your comments to rules@tabc.texas.gov or to the Office of the General Counsel, Texas Alcoholic Beverage Commission, P.O. Box 13127, Austin, Texas 78711-3127. TABC staff will hold a public hearing to receive oral comments on the proposed rule at 10:00 a.m. on December 19, 2024. Interested persons should visit the TABC's public website at www.tabc.texas.gov, or contact TABC Legal Assistant Kelly Johnson at (512) 206-3367, prior to the meeting date to receive further instructions.

STATUTORY AUTHORITY. TABC proposes the amendment pursuant to TABC's rulemaking authority under §§5.31 and 106.14 of the Texas Alcoholic Beverage Code. Section 5.31 provides that TABC may prescribe and publish rules necessary to carry out the provisions of the Texas Alcoholic Beverage Code. Section 106.14 directs the commission to adopt rules establishing requirements for approved seller training programs.

CROSS-REFERENCE TO STATUTE. The proposed amendments implement Alcoholic Beverage Code §§5.31 and 106.14.

§50.24. Notice of Change of Location.

The holder of a certificate issued under this subchapter must maintain a current mailing address, telephone number, and email address on file with the Seller/Server Training Division. The holder shall file any changes to its mailing address, telephone number, or email address within seven (7) business days of the change, through the agency-designated reporting system or by mailing the Seller/Server Training Division at TABC, P.O. Box 13127, Austin, Texas 78711. [comply with §33.93 of this title.]

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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Matthew Cherry

Senior Counsel

Texas Alcoholic Beverage Commission

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PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION

CHAPTER 70. INDUSTRIALIZED HOUSING AND BUILDINGS

16 TAC §70.60

The Texas Department of Licensing and Regulation (Department) proposes an amendment to an existing rule at 16 Texas

Administrative Code (TAC), Chapter 70, §70.60, regarding the Industrialized Housing and Buildings program. The proposed change is referred to as the "proposed rule."

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The rules under 16 TAC, Chapter 70, implement Texas Occupations Code, Chapter 1202, Industrialized Housing and Buildings.

The proposed rule amendment at §70.60(e) would allow the team lead for the initial certification of a manufacturing plant to also conduct regular in-plant inspections as an employee of a third-party inspection agency. The amendment would expand the pool of candidates for this position to employees of the third-party inspection agency responsible for regular in-plant inspections of the manufacturer or the design review agency responsible for review of the manufacturer's design package. The proposed rules are necessary to allow the Department the possibility of focusing its limited resources on long-term, risk-based auditing of those plants.

Code Council Recommendations

The proposed rule was presented to and discussed by the Industrialized Housing and Buildings Code Council at its meeting on November 12, 2024. The Code Council did not make any changes to the proposed rule. The Code Council voted and recommended that the proposed rule be published in the *Texas Register* for public comment.

SECTION-BY-SECTION SUMMARY

The proposed rule amends §70.60(e) to allow the team lead for the initial certification of a manufacturing plant to also conduct regular in-plant inspections as an employee of a third-party inspection agency.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Tony Couvillon, Policy Research and Budget Analyst, has determined that for each year of the first five years the proposed rule is in effect, there are no estimated additional costs or reductions in costs to state or local government as a result of enforcing or administering the proposed rule.

Mr. Couvillon has determined that for each year of the first five years the proposed rule is in effect, there is no estimated increase or loss in revenue to the state or local government 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 rule is in effect, enforcing or administering the proposed rules does not have foreseeable implications relating to costs or revenues of state or local governments.

LOCAL EMPLOYMENT IMPACT STATEMENT

Because Mr. Couvillon has determined that the proposed rule will not affect a local economy, the agency is not required to prepare a local employment impact statement under Texas Government Code §2001.022.

PUBLIC BENEFITS

Mr. Couvillon also has determined that for each year of the first five-year period the proposed rule is in effect, the public benefit will be the increased number of individuals who will be able to conduct an inspection for the certification of a manufacturing plant, resulting in needed inspections being done more rapidly.

Additionally, expanding the pool of qualified individuals able to conduct an inspection will allow the Department more time and

resources to focus on risk-based audits of previously certified manufacturing facilities rather than participating as the team leader in plant certification inspections. The Department will maintain the authority to conduct and lead certification inspections and provide oversight as needed.

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 rule is in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules.

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 rule. Because the agency 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.

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

The proposed rule does 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 rule does not create or eliminate a government program.
2. Implementation of the proposed rule does not require the creation of new employee positions or the elimination of existing employee positions.
3. Implementation of the proposed rule does not require an increase or decrease in future legislative appropriations to the agency.
4. The proposed rule does not require an increase or decrease in fees paid to the agency.
5. The proposed rule does not create a new regulation.
6. The proposed rule expands, limits, or repeals an existing regulation.

The proposed rule repeals an existing regulation by removing the prohibition that the leader of a team conducting a plant certification inspection may not be an employee of the third-party inspection agency responsible for regular in-plant inspections of the manufacturer or the design review agency responsible for review of the manufacturer's design package.

7. The proposed rule does not increase or decrease the number of individuals subject to the rules' applicability.

8. The proposed rule does 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 rule and the proposed rule does 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 rule does 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*.

STATUTORY AUTHORITY

The proposed rule is proposed 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 proposed rules are those set forth in Texas Occupations Code, Chapters 51 and 1202. No other statutes, articles, or codes are affected by the proposed rules.

§70.60. Responsibilities of the Department--Plant Certification.

(a) - (d) (No change.)

(c) [The team leader may not be an employee of the third party inspection agency (TPIA) responsible for regular in-plant inspections of the manufacturer or the design review agency (DRA) responsible for review of the manufacturer's design package.] The following persons may not solicit, offer, or agree to provide future design review or in-plant inspection services for the manufacturer prior to the manufacturer completing all certification requirements:

(1) an agency other than the manufacturer's current third-party inspection agency (TPIA) [TPIA] or design review agency (DRA) [DRA] that provides a certification team member; and

(2) any team member that is not employed by the manufacturer's current TPIA or DRA.

(f) - (k) (No change.)

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 November 18, 2024.

TRD-202405568

Doug Jennings
General Counsel

Texas Department of Licensing and Regulation

Earliest possible date of adoption: December 29, 2024

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



CHAPTER 112. HEARING INSTRUMENT FITTERS AND DISPENSERS

The Texas Department of Licensing and Regulation (Department) proposes amendments to existing rules at 16 Texas Administrative Code (TAC), Chapter 112, Subchapter A, §112.2; Subchapter E, §112.44; and Subchapter L, §112.110; the repeal of existing rules at Subchapter H, §112.70 and §112.72; and the addition of new rules at Subchapter H, §112.70 and §§112.73 - 112.76, regarding the Hearing Instrument Fitters and Dispensers program. These proposed changes are referred to as "proposed rules."

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The rules under 16 TAC, Chapter 112, implement Texas Occupations Code, Chapter 402, Hearing Instrument Fitters and Dispensers; and Chapter 51, the enabling statute of the Texas Commission of Licensing and Regulation (Commission) and the Department.

The proposed rules are necessary to update the current administrative rules and the continuing education (CE) requirements for hearing instrument fitter and dispenser apprentices, license holders, and CE providers. The proposed rules are a result of changes suggested during the required four-year rule review related to CE; changes recommended by the Education and Examination Workgroup of the Hearing Instrument Fitters and Dispensers Advisory Board; and other suggested changes made possible, in part, by House Bill (HB) 1560, 87th Legislature, Regular Session (2021), the Department's Sunset legislation.

The proposed rules also change the CE provider registration term from one year to two years and increase the registration application fees from \$200 annually to \$400 every two years. Beginning May 1, 2025, the provider registrations will change from one-year to two-year terms, and the application and renewal fees will reflect this change. Existing provider registrations will be valid for one year if renewed before May 1, 2025, or for two years if renewed on or after May 1, 2025.

Four-Year Rule Review Changes

The proposed rules include changes as a result of the required four-year rule review conducted under Texas Government Code §2001.039. The Department conducted the required four-year rule review of the rules under 16 TAC Chapter 112, and the Commission readopted the rule chapter in its entirety and in its current form. (Proposed Rule Review, 45 TexReg 7281, October 9, 2020. Adopted Rule Review, 46 TexReg 2050, March 26, 2021).

In response to the Notice of Intent to Review that was published, the Department received comments from two interested parties regarding 16 TAC Chapter 112, one of which is applicable to this rules package and will be addressed as part of this rules package. The comment suggested changes to the continuing education provider registration fee under §112.110. The comment suggested having a separate CE provider registration fee of \$25 paid bi-annually for out-of-state CE providers, which may encourage more out-of-state providers to become registered CE providers for the Hearing Instrument Fitters and Dispensers program. The Department disagrees with the suggestion to treat out-of-state providers differently, and this suggested change is not included in the proposed rules.

The proposed rules include changes based on the Department's review of the rules during the rule review process related to con-

tinuing education and changes recommended by the Education and Examination Workgroup.

Other Changes Made Possible by HB 1560

HB 1560, Sections 1.15 and 1.25, amended Texas Occupations Code §402.207(c) and repealed §402.303, to remove detailed requirements regarding the number of CE hours, the methods of CE delivery, the types of CE providers, and the approval of CE providers and courses. HB 1560, Section 1.12, also added broad rulemaking authority under Texas Occupations Code §51.405 regarding CE requirements and CE providers. The proposed rules revise and/or eliminate some of the CE provisions that were previously required by statute. The proposed rules allow more flexibility on the methods of CE delivery and the types of CE hours that may be obtained, and they eliminate the need for individual CE courses to be approved by the Department.

The proposed rules prescribe and expand the CE hours, courses, and methods of delivery. The proposed rules decrease the number of CE hours an apprentice permit holder must complete during the apprentice year, specify the type of proof necessary to claim CE credit during the apprentice permit year, and limit how and when an apprentice can claim CE credit. The proposed rules expand the methods of CE course delivery a hearing instrument fitter and dispenser license holder can use to earn CE hours; limit how and when a license holder can claim CE credit; and provide details on alternative methods for a license holder to obtain CE hours.

The proposed rules also modify provisions for CE providers relating to registration and application requirements; registration issuance, term, and renewal requirements; and the responsibilities imposed on CE providers. The proposed rules also extend the CE provider registration term from one year to two years and restructure the registration fees from \$200 annually to \$400 every two years. In addition, the proposed rules eliminate the current requirement that each CE course offered or provided by a registered CE provider must be approved by the Department.

Finally, the proposed rules include changes recommended by Department staff to correct and update citations and cross-references to improve accuracy, readability, and consistency in the rule text.

Advisory Board Recommendations

The proposed rules were presented to and discussed by the Hearing Instrument Fitters and Dispensers Advisory Board at its meeting on October 30, 2024. The Advisory Board made changes to the proposed rules at §112.70(g) to clarify that CE hours earned by a hearing-instrument fitters and dispensers licensee serving as a proctor during an exam are classified as in-person CE hours, and not as virtual or online CE hours. The Advisory Board voted and recommended that the proposed rules with changes be published in the *Texas Register* for public comment.

SECTION-BY-SECTION SUMMARY

Subchapter A. General Provisions.

The proposed rules amend §112.2, Definitions. The proposed rules add definitions for the following new terms: "continuing education methods of delivery," "in-person continuing education course," "online continuing education course," and "virtual (or virtually) continuing education course." The proposed rules also amend the existing definition of "continuing education hour"; reorganize in alphabetical order the existing terms "continuing ed-

ucation hour" and "contract"; and renumber the terms in this section.

Subchapter E. Apprentice Permit.

The proposed rules amend §112.44, Apprentice Permit - Continuing Education. The proposed rules under subsection (a) reduce the required number of CE hours from 20 hours to 10 hours during the apprentice year; eliminate the requirement that all CE hours must be completed in the classroom; allow five CE hours to be completed online; and clarify that virtual courses are not considered online courses. The proposed rules amend subsection (b) to clarify that all CE courses completed during an apprentice year must be provided by a Department-registered continuing education provider. The proposed rules amend subsection (c) by requiring the permit holder to provide proof of attendance in a form and manner prescribed by the Department. The proposed rules add new subsections (d) and (e) to clarify that the apprentice permit holder will not receive credit for completing the same CE course more than once during the permit term, will not receive credit without attending the full CE course, and will not receive partial credit for attending less than the full course.

Subchapter H. Continuing Education Requirements.

The proposed rules repeal §112.70, Continuing Education - Hours and Courses. The requirements in this section are being repealed and replaced with the updated requirements in new §112.70.

The proposed rules add new §112.70, Continuing Education - Hours, Courses, and Methods of Delivery. This new section replaces existing §112.70, with the following proposed changes. The proposed rules change the title of this section from "Continuing Education - Hours and Courses" to "Continuing Education - Hours, Courses, and Methods of Delivery." The proposed rules reorganize this section to group the requirements for each CE method or activity into separate subsections. The proposed rules clarify in subsection (b) that a license holder may complete the 20 CE hours that are required each license term through the continuing education methods prescribed under subsections (c) - (g).

The proposed rules under subsection (c) allow hearing instrument fitter and dispenser license holders to earn the required CE hours by completing CE courses offered in-person, online, or virtually and prescribe the conditions under which the hours can be completed. The proposed rules increased the current limit on the number of CE hours received from a manufacturer CE provider from no more than five hours to no more than 10 hours per license term. The proposed rules continue the current limit on the number of online CE hours received to no more than 10 hours per license term, but the proposed rules clarify that virtual courses are not considered to be online course.

The proposed rules under subsection (d) clarify that a license holder may not receive more than five hours of CE credit per license term for preparation of a published book or article. The proposed rules under subsection (e) address earning CE credit for completion of academic courses related to the fitting and dispensing of hearing instruments. The proposed rules under subsection (f) address earning CE credit for participating in or teaching programs directly related to the fitting and dispensing of hearing instruments and limit the number of CE hours that may be received per license term to five CE hours. The proposed rules under subsection (g) authorize license holders to earn continuing education hours by serving as proctors for practical tests, with a maximum of one in-person CE hour per test date and four

in-person CE hours per license term. The proposed rules under subsection (h) address activities that will not receive CE credit, and the proposed rules under subsection (i) addresses statutory CE exemptions.

The proposed rules repeal §112.72, Continuing Education--Providers. The requirements in this section are being repealed and replaced with the updated requirements in new §§112.73 - 112.76.

The proposed rules add new §112.73, Continuing Education Provider--Registration Requirement and Application. The proposed rules require CE providers to register with the Department in order to offer or provide CE courses for the Hearing Instrument Fitters and Dispensers program. The proposed rules prescribe the application requirements for a CE provider registration. The proposed rules require the courses provided by a CE provider meet certain specified requirements, but the individual CE courses no longer must be approved by the Department.

The proposed rules add new §112.74, Continuing Education Provider--Issuance of Registration. The proposed rules provide details on CE provider registrations issued by the Department after a CE provider registration application has been approved.

The proposed rules add new §112.75, Continuing Education Provider--Registration Term; Renewal. The proposed rules extend the current CE provider registration term from one year to two years and specify the requirements for renewal and the consequences of non-renewal. The proposed rules include transition provisions. A registration is valid for one year if the registration was issued before May 1, 2025, or two years if the registration was issued on or after May 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 May 1, 2025, and must be renewed annually, or two years if the renewal was issued on or after May 1, 2025, and must be renewed every two years. The proposed rules also provide that a list of registered CE providers will be available through a search function on the Department's website.

The proposed rules add new §112.76, Continuing Education Provider--Provider Responsibilities. The proposed rules establish the responsibilities of CE providers registered with the Department and include provisions addressing advertisements, credit hours, delivery and administration of the courses, validation for online and virtual courses, certificates of completion, recordkeeping, and audits. The proposed rules also specify actions by a CE provider that constitute violations of the rules.

Subchapter L. Fees.

The proposed rules amend §112.110, Fees. The proposed rules under subsection (f) restructure registration and renewal fees for continuing education providers to align with the CE provider registration term that is being extended from one year to two years. The continuing education provider registration fee is increased from a \$200 fee paid upon application and then a \$200 fee paid annually upon renewal, to a \$400 fee paid upon application and a \$400 fee paid every two years upon renewal.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

State Government

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 reduc-

tions in costs to the state government to administer and enforce the proposed rules. The proposed rules do not impact program costs since they do not increase or decrease the need for personnel or resources. The activities required to implement the proposed rule changes, if any, are one-time program administration tasks that are routine in nature.

Mr. Couvillon has determined that in the first year of the first five years the proposed rules are in effect, a gain in revenue of \$1,800 is expected for the state government. As of August 1, 2024, there were 18 continuing education (CE) providers approved by TDLR. The proposed rules change a provider approval with a one-year term to a provider registration with a two-year term, and the fee paid will be \$400 every two years for a registration instead of \$200 annually for an approval. It is assumed that half the providers will renew before the rule change becomes effective in Fiscal Year One and the other half will renew after the change becomes effective. Thus, approximately half the providers would pay the current renewal fee of \$200 for a one-year approval, and the other half will pay the proposed renewal fee of \$400 for a two-year registration. Because half of the providers will pay the increased fee in the first fiscal year, the result will be an increase of revenue in that one year of \$1,800. In each subsequent year of the first five years the proposed rules are in effect, half as many providers will pay the increased fee, resulting in no additional revenue in those years.

Local Government

Mr. Couvillon 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 local governments, and there is no estimated increase or loss in revenue to local governments. Local governments are not responsible for administering the state regulation of hearing instrument fitters and dispensers under Occupations Code, Chapter 402. Thus, there are no foreseeable implications relating to costs or revenues of local governments as a result of enforcing or administering the proposed rules.

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.

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 additional flexibility on the methods of CE delivery and the types of CE hours that may be obtained, and the elimination of the need for individual CE courses to be approved. These proposed rules decrease the number of CE hours an apprentice permit holder must complete during the apprentice year. The proposed rules expand the methods of CE course delivery a hearing instrument fitter and dispenser license holder can use to earn CE hours; and provide details on alternative methods for a license holder to obtain CE hours. These proposed changes will make access to continuing education credit easier for licensees and permit holders and allow more flexibility when obtaining CE hours. The reduction in required CE hours may save apprentice permit holders the amount they pay in CE fees.

The proposed rules also repeal and replace the Department's approval of a provider with a registration and update application requirements for CE providers; delineate the registration is-

suance requirements for CE providers and the registration term and renewal requirements for CE providers; and identify the responsibilities imposed on CE providers. These changes will provide greater clarity and guidance to CE providers regarding the registration requirements and the CE providers' responsibilities.

The proposed rules also extend the CE provider registration term from one year to two years and increase the application fees from \$200 annually to \$400 every two years. In addition, the proposed rules eliminate the current requirement that each CE course offered or provided by a registered CE provider must be approved by the Department. These changes will allow providers to renew their registration less often and will reduce work for providers by eliminating the requirement to submit each course given for approval.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH THE PROPOSAL

Mr. Couvillon has determined that for each year of the first five-year period the proposed rules are in effect, there are no significant economic costs to persons who are required to comply with the proposed rules, including licensees, permit holders, and CE providers. The rules do not impose additional fees upon licensees or permit holders, nor do they create requirements that would obligate licensees or CE providers 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. The Hearing Instrument Fitters and Dispensers program regulates individuals, many of which may be established as a small or micro-business. Additionally Continuing Education Providers may also be established as a small or micro-business. It is unknown how many of these businesses, individuals or the entities that employ them fall within the definitions of a small or micro-business as data regarding the number of employees and gross annual sales is not collected by the agency. However, the proposed rules do not impose any costs so they cannot have an adverse economic effect on any 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 do not have a fiscal note that imposes a cost on regulated persons, including another state agency, a special district, or a local government. Thus, 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 do not require an increase or decrease in fees paid to the agency.
5. The proposed rules do not create a new regulation.
6. The proposed rules expand, limit, and repeal an existing regulation.

The proposed rules expand an existing regulation by adding definitions for clarification; by providing clarification on which activities count as CE and on the time basis to determine the amount of CE credited; by providing details on CE provider registrations issued by the Department after a CE provider registration application has been approved; by establishing additional responsibilities of CE providers registered with the Department; and by including provisions addressing and expanding requirements for advertisements, credit hours, delivery and administration of the courses, validation for online and virtual courses, certificates of completion, recordkeeping, and audits. The proposed rules also expand an existing regulation by specifying actions by a CE provider that constitute violations of the rules.

The proposed rules limit an existing regulation by eliminating the need for individual CE courses to be approved and by removing a provision authorizing the Department to consult with an advisory board member regarding provider applications.

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 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*.

SUBCHAPTER A. GENERAL PROVISIONS

16 TAC §112.2

STATUTORY AUTHORITY

The proposed rules are proposed under Texas Occupations Code, Chapters 51 and 402, 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 and 402. 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 to be adopted is House Bill 1560, 87th Legislature, Regular Session (2021).

§112.2. Definitions.

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

(1) - (7) (No change.)

(8) ~~[(40)]~~ Continuing education--Education intended to maintain and improve the quality of professional services in the fitting and dispensing of hearing instruments, to keep licensees knowledgeable of current research, techniques, and practices, and provide other resources which will improve skills and competence in the fitting and dispensing of hearing instruments.

~~[(8)]~~ Continuing education hour--A period of time equal to 50 minutes.

(9) Continuing education hour--A period of time equal to at least 50 minutes.

~~[(9)]~~ Contract--See definition for "written contract for services."

(10) Continuing education methods of delivery--The methods of delivering or providing continuing education courses, which include in-person, online, and virtual (or virtually) as those terms are defined in this section.

(11) (No change.)

(12) Contract--See definition for "written contract for services."

(13) ~~[(12)]~~ Department--The Texas Department of Licensing and Regulation.

(14) ~~[(13)]~~ Direct supervision--The physical presence with prompt evaluation, review and consultation of a supervisor any time a temporary training permit holder is engaged in the act of fitting and dispensing of hearing instruments.

(15) ~~[(14)]~~ Executive director--The executive director of the department.

(16) ~~[(15)]~~ Fitting and dispensing hearing instruments--The measurement of human hearing by the use of an audiometer or other means to make selections, adaptations, or sales of hearing instruments. The term includes prescribing, ordering, or authorizing the use of hearing instruments, the making of impressions for earmolds to be used as a part of the hearing instruments, and providing any necessary post-fitting counseling for the purpose of fitting and dispensing hearing instruments.

(17) ~~[(16)]~~ Hearing aid--Any wearable device designed for, offered for the purpose of, or represented as aiding persons with or compensating for impaired hearing. The term includes hearing instruments and over-the-counter hearing aids.

(18) ~~[(17)]~~ Hearing instrument--A prescription hearing aid as that term is defined by 21 C.F.R. Section 800.30.

(19) ~~[(18)]~~ Indirect supervision--The daily evaluation, review, and prompt consultation of a supervisor any time a permit holder is engaged in the act of fitting and dispensing hearing instruments.

(20) In-person continuing education course--A continuing education course that is delivered live and where the instructor and the

person taking the course are at the same physical location or the course is offered virtually.

(21) [(19)] License--A license issued by the department under the Act and this chapter to a person authorized to fit and dispense hearing instruments.

(22) [(20)] Licensee--Any person licensed or permitted by the department under Texas Occupations Code Chapter 401 or 402.

(23) [(21)] Manufacturer--The term includes a person who applies to be a continuing education provider who is employed by, compensated by, or represents an entity, business, or corporation engaged in any of the activities described in this paragraph. An entity, business, or corporation that:

(A) - (E) (No change.)

(24) [(22)] Non-Manufacturer--Any person, entity, buyer group, or corporation that does not meet the definition of a manufacturer.

(25) Online continuing education course--A continuing education course that is recorded and posted on a website for a person to take and complete. An online course does not include a live course delivered in-person or virtually. Virtual courses and webinars which are real-time and offer interaction between the provider and the attendee are not considered online courses.

(26) [(23)] Over-the-counter hearing aid--The term has the meaning assigned by 21 C.F.R. Section 800.30.

(27) [(24)] Person--An individual, corporation, partnership, or other legal entity.

(28) [(25)] Sale--The term includes a lease, rental, or any other purchase or exchange for value. The term does not include a sale at wholesale by a manufacturer to a person licensed under the Act or to a distributor for distribution and sale to a person licensed under the Act.

(29) [(26)] Specific Product Information--Specific product information shall include, but not be limited to, brand name, model number, shell type, and circuit type.

(30) [(27)] Supervisor--A supervisor is an individual who holds a valid license to fit and dispense hearing instruments under Texas Occupations Code, Chapter 401 or 402, other than an individual licensed under §401.311 or §401.312, and who meets the qualifications established by Texas Occupations Code, §402.255 and this chapter.

(31) [(28)] Telehealth--See definition(s) in Subchapter N, Telehealth.

(32) [(29)] Temporary training permit--A permit issued by the department to an individual who meets the qualifications established by Texas Occupations Code, Chapter 402, Subchapter F, and this chapter, to authorize the permit holder to fit and dispense hearing instruments only under the direct or indirect supervision, as required and as appropriate, of an individual who holds a license to fit and dispense hearing instruments without supervision under Texas Occupations Code, Chapter 401 or 402, other than an individual licensed under §401.311 or §401.312.

(33) Virtual (or virtually) continuing education course--A continuing education course delivered through a live webcast, video-conference, or other method that allows for real-time interaction or communications between the instructor and the persons taking the course. Virtual courses and webinars which are real-time and offer interaction between the provider and the attendee are not considered online courses.

(34) [(30)] Working days--Working days are Monday through Friday, 8:00 a.m. to 5:00 p.m.

(35) [(31)] Written contract for services--A written contract between the license holder and purchaser of a hearing instrument as set out in §112.140 (relating to Joint Rule Regarding the Sale of Hearing Instruments).

(36) [(32)] 30-day trial period--The period in which a person may cancel the purchase of a hearing instrument.

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 November 15, 2024.

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Doug Jennings

General Counsel

Texas Department of Licensing and Regulation

Earliest possible date of adoption: December 29, 2024

For further information, please call: (512) 475-4879



SUBCHAPTER E. APPRENTICE PERMIT

16 TAC §112.44

STATUTORY AUTHORITY

The proposed rules are proposed under Texas Occupations Code, Chapters 51 and 402, 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 and 402. 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 to be adopted is House Bill 1560, 87th Legislature, Regular Session (2021), the Department's Sunset legislation.

§112.44. *Apprentice Permit--Continuing Education.*

(a) The apprentice permit holder must complete 10 hours of continuing education during the apprentice year, with no more than five of the 10 hours being completed through online courses. Virtual courses are not considered online courses.

[(a) Pursuant to Texas Occupations Code §402.207, the apprentice permit holder must complete twenty (20) hours of classroom continuing education during the apprentice year.]

(b) The continuing education courses must be provided by a department-registered continuing education provider. The apprentice permit holder must complete the continuing education courses in one or more of the following approved subjects relating to the fitting and dispensing of hearing instruments:

(1) - (15) (No change.)

(c) The apprentice permit holder must provide written proof of attendance or completion of a continuing education [an approved]

course in a form and manner prescribed by the department [on a department-approved form or in a manner prescribed by the department].

(d) The apprentice permit holder will not receive credit for completing the same continuing education course more than once during the permit term.

(e) The apprentice permit holder will not receive credit unless the apprentice permit holder attended the full continuing education course. There is no partial credit for attending less than the full course.

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 November 15, 2024.

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Doug Jennings

General Counsel

Texas Department of Licensing and Regulation

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For further information, please call: (512) 475-4879



SUBCHAPTER H. CONTINUING EDUCATION REQUIREMENTS

16 TAC §112.70, §112.72

STATUTORY AUTHORITY

The proposed repeals are repealed under Texas Occupations Code, Chapters 51 and 402, 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 and 402. No other statutes, articles, or codes are affected by the proposed repeals.

The legislation that enacted the statutory authority under which the proposed repeals are proposed to be adopted is House Bill 1560, 87th Legislature, Regular Session (2021).

§112.70. Continuing Education--Hours and Courses.

§112.72. Continuing Education--Providers.

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 November 15, 2024.

TRD-202405540

Doug Jennings

General Counsel

Texas Department of Licensing and Regulation

Earliest possible date of adoption: December 29, 2024

For further information, please call: (512) 475-4879



16 TAC §§112.70, 112.73 - 112.76

STATUTORY AUTHORITY

The proposed rules are proposed under Texas Occupations Code, Chapters 51 and 402, 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 and 402. 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 to be adopted is House Bill 1560, 87th Legislature, Regular Session (2021), the Department's Sunset legislation.

§112.70. Continuing Education--Hours, Courses, and Methods of Delivery.

(a) This section applies to a hearing instrument fitter and dispenser license holder.

(b) Except as provided under subsection (i), a license holder must complete 20 continuing education hours during each license term. The hours may be completed through the continuing education methods prescribed under subsections (c) - (g).

(c) A license holder may earn the required continuing education hours by completing continuing education courses offered in-person, online, or virtually. The following conditions apply:

(1) A continuing education course must be provided by a continuing education provider that holds a current department registration.

(2) A license holder may not receive more than 10 hours of continuing education credit per license term from online courses offered by registered continuing education providers. Virtual courses are not considered to be online courses.

(3) A license holder may not receive more than 10 hours of continuing education credit per license term from in-person, online, or virtual courses offered by registered manufacturer continuing education providers.

(4) A license holder will not receive credit for completing the same continuing education course more than once during the same license term. If a provider offers the same course content through different methods of delivery (in-person, online, or virtual), the course is considered to be the same course.

(5) A license holder will not receive credit unless the license holder attended the full continuing education course. A license holder who is late or who leaves early will not receive credit for attending the continuing education course. There is no partial credit for attending less than the full course.

(d) A license holder may be credited with continuing education hours for a published book or article written by the license holder that contributes to the license holder's professional competence.

(1) The department may approve credit hours based on the degree that the published book or article advanced knowledge regarding the fitting and dispensing of hearing instruments.

(2) A license holder may not receive more than 5 hours of continuing education credit per license term for preparation of the published books or articles under this subsection.

(e) A license holder may be credited with continuing education hours for completion of academic courses at an accredited college or university in areas directly supporting development of skills and competence in the fitting and dispensing of hearing instruments.

(1) To receive credit for completion of academic work, the license holder must submit an official transcript(s) from accredited school(s) showing completion of hours in appropriate areas for which the license holder received a passing grade.

(2) A license holder may not receive more than the total number of academic credit hours earned per license term for the completion of academic courses at an accredited college or university in areas directly supporting development of skills and competence in the fitting and dispensing of hearing instruments.

(f) A license holder may be credited with continuing education hours for participating in or teaching programs directly related to the fitting and dispensing of hearing instruments, which are offered by an accredited college or university.

(1) These programs may include institutes, seminars, workshops, or conferences, but not academic courses for students.

(2) To receive credit for participating in or teaching programs, the license holder must submit to the department evidence sufficient to prove a direct relation between teaching programs claimed for continuing education credit directly relate to the fitting and dispensing of hearing instruments. The department resolves all questions of evidentiary sufficiency.

(3) A license holder may not receive more than 5 hours of continuing education credit per license term for participating in or teaching programs under this subsection.

(g) A license holder may be credited with in-person continuing education hours by serving as a proctor for the practical test, not to exceed one hour of in-person continuing education credit for each test date and with a maximum of four hours of in-person continuing education credit earned each license term.

(h) The department will not approve continuing education credit for any license holder for:

(1) education incidental to the regular professional activities of a license holder such as knowledge gained through experience or research;

(2) organization activity such as serving on committees or councils or as an officer in a professional organization; and

(3) any program which is not described in, or in compliance with, this section.

(i) Pursuant to Texas Occupations Code §402.305, the department may renew the license of a license holder who has not complied with the continuing education requirements if the license holder:

(1) submits proof from an attending physician that the license holder suffered a serious disabling illness or physical disability that prevented compliance with the continuing education requirements during the 24 months before the end of the license term; or

(2) was licensed for the first time during the 24 months before the end of the license term.

§112.73. Continuing Education Provider--Registration Requirement and Application.

(a) A continuing education provider must be registered by the department to offer or provide continuing education courses for the Hearing Instrument Fitters and Dispensers program. An applicant for a

continuing education provider registration shall meet the requirements set out in this subchapter.

(b) Unless otherwise indicated, an applicant must submit all required information in a form and manner prescribed by the department.

(c) To apply for a continuing education provider registration, a person must:

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

(2) specify whether the applicant is seeking to be registered as a manufacturer or a non-manufacturer continuing education provider;

(3) specify the method(s) of delivering continuing education courses (online, in-person, or virtual);

(4) provide a brief description of the applicant's capability in developing and instructing continuing education courses;

(5) provide a business plan with clearly defined purposes such as policies on inclement weather, refunds, and cancellations; and

(6) pay the provider initial application fee under §112.110.

(d) The courses provided by a continuing education provider must:

(1) include subject matter to increase or support the development of skills and competence in the fitting and dispensing of hearing instruments or in studies or disciplines related to fitting and dispensing of hearing instruments;

(2) have objectives of specific information and skills to be learned; and

(3) use educational methods and materials and qualified instructors and presenters to adequately implement learner objectives.

(e) An applicant must complete all registration requirements within one year from the date the application was submitted. After that year an applicant will be required to submit a new application and all required materials in addition to paying a new application fee.

§112.74. Continuing Education Provider--Issuance of Registration.

(a) The department will issue an applicant, whose application has been approved, a registration containing the registered provider's name, registration number, and expiration date.

(b) A continuing education provider registration issued by the department remains the property of the department.

(c) The department will issue a duplicate registration upon written request by the provider, in a form and manner prescribed by department, and upon payment of the duplicate/replacement fee under §112.110.

§112.75. Continuing Education Provider--Registration Term; Renewal.

(a) A provider registration is valid for two years from the date of issuance.

(1) An initial provider registration is valid for one year if the initial registration was issued before May 1, 2025; or two years if the initial registration was issued on or after May 1, 2025.

(2) A renewed provider registration is valid for one year if the renewed registration was issued before May 1, 2025; or two years if the renewed registration was issued on or after May 1, 2025.

(b) To renew the continuing education provider registration, the provider must:

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

(2) pay the provider registration renewal fee under §112.110.

(c) If the registration is not renewed on or before the expiration date, the registration expires. The continuing education provider may not offer or provide continuing education courses with an expired registration.

(d) A person whose registration has expired may renew the registration in accordance with 16 TAC §60.31 and §60.83. The continuing education provider is subject to late renewal fees.

(e) A list of registered continuing education providers will be available through a search function on the department's website.

§112.76. Continuing Education Provider--Provider Responsibilities.

(a) A registered provider must comply with all continuing education requirements set out in this subchapter.

(b) Advertisements. A registered provider may advertise as a registered continuing education provider for the Hearing Instrument Fitters and Dispensers program. A registered provider must include in all advertisements for a continuing education course the provider's registration number assigned to it by the department. A registered provider's website announcements concerning courses are considered advertisements for purposes of this rule.

(c) Credit hours. A registered provider will determine the number of hours of continuing education credit for a course. One hour of continuing education credit is equivalent to at least 50 minutes of actual instruction time.

(d) Delivery and administration of the courses.

(1) A registered provider must ensure that courses are delivered in a manner conducive to learning.

(2) If a registered provider offers the same course content through different methods of delivery (in-person, online, or virtual), the course is considered to be the same course.

(3) A registered provider must ensure that instructors possess both the subject matter knowledge they are teaching as well as the teaching ability required to impart the information.

(4) A registered provider is responsible for the conduct and administration of its courses, including the punctuality of classroom sessions, verification of participant attendance, and instructor performance.

(e) Validation for online and virtual courses.

(1) A registered provider shall maintain a method to validate the identity of the person taking the course.

(2) A registered provider shall incorporate a course content validation process that verifies a person's participation and comprehension of course material.

(f) Certificate of Completion. No later than 20 days after the date of the course, a registered provider shall issue a certificate of completion to each participant who attended and completed the entire continuing education course. The certificate of completion shall contain:

(1) the registered provider's name, registration number, and manufacturer or non-manufacturer status;

(2) the name of the participant and participant's license or permit number;

(3) the title of the course;

(4) the date and location of the course;

(5) the subject(s) included in the course;

(6) the delivery method of the course (in-person, online, or virtual);

(7) the number of continuing education credit hours given; and

(8) the signature of the registered provider.

(g) A registered provider shall not provide a certificate of completion to a participant who did not attend or complete the full continuing education course. A participant who is late or who leaves early will not receive credit for attending the continuing education course.

(h) A registered provider must maintain attendance and course completion records of all continuing education activities for a period of five years after completion of a course.

(i) The department may conduct an onsite or online audit of the continuing education courses offered by a provider.

(1) Audits may be conducted without prior notice to the provider, and department employees and representatives may enroll and attend a course without identifying themselves as employees or representatives of the department.

(2) Upon request, a provider shall provide information, including copies of specified records, to the department within 10 days of the date of the request.

(3) A provider shall cooperate fully with the department, its employees and representatives in the investigation of a complaint or performance of an audit.

(j) Violations. Any of the following actions by a registered provider is a violation of this chapter and may result in the assessment of administrative penalties and/or administrative sanctions against the registered provider:

(1) issuing a certificate of completion to an individual who did not complete the continuing education course;

(2) refusing to issue a certificate of completion to an individual who has satisfactorily completed a continuing education course;

(3) fraud or misrepresentation in an application for a provider registration;

(4) fraud or misrepresentation regarding maintenance of records, teaching method, program content, or issuance of certificates; or

(5) failing to cooperate with the department in an investigation or audit.

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 November 15, 2024.

TRD-202405541



SUBCHAPTER L. FEES

16 TAC §112.110

STATUTORY AUTHORITY

The proposed rules are proposed under Texas Occupations Code, Chapters 51 and 402, 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 and 402. 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 to be adopted is House Bill 1560, 87th Legislature, Regular Session (2021), the Department's Sunset legislation.

§112.110. *Fees.*

(a) - (e) (No change.)

(f) Continuing Education Provider Registration: [~~education provider fee--\$200 annually.~~]

(1) Initial application fee--\$200 before May 1, 2025; \$400 on or after May 1, 2025.

(2) Renewal application fee--\$200 before May 1, 2025; \$400 on or after May 1, 2025.

(g) - (j) (No change.)

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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TRD-202405539

Doug Jennings

General Counsel

Texas Department of Licensing and Regulation

Earliest possible date of adoption: December 29, 2024

For further information, please call: (512) 475-4879



TITLE 22. EXAMINING BOARDS

PART 21. TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS

CHAPTER 463. APPLICATIONS AND EXAMINATIONS

SUBCHAPTER B. LICENSING REQUIREMENTS

22 TAC §463.9

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Psychologists proposes amendments to §463.9, relating to Licensed Specialist in School Psychology.

Overview and Explanation of the Proposed Rule. The proposed amendment will amend language identified during the quadrennial rule review to align with statute regarding unlicensed practice of school psychology outside an educational program. The amendment will clarify an unlicensed individual may complete an internship or other program if begun while enrolled in a psychology program.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

Request for Public Comments. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on December 29, 2024, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §501.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Psychologists previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§463.9. *Licensed Specialist in School Psychology.*

(a) License Requirements. An applicant for licensure as a specialist in school psychology must:

- (1) hold an appropriate graduate degree;
- (2) provide proof of specific graduate level coursework;
- (3) provide proof of an acceptable internship;
- (4) provide proof of passage of all examinations required by the Council; and
- (5) meet the requirements imposed under §501.2525(a)(3) - (9) of the Occupations Code.

(b) Applicants who hold active certification as a Nationally Certified School Psychologist (NCSP) are considered to have met all requirements for licensure under this rule except for passage of the Jurisprudence Examination. Applicants relying upon this subsection must provide the Council with their NCSP certification number.

(c) Applicants who graduated from a training program accredited or approved by the National Association of School Psychologists or accredited in School Psychology by the American Psychological Association are considered to have met all training and internship requirements for licensure under this rule. Applicants relying upon this subsection must submit an official transcript indicating the degree and date the degree was awarded or conferred.

(d) Appropriate Graduate Degrees.

(1) Applicants who do not hold active NCSP certification, or who did not graduate from a training program accredited or approved by the National Association of School Psychologists or accredited in School Psychology by the American Psychological Association, must have completed a graduate degree in psychology from a regionally accredited institution of higher education. For purposes of this rule, a graduate degree in psychology means the name of the candidate's major or program of study is titled psychology.

(2) Applicants applying under this subsection must have completed, either as part of their graduate degree program or after conferral of their graduate degree, at least 60 graduate level semester credit hours from a regionally accredited institution of higher education. A maximum of 12 internship hours may be counted toward this requirement.

(3) An applicant who holds a graduate degree that does not qualify under subsection (d)(1) but meets the requirements of subsection (d)(2) is considered to have an appropriate graduate degree if:

(A) the applicant holds a certificate of completion from a graduate-level training program designed to train individuals from related disciplines in the practice of school psychology;

(B) the applicant holds a graduate degree in a discipline related to psychology from a regionally accredited institution of higher education;

(C) the applicant is licensed, certified, or registered in good standing to practice school psychology in another jurisdiction; or

(D) the applicant was licensed, certified, or registered to practice school psychology in another jurisdiction within the previous

ten years before application for licensure and was not subject to any administrative or disciplinary actions during that same time period.

(e) Applicants applying under subsection (d) of this section must submit evidence of graduate level coursework as follows:

- (1) Psychological Foundations, including:
 - (A) biological bases of behavior;
 - (B) human learning;
 - (C) social bases of behavior;
 - (D) multi-cultural bases of behavior;
 - (E) child or adolescent development;
 - (F) psychopathology or exceptionalities;
- (2) Research and Statistics;
- (3) Educational Foundations, including any of the following:
 - (A) instructional design;
 - (B) organization and operation of schools;
 - (C) classroom management; or
 - (D) educational administration;
- (4) School-based Assessment, including:
 - (A) psychoeducational assessment;
 - (B) socio-emotional, including behavioral and cultural, assessment;
- (5) School-based Interventions, including:
 - (A) counseling;
 - (B) behavior management;
 - (C) consultation;
- (6) Professional, Legal and Ethical Issues; and
- (7) A School-based Practicum.

(f) Applicants applying under subsection (d) of this section must have completed an internship with a minimum of 1200 hours and that meets the following criteria:

- (1) At least 600 of the internship hours must have been completed in a public school.
- (2) The internship must be provided through a formal course of supervised study from a regionally accredited institution of higher education in which the applicant was enrolled; or the internship must have been obtained in accordance with Council §463.11(d)(1) and (d)(2)(C) of this title.
- (3) Any portion of an internship completed within a public school must be supervised by a Licensed Specialist in School Psychology, and any portion of an internship not completed within a public school must be supervised by a Licensed Psychologist.
- (4) No experience which is obtained from a supervisor who is related within the second degree of affinity or consanguinity to the supervisee may be utilized.
- (5) Unless authorized by the Council, supervised experience received from a supervisor practicing with a restricted license may not be utilized to satisfy the requirements of this rule.

(6) Internship hours must be obtained in not more than two placements. A school district, consortium, and educational co-op are each considered one placement.

(7) Internship hours must be obtained in not less than one or more than two academic years.

(8) An individual completing an internship under this rule must be designated as an intern.

(9) Interns must receive no less than two hours of supervision per week, with no more than half being group supervision. The amount of weekly supervision may be reduced, on a proportional basis, for interns working less than full-time.

(10) The internship must include direct intern application of assessment, intervention, behavior management, and consultation, for children representing a range of ages, populations and needs.

(g) Provision of psychological services in the public schools by unlicensed individuals.

(1) An unlicensed individual may provide psychological services under supervision in the public schools if[]

~~[(A)] the individual is enrolled in an internship, practicum or other site based training in a psychology program in a regionally accredited institution of higher education. An unlicensed individual no longer enrolled in a psychology program may nevertheless continue providing psychological services through completion of an internship, practicum, or other site based training begun while enrolled in the psychology program.[or]~~

~~[(B)] the individual has completed an internship that meets the requirements of this rule, and has submitted an application for licensure as a Licensed Specialist in School Psychology to the Council that has not been denied or returned.~~

(2) An unlicensed individual may not provide psychological services in a private school setting unless the activities or services provided are exempt under §501.004 of the Psychologists' Licensing Act.

~~[(3)] An unlicensed individual may not engage in the practice of psychology under paragraph (1)(B) of this subsection for more than forty-five days following receipt of the application by the Council.~~

~~[(4)] The authority to practice referenced in paragraph (1)(B) of this subsection is limited to the first or initial application filed by an individual under this rule, but is not applicable to any subsequent applications filed under this rule.~~

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 November 18, 2024.

TRD-202405571

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Psychologists

Earliest possible date of adoption: December 29, 2024

For further information, please call: (512) 305-7706



22 TAC §463.10

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Psychologists proposes amendments to §463.10, relating to Licensed Psychologists.

Overview and Explanation of the Proposed Rule. The proposed amendment will remove language identified during the quadrennial rule review to align with statute regarding waiving experience requirements for applicants with a license in another jurisdiction.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency;

it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

Request for Public Comments. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on December 29, 2024, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §501.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Psychologists previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§463.10. *Licensed Psychologists.*

(a) Licensure Requirements. An applicant for licensure as a psychologist must:

- (1) hold a doctoral degree in psychology from a college or university accredited by a regional accrediting organization;
- (2) pass all examinations required by the agency;
- (3) submit documentation of supervised experience from a licensed psychologist which satisfies the requirements of Council §463.11 of this title; and
- (4) meet all other requirements of §501.2525 of the Occupations Code.

(b) Degree Requirements.

(1) For those applicants with a doctoral degree conferred on or after January 1, 1979, the transcript must state that the applicant has a doctoral degree that designates a major in psychology.

(2) For those applicants with a doctoral degree conferred prior to January 1, 1979, the transcript must reflect a doctoral degree that designates a major in psychology or the substantial equivalent of a doctoral degree in psychology in both subject matter and extent of training. A doctoral degree will be considered the substantial equivalent to a doctoral degree in psychology if the training program meets the criteria of Council rule §463.15 of this title.

(c) An applicant who holds an active Certificate of Professional Qualification in Psychology (CPQ) is considered to have met all requirements for licensure under this rule except for passage of the Jurisprudence Examination. Applicants relying upon this subsection must request that documentation of their certification be sent directly to the Council from the Association of State and Provincial Psychology Boards (ASPPB), be submitted to the Council in the sealed envelope in which it was received by the applicant from ASPPB, or be submitted to the Council as directed by agency staff.

(d) An applicant who holds an active specialist certification with the American Board of Professional Psychology (ABPP) is considered to have met all requirements for licensure under this rule except for passage of the EPPP and Jurisprudence Examination. Applicants relying upon this subsection must request that documentation of their specialist certification be sent directly to the Council from ABPP, be submitted to the Council in the sealed envelope in which it was received by the applicant from ABPP, or be submitted to the Council as directed by agency staff.

(e) The requirement for documentation of supervised experience under this rule is waived for an applicant who is actively licensed as a doctoral-level psychologist in good standing and has been practicing psychology in another jurisdiction for at least five years. ~~[or can affirm that the applicant has received at least 3,000 hours of supervised experience from a licensed psychologist in the jurisdiction where the supervision took place. At least half of those hours (a minimum of 1,500 hours) must have been completed within a formal internship, and the remaining one-half (a minimum of 1,500 hours) must have been completed after the doctoral degree was conferred.]~~ Applicants relying upon this subsection must request that verification of their out-of-state licensure be sent directly to the Council from the other jurisdiction, be submitted to the Council in the sealed envelope in which it was received by the applicant from the other jurisdiction, or be submitted to the Council as directed by agency staff.

(f) Provisional License.

(1) An applicant who has not yet passed the required examinations or is seeking to acquire the supervised experience required under Council §463.11 of this title may practice under the supervision

of a licensed psychologist as a provisionally licensed psychologist for not more than two years if the applicant meets all other licensing requirements.

(2) A provisional license will be issued to an applicant upon proof of provisional license eligibility. However, a provisional license will not be issued to an applicant who was issued a provisional license in connection with a prior application.

(3) A provisionally licensed psychologist is subject to all applicable laws governing the practice of psychology.

(4) A provisionally licensed psychologist may be made the subject of an eligibility or disciplinary proceeding. The two-year period for provisional licensure shall not be tolled by any suspension of the provisional license.

(5) A provisional license will expire after two years if the person does not qualify for licensure as a psychologist

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 November 18, 2024.

TRD-202405572

Darrel D. Spinks
Executive Director

Texas State Board of Examiners of Psychologists
Earliest possible date of adoption: December 29, 2024
For further information, please call: (512) 305-7706



SUBCHAPTER E. EXAMINATIONS

22 TAC §463.31

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Psychologists proposes amendments to §463.31, relating to Minimum Passing Scores for Examinations.

Overview and Explanation of the Proposed Rule. The proposed amendment would reduce the required passing score on the psychology jurisprudence exam from 90% to 85%.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be

no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

Request for Public Comments. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on December 29, 2024, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this

State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §501.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Psychologists previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §501.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§463.31. Minimum Passing Scores for Examinations.

(a) Cut-off Scores for the Examination for Professional Practice in Psychology. The minimum acceptable score for the Examination for Professional Practice in Psychology is 500 for computer based examinations and seventy percent (70%) for paper based versions of the test.

(b) Cut-off Scores for the School Psychology Examination. The minimum acceptable score for the School Psychology Examination is the same as the current cut-off score for the Nationally Certified School Psychologist credential.

(c) Cut-off Scores for the Jurisprudence Examination. The minimum acceptable score for the Jurisprudence Examination for all applicants is eighty-five (85%) [~~ninety percent (90%)~~].

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 November 18, 2024.

TRD-202405573

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Psychologists

Earliest possible date of adoption: December 29, 2024

For further information, please call: (512) 305-7706

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PART 30. TEXAS STATE BOARD OF EXAMINERS OF PROFESSIONAL COUNSELORS

CHAPTER 681. PROFESSIONAL COUNSELORS

SUBCHAPTER B. RULES OF PRACTICE

22 TAC §681.37

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Professional Counselors proposes amendments to §681.37, relating to Billing and Financial Arrangements.

Overview and Explanation of the Proposed Rule. The proposed amendment will remove language identified during the quadrennial rule review to better align with the agency's statute.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity and consistency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is

required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

Request for Public Comments. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on December 29, 2024, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §503.2015 of the Tex. Occ. Code the Texas State Board of Examiners of Professional Counselors previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §503.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education re-

quirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 503 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§681.37. Billing and Financial Arrangements.

(a) Billing Requirements.

(1) A licensee must bill clients or third parties for only those services actually rendered or as agreed to by mutual understanding at the beginning of services or as later modified by mutual written agreement.

(2) Relationships between a licensee and any other person used by the licensee to provide services to a client must be so reflected on billing documents.

(3) Upon the written request of a client, a client's guardian, or a client's parent (sole managing, joint managing or possessory conservator) if the client is a minor, a licensee must provide, in plain language, a written explanation of the types of treatment and charges for counseling treatment intervention previously made on a bill or statement for the client. This requirement applies even if the charges are to be paid by a third party.

(4) A licensee may not knowingly overcharge a client.

(5) A licensee may not submit to a client or a third party payor a bill for counseling treatment intervention the licensee knows or should know is improper, unreasonable, or unnecessary. However, nothing in this rule should be construed to prevent a licensee from submitting a bill for an unkept appointment.

(b) In accordance with §503.401(a)(4) of the Act, a licensee must not intentionally or knowingly offer to pay or agree to accept any remuneration directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, corporation, or entity for securing or soliciting clients or patronage.

(c) A licensee employed or under contract with a chemical dependency facility or a mental health facility must comply with the requirements in the Texas Health and Safety Code, §164.006, relating to soliciting and contracting with certain referral sources. [~~Compliance with the Treatment Facilities Marketing Practices Act, Texas Health and Safety Code Chapter 164, will not be considered as a violation of state law relating to illegal remuneration.~~]

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 November 18, 2024.

TRD-202405587

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Professional Counselors

Earliest possible date of adoption: December 29, 2024

For further information, please call: (512) 305-7706

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22 TAC §681.41

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Professional Counselors proposes amendments to §681.41, relating to General Ethical Requirements.

Overview and Explanation of the Proposed Rule. The proposed amendment will remove language identified during the quadrennial rule review as potentially unenforceable, while not changing the substantive requirement that a licensee not make or benefit from false, misleading, deceptive, fraudulent, or exaggerated claims.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity and consistency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council esti-

mates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

Request for Public Comments. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on December 29, 2024, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §503.2015 of the Tex. Occ. Code the Texas State Board of Examiners of Professional Counselors previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §503.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 503 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§681.41. General Ethical Requirements.

(a) A licensee must not make any false, misleading, deceptive, fraudulent or exaggerated claim or statement about the licensee's services, including, but not limited to:

(1) the effectiveness of services;

(2) the licensee's qualifications, capabilities, background, training, experience, education, professional affiliations, fees, products, or publications; or

(3) the practice or field of counseling.

(b) A licensee must not make any false, misleading, deceptive, fraudulent or exaggerated claim or statement about the services of a mental health organization or agency, including, but not limited to, the effectiveness of services, qualifications, or products.

~~[(e) A licensee must discourage a client from holding exaggerated or false ideas about the licensee's professional services, including, but not limited to, the effectiveness of the services, practice, qualifications, associations, or activities. If a licensee learns of exaggerated or false ideas held by a client or other person, the licensee must take immediate and reasonable action to correct the ideas held.]~~

~~[(d) A licensee must make reasonable efforts to discourage others whom the licensee does not control from making misrepresentations; exaggerated or false claims; or false, deceptive, or fraudulent statements about the licensee's practice, services, qualifications, associations, or activities. If a licensee learns of a misrepresentation; exaggerated or false claim; or false, deceptive, or fraudulent statement made by another, the licensee must take reasonable action to correct the statement.]~~

(c) ~~[(e)]~~ Technological means of communication may be used to facilitate the therapeutic counseling process.

(d) ~~[(f)]~~ A licensee may take reasonable action to inform medical or law enforcement personnel if the licensee determines there is a probability of imminent physical injury by the client to the client or others, or there is a probability of immediate mental or emotional injury to the client.

(e) ~~[(g)]~~ The licensee must take reasonable precautions to protect clients from physical or emotional harm resulting from interaction:

(1) within a group; or

(2) individual counseling.

(f) ~~[(h)]~~ A licensee must not evaluate any individual's mental, emotional, or behavioral condition unless the licensee has personally interviewed the individual or the licensee discloses in the evaluation the licensee has not personally interviewed the individual.

(g) ~~[(i)]~~ A licensee must not knowingly overtreat a client.

(h) ~~[(j)]~~ A licensee must not aid or abet the unlicensed practice of professional counseling by a person required to be licensed under the Act.

(i) ~~[(k)]~~ A licensee must report to the Council knowledge of any unlicensed practice of counseling.

(j) ~~[(l)]~~ A licensee or an applicant must not participate in the falsification of any materials submitted to the Council.

(k) [(m)] A licensee must not provide services while impaired by a physical, mental, or medical condition or by medication, drugs, or alcohol.

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 November 18, 2024.

TRD-202405588

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Professional Counselors

Earliest possible date of adoption: December 29, 2024

For further information, please call: (512) 305-7706



22 TAC §681.44

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Professional Counselors proposes repeal of §681.44, relating to Drugs and Alcohol Use.

Overview and Explanation of the Proposed Rule. The proposed repeal will remove language identified during the quadrennial rule review as unnecessary and duplicative, without changing the substantive impact of the rules.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed repeal is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of no longer enforcing or administering the rule. Additionally, Mr. Spinks has determined that repealing the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed repeal is in effect there will be a benefit to licensees, applicants, and the general public because the proposed repeal will provide greater clarity and consistency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of repealing the rule language will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed repeal is in effect, there will be no additional economic costs to persons required to comply with this repeal.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed repeal is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed repeal will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed repeal will have no impact on local em-

ployment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed repeal does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed repeal is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed repeal is in effect, the Executive Council estimates that the proposed repeal will have no effect on government growth. The proposed repeal does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed repeal. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

Request for Public Comments. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on December 29, 2024, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This repeal is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The repeal is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this repeal pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §503.2015 of the Tex. Occ. Code the Texas State Board of Examiners of Professional Counselors previously voted and, by a majority, approved to propose this repeal to the Executive Council. The repeal is specifically authorized by §503.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, stan-

dards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this repeal in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this repeal to the Executive Council. Therefore, the Executive Council has complied with Chapters 503 and 507 of the Texas Occupations Code and may propose this repeal.

Lastly, the Executive Council proposes this repeal under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§681.44. Drugs and Alcohol Use.

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 November 18, 2024.

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Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Professional Counselors

Earliest possible date of adoption: December 29, 2024

For further information, please call: (512) 305-7706



22 TAC §681.47

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Professional Counselors proposes repeal of §681.47, relating to Assumed Names.

OVERVIEW AND EXPLANATION OF THE PROPOSED RULE. The proposed repeal will remove language identified during the quadrennial rule review as potentially in conflict with the Texas Business and Commerce Code, while not changing the substantive requirement in other rules that a licensee not make or benefit from false, misleading, deceptive, fraudulent, or exaggerated claims.

FISCAL NOTE. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed repeal is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of no longer enforcing or administering the rule. Additionally, Mr. Spinks has determined that repealing the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

PUBLIC BENEFIT. Mr. Spinks has determined for the first five-year period the proposed repeal is in effect there will be a benefit to licensees, applicants, and the general public because the proposed repeal will provide greater clarity and consistency in the

Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of repealing the rule language will be to help the Executive Council protect the public.

PROBABLE ECONOMIC COSTS. Mr. Spinks has determined for the first five-year period the proposed repeal is in effect, there will be no additional economic costs to persons required to comply with this repeal.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT STATEMENT. Mr. Spinks has determined for the first five-year period the proposed repeal is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO-BUSINESSES AND RURAL COMMUNITIES. Mr. Spinks has determined that the proposed repeal will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

LOCAL EMPLOYMENT IMPACT STATEMENT. Mr. Spinks has determined that the proposed repeal will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

REQUIREMENT FOR RULES INCREASING COSTS TO REGULATED PERSONS. The proposed repeal does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed repeal is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

GOVERNMENT GROWTH IMPACT STATEMENT. For the first five-year period the proposed repeal is in effect, the Executive Council estimates that the proposed repeal will have no effect on government growth. The proposed repeal does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

TAKINGS IMPACT ASSESSMENT. Mr. Spinks has determined that there are no private real property interests affected by the proposed repeal. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on December 29, 2024, which is at

least 30 days from the date of publication of this proposal in the *Texas Register*.

APPLICABLE LEGISLATION. This repeal is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

STATUTORY AUTHORITY. The repeal is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this repeal pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §503.2015 of the Tex. Occ. Code the Texas State Board of Examiners of Professional Counselors previously voted and, by a majority, approved to propose this repeal to the Executive Council. The repeal is specifically authorized by §503.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this repeal in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this repeal to the Executive Council. Therefore, the Executive Council has complied with Chapters 503 and 507 of the Texas Occupations Code and may propose this repeal.

Lastly, the Executive Council proposes this repeal under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§681.47. *Assumed Names.*

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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Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Professional Counselors

Earliest possible date of adoption: December 29, 2024

For further information, please call: (512) 305-7706



22 TAC §681.49

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Professional Counselors proposes amendments to §681.49, relating to Advertising and Announcements.

Overview and Explanation of the Proposed Rule. The proposed amendment will remove language identified during the quadrennial rule review as potentially unenforceable, while not changing the substantive requirement that a licensee not make or benefit from false, misleading, or deceptive advertising.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity and consistency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or de-

crease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

Request for Public Comments. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on December 29, 2024, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §503.2015 of the Tex. Occ. Code the Texas State Board of Examiners of Professional Counselors previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §503.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 503 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§681.49. Advertising and Announcements.

(a) Information used by a licensee in any advertisement or announcement must not contain information which is false, inaccurate, misleading, incomplete, out of context, deceptive or not readily verifiable. Advertising includes, but is not limited to, any announcement of services, letterhead, business cards, commercial products, and billing statements.

(b) False, misleading, or deceptive advertising or advertising that is not readily subject to verification includes advertising that:

(1) makes any misrepresentation of fact or omits a fact necessary to make the statement misleading;

(2) makes any representation likely to create an unjustified expectation about the results of a mental health care service or procedure;

(3) compares a mental health care professional's services with another health care professional's services unless the comparison can be factually substantiated;

(4) contains a testimonial that includes false, deceptive, or misleading statements, or fails to include disclaimers or warnings as to the credentials of the person making the testimonial;

(5) causes confusion or misunderstanding as to the credentials, education, or licensure of a mental health care professional;

(6) advertises or represents 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;

(7) advertises or represents that the benefits of a health benefit plan will be accepted as full payment when deductibles or co-payments are required; or

~~[(8) makes a representation that is designed to take advantage of the fears or emotions of a particularly susceptible type of patient; or]~~

(8) ~~[(9)]~~ advertises or represents in the use of a professional name a title or professional identification that is expressly or commonly reserved for or used by another profession or professional.

(c) A licensee who retains or hires others to advertise or promote the licensee's practice remains responsible for the statements and representations.

(d) The highest academic degree in counseling or a counseling-related field earned from an accredited school may be used when advertising or announcing counseling treatment intervention to the public or in counseling-related professional representations. A degree in counseling or a counseling-related field received at a foreign university may be used if the degree would be accepted as a transfer degree by an accredited school.

(e) Notwithstanding the foregoing, a licensee may advertise or announce his or her other degrees from an accredited school if the subject of the degree is specified.

(f) The Council imposes no restrictions on advertising by a licensee with regard to the use of any medium, the licensee's personal appearance, or the use of his or her personal voice, the size or duration of an advertisement by a licensee, or the use of a trade name.

(g) All advertisements or announcements of counseling including telephone directory listings by a person licensed by the Council must clearly state the licensee's licensure status by the use of a title such as "Licensed Counselor", or "Licensed Professional Counselor", or "LPC", or a statement such as "licensed by the Texas

Behavioral Health Executive Council" with reference to the "Texas State Board of Examiners of Professional Counselors."

(h) An LPC Associate must indicate Associate status on all advertisements, billing, and announcements of counseling treatment by the use of the term "LPC Associate. "On all advertisements, billings and announcements of counseling treatment by an LPC Associate, the Associate's name must be followed by the name of the supervisor.

(i) A licensee is required to hold the art therapy specialty designation in order to use the title "art therapist" or the initials "AT." A licensee who does not hold the designation may use art therapy as a counseling method but may not use the title or initials.

(j) A licensed professional counselor who is a Council-approved supervisor may use the designation "LPC-S" when advertising their supervisory 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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Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Professional Counselors

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For further information, please call: (512) 305-7706



SUBCHAPTER C. APPLICATION AND LICENSING

22 TAC §681.81

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Professional Counselors proposes amendments to §681.81, relating to General Academic Requirements.

Overview and Explanation of the Proposed Rule. The proposed amendment will remove language identified during the quadrennial rule review that is superseded by Council rule §882.11.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity and consistency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be

no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

Request for Public Comments. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on December 29, 2024, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this

State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §503.2015 of the Tex. Occ. Code the Texas State Board of Examiners of Professional Counselors previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §503.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 503 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§681.81. General Academic Requirements.

(a) The Council will accept as meeting academic requirements graduate degrees from accredited schools that meet the requirements of §681.82 of this title. [~~(relating to Academic Requirements)~~ and §681.83 of this title. ~~(relating to Academic Course Content).~~]

(b) [~~Degrees and course work received at foreign universities will be acceptable only if such course work would be counted as transfer credit by an accredited school.~~] The applicant must provide the Council with documents and evidence to establish his or her formal education is equivalent to at least a master's degree granted by an accredited school. In order to meet this requirement the applicant must comply with Council §882.11 of this title. [~~(relating to Applicants with Foreign Degrees).~~]

(c) Applicants must provide upon request a course description from an official school catalog or bulletin or a course syllabus to substantiate the relevance of the course to the academic requirements of §681.83 of this title.

(d) The Council will not consider undergraduate level courses as meeting any academic requirements for licensure unless the applicant's official transcript clearly shows the course was awarded graduate credit by the school.

(e) The Council will consider courses for which an applicant's official transcript indicates a passing grade or credit was earned.

(f) In evaluating transcripts, the Council will consider a quarter hour of academic credit as two-thirds of a semester hour.

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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Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Professional Counselors

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For further information, please call: (512) 305-7706



22 TAC §681.92

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Professional Counselors proposes amendments to §681.92, relating to Experience Requirements.

Overview and Explanation of the Proposed Rule. The proposed amendment will remove language identified during the quadrennial rule review as unnecessary and duplicative, without changing the substantive impact of the rule.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity and consistency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

Request for Public Comments. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on December 29, 2024, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §503.2015 of the Tex. Occ. Code the Texas State Board of Examiners of Professional Counselors previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §503.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 503 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§681.92. *Experience Requirements.*

(a) All applicants for LPC licensure must complete supervised experience acceptable to the Council of 3,000 clock-hours under a Council-approved supervisor.

(1) All internships physically occurring in Texas must be completed under the supervision of a Council-approved supervisor.

(2) For all internships physically completed in a jurisdiction other than Texas, the supervisor must be a person licensed or certified by that jurisdiction in a profession that provides counseling and who has the academic training and experience to supervise the counseling services offered by the Associate. The applicant must provide documentation acceptable to the Council regarding the supervisor's qualifications.

(b) The supervised experience must include at least 1,500 clock-hours of direct client counseling contact. Only actual time spent counseling may be counted.

(c) An LPC Associate may not complete the required 3,000 clock-hours of supervised experience in less than 18 months.

(d) The experience must consist primarily of the provision of direct counseling services within a professional relationship to clients by using a combination of mental health and human development principles, methods, and techniques to achieve the mental, emotional, physical, social, moral, educational, spiritual, or career-related development and adjustment of the client throughout the client's life.

(e) The LPC Associate must receive direct supervision consisting of a minimum of four (4) hours per month of supervision in individual (up to two Associates or group (three or more) settings while the Associate is engaged in counseling unless an extended leave of one month or more is approved in writing by the Council approved supervisor. No more than 50% of the total hours of supervision may be received in group supervision.

~~[(f) An LPC Associate may have up to two (2) supervisors at one time.]~~

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 November 18, 2024.

TRD-202405593



22 TAC §681.101

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Professional Counselors proposes amendments to §681.101, relating to Examinations.

Overview and Explanation of the Proposed Rule. The proposed amendment will remove language identified during the quadrennial rule review as unnecessary, without changing the substantive impact of the rule.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity and consistency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the

residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

Request for Public Comments. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on December 29, 2024, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §503.2015 of the Tex. Occ. Code the Texas State Board of Examiners of Professional Counselors previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §503.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Ex-

ecutive Council. Therefore, the Executive Council has complied with Chapters 503 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§681.101. Examinations.

[(a)] Each applicant for licensure is required to take and pass the National Counselor Exam or the National Clinical Mental Health Counselor Exam and complete the jurisprudence exam prior to application.

[(b) The development or administration of the examination may be contracted to a national testing company.]

[(c) The National Counselor Examination and the National Clinical Mental Health Counselor Exam are administered at testing centers located in various cities throughout the state. The jurisprudence exam is available online at the Council's website.]

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 November 18, 2024.

TRD-202405594

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Professional Counselors

Earliest possible date of adoption: December 29, 2024

For further information, please call: (512) 305-7706



SUBCHAPTER D. SCHEDULE OF SANCTIONS

22 TAC §681.204

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Professional Counselors proposes amendments to §681.204, relating to Other Actions.

Overview and Explanation of the Proposed Rule. The proposed amendment will remove language identified during the quadrennial rule review to better align with the agency's statute.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity and consistency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public

benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

Request for Public Comments. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on December 29, 2024, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §503.2015 of the Tex. Occ. Code the Texas State Board of Examiners of Professional Counselors previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §503.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 503 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§681.204. Other Actions.

Complaints may be resolved by issuance of a warning letter [or a conditional letter of agreement, which does not involve a formal disciplinary action].

[(1)] Warning letters inform licensees of their duties under the Act, the Council Act, or council rules, and whether the council has a concern about the circumstances surrounding the complaint.

[(2)] A conditional letter of agreement informs the licensee of the licensee's duties under the Act, the Council Act, or Council rules; whether the conduct or omission complained of appears to violate such duties, and creating Council ordered conditions for the long-term resolution of the issues in the complaint. This conditional letter of agreement specifies the immediate disposition of the complaint. The licensee is issued the conditional letter of agreement by staff; and a signature of agreement by the licensee is required. If the licensee fails to comply with all the Council ordered conditions in the specified time frame outlined in the conditional letter agreement, staff will open a new complaint arising out of non-compliance with the conditional letter agreement or the underlying conduct.]

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 November 18, 2024.

TRD-202405595

Darrel D. Spinks
Executive Director

Texas State Board of Examiners of Professional Counselors

Earliest possible date of adoption: December 29, 2024

For further information, please call: (512) 305-7706



22 TAC §681.205

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Professional Counselors proposes amendments to §681.205, relating to Schedule of Sanctions.

Overview and Explanation of the Proposed Rule. The proposed amendment would update the schedule of sanctions to reflect amendments proposed in other rules.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity and consistency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is

required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

Request for Public Comments. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on December 29, 2024, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §503.2015 of the Tex. Occ. Code the Texas State Board of Examiners of Professional Counselors previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §503.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care,

and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 503 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§681.205. *Schedule of Sanctions.*

The following standard shall apply to violations of the Act and these rules.

Figure: 22 TAC §681.205

[Figure: 22 TAC §681.205]

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 November 18, 2024.

TRD-202405596

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Professional Counselors

Earliest possible date of adoption: December 29, 2024

For further information, please call: (512) 305-7706



PART 34. TEXAS STATE BOARD OF SOCIAL WORKER EXAMINERS

CHAPTER 781. SOCIAL WORKER LICENSURE

SUBCHAPTER B. RULES OF PRACTICE

22 TAC §781.306

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Social Worker Examiners proposes amendments to §781.306, relating to Professional Representation.

Overview and Explanation of the Proposed Rule. The proposed amendment will remove language identified during the quadrennial rule review as potentially unenforceable, while not changing the substantive requirement that a licensee not make or benefit from false, misleading, deceptive, fraudulent, or exaggerated claims.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity and consistency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

Request for Public Comments. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the->

[rulemaking-process/](#). The deadline for receipt of comments is 5:00 p.m., Central Time, on December 29, 2024, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §505.2015 of the Tex. Occ. Code the Texas State Board of Social Worker Examiners previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §505.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 505 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§781.306. *Professional Representation.*

(a) A social worker shall not misrepresent any professional qualifications or associations.

(b) A social worker shall not misrepresent the attributes of any agency or organization, or make unreasonable, misleading, deceptive, fraudulent, exaggerated, or unsubstantiated claims about the effectiveness of any services.

~~[(c) A social worker shall not encourage, or within the social worker's power, allow a client to hold exaggerated ideas about the effectiveness of the social worker's services.]~~

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 November 18, 2024.

TRD-202405574

Darrel D. Spinks

Executive Director

Texas State Board of Social Worker Examiners

Earliest possible date of adoption: December 29, 2024

For further information, please call: (512) 305-7706



22 TAC §781.310

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Social Worker Examiners proposes amendments to §781.310, relating to Billing and Financial Relationships.

Overview and Explanation of the Proposed Rule. The proposed amendment will remove language identified during the quadrennial rule review to better align with the agency's statute.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity and consistency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is

required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

Request for Public Comments. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on December 29, 2024, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §505.2015 of the Tex. Occ. Code the Texas State Board of Social Worker Examiners previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §505.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education re-

quirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 505 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§781.310. *Billing and Financial Relationships.*

(a) A licensee shall not intentionally or knowingly offer to pay or agree to accept any remuneration directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, corporation, or entity for securing or soliciting clients or patronage for or from any health care professional. In accordance with the provisions of the Act, §505.451, a licensee is subject to disciplinary action if the licensee directly or indirectly offers to pay or agrees to accept remuneration to or from any person for securing or soliciting a client or patronage. Payment of credentialing or other fees to insurance companies or other third party payers to be part of an approved provider list shall not be considered as a violation of this chapter.

(b) A licensee employed or under contract with a chemical dependency facility or a mental health facility, shall comply with the requirements in the Texas Health and Safety Code, §164.006, relating to soliciting and contracting with certain referral sources. [~~Compliance with the Treatment Facilities Marketing Practices Act, Texas Health and Safety Code, Chapter 164, shall not be considered as a violation of state law relating to illegal remuneration.~~]

(c) A licensee shall not knowingly or flagrantly overcharge a client, and shall bill clients and/or third parties for only those services that the licensee actually renders.

(d) Billing documents shall accurately reflect any collateral service the licensee uses to help serve the client.

(e) A licensee may not submit to a client and/or a third party payer a bill for services that the licensee knows were not provided, with the exception of a missed appointment, or knows were improper, unreasonable or unnecessary.

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 November 18, 2024.

TRD-202405575

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Psychologists

Earliest possible date of adoption: December 29, 2024

For further information, please call: (512) 305-7706



22 TAC §781.313

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Social Worker Examiners proposes to repeal §781.313, relating to Corporations and Business Names.

Overview and Explanation of the Proposed Rule. The proposed repeal will remove language identified during the quadrennial rule review as potentially in conflict with the Texas Business and Commerce Code, while not changing the substantive requirement in other rules that a licensee not make or benefit from false, misleading, deceptive, fraudulent, or exaggerated claims.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed repeal is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of no longer enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the repeal does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed repeal is in effect there will be a benefit to licensees, applicants, and the general public because the proposed repeal will provide greater clarity and consistency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of repealing the rule language will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed repeal is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed repeal is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed repeal will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed repeal will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed repeal does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed repeal is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed repeal is in effect, the Executive Council estimates that the proposed repeal will have no effect on government growth. The proposed repeal does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency;

it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed repeal. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

Request for Public Comments. Comments on the proposed repeal may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on December 29, 2024, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This repeal is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The repeal is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this repeal pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §505.2015 of the Tex. Occ. Code the Texas State Board of Social Worker Examiners previously voted and, by a majority, approved to propose this repeal to the Executive Council. The repeal is specifically authorized by §505.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this repeal in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this repeal to the Executive Council. Therefore, the Executive Council has complied with Chapters 505 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this repeal under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§781.313. *Corporations and Business Names.*

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 November 18, 2024.

TRD-202405576

Darrel D. Spinks

Executive Director

Texas State Board of Social Worker Examiners

Earliest possible date of adoption: December 29, 2024

For further information, please call: (512) 305-7706



SUBCHAPTER D. SCHEDULE OF SANCTIONS

22 TAC §781.804

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Social Worker Examiners proposes amendments to §781.804, relating to Other Disciplinary Actions.

Overview and Explanation of the Proposed Rule. The proposed amendment will remove language identified during the quadrennial rule review as not comporting with the agency's statute.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity and consistency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not

required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

Request for Public Comments. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on December 29, 2024, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §505.2015 of the Tex. Occ. Code the Texas State Board of Social Worker Examiners previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §505.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license

holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 505 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§781.804. Other Disciplinary Actions.

Complaints may be resolved by issuance of a warning letter [~~or a conditional letter of agreement,~~] which does [dø] not involve a formal disciplinary action.

[(1)] Warning letters inform [informing] licensees of their duties under the Act or this chapter[~~],~~ and whether the conduct or omission complained of may appear to violate such duties.

[(2)] ~~A conditional letter of agreement informs the licensee of the licensee's duties under the Act of this chapter, whether the conduct or omission complained of may appear to violate such duties, and creating Council ordered conditions for the resolution of the issues in the complaint. Staff may issue the conditional letter of agreement to the licensee, a signature by the licensee is required, and the letter will specify the disposition of the complaint. If the licensee fails to comply with all the Council ordered conditions in the specified time frame outlined in the conditional letter agreement, staff will open a new complaint arising out of non-compliance with the conditional letter agreement and/or the underlying conduct.~~

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 November 18, 2024.

TRD-202405577

Darrel D. Spinks

Executive Director

Texas State Board of Social Worker Examiners

Earliest possible date of adoption: December 29, 2024

For further information, please call: (512) 305-7706



22 TAC §781.805

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Social Worker Examiners proposes amendments to §781.805, relating to Schedule of Sanctions.

Overview and Explanation of the Proposed Rule. The proposed amendments would update the schedule of sanctions to reflect amendments proposed in other rules.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity and consistency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to pre-

pare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

Request for Public Comments. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on December 29, 2024, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §505.2015 of the Tex. Occ. Code the Texas State Board of Social Worker Examiners previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §505.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 505 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§781.805. Schedule of Sanctions.

The following standard sanctions shall apply to violations of the Act and these rules.

Figure: 22 TAC §781.805

[Figure: 22 TAC §781.805]

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 November 18, 2024.

TRD-202405578

Darrel D. Spinks

Executive Director

Texas State Board of Social Worker Examiners

Earliest possible date of adoption: December 29, 2024

For further information, please call: (512) 305-7706



PART 35. TEXAS STATE BOARD OF EXAMINERS OF MARRIAGE AND FAMILY THERAPISTS

CHAPTER 801. LICENSURE AND REGULATION OF MARRIAGE AND FAMILY THERAPISTS

SUBCHAPTER B. RULES OF PRACTICE

22 TAC §801.43

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Marriage and Family Therapists proposes amendments to §801.43, relating to Professional Representation.

Overview and Explanation of the Proposed Rule. The proposed amendment will remove language identified during the quadrennial rule review as potentially unenforceable, while not changing the substantive requirement that a licensee not make or benefit from false, misleading, deceptive, fraudulent, or exaggerated claims.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to applicants, licensees, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small

businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on December 29, 2024, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists

previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council also proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§801.43. Professional Representation.

(a) A licensee is subject to and bound by provisions of the Act, the Council Act, and council rules.

(b) A licensee that becomes aware of another licensee violating state or federal law within the jurisdiction of the Council may attempt to resolve the violation informally with the other licensee, if the violation does not involve actual or likely harm to an individual or the public. Any unresolved violations must be reported to the Council. A licensee that becomes aware of another licensee violating a state or federal law within the jurisdiction of the Council, involving actual or likely harm to an individual or the public, must report the violation to the Council.

(c) Licensure and Supervisory Status.

(1) When providing professional therapeutic services as defined in §801.42 of this title, [~~relating to Professional Therapeutic Services~~], a licensee must indicate his or her licensure status as an LMFT or LMFT Associate, including any probationary status or other restrictions placed on the licensee by the council.

(2) An LMFT Associate must not represent themselves as an independent practitioner. An LMFT Associate's name must be followed by a statement such as "supervised by (name of supervisor)" or a statement of similar effect, together with the name of the supervisor. This disclosure must appear on all marketing materials, billing documents, and practice related forms and documents where the LMFT Associate's name appears, including websites and intake documents. This paragraph is effective January 1, 2023.

(d) A licensee may not make any false, misleading, deceptive, fraudulent, or exaggerated claim or statement about the licensee's services, including:

- (1) the effectiveness of services;
- (2) the licensee's qualifications, capabilities, background, training, education, experience, professional affiliations, fees, products, or publications; or

(3) the practice of marriage and family therapy.

(e) A licensee may not misrepresent any agency or organization by presenting it as having attributes that it does not possess.

~~[(f) A licensee may not encourage, or within the licensee's power, allow a client to hold exaggerated ideas about the efficacy of services provided by the licensee.]~~

~~[(g) If a licensee learns of a misrepresentation, exaggerated, false, deceptive, or fraudulent claim or statement made by another, the licensee must take reasonable action to correct the misrepresentation, claim, or statement.]~~

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 November 18, 2024.

TRD-202405579

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Marriage and Family Therapists

Earliest possible date of adoption: December 29, 2024

For further information, please call: (512) 305-7706



22 TAC §801.44

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Marriage and Family Therapists proposes amendments to §801.44, relating to Relationships with Clients.

Overview and Explanation of the Proposed Rule. The proposed amendment will remove language identified during the quadrennial rule review to better align with the agency's statute.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to applicants, licensees, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on December 29, 2024, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules nec-

essary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council also proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§801.44. Relationships with Clients.

(a) A licensee must provide marriage and family therapy professional services only in the context of a professional relationship.

(b) A licensee must make known in writing to a prospective client the important aspects of the professional relationship, including the licensee's status as an LMFT or LMFT Associate, any probationary status or other restrictions placed on the licensee by the council, office procedures, after-hours coverage, fees, and arrangements for payment (which might affect the client's decision to enter into the relationship).

(c) A licensee must obtain an appropriate consent for treatment before providing professional services. A licensee must make reasonable efforts to determine whether the conservatorship, guardianship, or parental rights of the client have been modified by a court. Before the commencement of therapy services to a minor client who is named in a custody agreement or court order, a licensee must obtain and review a current copy of the custody agreement or court order in a suit affecting the parent-child relationship. A licensee must maintain these documents in the client's record. When federal or state statutes provide an exemption to secure consent of a parent or guardian before providing services to a minor, such as in Texas Family Code, Chapter 32, [(relating to Consent to Treatment of Child by Non-Parent or Child),] a licensee must follow the protocol set forth in such federal or state statutes.

(d) A licensee must make known in writing to a prospective client the confidential nature of the client's disclosures and the clinical record, including the legal limitations of the confidentiality of the mental health record and information.

(e) No commission or rebate or any other form of remuneration may be given or received by a licensee for the referral of clients for professional services. A licensee employed or under contract with a chemical dependency facility or a mental health facility must com-

ply with the requirements in Texas Health and Safety Code, §164.006. [(relating to Soliciting and Contracting with Certain Referral Sources). Compliance with Texas Health and Safety Code, Chapter 164 (relating to Treatment Facilities Marketing and Admission Practices) is not considered a violation of state law regarding illegal remuneration.]

(f) A licensee may not exploit the licensee's position of trust with a client or former client.

(g) A licensee may not engage in activities that seek to meet the licensee's personal needs instead of the needs of the client.

(h) A licensee may not provide marriage and family therapy services to family members, personal friends, educational associates, business associates, or others whose welfare might be jeopardized by such a dual relationship.

(i) A licensee must set and maintain professional boundaries with clients and former clients.

(j) A licensee may disclose confidential information to medical or law enforcement personnel if the licensee determines there is a probability of imminent physical injury by the client to the client or others or there is a probability of immediate mental or emotional injury to the client.

(k) In group therapy settings, the licensee must take reasonable precautions to protect individuals from physical or emotional trauma resulting from interaction within the group.

(l) A licensee must make a reasonable effort to avoid non-therapeutic relationships with clients or former clients. A non-therapeutic relationship is an activity begun by either the licensee, the client, or former client for the purposes of establishing a social, business, or other relationship not related to therapy. A licensee must ensure the welfare of the client or former client if a non-therapeutic relationship arises.

(m) A licensee may not bill clients or third parties for services not actually rendered or as agreed to in writing.

(n) A licensee must end a professional relationship when it is reasonably clear the client is not benefiting from it. Upon ending a professional relationship, if the client still requires mental health services, the licensee must make reasonable efforts to provide a written referral to clients for appropriate services and to facilitate the transfer to appropriate care.

(o) A licensee who engages in technology-assisted services must provide the client with the licensee's license number and information on how to contact the council by telephone, electronic communication, or mail. The licensee must comply with all other provisions of this chapter.

(p) A licensee may not offer services that are beyond the licensee's professional competency, and the services provided must be within accepted professional standards of practice and appropriate to the needs of the client. In emerging areas in which generally recognized standards for preparatory training do not exist, licensees must take reasonable steps to ensure the competence of their work and to protect clients, research participants, and other affected individuals from the potential for harm.

(q) A licensee must base all services on an assessment, evaluation, or diagnosis of the client.

(r) A licensee must evaluate a client's progress on a continuing basis to guide service delivery and must make use of supervision and consultation as indicated by the client's needs.

(s) A licensee may not knowingly offer or provide professional services to an individual concurrently receiving professional

services from another mental health services provider except with that provider's knowledge. If a licensee learns of such concurrent professional services, the licensee must take immediate and reasonable action to inform the other mental health services provider.

(t) A licensee may not aid or abet the unlicensed practice of marriage and family therapy services by a person required to be licensed under the Act. A licensee must report to the council knowledge of any unlicensed practice.

(u) A licensee may not enter into a non-professional relationship with a client's family member or any person having a personal or professional relationship with a client, if the licensee knows or reasonably should have known such a relationship could be detrimental to the client.

(v) A licensee must refrain from providing services when they know or should know that their physical or mental health or lack of objectivity are likely to impair their competency or harm a client or other person with whom they have a professional relationship.

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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Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Marriage and Family Therapists

Earliest possible date of adoption: December 29, 2024

For further information, please call: (512) 305-7706



22 TAC §801.50

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Marriage and Family Therapists proposes the repeal of §801.50 relating to Corporation and Business Names.

Overview and Explanation of the Proposed Rule. The proposed repeal will remove language identified during the quadrennial rule review as potentially in conflict with the Texas Business and Commerce Code, while not changing the substantive requirement in other rules that a licensee not make or benefit from false, misleading, deceptive, fraudulent, or exaggerated claims.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed repeal is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of no longer enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the repeal does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed repeal is in effect there will be a benefit to licensees, applicants, and the general public because the proposed repeal will provide greater clarity and consistency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of repealing the rule language will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed repeal is in effect, there will be no additional economic costs to persons required to comply with this repeal.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed repeal is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed repeal will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed repeal will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed repeal does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed repeal is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed repeal is in effect, the Executive Council estimates that the proposed repeal will have no effect on government growth. The proposed repeal does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to the agency; it does not require an increase or decrease in fees paid to this agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed repeal. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

Request for Public Comments. Comments on the proposed repeal may be submitted to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, George H. W. Bush State Office Building, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701, or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on December 29, 2024, which is at least 30 days from the date of publication in the *Texas Register*.

Statutory Authority. The repeal is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this

State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this repeal pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this repeal in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this repeal to the Executive Council. Therefore, the Executive Council has complied with Chapters 501 and 507 of the Texas Occupations Code and may propose this repeal.

Lastly, the Executive Council proposes this repeal under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§801.50. *Corporation and Business Names.*

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 November 18, 2024

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Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Marriage and Family Therapists

Earliest possible date of adoption: December 29, 2024

For further information, please call: (512) 305-7706



22 TAC §801.53

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Marriage and Family Therapists proposes amendments to §801.53, relating to Advertising and Announcements.

Overview and Explanation of the Proposed Rule. The proposed amendment will remove language identified during the quadrennial rule review as potentially unenforceable, while not changing the substantive requirement that a licensee not make or benefit from false, misleading, or deceptive advertising.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to applicants, licensees, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to pre-

pare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on December 29, 2024, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council also proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§801.53. Advertising and Announcements.

(a) Information used by a licensee in any advertisement or announcement of services may not contain information which is false, misleading, deceptive, inaccurate, incomplete, out of context, or not readily verifiable. Advertising includes any announcement of services, letterhead, business cards, commercial products, and billing statements. Only the highest academic degree earned from an accredited college or university or only the highest academic degree earned at

a foreign university that has been determined to be equivalent to a degree from an accredited institution or program by a member of the National Association of Credential Evaluation Services and relevant to the profession of therapy or a therapy-related field shall be used when advertising or announcing therapeutic services to the public or in therapy-related professional representations. A licensee may advertise or announce his or her other degrees or equivalent degrees earned at foreign institutions from accredited colleges or universities if the subject of the degree is specified.

(b) False, misleading, or deceptive advertising or advertising that is not readily subject to verification includes advertising that:

(1) makes any material misrepresentation of fact or omits a fact necessary to make the statement as a whole not materially misleading;

(2) makes any representation likely to create an unjustified expectation about the results of a health care service or procedure;

(3) compares a health care professional's services with another health care professional's services unless the comparison can be factually substantiated;

(4) contains a testimonial that includes false, deceptive, or misleading statements, or fails to include disclaimers or warnings as to the credentials of the person making the testimonial;

(5) causes confusion or misunderstanding as to the credentials, education, or licensure of a health care professional;

(6) advertises or represents 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;

(7) advertises or represents that the benefits of a health benefit plan will be accepted as full payment when deductibles or co-payments are required; or

~~[(8) makes a representation that is designed to take advantage of the fears or emotions of a particularly susceptible type of patient; or]~~

(8) ~~[(9)]~~ advertises or represents in the use of a professional name a title or professional identification that is expressly or commonly reserved to or used by another profession or professional.

(c) The council imposes no restrictions on advertising by a licensee with regard to the use of any medium, the licensee's personal appearance, or the use of his or her personal voice, the size or duration of an advertisement by a licensee, or the use of a trade name. A licensee who retains or hires others to advertise or promote the licensee's practice remains responsible for the statements and representations made.

(d) All advertisements or announcements of therapeutic services including telephone directory listings by a licensee must clearly state his or her license status by the use of a title such as "Licensed Marriage and Family Therapist," "LMFT," "Licensed Marriage and Family Therapist Associate," "LMFT Associate," "Licensed Marriage and Family Therapist Supervisor," "LMFT-S," or "LMFT Supervisor."

(e) A licensee may not include in advertising or announcements any information or any reference to certification in a field outside of therapy or membership in any organization that may be confusing or misleading to the public as to the services or legal recognition of the licensee.

(f) An LMFT or LMFT Associate holding a provisional license must indicate the provisional status on all advertisements, billing, and announcements of treatment by the use of the term "Provisional Li-

censed Marriage and Family Therapist" or "Provisional Licensed Marriage and Family Therapist Associate," as appropriate.

(g) If a licensee becomes aware of a misuse of licensee's license certificate or misrepresentation of a licensee's services or the results of licensee's services, the licensee must report the misuse or misrepresentation to the Council within 30 days of becoming aware of the misuse or misrepresentation.

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 November 18, 2024.

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Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Marriage and Family Therapists

Earliest possible date of adoption: December 29, 2024

For further information, please call: (512) 305-7706

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SUBCHAPTER C. APPLICATIONS AND LICENSING

22 TAC §801.115

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Marriage and Family Therapists proposes new §801.115, relating to Applicants Currently Licensed as an LMFT in Another Jurisdiction.

Overview and Explanation of the Proposed Rule. The proposed new rule deems marriage and family therapist applicants who are licensed to practice independently in another jurisdiction for two years to have met all academic and experience requirements if they meet all minimum statutory requirements for licensure.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity and consistency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

Request for Public Comments. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on December 29, 2024, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules nec-

essary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may propose this rule.

Specifically, the Executive Council proposes this rule pursuant to the authority found in §502.258 of the Tex. Occ. Code, which grants the Executive Council authority to adopt a rule for the issuance of a temporary license.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§801.115. Applicants Currently Licensed as an LMFT in Another Jurisdiction.

An applicant who has held an independent, active license as an LMFT in good standing issued by another jurisdiction for at least two years immediately preceding the date the application was received will be deemed to have met all academic and experience requirements, if the applicant can demonstrate:

- (1) 3,000 hours of work experience that includes at least 1,500 hours of direct clinical services;
- (2) 200 hours of supervision that includes at least 100 hours of individual supervision; and
- (3) has completed a master's or doctoral degree with a graduate internship.

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 November 18, 2024.

TRD-202405583

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Marriage and Family Therapists

Earliest possible date of adoption: December 29, 2024

For further information, please call: (512) 305-7706

◆ ◆ ◆
22 TAC §801.204

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Marriage and Family Therapists proposes amendments to §801.204, relating to Licensing of Military Service Members, Military Veterans, and Military Spouses.

Overview and Explanation of the Proposed Rule. The proposed amendment will remove language identified during the quadrennial rule review to better align with the agency's statute.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to applicants, licensees, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a gov-

ernment program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on December 29, 2024, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council also proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the na-

ture and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§801.204. Licensing of Military Service Members, Military Veterans, and Military Spouses.

(a) An applicant for licensure under this section must comply with Council §882.60 of this title [(relating to Special Provisions Applying to Military Service Members, Veterans, and Spouses)].

[(b) Licensed by another United States jurisdiction.]

[(1) If an applicant has been licensed as an LMFT in another United States jurisdiction for the two years immediately preceding the date the application is received, and has no disciplinary history, the academic (including the internship) and experience requirements shall be considered met.]

[(2) If an applicant has been licensed as an LMFT in another United States jurisdiction for less than two years immediately preceding the date the application is received, and has no disciplinary history, staff may grant one month of credit for every two months of independent marriage and family therapy practice toward any deficit in the academic internship or experience requirements.]

(b) [(e)] Upon request, an applicant must provide acceptable proof of current licensure issued by another jurisdiction. Upon request, the applicant must provide proof that the licensing requirements of that jurisdiction are substantially equivalent to the licensing requirements of this state.

(c) [(d)] For an application for a license submitted by a verified military service member or military veteran, the applicant will receive credit towards any licensing or apprenticeship requirements, except an examination requirement, for verified military service, training, or education relevant to the occupation, unless he or she holds a restricted license issued by another jurisdiction or if he or she has a disqualifying criminal history as described by the Act, the Council Act, or Council rules.

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

Filed with the Office of the Secretary of State on November 18, 2024.

TRD-202405584

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Marriage and Family Therapists

Earliest possible date of adoption: December 29, 2024

For further information, please call: (512) 305-7706



SUBCHAPTER D. SCHEDULE OF SANCTIONS

22 TAC §801.303

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Marriage and Family Therapists proposes amendments to §801.303, relating to Other Actions.

Overview and Explanation of the Proposed Rule. The proposed amendment will remove language identified during the quadrennial rule review to better align with the agency's statute.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to applicants, licensees, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on December 29, 2024, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council also proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§801.303. Other Actions.

A complaint may be resolved by issuance of a warning letter [~~or a conditional letter of agreement~~] which does not involve a formal disciplinary action.

[(1)] A warning letter informs the licensee of the licensee's duties under the Act, the Council Act, or council rules and whether the council has a concern about the circumstances surrounding the complaint.

[(2)] A "Conditional Letter of Agreement" informs the licensee of the licensee's duties under the Act, the Council Act, or council rules, whether the conduct or omission complained of appears to violate such duties, and creating council-ordered conditions for the long-term resolution of the issues in the complaint. This "Conditional Letter of Agreement" specifies the immediate disposition of the complaint. The licensee is issued the "Conditional Letter of Agreement" by staff; a signature of agreement by the licensee is required. If the licensee fails to comply with all the council-ordered conditions in the specified time frame outlined in the "Conditional Letter of Agreement," staff will open a new complaint arising out of the non-compliance with a "Conditional Letter of Agreement" or the underlying conduct.]

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 November 18, 2024.

TRD-202405585

Darrel D. Spinks
Executive Director

Texas State Board of Examiners of Marriage and Family Therapists

Earliest possible date of adoption: December 29, 2024

For further information, please call: (512) 305-7706

◆ ◆ ◆
22 TAC §801.305

The Texas Behavioral Health Executive Council on behalf of the Texas State Board of Examiners of Marriage and Family Therapists proposes amendments to §801.305, relating to Schedule of Sanctions.

Overview and Explanation of the Proposed Rule. The proposed amendment would update the schedule of sanctions to reflect amendments proposed in other rules.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to applicants, licensees, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/>. The deadline for receipt of comments is 5:00 p.m., Central Time, on December 29, 2024, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §502.1515 of the Tex. Occ. Code the Texas State Board of Examiners of Marriage and Family Therapists previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council also proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§801.305. Schedule of Sanctions.

The following standard sanctions shall apply to violations of the Texas Occupations Code, Chapter 502 and 22 Texas Administrative Code, Part 35.

Figure: 22 TAC §801.305

[~~Figure: 22 TAC §801.305~~]

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 November 18, 2024.

TRD-202405586

Darrel D. Spinks
Executive Director

Texas State Board of Examiners of Marriage and Family Therapists
Earliest possible date of adoption: December 29, 2024

For further information, please call: (512) 305-7706

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**PART 41. TEXAS BEHAVIORAL
HEALTH EXECUTIVE COUNCIL**

**CHAPTER 881. GENERAL PROVISIONS
SUBCHAPTER B. RULEMAKING**

22 TAC §881.20

The Texas Behavioral Health Executive Council proposes amendments to §881.20, relating to Rulemaking by the Executive Council.

Overview and Explanation of the Proposed Rule. The proposed amendment will remove language identified during the quadrennial rule review as unnecessary and duplicative, without changing the substantive impact of the rule.

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to applicants, licensees, and the general public because the proposed rule will provide greater clarity, consistency, and efficiency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

Local Employment Impact Statement. Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

Government Growth Impact Statement. For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency;

it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

Takings Impact Assessment. Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

REQUEST FOR PUBLIC COMMENTS. Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via <https://www.bhec.texas.gov/proposed-rule-changes-and-the-rulemaking-process/index.html>. The deadline for receipt of comments is 5:00 p.m., Central Time, on December 29, 2024, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

Applicable Legislation. This rule is proposed pursuant to the specific legal authority granted to the Executive Council by H.B. 1501, 86th Leg., R.S. (2019).

Statutory Authority. The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council also proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§881.20. Rulemaking by the Executive Council.

(a) The Council shall adopt rules necessary to perform its duties and implement Title 3, Subtitle I, Chapter 507 of the Occupations Code. When carrying out its rulemaking functions, the Council shall abide by the requirements of the Administrative Procedure Act found in Chapter 2001 of the Government Code.

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council must also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(c) The Council may propose and adopt a rule governing those matters set forth in §507.153(a) of the Occupations Code if a draft rule has been proposed by the member board for the profession. Member boards may not propose new draft rules or changes to rules except as authorized by §507.153(a).

(d) Member boards must submit a new draft rule or rule change to the Council for consideration by submitting a draft of the rule with any deletions crossed through and additions underlined. The draft must also contain each of the notice components required in a preamble (e.g.,

§2001.024 of the Government Code) when proposing a new rule or changes to an existing rule. When submitting a new draft rule or rule change to the Council, member boards must also submit any information or comments received from the public in connection with the proposed rule.

(e) When reviewing a draft rule proposed by a member board, the Council may:

(1) Request additional information relevant to the rule from the member board;

(2) Require the member board to conduct new or additional analysis of possible implications of the rule; and

(3) Solicit public comment or hold public hearings, or alternatively, request the member board do so. ~~and~~

~~[(4) Make non-substantive, editorial changes to the rule as necessary.]~~

(f) Following the review of a draft rule submitted by a member board, the Council shall either accept the draft rule as proposed and initiate formal rulemaking proceedings or return the draft rule to the member board for revision. When returning a rule for revision, the Council must include an explanation of the decision to reject the rule as proposed, and may recommend changes that would make the rule acceptable to the Council.

(g) The Council shall, with regard to rules proposed pursuant to §507.153(a) of the Occupations Code, share with the appropriate member board any public comments received following publication of a proposed rule in the *Texas Register*. Following publication of a proposed rule and review of any public comments received, a member board shall suggest any changes needed to the proposed rule or vote to recommend adoption, tabling, or withdrawal of the rule and advise the Council of such. Thereafter, the Council may adopt the rule as proposed, withdraw or table the rule in accordance with the member board's recommendation, or return the rule to the member board for further revision. When returning a rule for revision, the Council must include an explanation of the decision to not adopt the rule as proposed, and may recommend any changes that would make the rule acceptable to the Council.

(h) The Council may make non-substantive, editorial changes to a draft rule as necessary.

(i) The Council shall consider each of the following factors when reviewing a draft rule submitted by a member board:

(1) Whether the proposed rule promotes a clearly articulated and affirmatively expressed policy as established by the legislature to displace competition with government action, or whether the proposed rule reflects the exercise of discretion or implied authority by a member board;

(2) Whether absence of the proposed rule poses a significant risk of harm or danger to the public health, safety, or welfare of the residents of the state that is easily recognizable and not remote or dependent on tenuous argument;

(3) Whether the proposed rule seeks to regulate activities or services requiring specialized skill or training and whether the public clearly needs and will benefit from the proposed rule;

(4) Whether the proposed rule would have the effect of directly or indirectly increasing the cost of mental health services and, if so, whether the increase would be more harmful to the public than the harm that might result from the absence of the proposed rule;

(5) Whether the proposed rule would significantly reduce market participation or competition in the state and, if so, whether the reduction would be more harmful to the public than the harm that might result from the absence of the proposed rule; and

(6) Whether the residents of the state are or may be effectively protected by other means.

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 November 18, 2024.

TRD-202405570

Darrel D. Spinks

Executive Director

Texas Behavioral Health Executive Council

Earliest possible date of adoption: December 29, 2024

For further information, please call: (512) 305-7706



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 15. TEXAS VETERANS COMMISSION

CHAPTER 452. ADMINISTRATION GENERAL PROVISIONS

40 TAC §452.2

The Texas Veterans Commission (Commission) proposes amendments to Chapter 452, Administration General Provisions, §452.2, Advisory Committees.

PART I. PURPOSE AND BACKGROUND

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

PART II. EXPLANATION OF SECTIONS

Section 452.2 Advisory Committees

Removes Subsection (b) Veteran Services Advisory Committee.

Removes Subsection (d) Veterans County Service Officer Advisory Committee.

Renumbers Subsection (c) Fund for Veterans' Assistance Advisory Committee as new subsection (b).

PART III. IMPACT STATEMENTS

FISCAL NOTE

Michelle Nall, the Texas Veterans Commission's Chief Financial Officer, has determined for each year of the first five years the proposed rule amendments are in effect, there will not be an increase in expenditures or revenue for state and local government due to administering the proposed rule.

COSTS TO REGULATED PERSONS

Ms. Nall has also determined that there will not be anticipated economic costs for people required to comply with the proposed rule amendments.

LOCAL EMPLOYMENT IMPACT

Charles Catoe, the Texas Veterans Commission's Director of Operations, has determined that the proposed rule amendments will not significantly impact employment conditions in the state.

SMALL BUSINESS, MICRO BUSINESS AND RURAL COMMUNITIES IMPACT

Megan Tamez, Director of the Veterans Entrepreneur Program at the Texas Veterans Commission, has determined that the proposed rule amendments will not adversely affect small businesses, micro-businesses, or rural communities as defined in Texas Government Code §2006.001. As a result, an Economic Impact Statement and Regulatory Flexibility Analysis are not required.

PUBLIC BENEFIT

Mr. Deabay has determined that for each of the first five years the proposed rule amendments are in effect, the public benefit anticipated due to administering the amended rule will more closely align with the Texas Veterans Commission's operations.

GOVERNMENT GROWTH IMPACT STATEMENT

Mr. Deabay has also determined that for each year of the first five years that the proposed rule amendments are in effect, the following statements will apply:

The proposed rule amendments will not create or eliminate a government program.

Implementation of the proposed rule amendments will not require creation of new employee positions, or elimination of existing employee positions.

Implementation of the proposed rule amendments will not require an increase or decrease in future legislative appropriations to the agency.

No fees will be created by the proposed rule amendments.

The proposed rule amendments will not require new regulations.

The proposed rule amendments have no effect on existing regulations.

The proposed rule amendments have no effect on the number of individuals subject to the rule's applicability.

The proposed rule amendments have no effect on this state's economy.

PART IV. COMMENTS

Comments on the proposed amended rules may be submitted to Texas Veterans Commission, Attention: General Counsel, P.O. Box 12277, Austin, Texas 78711; faxed to (512) 475-2395; or emailed to rulemaking@tvc.texas.gov. Please include "Advisory Committee Rules" in the subject line for comments submitted electronically. The Commission must receive comments post-marked no later than 30 days from the date this proposal is published in the *Texas Register*.

STATUTORY AUTHORITY

The rule amendments are proposed under Texas Government Code §434.010, which authorizes the commission to establish rules it considers necessary for its administration.

§452.2. Advisory Committees.

(a) The commission may establish advisory committees in accordance with Texas Government Code, Chapter 2110. The following shall apply to each advisory committee:

(1) Agency role. The executive director may direct one or more staff members of the agency to assist each advisory committee. These positions shall be non-voting.

(2) Committee size and appointment of members. Each advisory committee shall be composed of nine members appointed by the commission. Members of each committee serve at the pleasure of the commission and may be removed from a committee by a majority vote of the commission.

(3) Committee chair and vice chair.

(A) The committee chair will be selected by the commission. The committee chair shall serve a term as determined by the commission. The committee chair determines the agenda for each meeting.

(B) The vice chair of each advisory committee is selected by the committee's voting members. Committee vice chair term lengths are one or two-year terms as determined by the committee's voting members and are limited to two years of service as the vice chair during their appointment to the committee. The vice chair shall perform the chair duties when the chair is unavailable or unable to perform.

(4) Conditions of membership.

(A) Terms of service. The term of office for each member will be determined by the commission in order to achieve staggered terms. In the event that a member cannot complete his or her term, or is removed by the commission, the commission shall appoint a qualified replacement to serve the remainder of the term.

(B) Participation. Participation on an advisory committee is voluntary.

(C) Compensation. Advisory committee members appointed by the commission shall serve without compensation.

(D) Reimbursement. The commission may, if authorized by law and the executive director, reimburse a member of a committee for reasonable and necessary expenses up to four times per calendar year. Current rules and laws governing reimbursement of expenses for state employees shall govern reimbursement of expenses for advisory committee members.

(5) Training. Each committee member shall receive initial training to ensure compliance with the Open Meetings Act. Training should also include an overview of the agency's mission and organizational structure, the overall purpose or goals of the committee, as well as other information that will assist members to accomplish committee goals.

(6) Responsibilities. Each advisory committee will review issues and provide advice to the commission, as charged by the commission.

(7) Meetings. Each advisory committee shall meet as needed by the commission. Advisory committee meetings may be conducted by video conference. Each advisory committee shall be subject to meeting at the call of the committee chair or designee. A quorum shall consist of a majority of the committee membership. The committees shall comply with Open Meetings Act requirements as provided in Texas Government Code, Chapter 551.

(8) Reports. The committee chair or designee of each advisory committee shall regularly report to the commission regarding its activities and recommendations, and, when requested by the commission, shall file with the commission a report containing:

- (A) the minutes of meetings;
- (B) a memo summarizing the meetings; and
- (C) a list of the committee's recommendations, if any.

(9) Evaluation and duration. Each advisory committee shall remain in existence as long as deemed necessary by the commission based on a regular evaluation of the continuing need for each advisory committee. The executive director or staff may assist with this evaluation at the direction of the commission.

(10) Formation of subcommittees. Each advisory committee shall notify the commission of any adopted subcommittees and their purpose in its quarterly report.

~~[(b) Veteran Services Advisory Committee.]~~

~~[(1) Purpose. The purpose of the Veteran Services Advisory Committee (VSAC) is to develop recommendations to improve overall services to veterans, their families, and survivors by the TVC. TVC leadership will provide veteran service topics to the committee for analysis and feedback.]~~

~~[(2) Committee member qualifications. The Committee shall be comprised of veterans and/or non-veterans that are interested in significantly improving the quality of life for all Texas veterans, their families, and survivors.]~~

~~(b) [(e)] Fund for Veterans' Assistance Advisory Committee.~~

~~(1) Purpose. The purpose of the Fund for Veterans' Assistance Advisory Committee is to evaluate grant applications and make recommendations to the commission.~~

~~(2) Committee member qualifications.~~

~~(A) Committee members may include representatives from veterans' organizations, non-profit or philanthropic organizations, veterans or family members of veterans, and other individuals with the experience and knowledge to assist the committee with achievement of its purpose.~~

~~(B) Committee members may not include officers, directors or employees of organization or entities that have an open Fund for Veterans' Assistance grant during the member's tenure or that intend to submit an application for a Fund for Veterans' Assistant grant.~~

~~(C) Committee members will be required to sign non-disclosure and conflict of interest agreements before reviewing grant applications. Committee members found in violation of the non-disclosure agreement will be prohibited from evaluating grant applications and making recommendations to the commission. Committee members found in violation of any agreement may also be removed from the committee by the commission.~~

~~(3) Meetings. The Fund for Veterans' Assistance Advisory Committee shall meet as needed to make grant recommendations to the commission.~~

~~[(d) Veterans County Service Officer Advisory Committee.]~~

~~[(1) Purpose. The purpose of the Veterans County Service Officer Advisory Committee is to develop recommendations to improve the support and training of Veterans County Service Officers and to increase coordination between Veterans County Service Officers and the Texas Veterans Commission related to the statewide network of services being provided to veterans.]~~

~~[(2) Committee member qualifications. The members shall be current Veterans County Service Officers with the experience and knowledge to assist the committee with achievement of its purpose.]~~

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 November 15, 2024.

TRD-202405524

Kathleen Cordova

General Counsel

Texas Veterans Commission

Earliest possible date of adoption: December 29, 2024

For further information, please call: (737) 320-4167



40 TAC §452.9, §452.10

The Texas Veterans Commission (Commission) proposes two new rules in Chapter 452 of Title 40, Part 15 of the Texas Administrative Code, §452.9 and §452.10.

PART I. PURPOSE AND BACKGROUND

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

The second proposed new rule establishes procedures for administering the agency's family leave pool in accordance with Texas Government Code §661.022, which requires state agencies to adopt rules and prescribe procedures for operating the family leave pool.

The Commission has previously established policies for the sick and family leave pools. The new rules are to acknowledge the current Commission practices formally.

PART II. EXPLANATION OF SECTIONS

§452.9. Sick Leave Pool

New §452.9 sets out how the agency administers the agency's sick leave pool.

§452.10 Family Leave Pool

New §452.10 describes how the agency administers the agency's family leave pool.

PART III. IMPACT STATEMENTS

FISCAL NOTE

Michelle Nall, the Texas Veterans Commission's Chief Financial Officer, has determined that for the first five-year period the proposed new rules are in effect there will be no fiscal implications for state or local governments. The related policies and procedures are in place, and there is no anticipated additional cost because of the rulemaking.

COSTS TO REGULATED PERSONS

Ms. Nall has also determined that there will be no anticipated economic costs for persons required to comply with the proposed new rules.

LOCAL EMPLOYMENT IMPACT

Charles Catoe, Director of Operations for the Texas Veterans Commission, has determined that the proposed new rules will not significantly impact employment conditions in the state.

SMALL BUSINESS, MICRO BUSINESS AND RURAL COMMUNITIES IMPACT

Megan Tamez, Veterans Entrepreneur Program of the Texas Veterans Commission, has determined that the proposed new rules will not adversely affect small businesses, micro-businesses, or rural communities as defined in Texas Government Code §2006.001. As a result, an Economic Impact Statement and Regulatory Flexibility Analysis are not required.

PUBLIC BENEFIT

Mr. Deabay has also determined that for each year of the first five-year period the rules are in effect, the anticipated public benefit will be enhanced transparency on agency policy and procedures.

GOVERNMENT GROWTH IMPACT STATEMENTS

Mr. Deabay has also determined that for each year of the first five years that the proposed rule amendment is in effect, the following statements will apply:

1. The proposed rule amendment will not create or eliminate a government program.
2. Implementation of the proposed rule amendment will not require creation of new employee positions, or elimination of existing employee positions.
3. Implementation of the proposed rule amendment will not require an increase or decrease in future legislative appropriations to the agency.
4. No fees will be created by the proposed rule amendment.
5. The proposed rule amendment will not require new regulations.
6. The proposed rule amendment has no effect on existing regulations.
7. The proposed rule amendment has no effect on the number of individuals subject to the rule's applicability.
8. The proposed rule amendment has no effect on this state's economy.

PART IV. COMMENTS

Comments on the proposed new rules may be submitted to Attention: General Counsel, Texas Veterans Commission, P.O. Box 12277, Austin, Texas 78711 or by fax to (512) 475-2395. Comments may also be submitted electronically to rulemaking@tvc.texas.gov. For comments submitted electronically, please include "Leave Pool Rules" in the subject line. The deadline for submission of comments is thirty (30) days from the publication date of the proposed new rules in the *Texas Register*. Comments should be organized consistently with the organization of the rule under consideration.

PART V.

STATUTORY AUTHORITY

The rules are proposed under Texas Government Code §434.010, granting the commission the authority to establish rules, Texas Government Code §661.002(c), which requires

state agencies to adopt rules and prescribe procedures relating to the administration of the agency's sick leave pool, and Texas Government Code §661.022, which requires state agencies to adopt rules and prescribe procedures relating to the operation of a family leave pool.

No other statutes, articles, or codes are affected by the proposal.

§452.9. Sick Leave Pool.

(a) A sick leave pool is established to alleviate hardship caused to an employee and the employee's immediate family if a catastrophic injury or illness forces the employee to exhaust all eligible leave time earned by that employee and to lose compensation time from the state.

(b) The Human Resources Director is designated as the pool administrator and shall develop and maintain the necessary policy for the administration of the sick leave pool consistent with Texas Government Code, Chapter 661.

(c) All contributions to the sick leave pool are voluntary. Employees who make contributions to the pool may not stipulate who receives their contributions.

(d) An employee may only withdraw time from the sick leave pool in the case of a catastrophic illness or injury of the employee or the employee's immediate family member. The employee must have exhausted all eligible paid leave prior to being awarded sick leave from the pool. The pool administrator shall review the request and determine the amount of time an employee may withdraw from the pool.

§452.10. Family Leave Pool.

(a) A family leave pool is established to provide eligible employees more flexibility in bonding with and caring for children during a child's first year following birth, adoption, or foster placement, and caring for a seriously ill family member or the employee's own serious illness, including pandemic-related illnesses or complications caused by a pandemic.

(b) All employee contributions to the family leave pool are voluntary. There is no limitation on the amount or frequency of contributions. Employees who contribute accrued sick or vacation leave hours to the pool may not designate the contributed hours for use by a specific employee. Employees who contribute leave hours to the pool may not withdraw the contributed hours.

(c) An employee may only apply to withdraw time from the family leave pool if the employee has exhausted all eligible personal leave due to:

(1) the birth of a child;

(2) the placement of a foster child or adoption of a child under 18 years of age;

(3) the placement of any person 18 years of age or older requiring guardianship;

(4) a serious illness to an immediate family member of the employee, including pandemic-related illness;

(5) an extenuating circumstance created by an ongoing pandemic, including providing essential care to a family member; or

(6) a previous donation of time to the pool.

(d) The Texas Veterans Commission's Human Resources Director is designated as the pool administrator.

(e) The pool administrator shall develop and maintain a policy, operating procedures, and forms, as necessary, for the administration of the family leave pool subject to approval by the Executive Director.

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 November 15, 2024.

TRD-202405525

Kathleen Cordova

General Counsel

Texas Veterans Commission

Earliest possible date of adoption: December 29, 2024

For further information, please call: (737) 320-4167



CHAPTER 463. VETERAN VERIFICATION LETTER

40 TAC §§463.1 - 463.4

The Texas Veterans Commission proposes the repeal of Title 40, Texas Administrative Code, Part 15, Chapter 463, relating to the Veteran Verification Letter.

PART I. PURPOSE AND BACKGROUND

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

PART II. EXPLANATION OF SECTIONS

The repeal of Chapter 463 removes procedures for requesting a Veteran Verification Letter.

PART III. IMPACT STATEMENTS

FISCAL NOTE

Michelle Nall, the Texas Veterans Commission's Chief Financial Officer, has determined that for the first five-year period the proposed rule repeal will be in effect, there will be no fiscal implications for state or local governments. The related policies and procedures are in place, and there is no anticipated additional cost because of the rulemaking.

COSTS TO REGULATED PERSONS

Ms. Nall has also determined that there will be no anticipated economic costs for persons required to comply with the proposed rule repeal.

LOCAL EMPLOYMENT IMPACT

Charles Catoe, Director of Operations for the Texas Veterans Commission, has determined that the proposed rule repeal will not significantly impact employment conditions in the state.

SMALL BUSINESS, MICRO BUSINESS AND RURAL COMMUNITIES IMPACT

Megan Tamez, Veterans Entrepreneur Program of the Texas Veterans Commission, has determined that the proposed rule repeal will not adversely affect small businesses, micro-businesses, or rural communities as defined in Texas Government Code §2006.001. As a result, an Economic Impact Statement and Regulatory Flexibility Analysis are not required.

PUBLIC BENEFIT

Mr. Deabay has also determined that for each year of the first five-year period the proposed rule repeal will be in effect, the anticipated public benefit will be clearer guidance on the Veteran Verification Letter process.

GOVERNMENT GROWTH IMPACT STATEMENTS

Mr. Deabay has also determined that for each year of the first five years that the proposed rule repeal is in effect, the following statements will apply:

1. The proposed rule repeal will not create or eliminate a government program.
2. Implementation of the proposed rule repeal will not require creation of new employee positions, or elimination of existing employee positions.
3. Implementation of the proposed rule repeal will not require an increase or decrease in future legislative appropriations to the agency.
4. No fees will be created by the proposed rule repeal.
5. The proposed rule repeal will not require new regulations.
6. The proposed rule repeal has no effect on existing regulations.
7. The proposed rule repeal has no effect on the number of individuals subject to the rule's applicability.
8. The proposed rule repeal has no effect on this state's economy.

PART IV. COMMENTS

Comments on the proposed rule repeal rule may be submitted to Texas Veterans Commission, Attention: General Counsel, P.O. Box 12277, Austin, Texas 78711; faxed to (512) 475-2395; or emailed to rulemaking@tvc.texas.gov. For comments submitted electronically, please include "Chapter 463 Rules" in the subject line. The commission must receive comments postmarked no later than 30 days from the date this proposal is published in the *Texas Register*.

PART V. STATUTORY AUTHORITY

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

No other statutes, articles, or codes are affected by the proposal.

§463.1. *Purpose.*

§463.2. *Application.*

§463.3. *Definitions.*

§463.4. *Process.*

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 November 15, 2024.

TRD-202405526

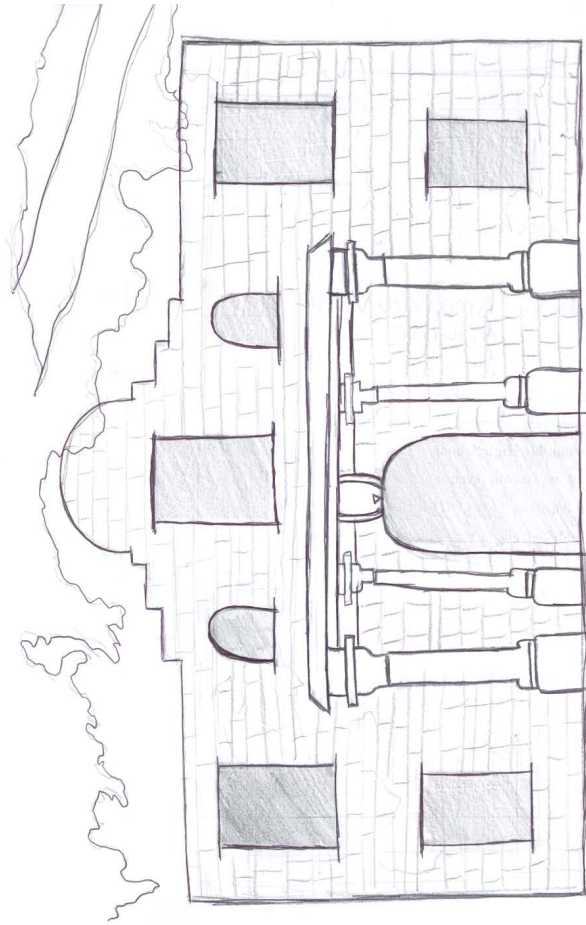
Kathleen Cordova

General Counsel

Texas Veterans Commission

Earliest possible date of adoption: December 29, 2024

For further information, please call: (737) 320-4167



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 22. EXAMINING BOARDS

PART 6. TEXAS BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

CHAPTER 133. LICENSING FOR ENGINEERS SUBCHAPTER G. EXAMINATIONS

22 TAC §133.69

The Texas Board of Professional Engineers and Land Surveyors withdraws proposed amendments to §133.69 which appeared in the July 12, 2024, issue of the *Texas Register* (49 TexReg 4997).

Filed with the Office of the Secretary of State on November 14, 2024.

TRD-202405522

Lance Kinney

Executive Director

Texas Board of Professional Engineers and Land Surveyors

Effective date: November 14, 2024

For further information, please call: (512) 440-3080

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 6. TEXAS DEPARTMENT OF CRIMINAL JUSTICE

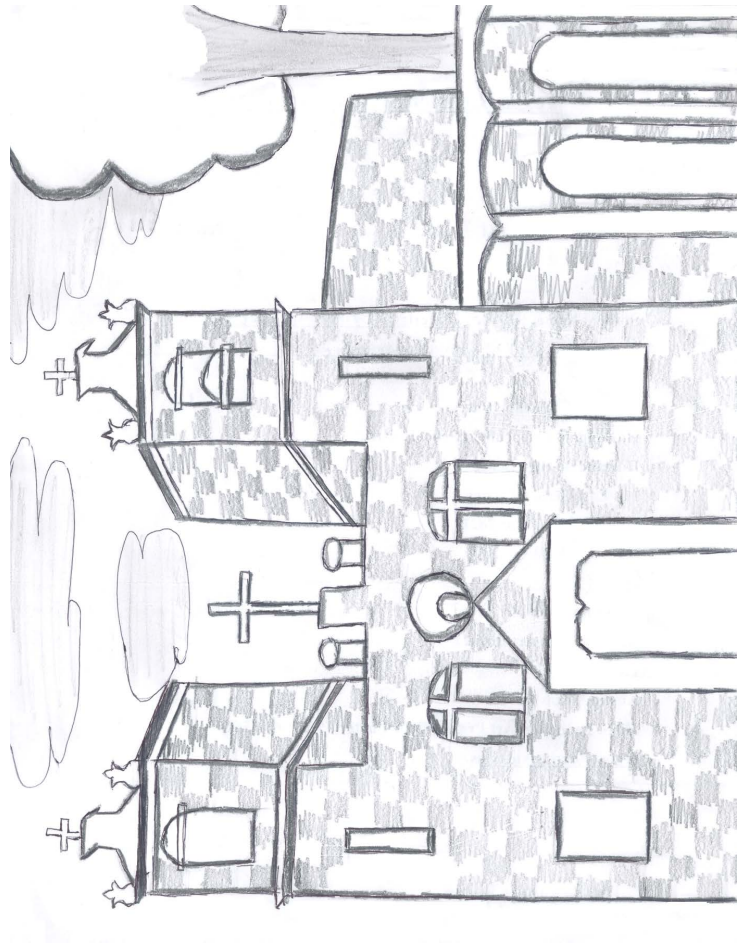
CHAPTER 163. COMMUNITY JUSTICE ASSISTANCE DIVISION STANDARDS

37 TAC §163.42

Proposed amended §163.42, published in the May 10, 2024, issue of the *Texas Register* (49 TexReg 3194), 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 November 13, 2024.

TRD-202405515



ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

TITLE 1. ADMINISTRATION

PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 353. MEDICAID MANAGED CARE SUBCHAPTER E. STANDARDS FOR MEDICAID MANAGED CARE

1 TAC §353.421

The Texas Health and Human Services Commission (HHSC) adopts an amendment to §353.421, concerning Special Disease Management for Health Care MCOs.

The amendment to §353.421 is adopted with changes to the proposed text as published in the July 19, 2024, issue of the *Texas Register* (49 TexReg 5221). This rule will be republished.

BACKGROUND AND JUSTIFICATION

The adopted amendment implements Texas Government Code, §533.009(c) as amended by House Bill (H.B.) 2658, 87th Legislature, Regular Session, 2021. The adopted amendment relates to managed care organization (MCO) requirements for special disease management (DM) programs. The purpose of the DM programs is to improve health outcomes for Medicaid members diagnosed with a disease or chronic health condition. The Texas Health and Human Services Commission (HHSC) identifies the diseases and chronic conditions for a member to be eligible for the MCO's DM program in HHSC's Uniform Managed Care Manual Chapter 9: Disease Management.

The adopted amendment organizes the definition of "special disease management" with the new definitions "active participation" and "high-risk member" into one rule. These definitions identify what these terms mean when used in the section.

The adopted amendment to implement Texas Government Code §533.009(c)(3), added by H.B. 2658, requires a health care MCO to include mechanisms to identify low active participation rates in the MCO's special DM program, the reason for the low rates, and to increase active participation in the program for high-risk members.

The adopted amendment also corrects formatting, uses consistent terminology, and corrects the use of acronyms to improve the readability of the section.

COMMENTS

The 31-day comment period ended August 19, 2024. During this period, HHSC did not receive any comments regarding the proposed rule.

HHSC revised references to the Texas Government Code citations in proposed §353.421(a)(1) and subsection (d) to implement H.B. 4611, 88th Legislature, Regular Session, 2023, which makes non-substantive revisions to the Texas Government Code that make the statute more accessible, understandable, and usable.

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §533.009, which requires the Executive Commissioner of HHSC, by rule, to prescribe the minimum standards that a managed care organization must meet in providing special disease management.

§353.421. *Special Disease Management for a Health Care Managed Care Organization.*

(a) Definitions. The following words and terms, when used in this section have the following meanings, unless the context clearly indicates otherwise.

(1) Active participation--One or more encounters in a calendar year, either face-to-face or by an approved telehealth modality, between the disease management staff of a health care managed care organization (MCO) and a member or the member's representative. In determining active participation, a member who is assessed and provided supports and services that address a chronic disease, but is not participating in the MCO's special disease management program as described in Texas Government Code §540.0708 should not be counted as participating in the disease management program.

(2) High-risk member--A member at high-risk for non-adherence to the member's plan of care that addresses the member's disease or other chronic health condition, such as heart disease; chronic kidney disease and its medical complications; respiratory illness, including asthma; diabetes; end-stage renal disease; human immunodeficiency virus infection (HIV), or acquired immunodeficiency syndrome (AIDS). A high risk member has multiple or complex medical or behavioral health conditions, or both, with clinical instability undergoing active treatment and at risk of avoidable emergency room visits or hospitalizations.

(3) Special disease management--Coordinated healthcare interventions and communications for populations with conditions in which patient self-care efforts are significant.

(b) A health care MCO must provide special disease management services. A health care MCO must:

(1) implement policies and procedures to ensure that a member who requires special disease management services are identified and enrolled into the MCO's special disease management program;

(2) develop and maintain screening and evaluation procedures for the early detection, prevention, treatment, or referral of a member at risk for or diagnosed with chronic conditions such as heart disease; chronic kidney disease and its medical complications; respiratory illness, including asthma; diabetes; HIV infection; or AIDS;

(3) ensure a member who is enrolled in the MCO's special disease management program has the opportunity to disenroll from the program within 30 days while still maintaining access to all other covered services;

(4) show evidence of the ability to manage complex diseases in the Medicaid population by demonstrating the health care MCO's ability to comply with this section; and

(5) include mechanisms to:

(A) identify:

(i) low active participation rates in the MCO's special disease management program; and

(ii) the reason for the low rates; and

(B) increase active participation in the disease management program for high-risk members.

(c) A special disease management program must include:

(1) patient self-management education;

(2) patient education regarding the role of the provider;

(3) evidence-supported models, standards of care in the medical community, and clinical outcomes;

(4) standardized protocols and participation criteria;

(5) physician-directed or physician-supervised care;

(6) implementation of interventions that address the continuum of care;

(7) mechanisms to modify or change interventions that have not been proven effective;

(8) mechanisms to monitor the impact of the special disease management program over time, including both the clinical and the financial impact;

(9) a system to track and monitor all members enrolled in a special disease management program for clinical, utilization, and cost measures;

(10) designated staff to implement and maintain the program and assist members in accessing program services;

(11) a system that enables providers to request specific special disease management interventions; and

(12) provider information, including:

(A) the differences between recommended prevention and treatment and actual care received by a member enrolled in a special disease management program;

(B) information concerning the member's adherence to a service plan; and

(C) reports on changes in each member's health status.

(d) A health care MCO's special disease management program must have performance measures for particular diseases. HHSC reviews the performance measures submitted by a special disease management program for comparability with the relevant performance

measures in Texas Government Code §540.0708, relating to contracts for disease management programs.

(e) A health care MCO implementing a special disease management program for chronic kidney disease and its medical complications that includes screening for and diagnosis and treatment of this disease and its medical complications, must, for the screening, diagnosis and treatment, use generally recognized clinical practice guidelines and laboratory assessments that identify chronic kidney disease on the basis of impaired kidney function or the presence of kidney damage.

(f) A health care MCO that develops and implements a special disease management program must coordinate participant care with a provider of a disease management program under Texas Human Resources Code §32.057, during a transition period for patients that move from one disease management program to another program.

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

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Karen Ray

Chief Counsel

Texas Health and Human Services Commission

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For further information, please call: (512) 438-2910



CHAPTER 355. REIMBURSEMENT RATES SUBCHAPTER J. PURCHASED HEALTH SERVICES

DIVISION 28. PHARMACY SERVICES: REIMBURSEMENT

1 TAC §355.8549

The Texas Health and Human Services Commission (HHSC) adopts an amendment to §355.8549, concerning Medicaid Coverage and Reimbursement for Non-Opioid Treatments.

Section 355.8549 is adopted without changes to the proposed text as published in the August 2, 2024, issue of the *Texas Register* (49 TexReg 5614). This rule will not be republished.

BACKGROUND AND JUSTIFICATION

The amendment is necessary to comply with Texas Human Resources Code §32.03117, which requires HHSC to reimburse a Medicaid hospital provider who provides a non-opioid treatment to a Medicaid recipient. Section 32.03117 also requires HHSC by rule to ensure that, to the extent permitted by federal law, a hospital provider who provides outpatient department (OPD) services to a Medicaid recipient is reimbursed separately under Medicaid for any non-opioid treatment provided as part of those services. The adoption of the amendment codifies the current process HHSC follows that separately reimburses Medicaid providers who provide non-opioid treatment to Medicaid recipients as part of an OPD service.

COMMENTS

The 31-day comment period ended September 3, 2024. During this period, HHSC did not receive any comments regarding the proposed rule.

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Government Code §531.033, which requires the Executive Commissioner of HHSC to adopt rules necessary to carry out the commission's duties under Chapter 531; Texas Human Resources Code §32.021(c), which requires the executive commissioner to adopt rules necessary for the proper and efficient operation of the medical assistance program; and Texas Human Resources Code §32.03117, which requires the executive commissioner by rule to ensure that, to the extent permitted by federal law, a hospital provider that provides outpatient department services to a medical assistance recipient is reimbursed separately under the medical assistance program for any non-opioid treatment provided as part of those services.

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

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Karen Ray

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For further information, please call: (512) 438-2910



TITLE 7. BANKING AND SECURITIES

PART 8. JOINT FINANCIAL REGULATORY AGENCIES

CHAPTER 151. HOME EQUITY LENDING PROCEDURES

7 TAC §151.1

The Finance Commission of Texas and the Texas Credit Union Commission (commissions) adopt amendments to §151.1 (relating to Interpretation Procedures) in 7 TAC Chapter 151, concerning Home Equity Lending Procedures.

The commissions adopt the amendments to §151.1 without changes to the proposed text as published in the August 2, 2024, issue of the *Texas Register* (49 TexReg 5615). The amended rule will not be republished.

The commissions received no official comments on the proposed amendments.

The rules in 7 TAC Chapter 151 govern the procedures for requesting, proposing, and adopting interpretations of the home equity lending provisions of Texas Constitution, Article XVI,

Section 50 ("Section 50"). In general, the purpose of the rule changes to 7 TAC Chapter 151 is to implement changes resulting from the commissions' review of the chapter under Texas Government Code, §2001.039. Notice of the review of 7 TAC Chapter 151 was published in the *Texas Register* on March 29, 2024 (49 TexReg 2095). The commissions received no official comments in response to that notice.

The rules in 7 TAC Chapter 151 are administered by the Joint Financial Regulatory Agencies ("agencies"), consisting of the Texas Department of Banking, Department of Savings and Mortgage Lending, Office of Consumer Credit Commissioner, and Texas Credit Union Department. The agencies distributed an early precomment draft of proposed changes to interested stakeholders for review. The agencies did not receive any informal precomments on the rule text draft.

Currently, §151.1(d) describes the requirements for formally requesting a home equity interpretation. Adopted amendments to §151.1(d)(1) specify that any petition for the Finance Commission to issue a home equity interpretation must be sent to the Department of Savings and Mortgage Lending, replacing current language that refers to the Office of Consumer Credit Commissioner. The Department of Savings and Mortgage Lending has the primary responsibility to license and regulate companies providing mortgage loans in Texas. The agencies anticipate that the Department of Savings and Mortgage Lending will take a leading role in coordinating future home equity interpretations.

The rule changes are adopted under Texas Finance Code, §11.308 and §15.413, which authorize the commissions to issue interpretations of Texas Constitution, Article XVI, §50(a)(5) - (7), (e) - (p), (t), and (u), subject to Texas Government Code, Chapter 2001. The rule changes are also adopted under Texas Government Code, §2001.021(b), which authorizes state agencies to adopt rules prescribing the procedure for submitting petitions for rulemaking.

The constitutional and statutory provisions affected by the adoption are contained in Texas Constitution, Article XVI, §50, and Texas Finance Code, Chapters 11 and 15.

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

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Matthew Nance

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Joint Financial Regulatory Agencies

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For further information, please call: (512) 936-7660



TITLE 16. ECONOMIC REGULATION

PART 3. TEXAS ALCOHOLIC BEVERAGE COMMISSION

CHAPTER 41. AUDITING

SUBCHAPTER B. RECORDKEEPING & REPORTS

16 TAC §41.12

The Texas Alcoholic Beverage Commission (TABC) adopts amendments to 16 TAC §41.12, relating to Compliance Reporting by License and Permit Holders. The amendments are adopted without changes to the proposed text as published in the October 11, 2024, issue of the *Texas Register* (49 TexReg 8270). The amended rule will not be republished.

REASONED JUSTIFICATION. The amendments increase the amount of time licensees and permittees are allotted to complete and submit compliance reports to TABC and provides additional relief to businesses who fail to timely submit a report.

The current rule requires TABC-licensed businesses with a premises in Texas to complete a compliance self-assessment, known as a compliance report, each year. The report is due within 90 days from the date the agency notifies a licensee or permittee to complete the report. If a compliance report is not submitted within the 90-day period, TABC may issue a written warning for the failure and the business has 30 days to complete the report before TABC may initiate an administrative enforcement case. The proposed amendments to §41.12: (1) clarify that the rule applies to those permittees and licensees with a premises; (2) increase the time allotted to submit a compliance report from 90 days to 180 days; and (3) extend the time for initiating an administrative enforcement case by removing the 30-day grace period to complete an unsubmitted report and not initiating an administrative case until a subsequent report is due and not submitted for a second time.

SUMMARY OF COMMENTS. TABC did not receive any comments on the proposed amendments.

STATUTORY AUTHORITY. TABC adopts the amendments pursuant to TABC's rulemaking authority under Texas Alcoholic Beverage Code §§5.31 and 5.361. Section 5.31 authorizes TABC to prescribe and publish rules necessary to carry out the provisions of the Alcoholic Beverage Code. Section 5.361(a-1) states that TABC "by rule shall develop a plan for inspecting permittees and licensees using a risk-based approach that prioritizes public safety," and further states that "the inspection plan may provide for a virtual inspection of the permittee or licensee that may include a review of the permittee's or licensee's records..."

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

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Matthew Cherry
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SUBCHAPTER G. OPERATING AGREEMENTS BETWEEN PERMIT AND LICENSE HOLDERS

16 TAC §41.65

The Texas Alcoholic Beverage Commission (TABC) adopts new Subchapter G, relating to Operating Agreements Between Permit and License Holders, and new rule 16 TAC §41.65, relating to Contract Distilling Arrangements and Distillery Alternating Proprietorships. The rule is adopted with changes to the proposed text as published in the October 11, 2024, issue of the *Texas Register* (49 TexReg 8272). The rule will be republished.

REASONED JUSTIFICATION. The proposed rule is necessary to implement legislation. Senate Bill 60 (88th Regular Session) authorized holders of a distiller's and rectifier's permit and a non-resident seller's permit to enter into operating agreements for activities related to the production of distilled spirits. The bill required TABC to adopt implementing rules. The proposed rule implements SB 60 by providing a framework for permittees who engage in contract distilling arrangements and distillery alternating proprietorships as authorized in Alcoholic Beverage Code §§14.10 and 37.011.

Section 41.65(a) provides a citation to the provisions in the Alcoholic Beverage Code that this rule implements. Section 41.65(b) defines the two types of operating agreements for the production of distilled spirits that are authorized by Alcoholic Beverage Code §§14.10 and 37.011, while §41.65(c) provides a definition for the term "affiliate" as used in §§14.10(a)(6) and 37.011(a). Although the term "affiliate" appears elsewhere in the Alcoholic Beverage Code, the proposed definition applies solely to the use of the word in the context of contract distilling arrangements and distillery alternating proprietorships.

Section 41.65(d) sets forth and clarifies who must be a party to arrangements under Alcoholic Beverage Code §37.011(a), which governs arrangements between certain Nonresident Seller's Permit holders and Distiller's and Rectifier's Permit holders. To be a valid arrangement under this proposed provision, the nonresident seller must either own an out-of-state distillery or have an affiliate that itself owns an out-of-state distillery and has a Distiller's and Rectifier's Permit.

Section 41.65(e) implements Alcoholic Beverage Code §§14.10(d) and 37.011(c) by clarifying that the distiller who provides services on behalf of another distiller may neither consider the product to be owned by the distiller providing the services nor sell the product at their premises.

As explained below, §41.65(f) has been changed from the proposed text to clarify that product manufactured by another distiller under a contract distilling arrangement may be brought back to the product owner's premises and sold directly to consumers in conformity with the requirements under Alcoholic Beverage Code §14.05, provided that the product owner actually manufactures, bottles, packages, or labels its own distilled spirits at that premises. In conformity with the statutory requirements outlined in §41.65(e), the changes to the proposed text still prohibit a distiller who has product manufactured by another distiller under a contract distilling arrangement who does not also manufacture, bottle, package, or label its own distilled spirits from selling the product produced under the contract distilling arrangement directly to consumers at its premises. For additional clarity, this provision's reference to manufacturing refers to the actual distillation and rectification of distilled spirits and does not include

the ancillary processes necessary to create a marketable product such as bottling, packaging, and labeling distilled spirits.

Section 41.65(g) clarifies that when a distiller or nonresident seller who engages in the activities authorized in Alcoholic Beverage Code §§14.10(a) or 37.011(a), including manufacturing, bottling, or labeling product, on another distiller's ("host distiller") premises pursuant to a distillery alternating proprietorship, the product may not be sold to ultimate consumers on the host distiller's premises under §14.05.

Section 41.65(h) is the inverse of subsection (f) for purposes of selling distilled spirits to a consumer under Alcoholic Beverage Code §14.05. Under subsection (h), a distiller who manufactures (i.e. distills or rectifies) its own distilled spirits and has the product bottled, packaged, and/or labeled by someone else under a contract distilling arrangement may sell the product to consumers at the distiller's premises in accordance with §14.05.

Section 41.65(i) requires a written agreement to be submitted to TABC before permittees may engage in a contract distilling arrangement or alternating distillery proprietorship. Additionally, the subsection outlines certain provisions that must appear in the agreement so the agency may ensure that there is a strict separation between the businesses and operations of the involved permit holders as required by Alcoholic Beverage Code §§14.10(e) and 37.011(d).

Section 41.65(j) requires nonresident sellers who engage in authorized activities under the rule through an affiliate to submit an affidavit that describes the affiliate's qualifications under §41.65(c) of the proposed rule. This will provide the agency the ability to ensure that the nonresident seller meets the qualifications in Alcoholic Beverage Code §37.011(a).

Lastly, §41.65(k) authorizes transportation of distilled spirits between premises under a contract distilling arrangement or alternating distillery proprietorship before the product has been registered with TABC. Currently, 16 TAC §45.26 prohibits removing distilled spirits from a permitted premises unless the product has first been registered with TABC. This exception to the registration requirement is necessary in these arrangements to allow the product to be submitted to the Alcohol and Tobacco Tax and Trade Bureau for a Certificate of Label Approval, which is a prerequisite for registration with TABC under Alcoholic Beverage Code §101.671.

SUMMARY OF COMMENTS. TABC received a comment from the Texas Distilled Spirits Association requesting changes to proposed §41.65(f).

COMMENT: As proposed, §41.65(f) clarified that product manufactured by another distiller under a contract distilling arrangement may not be brought back to the product owner's premises and sold directly to consumers in conformity with the requirements under Alcoholic Beverage Code §14.05. The commenter claims that by prohibiting a distiller from selling its product that is manufactured at a separate facility under a contract distilling arrangement at the distiller's tasting room, the rule could unnecessarily limit the distiller's business opportunities and cause confusion for consumers visiting the tasting room expecting to purchase a particular product. The commenter requests that the rule be amended to allow for such sales.

AGENCY RESPONSE: The agency agrees with the comment and amends §41.65(f) accordingly. As adopted, the rule will allow a distiller to sell its product that is produced at a separate location under a contract distilling arrangement at the distiller's

permitted premises, provided that the distiller actually manufactures, bottles, packages, or labels its own distilled spirits at that premises.

STATUTORY AUTHORITY. TABC adopts this rule pursuant to the agency's rulemaking authority under Texas Alcoholic Beverage Code §§5.31, 14.10, and 37.011. Section 5.31 authorizes TABC to prescribe and publish rules necessary to carry out the provisions of the Alcoholic Beverage Code. Sections 14.10 and 37.011 both direct the agency to "adopt rules regulating the shared use of the permitted premises under this section to ensure administrative accountability of each permit holder and a strict separation between the businesses and operations of the permit holders."

§41.65. Contract Distilling Arrangements and Distillery Alternating Proprietorships.

(a) This section implements Alcoholic Beverage Code §§14.10 and 37.011.

(b) Alcoholic Beverage Code §§14.10 and 37.011 authorize contract distilling arrangements and distillery alternating proprietorships.

(1) "Contract distilling arrangement" means an arrangement in which two distilleries contract for one distillery to engage in the activities authorized in Alcoholic Beverage Code §§14.10(a) or 37.011(a) on behalf of the other distillery.

(2) "Distillery alternating proprietorship" means an arrangement in which two or more parties take turns using the physical premises of a distillery as permitted under the Alcoholic Beverage Code.

(c) As used in this section and Alcoholic Beverage Code §§14.10 and 37.011, "affiliate" means a person who controls, is controlled by, or is under common control with the holder of a Nonresident Seller's Permit, including a subsidiary, parent, or sibling entity of the nonresident seller.

(d) The parties to an agreement under Alcoholic Beverage Code §37.011 shall consist of the holder of a Distiller's and Rectifier's Permit and the holder of a Nonresident Seller's Permit. The nonresident seller must either:

(1) own a distillery outside Texas; or

(2) have an affiliate who owns a distillery outside Texas who also holds a Distiller's and Rectifier's Permit.

(e) Pursuant to Alcoholic Beverage Code §§14.10(d) and 37.011(c), a distiller ("Distiller A") who manufactures, bottles, packages, or labels distilled spirits on behalf of another distiller ("Distiller B") or nonresident seller under a contract distilling arrangement may not consider the distilled spirits as being owned by Distiller A or sell those products on Distiller A's premises.

(f) A distiller who has its product(s) manufactured at a separate location under a contract distilling arrangement may not sell the product(s) directly to ultimate consumers under Alcoholic Beverage Code §14.05 unless the distiller manufactures, bottles, packages, or labels its own distilled spirits at its permitted premises.

(g) A distiller ("tenant distiller") or nonresident seller who engages in the activities authorized in Alcoholic Beverage Code §§14.10(a) or 37.011(a) on another distiller's ("host distiller") premises pursuant to a distillery alternating proprietorship may not sell the product to ultimate consumers on the host distiller's premises.

(h) A distiller who manufactures its own product, regardless of whether the product is bottled, packaged, or labeled at a separate

location under a contract distilling arrangement, may sell the product for consumption on or off the premises at which the manufacturing occurs in accordance with Alcoholic Beverage Code §14.05.

(i) Prior to engaging in the privileges authorized in this section and Alcoholic Beverage Code §§14.10 and 37.011, an agreement signed by each party to a contract distilling arrangement or distillery alternating proprietorship must be submitted to TABC by the permit holder who owns the ultimate product. The agreement must contain provisions specifying the nature, duration, and extent of the activities authorized under the agreement and provisions delineating a separation between each permit holder's business and operations. The agency's acceptance of the agreement does not constitute approval of the entirety of the agreement's terms and is merely an acknowledgement that an agreement containing the required provisions has been submitted.

(j) A nonresident seller who enters into a contract distilling arrangement or alternating distillery proprietorship through an affiliate must submit to TABC an affidavit describing the affiliate's qualifications under subsection (c) of this section.

(k) Notwithstanding §45.26, distilled spirits manufactured, bottled, packaged, or labeled pursuant to a contract distilling arrangement or distillery alternating proprietorship may be removed from, and transported between, distillery premises as necessary to accomplish the agreement's terms.

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

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For further information, please call: (512) 206-3491



CHAPTER 45. MARKETING PRACTICES

The Texas Alcoholic Beverage Commission (TABC) adopts amendments to 16 TAC §45.2, relating to Definitions. TABC also adopts new rules 16 TAC §45.28, relating to Standards of Fill for Distilled Spirits, and 16 TAC §45.29, relating to Standards of Fill for Wine. The amendments and new rules are adopted without changes to the proposed text as published in the October 11, 2024, issue of the *Texas Register* (49 TexReg 8274). The amended rule and new rules will not be republished.

REASONED JUSTIFICATION. The amendments are necessary to update TABC's rules to align with the Texas Alcoholic Beverage Code and federal regulations.

The proposed amendment to §45.2 updates the definition of "distilled spirits" to match the definition found in Alcoholic Beverage Code §1.04(3). The proposed new §45.28 and §45.29 adopt the container sizes and standards of fill for distilled spirits and wine authorized in the Alcoholic Beverage Code and established by the federal Alcohol and Tobacco Tax and Trade Bureau (TTB). These changes will ensure that the definition of "distilled spirits" in the agency's rules align with the definition in the Alcoholic Beverage Code, and that all container sizes eligible for a Certificate

of Label Approval issued by the TTB, that are not otherwise prohibited in the Alcoholic Beverage Code, may legally be sold in Texas.

SUMMARY OF COMMENTS. TABC did not receive any comments on the proposed amendments or new rules.

SUBCHAPTER A. GENERAL PROVISIONS

16 TAC §45.2

STATUTORY AUTHORITY. TABC adopts the amendments pursuant to TABC's rulemaking authority under Texas Alcoholic Beverage Code §5.31. Section 5.31 authorizes TABC to prescribe and publish rules necessary to carry out the provisions of the Alcoholic Beverage Code.

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

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SUBCHAPTER B. ENFORCEMENT

16 TAC §45.28, §45.29

STATUTORY AUTHORITY. TABC adopts the new rules pursuant to TABC's rulemaking authority under Texas Alcoholic Beverage Code §§5.31 and 5.39. Section 5.31 authorizes TABC to prescribe and publish rules necessary to carry out the provisions of the Alcoholic Beverage Code. Section 5.39 directs TABC to "adopt rules to standardize the size of containers in which liquor may be sold in the state."

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

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TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 153. SCHOOL DISTRICT
PERSONNEL
SUBCHAPTER BB. COMMISSIONER'S
RULES CONCERNING PROFESSIONAL
DEVELOPMENT

19 TAC §153.1015

The Texas Education Agency (TEA) adopts new §153.1015, concerning mental health training. The new section is adopted with changes to the proposed text as published in the July 19, 2024 issue of the *Texas Register* (49 TexReg 5250) and will be republished. The adopted new rule implements the mental health training requirement established by House Bill (HB) 3, 88th Texas Legislature, Regular Session, 2023.

REASONED JUSTIFICATION: HB 3, 88th Texas Legislature, Regular Session, 2023, added Texas Education Code (TEC), §22.904, to require each school district employee who regularly interacts with students enrolled in the district to complete an evidence-based mental health training program designed to provide instruction to participants regarding the recognition and support of children and youth who experience a mental health or substance use issue that may pose a threat to school safety. The bill also introduced an allotment to assist school districts in complying with the requirement, including costs incurred by the district for employees' travel, training fees, and compensation for the time spent completing the training.

Adopted new §153.1015 implements HB 3 by establishing criteria for the evidence-based mental health training program for school district employees and district special program liaisons who regularly interact with students enrolled in a district.

Subsection (a) defines evidence-based mental health training program.

Subsection (b) specifies the requirements for an evidence-based mental health training program.

Based on public comment, new subsections (b)(2)(D) and (E) were added at adoption to clarify additional criteria for completing the mental health training program requirements, including clarification that the training must be completed one time and that school districts shall participate and complete the mental health training program in accordance with the school district's professional development policy described in subsection (d)(8) of the rule.

Subsection (c) identifies the personnel requirements for completing the mental health training program.

Based on public comment, subsection (c)(2) was modified at adoption to add "school resource officers" to the list of personnel required to complete the evidence-based mental health training program.

Subsection (d) establishes the criteria for selecting an evidence-based training program. Subsection (d)(1) allows districts to select an evidence-based mental health training course that is on the recommended lists provided by TEA, Texas Health and Human Services Commission (HHSC), or an education service center (ESC).

Based on public comment, text was added in subsection (d)(1) at adoption to clarify that school districts may choose a training course "that is designated specifically on the list as a mental health training course that is compliant under this section."

Based on public comment, language from proposed subsection (d)(1) was moved to new subsection (d)(2) at adoption and modified to clarify when school districts may not require a district employee to complete the training.

Based on public comment, subsection (d)(3) was amended at adoption to establish requirements for a school district that selects an evidence-based training course that is not designated as compliant for this purpose on the recommended lists and to add clarification to the training course criteria.

Subsection (d)(4) establishes criteria for school districts that may provide opportunities for personnel to complete more specialized training.

Based on public comment, proposed new subsection (d)(4)(D) was deleted at adoption, as the agency has determined that information on mental health safety planning, including suicide prevention and intervention, is covered in subsection (d)(3)(I).

Based on public comment, subsection (d)(4)(H) was modified at adoption to clarify that collaboration within a community system of care is not limited to what is listed in the subsection and added local behavioral health authorities.

Based on public comment, subsection (d)(4)(K) has been amended at adoption to clarify that the establishment of strategies and support plans promoting mental health and wellness is for all staff, not just educators.

Subsection (d)(5) and (6) allows the training to be combined or coordinated with other required mental health training.

Based on public comment, subsection (d)(7) was amended at adoption to clarify how the training may be delivered to participants.

Subsection (e) requires additional training content to provide information on local district practices and procedures for mental health promotion in accordance with TEC, §38.351(i) and (j).

Subsection (f) establishes documentation requirements for the training.

Based on public comment, subsection (f)(3) was amended at adoption to establish additional criteria for the documentation of training for the mental health training program.

Subsection (g) introduces a phase-in timeline for districts to complete the mental health training.

Subsection (h) establishes criteria for mental health training reimbursement.

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began July 19, 2024, and ended August 19, 2024. Following is a summary of public comments received and agency responses.

Comment: The Texas Counseling Association (TCA) commented that proper mental health training is imperative for school personnel to recognize children and youth who experience a mental health or substance use issue and use best practices to support them. TCA also commented that mental health training must be rigorous.

Response: The agency agrees and has modified subsection (d)(3) at adoption to specify that the course with evidence-based training materials must be delivered with sufficient instructional time and rigorous methods to appropriately address and assess the competencies listed in subsection (d)(3)(A)-(J) in a quality manner.

Comment: Five individuals requested additional options available for evidence-based mental health training programs outside of Youth Mental Health First Aid (YMHFA), stating concerns about the length of the training, accessibility, and limitations put on campuses to ensure compliance within the proposed timeline.

Response: The agency provides the following clarification. The only course currently identified by TEA and HHSC as compliant with evidence-based training for this purpose is Mental Health First Aid (MHFA) or YMHFA, as cited in the authorizing statute. The rule provides local education agencies (LEAs) the option to provide training in a locally selected course if the LEA identifies and delivers a course that is compliant with new subsection (d)(3)(A)-(J). Such an alternative course may be designed and provided by a partnering organization such as a mental health agency or an ESC.

Comment: An individual commented in support of proposed subsections (d) and (e) that allow ESCs and school districts to maintain rigorous controls and requested the production of local training materials in accordance with the requirements.

Response: The agency agrees with the comment on rigorous controls for the training and has modified subsection (f)(3) at adoption to specify that school districts must maintain documentation confirming that the training course meets the requirements in subsection (d)(3)(A)-(J).

Comment: An individual commented in support of the proposed new rule.

Response: The agency agrees.

Comment: An individual commented in support of the proposed new rule and the possibility of future allotments given to agencies and organizations equipped to provide evidence-based mental health training and resources.

Response: The agency agrees.

Comment: An individual requested that an approved list of the required mental health training be accessible for school districts and that language be added clarifying the expectation of the training to include due diligence and integrity even if constructed or delivered by the HHSC, Local Mental Health Authorities (LMHAs), ESCs, or other partners who qualify to provide evidence and research-based instruction.

Response: The agency agrees and has amended subsection (d)(1) at adoption to clarify that districts may select an evidence-based training course that is specifically designated on the recommended lists as meeting the requirements for the mental health training program. Currently TEA posts resources on the Best Practices Repository on the schoolmentalhealthtx.org website.

In addition, subsection (d)(3) has been revised at adoption to clarify the expectation of quality and rigor in delivering the competency-based instruction for the mental health training course.

Comment: An individual requested clarification on whether licensed mental health professionals could produce a workshop for school districts to satisfy training requirements.

Response: The agency agrees and has modified subsection (d)(7) at adoption to clarify that LEAs can designate qualified trainers to include licensed mental health professionals to deliver the selected training course. This does not apply to a course se-

lected that may include specific certification for a trainer, such as for YMHFA.

Comment: TCA commented in support of the proposed new rule and requested revisions to proposed subsection (d)(1) and (2) establishing reporting requirements to TEA confirming LEAs' utilization of proper evidence-based mental health training, even if the training is not on the pre-approved list.

Response: The agency agrees and has clarified subsection (f)(3) at adoption to state that the documentation of training that must be kept by a school district includes the name of the course along with supporting documentation and that TEA may include a reporting process.

Comment: The Texas Council of Community Centers requested a change to subsection (d)(1) to establish requirements for updating training on a regular basis, clarify criteria for training certificates, and add "to be retrained" for clarification on general training program requirements.

Response: The agency disagrees because the authorizing statute does not designate a frequency for retraining or provide for retraining pursuant to TEC, §21.4515(c)(1), nor does the statute authorize the agency to determine the frequency of the training through explicit rulemaking pursuant to TEC, §21.4515(c)(2). In addition, the authorizing statute explicitly states that a school district may not require a district employee to complete the training required by this section if the employee has previously completed the YMHFA course provided by an LMHA. The statute does not address the expiration of the YMHFA certificates for which the Texas Council of Community Centers seeks clarification. Unless training frequency is specified by the authorizing statute, the Annual Development of Professional Development Policy required under TEC, §21.4515, requires that a local school district annually review and be guided by the recommendations of the State Board for Educator Certification's clearinghouse established under TEC, §21.431, and then for the school district board of trustees or governing body to develop its local professional development policy.

Comment: The Texas Classroom Teachers Association (TCTA) requested changes to subsection (d)(1) to clarify when a school district may not require an employee to complete training requirements and requested the provision be a separate subdivision under proposed subsection (d) for additional clarity.

Response: The agency agrees and has moved language from subsection (d)(1) to new subsection (d)(2) at adoption and added clarification about when an employee is not required to complete the required training.

Comment: An individual commented that proposed subsection (d)(3)(D) and proposed subsection (d)(3)(G) are duplicative.

Response: The agency agrees and has deleted proposed subsection (d)(3)(D) at adoption.

Comment: An individual requested a change to proposed subsection (d)(3)(L) to clarify strategies and support plans promoting mental health and wellness for additional personnel, not just educators, who regularly interact with students.

Response: The agency agrees and has revised the language, re-lettered as new subsection (d)(4)(K), at adoption to add that the strategies and support plans promoting mental health and wellness include all school staff.

Comment: An individual requested an amendment to proposed subsection (d)(7) to clarify criteria for training frequency.

Response: The agency disagrees. The frequency of mental health training is not specified in statute, and TEC, §21.4515(c)(1), prohibits the commissioner from adopting training frequency in rule unless statute explicitly provides for it.

Comment: An individual requested greater flexibility in the proposed training requirements, including clarification on the minimum number of hours required for training, clarification on whether training will be required annually, clarification on whether the training can be combined with the other required trainings already in the school district's online platform, and consideration for incorporating the mental health training into other required trainings in an effort to maximize time spent fulfilling all staff training requirements.

Response: The agency agrees in part and disagrees in part. Based on public comments, the following changes have been made at adoption: new subsection (b)(2)(D) was added to clarify that the training is a one-time training requirement for employees who regularly interact with students; new subsection (b)(2)(E) was added to specify that the training is to be completed in compliance with the school district's professional development policy; subsection (d)(3) was modified to clarify that the training course materials must provide evidence-based information, practices and strategies, sufficient instructional time, and rigorous methods to address and assess competencies, rather than requiring a minimum number of training hours, which is outside the scope of rulemaking; and subsection (d)(7) was modified to clarify that school districts can designate qualified trainers, to include, but not be limited to, licensed mental health professionals.

The agency disagrees that further clarification is needed in delivering training as subsection (d)(7) provides school districts with flexibility on the methods for how the training course is delivered to meet the requirements for the course. Subsection (d)(6) and (7) state how training on multiple topics can be combined and coordinated in alignment with Texas statutes for bundling training on those required topics for local consideration.

Comment: Three individuals requested clarification on the number of hours required for the training and if the training will be an annual requirement.

Response: The agency provides the following clarification. The rule does not require a minimum or maximum number of training hours; however, there may be a specific number of hours required if the school district elects to provide a training course that requires a minimum number of hours, such as YMHFA. Based on public comment, text has been added at adoption in subsection (d)(3) to clarify that the training materials must be delivered with sufficient instructional time and with rigorous methods to address and assess the evidence-based competencies in subsection (d)(3)(A)-(J) in a quality manner, to meet the intent of the authorizing statute for instruction in the mental health training program. The agency clarifies further by adding at adoption new subsection (b)(2)(D) to state that employees are required to participate and complete a mental health course under this section only one time.

Comment: Three individuals commented requesting that the rule be modified to clarify who would need to complete the training.

Response: The agency disagrees that a change to the rule is needed, as subsection (c)(2) already identifies the employees who are required to complete the training.

Comment: The Texas Council of Community Centers requested a change to subsection (c)(2)(B) to clarify required training par-

ticipation by all school resource officers, whether employed by the school district or as contracted personnel.

Response: The agency agrees in part and, based on public comments, has added school resource officers (SROs) to the list of employees required to be trained in subsection (c)(2), which applies only to SROs who are school district employees. The agency disagrees in part as statute does not provide the agency authority to require that a school district's contract personnel be trained under this section. The school district has local flexibility to require any of its contract personnel to participate in the training as stated in subsection (c)(2)(B).

Comment: The Texas Council of Community Centers requested a change to subsection (g) to establish a timeline and criteria for continuing education requirements related to mental health training.

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

Comment: An individual requested a change to subsection (g)(4) to clarify training requirements for new staff hired during the year.

Response: The agency disagrees as the rule language refers to all employees who are employed by the school district as of September 1 of any given school year.

Comment: An individual requested changes to subsection (h)(1) and (5) to clarify allotment criteria regarding a mental health training reimbursement.

Response: The agency disagrees as the rule language is aligned with statute.

Comment: An individual commented that proposed subsection (d)(3)(l) should be revised to remove HHSC, add local behavioral health authorities (LBHAs), and change "out of school time programs" to "afterschool programs."

Response: The agency agrees in part and disagrees in part. The agency agrees with adding LBHAs and has modified subsection (d)(4)(H) at adoption to include LBHAs. The agency disagrees with removing HHSC, as HHSC provides statewide resources related to systems of care for families. The agency also disagrees with changing "out of school time programs" to "afterschool programs" since "out of school time programs" include afterschool programs.

Comment: An individual requested clarification in subsection (h)(1) and (5) regarding an allotment if funds are appropriated to assist school districts.

Response: The agency disagrees because the rule language is aligned with the statutory language in TEC, §22.904.

STATUTORY AUTHORITY. The new section is adopted under Texas Education Code (TEC), §22.904, as added by House Bill 3, 88th Texas Legislature, Regular Session, 2023, which requires each school district employee who regularly interacts with students enrolled in the district to complete an evidence-based mental health training program designed to provide instruction to participants regarding the recognition and support of children and youth who experience a mental health or substance use issue that may pose a threat to school safety. TEC, §22.904(e) requires the commissioner of education to adopt rules to implement the section, including rules specifying the training fees and travel expenses subject to reimbursement.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code, §22.904, as added by House Bill 3, 88th Texas Legislature, Regular Session, 2023.

§153.1015. *Mental Health Training.*

(a) Definition. Evidence-based mental health training program means a program designed to provide instruction on mental health practices and procedures using current, practical, and applicable research that includes information and strategies shown to have effective, positive outcomes.

(b) Evidence-based mental health training program requirements.

(1) This section implements Texas Education Code (TEC), §22.904 (Mental Health Training). School districts may be eligible for reimbursement as specified in subsection (h) of this section.

(2) To complete the evidence-based mental health training program under this section, personnel who regularly interact with students as determined under subsection (c) of this section shall:

(A) participate and complete the required content in subsection (d) of this section;

(B) participate and complete the required content in subsection (e) of this section;

(C) submit and maintain supporting documentation of completion as described in subsection (f) of this section;

(D) participate and complete the mental health training program one time as required by TEC, §22.904, and this section; and

(E) participate and complete the mental health training program in accordance with the school district's professional development policy described in subsection (d)(8) of this section.

(c) Personnel required to complete the evidence-based mental health training program.

(1) A school district shall require each district employee who regularly interacts with students enrolled at the district to complete an evidenced-based mental health training program that is designed to provide instruction regarding the recognition and support of children and youth who experience mental health or substance use issues that may pose a threat to school safety.

(2) School district employees who regularly interact with students are employees working on a school campus, including, but not limited to, teachers, coaches, librarians, instructional coaches, counselors, nurses, administration, administrative support personnel, student support personnel, school resource officers, paraprofessionals, substitutes, custodians, cafeteria staff, bus drivers, crossing guards, and district special programs liaisons. Special programs liaisons may include, but are not limited to, individuals who provide support for students who are homeless or in substitute care, military connected students, and emergent bilingual students; individuals involved in the prevention of child maltreatment and human trafficking; individuals who support special education services; and members of a Safe and Supportive Schools Program Team.

(A) A school district will determine the number of employees who regularly interact with students for purposes of compliance with this section using the requirements in this subsection and ensure that training is provided for the number and percentage of personnel in accordance with the timeline in subsection (g) of this section.

(B) A school district may, at its discretion, require contracted personnel who regularly interact with students to participate in the training.

(C) A school district may, at its discretion, require supervisors of personnel who regularly interact with students to participate in the training.

(d) General training program required content.

(1) A school district may select an evidence-based mental health training course that is on the recommended lists provided by the Texas Education Agency (TEA), the Texas Health and Human Services Commission (HHSC), or an education service center (ESC) that is designated specifically on the list as a mental health training course that is compliant under this section.

(2) A school district may not require a district employee to complete the training required by this section if the employee has previously completed the Youth Mental Health First Aid (YMHFA) or Mental Health First Aid (MHFA) course provided by a local mental health authority (LMHA), a local behavioral health authority (LBHA), an ESC, or a YMHFA or MHFA trainer certified to teach those courses by the National Council on Mental Wellbeing if the employee provides the certificate of completion to the school district in accordance with the timeline established in subsection (g) of this section.

(3) If a school district selects an evidence-based mental health training course that is not designated as compliant for this purpose on the recommended lists provided by TEA, HHSC, or an ESC, the school district may review and select the course to satisfy the training requirement only if the course delivers instruction in the competencies under subparagraphs (A)-(J) of this paragraph with training materials that provide evidence-based information, practices and strategies, sufficient instructional time, and rigorous methods to appropriately address and assess the competencies for the participants who are expected to complete the mental health training course under this section, and only if the course provides employees with the following evidence-based information, practices, and strategies:

(A) awareness and understanding of mental health and substance use prevalence data;

(B) knowledge, skills, and abilities for implementing mental health prevention and substance use prevention in a school to protect the health and safety of students and staff, including strategies to prevent harm or violence to self or others that may pose a threat to school safety;

(C) awareness and introductory understanding of typical child development, adverse childhood experiences, grief and trauma, risk factors, the benefits of early identification and early intervention for children who may have potential mental health challenges and substance use concerns, and evidence-supported treatment and self-help strategies;

(D) awareness and understanding of mental health promotive and protective factors and strategies to deploy them for students in the school environment;

(E) experiential activities designed to:

(i) increase the participant's understanding of the impact of mental illness on individuals and families, skills for listening respectfully, and strategies for supporting the individual and family in a mental health crisis;

(ii) encourage help-seeking to obtain appropriate professional care; and

(iii) identify professional care, other supports, and self-help strategies for mental health and substance use challenges;

(F) knowledge, skills, and abilities to recognize risk factors and warning signs for early identification of students who may

potentially have mental health challenges or substance use concerns in alignment with TEC, §38.351, and evidence-based information;

(G) knowledge, skills and abilities to support a student when potential mental health concerns or early warning signs are identified, including effective strategies for teachers to support student mental health in the classroom, including students with intellectual or developmental disabilities who may have co-occurring mental health challenges;

(H) knowledge, skills, and abilities to respectfully notify and engage with a child's parent or guardian regarding potential early warning signs of mental health or substance use concerns and make recommendations so a parent or guardian can seek help for their child;

(I) knowledge of school-based and community-based resources and referrals to connect families to services and support for student mental health, including early intervention in a crisis situation that may involve risk of harm to self or others; and

(J) knowledge of strategies to promote mental health and wellness for school staff.

(4) In addition to the basic mental health training course under paragraph (2) or (3) of this subsection, school districts may provide more specialized mental health training opportunities for personnel with specific school mental health and safety related roles and responsibilities to strengthen their capacity to:

(A) plan for and monitor a continuum of evidence-based school mental and behavioral health related services and supports;

(B) deliver practical, evidence-based practices and research-based programs that may include resources recommended by TEA, HHSC, or ESCs to strengthen training, procedures, and protocols designed to promote student mental health and wellness, to prevent harm or violence to self or others, and to prevent threats to school safety;

(C) intervene effectively to engage parents or guardians and caregivers with practical evidence-based practices and programs, including in mental and behavioral health related crisis situations;

(D) facilitate referral pathways that connect parents, guardians, and caregivers to school-based or community-based mental health assessment, counseling, treatment, and related support services for students and families with effective coordination of efforts across systems;

(E) support students with intellectual or developmental disabilities who may have co-occurring mental health and behavioral health challenges and their families;

(F) facilitate mental health safety planning at schools, including suicide prevention and intervention;

(G) coordinate back-to-school transition plans from mental health or substance use treatment or from a discipline alternative education program when a mental health or substance use challenge has been identified;

(H) collaborate within a community system of care to support students and their families, including assistance offered through organizations such as LMHAs, LBHAs, HHSC, hospitals, school-based and community-based clinics, out of school time programs, non-profit mental health and faith-based groups, family partner services, the juvenile justice system, the child welfare system, the Texas Child Mental Health Care Consortium, and community resource coordination groups;

(I) establish partnerships and referral pathways with school-based and community-based mental health service providers and engage resources that may be available to the school, including resources that are identified by TEA, state agencies, or an ESC in the Texas School Mental Health Resources Database in accordance with TEC, Chapter 38, and which may include services that are delivered by telehealth or telemedicine;

(J) support classroom educators with job-embedded training, coaching, and consultation on supporting student mental health and wellness and preventing youth violence; and

(K) establish strategies and support plans to promote mental health and wellness for all school staff.

(5) The training in this section may be combined or coordinated with suicide prevention, intervention, and postvention training, but it does not replace that required training.

(6) The training in this section may be combined or coordinated with grief and trauma informed care practices training, but it does not replace the required trauma informed training under TEC, §38.036. The training may be combined to include up to three required mental health training topics under TEC, §38.351, and as cited in TEC, §21.451(d-1)(2), at the discretion of the local school district.

(7) The training may be delivered by an instructor who is qualified to instruct participants using the training materials with sufficient instructional time and rigorous methods to address and assess the competencies for completing the training course approved by a school district under paragraphs (3)(A)-(J) or (4)(A)-(K) of this subsection, including, but not limited to, a licensed mental health professional, and through various modalities, such as face-to-face delivery, synchronous online learning, or hybrid or blended formats, and it may include job-embedded learning and coaching strategies for evidence-based implementation support.

(8) For alignment, a school district must consider the recommendations from the State Board for Educator Certification Clearinghouse on providing mental health training per TEC, §21.451; develop a local policy on what training will be provided; and determine the training frequency for personnel required to be trained.

(e) Training program required content related to local school district practices and procedures.

(1) For applicability of the course content in subsection (d) of this section to local school district context, the personnel who regularly interact with students must be informed of the local district practices and procedures for mental health promotion required by TEC, §38.351(i), concerning each of the following areas listed in TEC, §38.351(c), including where multiple areas are listed together, in accordance with TEC, §38.351(j):

(A) early mental health prevention and intervention;

(B) building skills related to managing emotions, establishing and maintaining positive relationships, and responsible decision-making;

(C) substance abuse prevention and intervention;

(D) suicide prevention, intervention, and postvention;

(E) grief-informed and trauma-informed practices;

(F) positive school climates;

(G) positive behavior interventions and supports;

(H) positive youth development; and

(I) safe, supportive, and positive school climate.

(2) If the school district also develops practices and procedures for providing educational material to all parents and families in the district that contain information on identifying risk factors, accessing resources for treatment or support provided on and off campus, and accessing available student accommodations provided on campus in accordance with TEC, §38.351(i-1), personnel who regularly interact with students must also be informed of those practices and procedures.

(f) Documentation.

(1) School districts shall require each district employee to provide the certificate of completion of the training content in subsection (d) of this section to the school district.

(2) Documentation of the training content described in subsection (e) of this section may be satisfied when the employee submits to the district an acknowledgement form signed by the employee who received the current training and a copy of local procedures and practices that are published in the district handbook and/or district improvement plan.

(3) Documentation of training for the mental health training program, including the name of the training course, along with supporting documentation confirming that the training course abides by the requirements outlined in subsection (d)(3)(A)-(J) and (4)(A)-(K) of this section and documentation under this subsection, must be kept by the school district and made available to TEA upon request, which may include a reporting process, for the duration of the employee's employment with the district.

(g) Timeline.

(1) At least 25% of the applicable district employees shall be trained before the start of the 2025-2026 school year.

(2) At least 50% of the applicable school district employees shall be trained before the start of the 2026-2027 school year.

(3) At least 75% of the applicable school district employees shall be trained before the start of the 2027-2028 school year.

(4) 100% of the applicable district employees shall be trained before the start of the 2028-2029 school year.

(A) When calculating the percentage of staff to be trained, the denominator is the number of school district employees who regularly interact with students who are required under subsection (c) of this section to receive mental health training.

(B) The percentages in this subsection shall be calculated using the number of school district employees who regularly interact with students and are employed by the district as of September 1 in any given school year.

(C) The number and percentage of employees and the procedure for making the determination under this subsection and subsection (c) of this section must be made available upon request by TEA.

(h) Mental health training reimbursement.

(1) If funds are appropriated, an allotment shall be provided to assist local school districts in complying with this section.

(2) The amount of the allotment provided to school districts under this subsection may not exceed the allowable costs incurred by the district for completing the required training.

(3) The funding shall be used to assist the school district in complying with the section and should include only the costs incurred by the district from employees' travel, training fees, and compensation for time spent completing the required training. Substitute pay, travel

costs such as mileage and lodging, and cost of materials are eligible for this reimbursement.

(4) School districts may use the funding for training fees, travel expenses, and material costs for employees to attend trainer of trainer courses that allow staff to facilitate trainings for their district that meet the requirements set out in this section.

(5) TEA may proportionally reduce each school district's allotment if the amount appropriated is insufficient to pay for all costs incurred by districts under this subsection.

(6) School districts shall maintain an accounting of funding and documentation on expenses for the allocated funds and make the accounting of expenses available as requested by TEA.

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 November 12, 2024.

TRD-202405483

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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Proposal publication date: July 17, 2024

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



TITLE 22. EXAMINING BOARDS

PART 5. STATE BOARD OF DENTAL EXAMINERS

CHAPTER 102. FEES

22 TAC §102.1

The State Board of Dental Examiners (Board) adopts this amendment to 22 TAC §102.1, concerning Fees, without changes to the proposal as published in the October 4, 2024, issue of the *Texas Register* (49 TexReg 8014) and will not be republished.

The adopted amendment fixes a clerical error made by staff to the total fee amounts for the dentist renewal fee, dentist renewal late - 1 to 90 days fee, and dentist renewal late - 91 to 364 days fee. An extra \$15 charge was mistakenly imposed, and therefore the adopted amendment updates the fees to remove the extra charge.

In addition, the adopted amendment includes late fees for the dentist and dental hygienist temporary license by credentials renewal application. The late fees are imposed in accordance with Section 257.002(c)-(c-1) of the Texas Occupations Code by requiring licensees whose license is expired for 90 days or less to pay a renewal fee that is equal to 1 ½ times the normally required renewal fee, and whose license is expired for more than 90 days but less than one year to pay a renewal fee that is equal to two times the normally required renewal fee.

No comments were received regarding adoption of this rule.

This rule is adopted under Texas Occupations Code §254.001(a), which gives the Board authority to adopt rules

necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety, and Texas Occupations Code §254.004, which directs the Board to establish reasonable and necessary fees sufficient to cover the cost of administering the Board's duties.

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

Filed with the Office of the Secretary of State on November 8, 2024.

TRD-202405467

Lauren Studdard

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State Board of Dental Examiners

Effective date: November 28, 2024

Proposal publication date: October 4, 2024

For further information, please call: (512) 305-8910



PART 11. TEXAS BOARD OF NURSING

CHAPTER 211. GENERAL PROVISIONS

22 TAC §211.7

Introduction. The Texas Board of Nursing (Board) adopts amendments to 22 Texas Administrative Code §211.7, relating to Executive Director, without changes to the proposed text published in the September 20, 2024, issue of the *Texas Register* (49 TexReg 7570). The rule will not be republished.

Reasoned Justification. The Board has established an agreed order to inactivate a nurse's license if it is found that their education is not substantially equivalent to a Texas approved nursing program's requirements. Traditionally, such orders have been ratified during a regular Board Meeting or a meeting of the Board's Eligibility and Disciplinary Committee. However, certain agreed orders are currently accepted on behalf of the Board by the Executive Director. The adopted amendments aim to include inactivation orders, based on educational deficiencies, among those that the Executive Director can accept. This delegation of authority is intended to reduce the time between a nurse's agreement to inactivate their license and their removal from practice. The Executive Director will provide summaries of these actions at regular Board meetings. Additionally, the amendments clarify the Executive Director's authority to accept orders for nurses facing temporary suspension under the Occupations Code §§301.455 & 301.4551. These changes aim to improve regulatory efficiency by processing monitoring or suspension orders signed by Respondents without waiting for a temporary suspension hearing or other Board meeting.

Section by Section Overview. The adopted amendments include the addition of §211.7(f)(4) to the categories of orders the Executive Director is authorized to accept on the Board's behalf. The Executive Director must report summaries of these orders to the Board during its regular meetings. Additionally, the amendments eliminate language from §211.7(i) that previously stated the Executive Director could only enter an order for a nurse following a temporary suspension hearing. The revised language broadens this authority, allowing the Executive Director to enter an order

when a licensee is subject to temporary suspension or after the licensee has already been temporarily suspended.

Public Comment. The Board received no comments on the adoption of these amendments.

Statutory Authority. These amendments are adopted under the authority of Texas Occupations Code §§301.151 & 301.101. Texas Occupations Code § 301.151 addresses the general rulemaking authority of the Board to adopt and enforce rules consistent with Chapter 301 to perform its duties and conduct proceedings before the Board, regulate the practice of professional nursing and vocational nursing, establish standards of professional conduct for license holders under Chapter 301, and determine whether an act constitutes the act of professional nursing or vocational nursing. Texas Occupations Code §301.101 authorizes the Board to designate duties of the Executive Director.

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 November 13, 2024.

TRD-202405510

James W. Johnston

General Counsel

Texas Board of Nursing

Effective date: December 3, 2024

Proposal publication date: September 20, 2024

For further information, please call: (512) 305-6879



CHAPTER 213. PRACTICE AND PROCEDURE

22 TAC §213.33

Introduction. The Texas Board of Nursing (Board) adopts amendments to 1§213.33, relating to Factors Considered for Imposition of Penalties/Sanctions, without changes to the proposed text as published in the September 20, 2024, issue of the *Texas Register* (49 TexReg 7571). The rule will not be republished.

Reasoned Justification. On January 25, 2023, the U.S. Department of Health and Human Services Office of Inspector General (HHS-OIG) and law enforcement partners executed a coordinated, multi-state operation to apprehend individuals involved in selling fraudulent nursing degree diplomas and transcripts. The scheme allegedly involved the sale of fake nursing diplomas and transcripts from accredited Florida-based nursing schools to Registered Nurse (RN) and Licensed Practical/Vocational Nurse (LPN/VN) candidates. Those who obtained these fraudulent credentials used them to qualify for the national nursing board exam. Upon passing the exam, these individuals were eligible to obtain licensure in various states, including Texas, to practice as RNs or LVNs.

The Board has begun disciplinary actions to revoke or deny the renewal of licenses and to deny initial licenses to individuals implicated in the scheme. Additionally, the Board has begun to deny licensure or take action against other individuals who obtained legally insufficient education. According to Tex. Occ. Code §301.451, it is illegal to practice nursing with a diploma, license, or record obtained unlawfully or fraudulently. Tex. Occ.

Code §301.452(b)(1) authorizes the Board to act on violations of Chapter 301 or any related rule, regulation, or order. The adopted amendments bridge the gap between a violation of Tex. Occ. Code §301.451 and the concurrent violation of Tex. Occ. Code §301.452(b)(1).

The adopted amendments aim to clarify the Board's stance on these violations, informing licensees and the public about the likely sanctions for such violations based on the Disciplinary Matrix's Tier and Sanction Level analysis. The amendments also specify disciplinary actions for applicants who falsely certify that they meet Texas's licensure qualifications. A number of applicants for renewal and licensure have inaccurately claimed to meet educational requirements, leading to the licensure of nurses who have not completed the necessary clinical or didactic education, posing a significant public health risk. The amendments seek to ensure applicants understand the Board's position on this behavior and to maintain consistency in applying the Board's disciplinary matrix.

Additionally, the adopted amendments distinguish between technical and substantive requirements of a Board order. Current language misclassifies remedial education, typically required in Board disciplinary orders, as technical, non-remedial requirements. The amendments remove this language to align with the Board's current view of these violations.

Section by Section Overview. The adopted amendments introduce several changes to the Board's Disciplinary Matrix, found in §213.33(b), particularly concerning §301.452(b)(1). The amendments clarify the Board's stance on non-compliance with remedial education requirements in disciplinary orders, removing language that previously classified these requirements as technical and non-remedial. The Board now views non-compliance with remedial education requirements as substantive violations.

The adopted amendments in the Third Tier of §301.452(b)(1) articulate two violations that the Board views as Third Tier offenses. The first offense involves practicing nursing with unlawfully or fraudulently obtained credentials, or credentials issued under false representation. The second offense pertains to inaccurately certifying on initial or renewal licensure applications that an applicant meets Texas's legal and regulatory qualifications. Adopted changes to Sanction Level I in the Third Tier include the denial of initial licensure or licensure renewal, aligning with Board precedent in similar cases. These adopted additional sanctions support the Board's authority under §301.453, which includes the denial of applications for licensure, renewal, or temporary permits. Additionally, a new aggravating factor related to evidence of fraud, misrepresentation, or falsity will guide the Board in determining the appropriate sanction level that will apply when undertaking a matrix analysis for the above stated violations.

Public Comment. The Board received no comments on the adoption of these amendments.

Statutory Authority. These amendments are adopted under the authority of Texas Occupations Code §301.151. Texas Occupations Code §301.151 addresses the general rulemaking authority of the Board to adopt and enforce rules consistent with Chapter 301 to perform its duties and conduct proceedings before the Board, regulate the practice of professional nursing and vocational nursing, establish standards of professional conduct for license holders under Chapter 301, and determine whether an act constitutes the act of professional nursing or vocational nursing.

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 November 13, 2024.

TRD-202405511

James W. Johnston

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Texas Board of Nursing

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For further information, please call: (512) 305-6879



TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 564. CHEMICAL DEPENDENCY TREATMENT FACILITIES

SUBCHAPTER C. OPERATIONAL REQUIREMENTS

26 TAC §564.39

The Texas Health and Human Services Commission (HHSC) adopts new §564.39, concerning Dangers of Substance Misuse Educational Program Requirements.

New §564.39 is adopted with changes to the proposed text as published in the August 2, 2024, issue of the *Texas Register* (49 TexReg 5743). This rule will be republished.

BACKGROUND AND JUSTIFICATION

The new section is necessary to comply with and implement House Bill (H.B.) 5183, 88th Legislature, Regular Session, 2023.

H.B. 5183 amended Texas Transportation Code Chapter 521 and, in part, requires HHSC to approve a substance misuse educational program that a residential chemical dependency treatment facility licensed under Texas Health and Safety Code Chapter 464 may provide to an individual whose driver's license was suspended under Transportation Code §521.372. This program must be equivalent to an educational program approved by the Texas Department of Licensing and Regulation under Texas Government Code Chapter 171.

The new section is required to establish the standards for an equivalent educational program as required by Texas Transportation Code §521.374(a-1).

COMMENTS

The 31-day comment period ended September 3, 2024.

During this period, HHSC did not receive any comments regarding the proposed rule.

HHSC made a minor editorial change to §564.39(i) to replace "insure" with "ensure."

In accordance with Texas Transportation Code §521.375, HHSC jointly adopts this proposed rule with the Texas Department of

Public Safety (DPS). In consultation with DPS, HHSC revised the certificate of completion requirement in §564.39(l)(2)(B)(i)(III) to include an identification card number.

HHSC also made a minor editorial change to §564.39(l)(2)(B)(i)(III) to ensure consistency with the statutory language in Texas Transportation Code §521.001(a)(6).

STATUTORY AUTHORITY

The new section is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Transportation Code Chapter 521, which authorizes the executive commissioner of the Health and Human Services Commission and the Department of Public Safety to jointly adopt rules.

§564.39. Dangers of Substance Misuse Educational Program Requirements.

(a) The purpose of this section is to establish the requirements for an educational program on the dangers of substance misuse pursuant to Texas Transportation Code Chapter 521, Subchapter P.

(b) Pursuant to Texas Transportation Code §521.374(a)(2), a residential chemical dependency treatment facility (CDTF) may provide an educational program to a resident of that facility whose driver's license is suspended under Texas Transportation Code §521.372. The facility must meet all requirements in this section for the CDTF's educational program to be considered equivalent under Texas Transportation Code §521.374(a)(2) to an educational program approved by the Texas Department of Licensing and Regulation under Texas Government Code Chapter 171.

(c) A CDTF that provides an educational program under this section may provide the educational program in person or online.

(d) The curriculum for an educational program provided under this section shall include at least the following key elements:

(1) Texas drug laws, including laws and penalties relating to controlled substances and the difference between state and federal statutes;

(2) history of substance misuse, including trends in the history of substance misuse and how substances impact individuals and society;

(3) stages of change, including how individuals integrate new behaviors and goals through five stages of change;

(4) substance misuse and the impact on physical health;

(5) physical health, human immunodeficiency virus (HIV), and sexually transmitted infections;

(6) community resources, including referrals to counseling, services that support the person's recovery, and testing;

(7) brain and the central nervous system;

(8) disease model of substance use disorder (mild, moderate, and severe);

(9) society and substance misuse, including how advertising, movies, and television influence substance misuse trends;

(10) Maslow's hierarchy of needs, including understanding basic human needs and how substance misuse impacts a person's ability to meet personal needs;

(11) substance misuse and its impact on personal and work relationships;

(12) personal values, attitude, and behavior;

(13) recovery, including treatment and community-based support programs or services;

(14) return to use prevention; and

(15) recovery plan.

(e) A CDTF that provides an online version of an educational program under this section shall comply with §564.911 of this chapter (relating to Treatment Services Provided by Electronic Means).

(f) A CDTF that provides an in-person version of an educational program under this section shall conduct the educational program's course at the CDTF's physical location.

(g) The CDTF shall make provisions for residents unable to read or speak English. The facility shall provide separate courses in English and in a second language(s) appropriate to the population(s) served at the CDTF.

(h) To serve as an instructor of an educational program under this section, an individual must be an employee of the CDTF and must have a minimum of two years of relevant and documented experience providing direct client services to persons with substance misuse problems and serve as one of the following:

(1) licensed chemical dependency counselor;

(2) registered counselor intern;

(3) licensed social worker;

(4) licensed professional counselor;

(5) licensed professional counselor intern;

(6) certified teacher;

(7) licensed psychologist;

(8) licensed physician or psychiatrist;

(9) probation or parole officer;

(10) adult or child protective services worker;

(11) licensed vocational nurse; or

(12) licensed registered nurse.

(i) A single instructor shall teach the entire course. The instructor shall document all information related to the resident participating and completing the course. The CDTF shall ensure all course documentation is placed in the resident's client record.

(j) The instructor shall:

(1) require participants to complete all the class modules within the course in the proper sequence;

(2) administer and evaluate pre-course and post-course program test instruments for each participant;

(3) administer a participant course evaluation at the end of each course; and

(4) conduct an exit interview with each participant.

(k) Each educational program shall include at least:

(1) 15 hours of class instruction per course; and

(2) five class modules of instruction per course.

(l) In order for the Texas Department of Public Safety (DPS) and Texas Health and Human Services Commission (HHSC) to accept a certificate as valid, the CDTF shall use the standardized certificate format described in this subsection.

(1) The CDTF shall create and issue a certificate of completion to a resident on the resident's participation in and successful completion of the educational program. The CDTF shall maintain an ascending numerical accounting record of all issued certificates.

(2) The certificate issued by the CDTF for completion of the education program under this section shall use the following format and, at minimum, consist of the following:

(A) The CDTF shall create a certificate that:

- (i) is 8.5 inches wide and 3.5 inches long;
- (ii) consists of a blue background color; and
- (iii) aside from the required handwritten signature, consists only of a typed 12-point font that is legible and easy to read.

(B) The CDTF shall include on the left side of the certificate:

- (i) the resident's:
 - (I) full name;
 - (II) date of birth;
 - (III) driver's license or identification card number;
 - (IV) address; and
 - (V) offense cause number;
- (ii) the name of the county that convicted the resident; and
- (iii) the date the resident successfully completed the educational program under this section.

(C) The CDTF shall include on the right side of the certificate:

- (i) the CDTF's:
 - (I) full name as it appears on the facility's license, including any headquarters or Assumed Name or Doing Business As names;
 - (II) address;
 - (III) phone number; and
 - (IV) residential facility license number;
- (ii) the instructor's printed full name and signature; and
- (iii) the date of the instructor's signature.

(D) The CDTF shall include a serial number unique to each certificate issued in the top right corner of the certificate. When creating certificate serial numbers, the CDTF shall use consecutive serial numbers and issue certificates to residents in consecutive order.

(3) The CDTF shall maintain a copy of each issued certificate of program completion for at least three years from the date of course completion.

(m) An HHSC representative may determine compliance with this section during an inspection or investigation of a CDTF that offers an educational program under this section.

(n) In accordance with Transportation Code §521.375(a-1), HHSC and DPS are responsible for jointly adopting rules for qualification and approval of an educational program a CDTF provides under this section. For any proposed changes to the rules outlined in this section, HHSC solicits input from DPS during the rulemaking process.

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

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TITLE 28. INSURANCE

PART 2. TEXAS DEPARTMENT OF INSURANCE, DIVISION OF WORKERS' COMPENSATION

CHAPTER 134. BENEFITS--GUIDELINES FOR MEDICAL SERVICES, CHARGES, AND PAYMENTS

The Texas Department of Insurance, Division of Workers' Compensation (DWC) adopts the following changes to 28 TAC Chapter 134, Subchapter F, concerning pharmaceutical benefits: repeal 28 TAC §§134.506 and 134.510, and amend 28 TAC §§134.500, 134.501, 134.502, 134.503, 134.504, 134.520, 134.530, 134.540, and 134.550. Subchapter F implements Texas Labor Code §§408.028 and 413.011, and Texas Insurance Code Chapter 1305. The DWC medical advisor recommended the amendments to the commissioner of workers' compensation under Labor Code §413.0511(b).

The amendments to §§134.500, 134.501, 134.502, 134.503, and 134.520 and the repeals of 134.506 and 134.510 are adopted without changes to the proposed text published in the August 23, 2024, issue of the *Texas Register* (49 TexReg 6397). These sections will not be republished.

The amendments to §§134.504, 134.530, 134.540, and 134.550 are adopted with changes to the proposed text published in the August 23, 2024, issue of the *Texas Register* (49 TexReg 6397). DWC reverted to existing text in parts of §§134.504, 134.530, 134.540, and 134.550 in response to comments to avoid unintended consequences. Sections 134.504, 134.530, 134.540, and 134.550 will be republished.

REASONED JUSTIFICATION. The changes update and reorganize Subchapter F. Repealing §§134.506 and 134.510, and amending §§134.500, 134.501, 134.502, 134.503, 134.504, 134.520, 134.530, 134.540, and 134.550 is necessary to remove obsolete provisions and to update references and language to be consistent with other rules. Labor Code §408.028 requires the commissioner by rule to adopt a closed formulary under

§413.011, as well as a fee schedule, and provides requirements for prescribing prescription drugs, generic pharmaceutical medications, and over-the-counter alternatives. Insurance Code Chapter 1305 authorizes the establishment of workers' compensation health care networks for providing workers' compensation medical benefits and provides standards for the certification, administration, evaluation, and enforcement of their delivery of health care services to injured employees. The changes also include nonsubstantive editorial and formatting changes that make updates for plain language and agency style to improve the rule's clarity.

Section 134.500. The changes delete the definition of "open formulary." The Texas workers' compensation system now uses a closed formulary, so the reference to an open formulary is unnecessary. The changes correct a reference to the injured employee's Social Security number to specify only the last four digits of the number. The changes also renumber the paragraphs where needed and make editorial and formatting updates for plain language and agency style. Amending §134.500 is necessary to enhance the rule's clarity and accuracy.

Section 134.501. The changes correct obsolete references and make editorial and formatting updates for plain language and agency style. Amending §134.501 is necessary to enhance the rule's clarity and accuracy.

Section 134.502. The changes make editorial and formatting updates for plain language and agency style. Amending §134.502 is necessary to enhance the rule's clarity.

Section 134.503. The changes make editorial and formatting updates for plain language and agency style. Amending §134.503 is necessary to enhance the rule's clarity.

Section 134.504. The changes correct obsolete references and make editorial and formatting updates for plain language and agency style. In response to a comment, DWC removed a proposed change that would have required only the last four digits of the claimant's Social Security number, and retained the existing requirement for the full number. Amending §134.504 is necessary to enhance the rule's clarity and accuracy.

Section 134.506. Section 134.506 is repealed because it is an obsolete transitional provision. Repealing §134.506 is necessary to ensure that the published rules are current.

Section 134.510. Section 134.510 is repealed because it is an obsolete transitional provision. Repealing §134.510 is necessary to ensure that the published rules are current.

Section 134.520. The changes update the section title to remove an unnecessary reference to the 2011 transition to a closed formulary, add the sentence, "The closed formulary applies to all drugs that are prescribed and dispensed for outpatient use," to be consistent with §§134.530 and 134.540, and make editorial and formatting updates for plain language and agency style. Amending §134.520 is necessary to enhance the rule's clarity and accuracy.

Section 134.530. The changes remove unnecessary references, correct obsolete references, and make editorial and formatting updates for plain language and agency style. Amending §134.530 is necessary to enhance the rule's clarity and accuracy. In response to a comment, DWC removed a proposed change that would have specified the prescribing doctor or pharmacy as the requester for a medical interlocutory order.

Section 134.540. The changes remove unnecessary references, correct obsolete references, and make editorial and formatting updates for plain language and agency style. Amending §134.540 is necessary to enhance the rule's clarity and accuracy. In response to a comment, DWC removed a proposed change that would have specified the prescribing doctor or pharmacy as the requester for a medical interlocutory order.

Section 134.550. The changes correct obsolete references, update DWC's website address, clarify text, and make editorial and formatting updates for plain language and agency style. Amending §134.550 is necessary to enhance the rule's clarity and accuracy. DWC removed a proposed change that would have specified the prescribing doctor or pharmacy as the requester for a medical interlocutory order. In response to a comment, DWC also removed proposed changes to §134.550(h) to avoid unintentional conflicts in the timeframes for reconsideration of a preauthorization denial, and reverted to the existing text of that subsection with minor nonsubstantive edits.

SUMMARY OF COMMENTS AND AGENCY RESPONSE.

Commenters: DWC received two written comments and no oral comments. The Office of Injured Employee Counsel commented in support of the proposal. Texas Mutual Insurance Company (Texas Mutual) commented in support of the proposal with changes. There were no commenters against the proposal.

Comment on Subchapter F. The Office of Injured Employee Counsel stated that they supported DWC's proposed changes to remove obsolete provisions and to update references and language to be consistent with other rules.

Agency Response to Comment on Subchapter F. DWC appreciates the comment.

Comment on §134.501. Texas Mutual suggested that DWC consider revising §134.501(a)(4) to recognize that reimbursement may be made based on DWC pharmacy fee guidelines or at a contract rate authorized by Labor Code §408.0281.

Agency Response to Comment on §134.501. DWC appreciates the comment but declines to make the change. The lack of medical fee disputes involving that fee guideline indicates that the existing language in §134.501(a)(4) is sufficient, and DWC did not propose substantive changes to it. In addition, §134.503(f) already allows the insurance carrier to reimburse prescription medications or services at a contract rate that is inconsistent with the fee guideline as long as the contract complies with the provisions of Labor Code §408.0281 and applicable DWC rules.

Comment on §134.504. Texas Mutual recommended that DWC not adopt the proposed change to §134.504(a)(1)(A) that reduced the Social Security number reporting requirement to only the last four digits because the change would create difficulties for insurance carriers in complying with their medical EDI data reporting requirements under 28 TAC Chapter 134, Subchapter I, which requires the full Social Security number.

Agency Response to Comment on §134.504. DWC appreciates the comment and has removed the proposed change. The existing requirement for the full Social Security number remains.

Comment on §134.510. Texas Mutual stated that they supported the repeal of §134.510 but suggested that DWC consider whether repealing the provisions allowing agreements under subsections (c) and (d) could be problematic if any claims remain with an evergreen pharmacy agreement in place.

Agency Response to Comment on §134.510. DWC appreciates the comment but has proceeded with the repeal. The repeal is not retroactive, so existing agreements for long-ago claims should not be affected. Removing the obsolete provisions is necessary to ensure that the rules are current and accurate.

Comment on §§134.530 and 134.540. Texas Mutual recommended that DWC keep the existing language in §§134.530(e)(4) and 134.540(e)(4) intact to ensure that there are no unintended consequences limiting the request of medical interlocutory orders under §§133.306 or 134.550.

Agency Response to Comment on §§134.530 and 134.540. DWC appreciates the comment and has removed the proposed change. The existing requirements, which do not mention the prescribing doctor or pharmacy, remain.

Comment on §134.550. Texas Mutual recommended that DWC keep the language in current §134.550(h) intact to avoid unintentional conflicts in the timeframes for reconsideration of a preauthorization denial in §§134.600(o) and 19.2011(a)(1) and (9). Texas Mutual also recommended that DWC continue to use the acronym "MIO" to distinguish pharmacy medical interlocutory orders to address potential emergency situations from other types of medical interlocutory orders.

Agency Response to Comment on §134.550. DWC appreciates the comment and has removed the proposed change to §134.550(h), reverting to the existing text in that subsection. DWC declines to revert to the "MIO" acronym in the rule text, as "MIO" stands for "medical interlocutory order," and is clearer to read. There should be no confusion and no substantive change in simply spelling out an acronym to make the rule more accessible to readers. Differentiating types of medical interlocutory orders should be simple, as the requests and orders include their type. For example, a request for a medical interlocutory order under §134.550 states that it is being made under that section.

SUBCHAPTER F. PHARMACEUTICAL BENEFITS

28 TAC §§134.500 - 134.504, 134.520, 134.530, 134.540, 134.550

STATUTORY AUTHORITY. The commissioner of workers' compensation adopts amendments to §§134.500, 134.501, 134.502, 134.503, 134.504, 134.520, 134.530, 134.540, and 134.550 under Labor Code §§408.028, 408.0281, 413.011, 413.0141, 413.0511, 402.00111, 402.00116, and 402.061, and Insurance Code Chapter 1305, including §§1305.003, 1305.101, and 1305.153.

Labor Code §408.028 governs pharmaceutical services. It requires the commissioner by rule to adopt a closed formulary under §413.011, and provides requirements for prescribing prescription drugs, generic pharmaceutical medications, and over-the-counter alternatives. It requires the commissioner by rule to allow an employee to buy over-the-counter alternatives to prescribed or ordered medications, and to get reimbursement from the insurance carrier for those medications. It also requires the commissioner by rule to allow an employee to buy a brand-name drug instead of a generic pharmaceutical medication or over-the-counter alternative to a prescription medication if a health care provider prescribes a generic pharmaceutical medication or an over-the-counter alternative to a prescription medication. Section 408.028(f) requires the commissioner by rule to adopt a fee schedule for pharmacy and pharmaceutical services that will: (1)

provide reimbursement rates that are fair and reasonable; (2) assure adequate access to medications and services for injured workers; (3) minimize costs to employees and insurance carriers; and (4) take into consideration the increased security of payment that Labor Code Title 5, Subtitle A, affords.

Labor Code §408.0281 provides requirements for the reimbursement of pharmaceutical services.

Labor Code §413.011 requires the commissioner to adopt health care reimbursement policies and guidelines that reflect the standardized reimbursement structures found in other health care delivery systems with minimal modifications to those reimbursement methodologies as necessary to meet occupational injury requirements. To achieve standardization, it requires the commissioner to adopt the most current reimbursement methodologies, models, and values or weights used by the federal Centers for Medicare and Medicaid Services, including applicable payment policies relating to coding, billing, and reporting. It also requires the commissioner to develop one or more conversion factors or other payment adjustment factors, taking into account economic indicators and the requirements of §413.011(d), which requires that fee guidelines be fair and reasonable, and designed to ensure the quality of medical care and to achieve effective medical cost control. It requires the commissioner to consider the increased security of payment that Labor Code, Title 5, Subtitle A, provides in establishing the fee guidelines.

Labor Code §413.0141 allows the commissioner by rule to require an insurance carrier to pay for specified pharmaceutical services sufficient for the first seven days following the date of injury if the health care provider requests and receives verification of insurance coverage and a verbal confirmation of an injury from the employer or from the insurance carrier as provided by §413.014. The rules must provide that an insurance carrier is eligible for reimbursement for pharmaceuticals paid under §413.0141 from the subsequent injury fund if the injury is determined not to be compensable.

Labor Code §413.0511 requires DWC to employ or contract with a medical advisor. The medical advisor must be a doctor, as defined in §401.011. The medical advisor's duties include making recommendations about the adoption of rules and policies to: develop, maintain, and review guidelines as provided by §413.011, including rules about impairment ratings; reviewing compliance with those guidelines; regulating or performing other acts related to medical benefits as required by the commissioner; and determining minimal modifications to the reimbursement methodology and model used by the Medicare system as needed to meet occupational injury requirements.

Labor Code §402.00111 provides that the commissioner of workers' compensation shall exercise all executive authority, including rulemaking authority under Title 5 of the Labor Code.

Labor Code §402.00116 provides that the commissioner of workers' compensation shall administer and enforce this title, other workers' compensation laws of this state, and other laws granting jurisdiction to or applicable to DWC or the commissioner.

Labor Code §402.061 provides that the commissioner of workers' compensation shall adopt rules as necessary to implement and enforce the Texas Workers' Compensation Act.

Insurance Code Chapter 1305 authorizes the establishment of workers' compensation health care networks for providing workers' compensation medical benefits and provides standards for

the certification, administration, evaluation, and enforcement of their delivery of health care services to injured employees.

Insurance Code §1305.003(b) provides that Chapter 1305 controls if there is a conflict between Title 5, Labor Code, and Chapter 1305 as to the provision of medical benefits for injured employees, the establishment and regulation of fees for medical treatments and services, the time frames for payment of medical bills, the operation and regulation of workers' compensation health care networks, the regulation of health care providers who contract with those networks, or the resolution of disputes regarding medical benefits provided through those networks.

Insurance Code §1305.101(c) requires in part that prescription medication and services be reimbursed as provided by Labor Code §408.0281, other provisions of Title 5, Labor Code, and applicable rules of the commissioner of workers' compensation.

Insurance Code §1305.153 governs provider reimbursement. Subsection (a) states that the amount of reimbursement for services provided by a network provider is determined by the contract between the network and the provider or group of providers. Subsection (c) requires that out-of-network providers who provide care as described by §1305.006 be reimbursed as provided by Title 5, Labor Code, and applicable rules of the commissioner of workers' compensation. Subsection (d) subjects billing by, and reimbursement to, contracted and out-of-network providers to Title 5, Labor Code, and applicable rules of the commissioner of workers' compensation, as consistent with Chapter 1305. But applying those rules may not negate reimbursement amounts negotiated by the network.

§134.504. Pharmaceutical Expenses Incurred by the Injured Employee.

(a) If an injured employee needs to purchase prescription drugs or over-the-counter alternatives to prescription drugs prescribed or ordered by the treating doctor or referral health care provider, the injured employee may request reimbursement from the insurance carrier as follows:

(1) The injured employee must submit to the insurance carrier a letter requesting reimbursement along with a receipt indicating the amount paid and documentation concerning the prescription.

(A) The letter should include information to clearly identify the claimant such as the claimant's name, address, date of injury, and Social Security number.

(B) Documentation for prescription drugs submitted with the letter from the employee must include the prescribing health care provider's name, the date the prescription was filled, the name of the drug, employee's name, and dollar amount paid by the employee. As examples, this information may be on an information sheet provided by the pharmacy, or the employee can ask the pharmacist for a printout of work-related prescriptions for a particular time period. Cash register receipts alone are not acceptable.

(2) The insurance carrier must pay the injured employee under §134.503 of this title (Pharmacy Fee Guideline), or notify the injured employee of a reduction or denial of the payment within 45 days of receiving the request for reimbursement from the injured employee.

(A) If the insurance carrier does not reimburse the full amount requested or denies payment, the insurance carrier must include a full and complete explanation of the reasons the insurance carrier reduced or denied the payment and must inform the injured employee of his or her right to request medical dispute resolution under §133.305 of this title (MDR--General).

(B) The statement must include sufficient claim-specific substantive information to enable the employee to understand the insurance carrier's position or action on the claim. A general statement that simply states the insurance carrier's position with a phrase such as, "not entitled to reimbursement" or a similar phrase with no further description of the factual basis does not satisfy the requirements of this section.

(b) An injured employee may choose to receive a brand-name drug rather than a generic drug or over-the-counter alternative to a prescription medication that is prescribed by a health care provider. In such instances, the injured employee must pay the difference in cost between the generic drug and the brand-name drug. The transaction between the employee and the pharmacist is considered final and is not subject to medical dispute resolution by the division. In addition, the employee is not entitled to reimbursement from the insurance carrier for the difference in cost between generic and brand-name drugs.

(1) The injured employee must notify the pharmacist of their choice to pay the cost difference between the generic and brand-name drugs. An employee's payment of the cost difference is an acceptance of the responsibility for the cost difference and an agreement not to seek reimbursement from the insurance carrier for the cost difference.

(2) The pharmacist must:

(A) determine the costs of both the brand-name and generic drugs under §134.503 of this title, and notify the injured employee of the cost difference amount;

(B) collect the cost difference amount from the injured employee in a form and manner that is acceptable to both parties;

(C) submit a bill to the insurance carrier for the generic drug that was prescribed by the doctor; and

(D) not bill the injured employee for the cost of the generic drug if the insurance carrier reduces or denies the bill.

(3) The insurance carrier must review and process the bill from the pharmacist under Chapters 133 and 134 (General Medical Provisions and Benefits--Guidelines for Medical Services, Charges, and Payments, respectively).

§134.530. Closed Formulary for Claims Not Subject to Certified Networks.

(a) Applicability. The closed formulary applies to all drugs that are prescribed and dispensed for outpatient use for claims not subject to a certified network.

(b) Preauthorization for claims subject to the division's closed formulary.

(1) Preauthorization is only required for:

(A) drugs identified with a status of "N" in the current edition of the ODG Treatment in Workers' Comp (ODG) / Appendix A, ODG Workers' Compensation Drug Formulary, and any updates;

(B) any prescription drug created through compounding; and

(C) any investigational or experimental drug for which there is early, developing scientific or clinical evidence demonstrating the potential efficacy of the treatment, but that is not yet broadly accepted as the prevailing standard of care as defined in Labor Code §413.014(a).

(2) When §134.600(p)(12) of this title (Preauthorization, Concurrent Utilization Review, and Voluntary Certification of Health Care) conflicts with this section, this section prevails.

(c) Preauthorization of intrathecal drug delivery systems.

(1) An intrathecal drug delivery system requires preauthorization under §134.600 of this title, and the preauthorization request must include the prescribing doctor's drug regimen plan of care and the anticipated dosage or range of dosages for the administration of pain medication.

(2) Refills of an intrathecal drug delivery system with drugs excluded from the closed formulary, which are billed using Healthcare Common Procedure Coding System (HCPCS) Level II J codes, and submitted on a CMS-1500 or UB-04 billing form, require preauthorization on an annual basis. Preauthorization for these refills is also required whenever:

(A) the medications, dosage or range of dosages, or the drug regimen proposed by the prescribing doctor differs from the medications, dosage or range of dosages, or drug regimen previously preauthorized by that prescribing doctor; or

(B) there is a change in prescribing doctor.

(d) Treatment guidelines. Except as provided by this subsection, the prescribing of drugs must be in accordance with §137.100 of this title (Treatment Guidelines), the division's adopted treatment guidelines.

(1) Prescription and nonprescription drugs included in the division's closed formulary and recommended by the division's adopted treatment guidelines may be prescribed and dispensed without preauthorization.

(2) Prescription and nonprescription drugs included in the division's closed formulary that exceed or are not addressed by the division's adopted treatment guidelines may be prescribed and dispensed without preauthorization.

(3) Drugs included in the closed formulary that are prescribed and dispensed without preauthorization are subject to retrospective review of medical necessity and reasonableness of health care by the insurance carrier under subsection (g) of this section.

(e) Appeals process for drugs excluded from the closed formulary.

(1) When the prescribing doctor determines and documents that a drug excluded from the closed formulary is necessary to treat an injured employee's compensable injury and has prescribed the drug, the prescribing doctor, other requester, or injured employee must request approval of the drug by requesting preauthorization, including reconsideration, under §134.600 of this title and applicable provisions of Chapter 19 of this title (Licensing and Regulation of Insurance Professionals).

(2) If an injured employee or a requester other than the prescribing doctor requests preauthorization and a statement of medical necessity, the prescribing doctor must provide a statement of medical necessity to facilitate the preauthorization submission under §134.502 of this title (Pharmaceutical Services).

(3) If preauthorization for a drug excluded from the closed formulary is denied, the requester may submit a request for medical dispute resolution under §133.308 of this title (MDR of Medical Necessity Disputes).

(4) In the event of an unreasonable risk of a medical emergency, an interlocutory order may be obtained in accordance with §133.306 of this title (Interlocutory Orders for Medical Benefits) or §134.550 of this title (Medical Interlocutory Order).

(f) Initial pharmaceutical coverage.

(1) Drugs included in the closed formulary that are prescribed for initial pharmaceutical coverage under Labor Code §413.0141 may be dispensed without preauthorization and are not subject to retrospective review of medical necessity.

(2) Drugs excluded from the closed formulary that are prescribed for initial pharmaceutical coverage under Labor Code §413.0141 may be dispensed without preauthorization and are subject to retrospective review of medical necessity.

(g) Retrospective review. Except as provided in subsection (f)(1) of this section, drugs that do not require preauthorization are subject to retrospective review for medical necessity under §133.230 of this title (Insurance Carrier Audit of a Medical Bill) and §133.240 of this title (Medical Payments and Denials), and applicable provisions of Chapter 19 of this title.

(1) Health care, including a prescription for a drug, provided under §137.100 of this title is presumed reasonable as Labor Code §413.017 specifies, and is also presumed to be health care reasonably required as defined by Labor Code §401.011(22-a).

(2) For an insurance carrier to deny payment subject to a retrospective review for pharmaceutical services that are recommended by the division's adopted treatment guidelines in §137.100 of this title, the denial must be supported by documentation of evidence-based medicine that outweighs the presumption of reasonableness established under Labor Code §413.017.

(3) A prescribing doctor who prescribes pharmaceutical services that exceed, are not recommended, or are not addressed by §137.100 of this title must provide documentation on request under §134.500(13) of this title (Definitions) and §134.502(e) and (f) of this title.

§134.540. Closed Formulary for Claims Subject to Certified Networks.

(a) Applicability. The closed formulary applies to all drugs that are prescribed and dispensed for outpatient use for claims subject to a certified network.

(b) Preauthorization for claims subject to the division's closed formulary. Preauthorization is only required for:

(1) drugs identified with a status of "N" in the current edition of the ODG Treatment in Workers' Comp (ODG) / Appendix A, ODG Workers' Compensation Drug Formulary, and any updates;

(2) any prescription drug created through compounding; and

(3) any investigational or experimental drug for which there is early, developing scientific or clinical evidence demonstrating the potential efficacy of the treatment, but that is not yet broadly accepted as the prevailing standard of care as defined in Labor Code §413.014(a).

(c) Preauthorization of intrathecal drug delivery systems.

(1) An intrathecal drug delivery system requires preauthorization under the certified network's treatment guidelines and preauthorization requirements in Insurance Code Chapter 1305 and Chapter 10 of this title (Workers' Compensation Health Care Networks).

(2) Refills of an intrathecal drug delivery system with drugs excluded from the closed formulary, which are billed using Healthcare Common Procedure Coding System (HCPCS) Level II J codes, and submitted on a CMS-1500 or UB-04 billing form, require preauthorization on an annual basis. Preauthorization for these refills is also required whenever:

(A) the medications, dosage or range of dosages, or the drug regimen proposed by the prescribing doctor differs from the medications, dosage or range of dosages, or drug regimen previously preauthorized by that prescribing doctor; or

(B) there is a change in prescribing doctor.

(d) Treatment guidelines. The prescribing of drugs must be under the certified network's treatment guidelines and preauthorization requirements in Insurance Code Chapter 1305 and Chapter 10 of this title. Drugs included in the closed formulary that are prescribed and dispensed without preauthorization are subject to retrospective review of medical necessity and reasonableness of health care by the insurance carrier under subsection (g) of this section.

(e) Appeals process for drugs excluded from the closed formulary.

(1) When the prescribing doctor determines and documents that a drug excluded from the closed formulary is necessary to treat an injured employee's compensable injury and has prescribed the drug, the prescribing doctor, other requester, or injured employee must request approval of the drug in a specific instance by requesting preauthorization under the certified network's preauthorization process established in Chapter 10, Subchapter F of this title (Utilization Review and Retrospective Review) and applicable provisions of Chapter 19 of this title (Licensing and Regulation of Insurance Professionals).

(2) If an injured employee or a requester other than the prescribing doctor requests preauthorization and a statement of medical necessity, the prescribing doctor must provide a statement of medical necessity to facilitate the preauthorization submission under §134.502 of this title (Pharmaceutical Services).

(3) If preauthorization for a drug excluded from the closed formulary is denied, the requester may submit a request for medical dispute resolution under §133.308 of this title (MDR of Medical Necessity Disputes).

(4) In the event of an unreasonable risk of a medical emergency, an interlocutory order may be obtained in accordance with §133.306 of this title (Interlocutory Orders for Medical Benefits) or §134.550 of this title (Medical Interlocutory Order).

(f) Initial pharmaceutical coverage.

(1) Drugs included in the closed formulary that are prescribed for initial pharmaceutical coverage under Labor Code §413.0141 may be dispensed without preauthorization and are not subject to retrospective review of medical necessity.

(2) Drugs excluded from the closed formulary that are prescribed for initial pharmaceutical coverage under Labor Code §413.0141 may be dispensed without preauthorization and are subject to retrospective review of medical necessity.

(g) Retrospective review. Except as provided in subsection (f)(1) of this section, drugs that do not require preauthorization are subject to retrospective review for medical necessity under §133.230 of this title (Insurance Carrier Audit of a Medical Bill), §133.240 of this title (Medical Payments and Denials), Insurance Code Chapter 1305, and applicable provisions of Chapters 10 and 19 of this title.

(1) For an insurance carrier to deny payment subject to a retrospective review for pharmaceutical services that fall within the treatment parameters of the certified network's treatment guidelines, the denial must be supported by documentation of evidence-based medicine that outweighs the evidence-basis of the certified network's treatment guidelines.

(2) A prescribing doctor who prescribes pharmaceutical services that exceed, are not recommended, or are not addressed by the certified network's treatment guidelines is required to provide documentation on request under §134.500(13) of this title (Definitions) and §134.502(e) and (f) of this title.

§134.550. *Medical Interlocutory Order.*

(a) The purpose of this section is to provide a prescribing doctor or pharmacy an ability to obtain a medical interlocutory order when preauthorization denials of previously prescribed and dispensed drugs excluded from the closed formulary pose an unreasonable risk of a medical emergency as defined in §134.500(7) of this title (Definitions) and Insurance Code §1305.004(a)(13).

(b) A request for an interlocutory order that does not meet the criteria described by this section may still be submitted under §133.306 of this title (Interlocutory Orders for Medical Benefits).

(c) A request for a medical interlocutory order must contain the following information:

- (1) injured employee name;
- (2) date of birth of injured employee;
- (3) prescribing doctor's name;
- (4) name of drug and dosage;
- (5) requester's name (pharmacy or prescribing doctor);
- (6) requester's contact information;

(7) a statement that a preauthorization request for a previously prescribed and dispensed drug, which is excluded from the closed formulary, has been denied by the insurance carrier;

(8) a statement that an independent review request has already been submitted to the insurance carrier or the insurance carrier's utilization review agent under §133.308 of this title (MDR of Medical Necessity Disputes);

(9) a statement that the preauthorization denial poses an unreasonable risk of a medical emergency as defined in §134.500(7) of this title;

(10) a statement that the potential medical emergency has been documented in the preauthorization process;

(11) a statement that the insurance carrier has been notified that a request for a medical interlocutory order is being submitted to the division; and

(12) a signature and the following certification by the medical interlocutory order requester for paragraphs (7) - (12) of this subsection, "I hereby certify under penalty of law that the previously listed conditions have been met."

(d) The division will process and approve a complete request for a medical interlocutory order under this section. At its discretion, the division may consider an incomplete request for a medical interlocutory order.

(e) The request for a medical interlocutory order must be in writing and must contain the information in subsection (c) of this section. A convenient form that contains the required information is on the division's website at <https://www.tdi.texas.gov/forms/form20numeric.html>.

(f) The requester must provide a copy of the request to the insurance carrier, prescribing doctor, injured employee, and dispensing pharmacy, if known, on the date the requester submits the request to the division.

(g) An approved medical interlocutory order is effective retroactively to the date the division received the complete request for the medical interlocutory order.

(h) Notwithstanding §133.308 of this title:

(1) A request for reconsideration of a preauthorization denial is not required prior to a request for independent review when pursuing a medical interlocutory order under this section. If a request for reconsideration or a medical interlocutory order request is not initiated within 15 days from the initial preauthorization denial, then the opportunity to request a medical interlocutory order under this section does not apply.

(2) If pursuing a medical interlocutory order after denial of a reconsideration request, a complete medical interlocutory order must be submitted within five working days of the reconsideration denial.

(i) An appeal of the independent review organization (IRO) decision relating to the medical necessity and reasonableness of the drugs contained in the medical interlocutory order must be submitted under §133.308(t) of this title.

(j) The medical interlocutory order continues in effect until the later of:

(1) final adjudication of a medical dispute about the medical necessity and reasonableness of the drug contained in the medical interlocutory order;

(2) expiration of the period for a timely appeal; or

(3) agreement of the parties.

(k) If a requester withdraws a request for medical necessity dispute resolution, the requester accepts the preauthorization denial.

(l) A party must comply with a medical interlocutory order entered under this section, and the insurance carrier must reimburse the pharmacy for prescriptions dispensed under a medical interlocutory order.

(m) The insurance carrier must notify the prescribing doctor, injured employee, and the dispensing pharmacy once reimbursement is no longer required under subsection (j) of this section.

(n) Payments made by insurance carriers under this section may be eligible for reimbursement from the subsequent injury fund under Labor Code §§410.209 and 413.055 and applicable rules.

(o) A decision issued by an IRO is not an agency or commissioner decision.

(p) A party may seek to reverse or modify a medical interlocutory order issued under this section if:

(1) a final determination of medical necessity has been rendered; and

(2) the party requests a benefit contested case hearing (CCH) from the division's chief clerk no later than 20 days after the date the IRO decision is sent to the party. A benefit review conference is not a prerequisite to a division CCH under this subsection. Except as provided by this subsection, a division CCH must be conducted under Chapters 140 and 142 of this title (Dispute Resolution--General Provisions and Dispute Resolution--Benefit Contested Case Hearing).

(q) The insurance carrier may dispute an interlocutory order entered under this title by filing a written request for a hearing under Labor Code §413.055 and §148.3 of this title (Requesting a Hearing).

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 November 8, 2024.

TRD-202405475

Kara Mace

General Counsel

Texas Department of Insurance, Division of Workers' Compensation

Effective date: November 28, 2024

Proposal publication date: August 23, 2024

For further information, please call: (512) 804-4703



28 TAC §134.506, §134.510

STATUTORY AUTHORITY. The commissioner of workers' compensation adopts the repeal of §134.506 and §134.510 under Labor Code §§408.028, 413.0511, 402.00111, 402.00116, and 402.061, and Insurance Code Chapter 1305.

Labor Code §408.028 governs pharmaceutical services. It requires the commissioner by rule to adopt a closed formulary under §413.011, and provides requirements for prescribing prescription drugs, generic pharmaceutical medications, and over-the-counter alternatives. It requires the commissioner by rule to allow an employee to buy over-the-counter alternatives to prescribed or ordered medications, and to get reimbursement from the insurance carrier for those medications. It also requires the commissioner by rule to allow an employee to buy a brand-name drug instead of a generic pharmaceutical medication or over-the-counter alternative to a prescription medication if a health care provider prescribes a generic pharmaceutical medication or an over-the-counter alternative to a prescription medication. Section 408.028(f) requires the commissioner by rule to adopt a fee schedule for pharmacy and pharmaceutical services that will: (1) provide reimbursement rates that are fair and reasonable; (2) assure adequate access to medications and services for injured workers; (3) minimize costs to employees and insurance carriers; and (4) take into consideration the increased security of payment that Labor Code Title 5, Subtitle A, affords.

Labor Code §413.0511 requires DWC to employ or contract with a medical advisor. The medical advisor must be a doctor, as defined in §401.011. The medical advisor's duties include making recommendations about the adoption of rules and policies to: develop, maintain, and review guidelines as provided by §413.011, including rules about impairment ratings; reviewing compliance with those guidelines; regulating or performing other acts related to medical benefits as required by the commissioner; and determining minimal modifications to the reimbursement methodology and model used by the Medicare system as needed to meet occupational injury requirements.

Labor Code §402.00111 provides that the commissioner of workers' compensation shall exercise all executive authority, including rulemaking authority under Title 5 of the Labor Code.

Labor Code §402.00116 provides that the commissioner of workers' compensation shall administer and enforce this title, other workers' compensation laws of this state, and other laws granting jurisdiction to or applicable to DWC or the commissioner.

Labor Code §402.061 provides that the commissioner of workers' compensation shall adopt rules as necessary to implement and enforce the Texas Workers' Compensation Act.

Insurance Code Chapter 1305 authorizes the establishment of workers' compensation health care networks for providing workers' compensation medical benefits and provides standards for the certification, administration, evaluation, and enforcement of their delivery of health care services to injured employees.

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

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Kara Mace

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Texas Department of Insurance, Division of Workers' Compensation

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For further information, please call: (512) 804-4703



TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 2. TEXAS PARKS AND WILDLIFE DEPARTMENT

CHAPTER 61. DESIGN AND CONSTRUCTION SUBCHAPTER A. CONTRACTS FOR PUBLIC WORKS

31 TAC §61.21

The Texas Parks and Wildlife Commission in a duly noticed meeting on November 7, 2024, adopted an amendment to 31 TAC §61.21, concerning Contracts for Public Works, without changes to the proposed text as published in the October 4, 2024, issue of the *Texas Register* (49 TexReg 8067). The rule will not be republished.

The amendment delegates authority to the executive director of the department to award "job order contract" jobs, tasks, and purchase orders in excess of \$1,000,000 or greater under the provisions of Government Code, Chapter 2269, to qualifying projects. The amendment also delegates authority to the department's Infrastructure Division director and deputy director for awards in excess of \$500,000 but not more than \$1,000,000.

Under Parks and Wildlife Code, §11.0171, the commission is required to adopt policies and procedures by rule consistent with applicable state procurement practices for soliciting and awarding contracts for project management, design, bid, and construction administration consistent with the provisions of Subchapter A, Chapter 2254, Government Code.

Under Government Code, §2269.401, "job order contracting" is a procurement method used for maintenance, repair, alteration, renovation, remediation, or minor construction of a facility when the work is of a recurring nature but the delivery times, type, and quantities of work required are indefinite. Government Code,

§2269.403, requires the governing body of a governmental entity to approve each job, task, or purchase order under a blanket job order contract that exceeds \$500,000 in value. The legislature established the statutory threshold of \$500,000 many years ago. Since then, the planning, procurement, and construction costs for maintenance activities have increased to the extent that projects in excess of \$500,000 in value are now numerous and commonplace. Government Code, §2269.053, provides that a governing body of a governmental entity may delegate its authority under Chapter 2269 regarding an action authorized or required by that chapter to a designated representative, committee, or other person. To reduce the amount of time for project delivery, the department believes it is both helpful and prudent to create an alternative to the cumbersome and time-consuming process of presenting every minor construction/repair project to the commission for funding approval.

Accordingly, new §61.21(c) delegates authority to the executive director of the department to award job order contract jobs, tasks, and purchase orders of \$1,000,000 or greater under the provisions of Government Code, Chapter 2269, to qualifying projects.

New 61.21(d) delegates authority to the director and deputy director of the Infrastructure Division to award job order contract jobs, tasks, and purchase orders in excess of \$500,000 but no more than \$1,000,000 under the provision of Government Code, Chapter 2269, Subchapter I to qualifying projects.

The department received one comment opposing adoption of the rule as proposed. The commenter stated that "given the history of general government abuses with awarding contracts," additional independent audit oversight should be required. The department disagrees with the comment and responds that the rule as adopted does not alter or limit the department's existing authority to contract, it serves only to expedite processes already in place. The department also notes that it is confident that existing systems and processes are adequate to both deter and detect abuse. No changes were made as a result of the comment.

The department received four comments supporting adoption of the rules as proposed.

The amendment is adopted under the authority of Parks and Wildlife Code, §11.0171, which requires the commission to adopt by rule policies and procedures consistent with applicable state procurement practices for soliciting and awarding contracts, and Government Code §2269.053, which authorizes the governing body of a governmental entity to delegate by rule its authority to approve job order contract jobs, tasks, or purchase orders that exceed \$500,000.

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 November 14, 2024.

TRD-202405517

James Murphy

General Counsel

Texas Parks and Wildlife Department

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Proposal publication date: October 4, 2024

For further information, please call: (512) 389-4775



TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 9. PROPERTY TAX ADMINISTRATION

SUBCHAPTER I. VALUATION PROCEDURES

34 TAC §9.4001

The Comptroller of Public Accounts adopts amendments to §9.4001, concerning valuation of open-space and agricultural lands, with changes to the proposed text as published in the August 16, 2024, issue of the *Texas Register* (49 TexReg 6193). The rule will be republished.

These amendments are to reflect updates and revisions to the manual for the appraisal of agricultural land.

The amendments update and revise the February 2022 manual for the appraisal of agricultural land. The manual sets forth the methods to apply and the procedures to use in qualifying and appraising land used for agriculture and open-space land under Tax Code, Chapter 23, Subchapters C and D.

Generally, the substantive changes to the manual reflect statutory changes and changes dictated by case law. The manual is updated throughout, as well as adding a subsection for 1-d-1, to address that ownership of land is not considered to have changed if ownership of the land is transferred from the former owner to the surviving spouse of the former owner, based on changes made in House Bill 2354, 88th Legislature, R.S., 2023. In addition, the updated manual removes the requirement that agricultural advisory board members be residents of the district in response to House Bill 3207, 88th Legislature, R.S., 2023.

The manual adds a subsection for 1-d-1 to address the requirement that a chief appraiser shall take into consideration the effect (if any) that the presence of any applicable disease or pest or the designation of the area may have on the net income, based on changes made in House Bill 260, 88th Legislature, R.S., 2023. In addition, in response to SB 1191, 88th Legislature, R.S., 2023, the manual adds a paragraph to explain situations where the chief appraiser shall accept and approve or deny an application for appraisal after the deadline for filing the applications. The footnotes, years, values and figures were updated to be more recent.

Pursuant to Tax Code, §23.52(d), these rules have been approved by the comptroller with the review and counsel of the Department of Agriculture.

The comptroller received comments regarding adoption of the amendment from Faun Cullens, Chief Appraiser of Bastrop Central Appraisal District, Leana Mann, Chief Appraiser of Travis Central Appraisal District, and Chuck Lyon, Chief Appraiser of Palo Pinto Appraisal District.

Ms. Cullens and Ms. Mann commented that the manual should not be dated January 2024 because it will not be adopted until over nine months later, and it affects the standard to which appraisal districts are held and their performance in the Methods and Assistance Program Study.

The comptroller thanks Ms. Cullens and Ms. Mann for their comments, and in response, the comptroller is changing the effective

date in the rule and on the manual's cover from January 2024 to October 2024.

Ms. Mann suggests additional clarification is needed on land that is used for horse training, as opposed to grazing and raising. The comptroller thanks Ms. Mann for submitting this comment but declines to make this change. The manual already advises the chief appraiser on land used for the training of horses on pages 8 and 9. Training of horses is also addressed in Question 19 on page 51 of Appendix A.

Ms. Mann also suggests the "manual authorize appraisal districts to set minimum acreage sizes based on generally accepted agricultural practices and categories of land." The comptroller thanks Ms. Mann for this comment but declines to make this change because the manual already advises the chief appraiser on pages 9 and 10 on degree of intensity and question 2 on pages 47 and 48 of Appendix B addresses minimum acreage requirements. Any expansion beyond the degree of intensity generally accepted in the area would have to be provided by the legislature.

Mr. Lyon voices concerns that the manual and comptroller's form 50-129 are providing two separate deadlines for late applications. He points out on page 40 under "Late Application" it says "{a} property owner may submit a late application for special appraisal after April 30 if it is filed before the ARB approves records for that year (usually in July)" while form 50-129 states "{a} late application may be filed up to midnight the day before the appraisal review board approves appraisal records for the year, which usually occurs in July."

The comptroller thanks Mr. Lyon for his comment but declines to make this change in the manual. The comptroller will instead update the form to match the language in the manual.

The comptroller is also correcting a typographical error on page 45 by changing the year 2020 to 2024 in the sentence "{t}he property sells on Nov. 1, 2020 2024, but there is no change of use."

These amendments are adopted under Tax Code, §§5.05 (Appraisal Manuals and Other Materials); 23.41 (Appraisal); and 23.52 (Appraisal of Qualified Agricultural Land), which provide the comptroller with the authority to prepare and issue publications relating to the appraisal of property and to promulgate rules specifying the methods to apply and the procedures to use in appraising qualified agricultural and open-space land for ad valorem tax purposes.

These amendments implement Tax Code, Chapter 23, Subchapters C and D.

§9.4001. Valuation of Open-Space and Agricultural Lands.

Adoption of the "Manual for the Appraisal of Agricultural Land." This manual specifies the methods to apply and the procedures to use in qualifying and appraising land used for agriculture and open-space land under Tax Code, Chapter 23, Subchapters C and D. Appraisal districts are required to use this manual in qualifying and appraising open-space land. The Comptroller of Public Accounts adopts by reference the Manual for the Appraisal of Agricultural Land dated October 2024. The manual is accessible on the Property Tax Assistance Division website. Copies of the manual can be obtained from the Comptroller of Public Accounts, Property Tax Assistance Division, P.O. Box 13528, Austin, Texas 78711-3528. Copies also may be requested by calling our toll-free number 1-800-252-9121. In Austin, call (512) 305-9999.

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 November 12, 2024.

TRD-202405480

Victoria North

General Counsel for Fiscal and Agency Affairs

Comptroller of Public Accounts

Effective date: December 2, 2024

Proposal publication date: August 16, 2024

For further information, please call: (512) 475-2220



34 TAC §9.4011

The Comptroller of Public Accounts adopts amendments to §9.4011, concerning valuation of timberland, with changes to the proposed text as published in the August 16, 2024, issue of the *Texas Register* (49 TexReg 6194). The rule will be republished.

These amendments are to reflect updates and revisions to the manual for the appraisal of timberland.

The amendments update and revise the March 2022 manual for the appraisal of timberland. The manual sets forth the methods to apply and the procedures to use in qualifying and appraising timberland and restricted-use timberland under Tax Code, Chapter 23, Subchapters E and H.

Generally, the substantive changes to the manual reflect statutory changes. The manual is updated to reflect the changes to the qualification criteria of the agricultural advisory board members in response to House Bill 3207, 88th Legislature, R.S., 2023 by eliminating the requirement that a member must have been a resident of the district for at least five years. Changes are made to reference more current prices, expenses and values throughout the manual.

Pursuant to Tax Code, §23.73(b), these rules have been approved by the comptroller with the review and counsel of the Texas A&M Forest Service.

The comptroller received one comment regarding adoption of the amendment from Leana Mann, Chief Appraiser of Travis Central Appraisal District.

Leana Mann, the Chief Appraiser of Travis Central Appraisal District, commented that the manual should not be dated January 2024 because it will not be adopted until over nine months later, and it affects the standard to which appraisal districts are held and their performance in the Methods and Assistance Program Study.

The comptroller thanks Ms. Mann for her comment, and in response, the comptroller is changing the effective date in the rule and on the manual's cover from January 2024 to October 2024.

These amendments are adopted under Tax Code, §§5.05 (Appraisal Manuals and Other Materials); 23.73 (Appraisal of Qualified Timber Land); and 23.9803 (Appraisal of Qualified Restricted-Use Timber Land), which authorize the comptroller to prepare and issue publications relating to the appraisal of property and to promulgate rules specifying the methods to apply and the procedures to use in appraising timberland and restricted-use timberland for ad valorem tax purposes.

These amendments implement Tax Code, Chapter 23, Subchapters E and H.

§9.4011. *Appraisal of Timberlands.*

Adoption of the Manual for the Appraisal of Timberland. This manual sets out both the eligibility requirements for timberland to qualify for productivity appraisal and the methodology for appraising qualified timberland and restricted use timberland. Appraisal districts are required by law to follow the procedures and methodology set out in this manual. The Comptroller of Public Accounts adopts by reference the Manual for the Appraisal of Timberland dated October 2024. Copies of this manual can be obtained from the Comptroller of Public Accounts, Property Tax Assistance Division, P.O. Box 13528, Austin, Texas 78711-3528 or from the Property Tax Assistance Division website. Copies may also be requested by calling our toll-free number 1-800-252-9121. In Austin, call (512) 305-9999. From a Telecommunications Device for the Deaf (TDD), call 1-800-248-4099, toll free. In Austin, the local TDD number is (512) 463-4621. This manual and those that have been superseded are available from the Comptroller's office as well as the State Archives.

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

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Victoria North

General Counsel for Fiscal and Agency Affairs

Comptroller of Public Accounts

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For further information, please call: (512) 475-2220



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 5. TEXAS VETERANS LAND BOARD

CHAPTER 178. TEXAS STATE VETERANS CEMETERIES

40 TAC §178.5

The Texas Veterans Land Board (VLB) adopts amendments to 40 Texas Administrative Code §178.5, concerning Burial Eligibility Criteria. The amendments are adopted without changes to the proposed text as published in the July 19, 2024, issue of the *Texas Register* (49 TexReg 5339). The amendments will not be republished.

The amendments extend burial eligibility in Texas State Veterans Cemeteries to Texas Military Forces members killed on state active duty or during state training and other duty, as defined in Chapter 437 of the Texas Government Code.

COMMENTS BY THE PUBLIC

The VLB did not receive any comments on the amendments.

STATUTORY AUTHORITY

The amendments are adopted pursuant to Section 164.005 of the Texas Natural Resources Code, which allows the VLB to adopt rules concerning the construction, acquisition, ownership, operation, maintenance, enlargement, improvement, furnishing, and equipping Texas State Veterans Cemeteries.

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 November 15, 2024.

TRD-202405564

Jennifer Jones

Chief Clerk, Deputy Land Commissioner

Texas Veterans Land Board

Effective date: December 5, 2024

Proposal publication date: July 19, 2024

For further information, please call: (512) 475-1859



PART 15. TEXAS VETERANS COMMISSION

CHAPTER 461. VETERANS EDUCATION

The Texas Veterans Commission adopts amendments to Chapter 461, Subchapter A, §461.20, Definitions and Subchapter B, §461.200, Authority and Purpose without changes to the proposed text as published in the August 30, 2024, issue of the *Texas Register* (49 TexReg 6725) and will not be republished.

The proposed amendments are adopted to update the rule to add "Space Force" to Title 40, TAC, Chapter 461, Subchapter A, Exemption Program for Veterans and Their Dependents (The Hazlewood Act), Definitions, §461.20(15), Initial Entry Training, and to correct the statutory authority for the Veteran Education Excellence Recognition Award (VEERA) Network in Chapter 461, Subchapter B, Veteran Education Excellence Recognition Award (VEERA) Network.

The Commission did not receive comments regarding the proposed rule amendments.

SUBCHAPTER A. EXEMPTION PROGRAM FOR VETERANS AND THEIR DEPENDENTS (THE HAZLEWOOD ACT)

40 TAC §461.20

STATUTORY AUTHORITY

The amended rules are adopted under Texas Government Code §434.010, granting the Commission the authority to establish rules it considers necessary for its administration.

No other statutes, articles, or codes are affected by the proposal.

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

Filed with the Office of the Secretary of State on November 15, 2024.

TRD-202405527

Kathleen Cordova

General Counsel

Texas Veterans Commission

Effective date: December 5, 2024

Proposal publication date: August 30, 2024

For further information, please call: (737) 320-4167



SUBCHAPTER B. VETERAN EDUCATION EXCELLENCE RECOGNITION AWARD (VEERA) NETWORK

40 TAC §461.200

STATUTORY AUTHORITY

The rule amendment is proposed under Texas Government Code §434.010 which authorizes the commission to establish rules it considers necessary for its administration.

No other statutes, articles, or codes are affected by the proposal.

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

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TRD-202405569

Kathleen Cordova

General Counsel

Texas Veterans Commission

Effective date: December 5, 2024

Proposal publication date: August 30, 2024

For further information, please call: (737) 320-4167



TITLE 43. TRANSPORTATION

PART 1. TEXAS DEPARTMENT OF TRANSPORTATION

CHAPTER 15. FINANCING AND CONSTRUCTION OF TRANSPORTATION PROJECTS

SUBCHAPTER O. COUNTY TRANSPORTATION INFRASTRUCTURE FUND GRANT PROGRAM

43 TAC §15.188

The Texas Department of Transportation (department) adopts the amendments to §15.188 concerning Application Procedure. The amendments to §15.188 are adopted without changes to the proposed text as published in the September 6, 2024, issue of the *Texas Register* (49 TexReg 6983) and will not be republished.

EXPLANATION OF ADOPTED AMENDMENTS

S.B. No. 160, 87th Legislature, Regular Session, 2021, amended Transportation Code, Chapter 256, to remove the requirement that a county must submit the county road condition

report as part of the application process for consideration of being awarded a County Transportation Infrastructure Fund Grant.

Amendments to §15.188, Application Procedure, delete subsection (c), which provides the requirement that a county must submit a county road condition report as part of the application process for consideration of being awarded a County Transportation Infrastructure Fund Grant, and redesignates existing subsection (d) as subsection (c).

COMMENTS

No comments on the proposed amendments were received.

STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §256.103, which authorizes the commission to adopt rules to administer the County Transportation Infrastructure Fund Grant Program.

The authority for the adopted amendments was provided by S.B. 160, 87th Regular Session, 2021. The primary author and the

primary sponsor of that bill are Senator Charles Perry and Representative Drew Darby, respectively.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, Chapter 256.

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 November 14, 2024.

TRD-202405520

Becky Blewett

Deputy General Counsel

Texas Department of Transportation

Effective date: December 4, 2024

Proposal publication date: September 6, 2024

For further information, please call: (512) 463-8630





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 State Health 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, certain functions previously performed by the Department of State Health Services (DSHS), including client services, certain regulatory functions, and the operation of state hospitals, transferred to the Texas Health and Human Services Commission (HHSC) in accordance with Texas Government Code, §531.0201 and §531.02011. The DSHS rules in Texas Administrative Code, Title 25, Part 1, Chapter 405, Patient Care--Mental Health Services, Subchapter E, Electroconvulsive Therapy (ECT), that are related to these transferred functions, are being transferred to HHSC under Texas Administrative Code, Title 26, Part 1, Chapter 307, Behavioral Health Programs, Subchapter I, Electroconvulsive Therapy.

The rules will be transferred in the Texas Administrative Code effective December 27, 2024.

The following table outlines the rule transfer:

Figure: 25 TAC Chapter 405, Subchapter E

TRD-202405598

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, certain functions previously performed by the Department of State Health Services (DSHS), including client services, certain regulatory functions, and the operation of state hospitals, transferred to the Texas Health and Human Services Commission (HHSC) in accordance with Texas Government Code, §531.0201 and §531.02011. The DSHS rules in Texas Administrative Code, Title 25, Part 1, Chapter 405, Patient Care--Mental Health Services, Subchapter E, Electroconvulsive Therapy (ECT), that are related to these transferred functions, are being transferred to HHSC under Texas Administrative Code, Title 26, Part 1, Chapter 307, Behavioral Health Programs, Subchapter I, Electroconvulsive Therapy.

The rules will be transferred in the Texas Administrative Code effective December 27, 2024.

The following table outlines the rule transfer:

Figure: 25 TAC Chapter 405, Subchapter E

TRD-202405599

Figure: 25 TAC Chapter 405, Subchapter E

Current Rules Title 25. Health Services Part 1. Department of State Health Services Chapter 405. Patient Care--Mental Health Services Subchapter E. Electroconvulsive Therapy (ECT)	Move to Title 26. Health and Human Services Part 1. Health and Human Services Commission Chapter 307. Behavioral Health Programs Subchapter I. Electroconvulsive Therapy
§405.101. Purpose.	§307.501. Purpose.
§405.102. Application.	§307.503. Application.
§405.103. Definitions.	§307.505. Definitions.
§405.104. General Requirements.	§307.507. General Requirements.
§405.105. Indications and Contraindications for the Use of Electroconvulsive Therapy (ECT).	§307.509. Indications and Contraindications for the Use of Electroconvulsive Therapy.
§405.106. Medical Evaluation Required Prior to a Course of Electroconvulsive Therapy (ECT).	§307.511. Medical Evaluation Required Before Adminstrating Electroconvulsive Therapy.
§405.107. Consultation Required.	§307.513. Consultation Required.
§405.108. Informed Consent to ECT.	§307.515. Informed Consent.
§405.109. Limitations on Use: Number per Year and Number per Series of Treatments.	§307.517. Limitations on the Use of Electroconvulsive Therapy.
§405.110. Personnel and Equipment Procedures.	§307.519. Personnel and Equipment Procedures.
§405.111. Prohibition of Induction of Seizure by Chemical or Gaseous Agent.	§307.521. Prohibiting a Chemical or Gaseous Agent to Induce a Seizure.
§405.112. Report of ECT.	§307.523. Reporting Requirements.
§405.113. ECT on Outpatient Basis.	§307.525. Outpatient Electroconvulsive Therapy.
§405.114. Registration of ECT Stimulus Apparatus.	§307.527. Electroconvulsive Therapy Stimulus Apparatus Registration.
§405.115. Enforcement and Penalties.	§307.529. Enforcement and Penalties.
§405.117. Exhibits.	§307.531. Exhibits.

Department of State Health 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, certain functions previously performed by the Department of State Health Services (DSHS), including client services, certain regulatory functions, and the operation of state hospitals, transferred to the Texas Health and Human Services Commission (HHSC) in accordance with Texas Government Code, §531.0201 and §531.02011. The DSHS rules in Texas Administrative Code, Title 25, Part 1, Chapter 414, Rights and Protections of Persons Receiving Mental Health Services, Subchapter I, Consent to Treatment with Psychoactive Medication--Mental Health Services, that are related to these transferred functions, are being transferred to HHSC under Texas Administrative Code, Title 26, Part 1, Chapter 320, Rights of Individuals, Subchapter B, Consent to Treatment with Psychoactive Medication.

The rules will be transferred in the Texas Administrative Code effective December 27, 2024.

The following table outlines the rule transfer:

Figure: 25 TAC Chapter 414, Subchapter I

TRD-202405600

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, certain functions previously performed by the Department of State Health Services (DSHS), including client services, certain regulatory functions, and the operation of state hospitals, transferred to the Texas Health and Human Services Commission (HHSC) in accordance with Texas Government Code, §531.0201 and §531.02011. The DSHS rules in Texas Administrative Code, Title 25, Part 1, Chapter 414, Rights and Protections of Persons Receiving Mental Health Services, Subchapter I, Consent to Treatment with Psychoactive Medication--Mental Health Services, that are related to these transferred functions, are being transferred to HHSC under Texas Administrative Code, Title 26, Part 1, Chapter 320, Rights of Individuals, Subchapter B, Consent to Treatment with Psychoactive Medication.

The rules will be transferred in the Texas Administrative Code effective December 27, 2024.

The following table outlines the rule transfer:

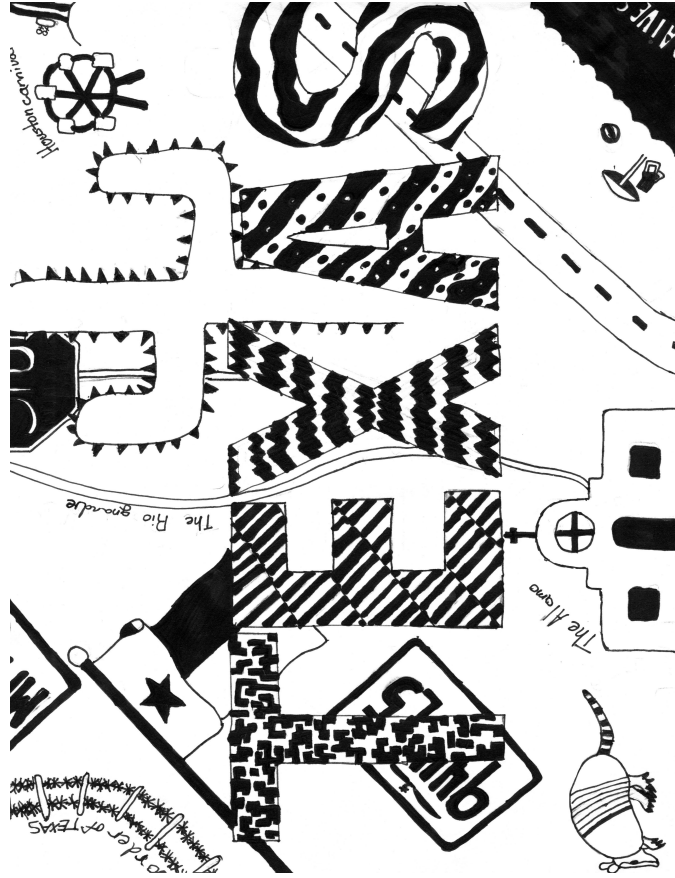
Figure: 25 TAC Chapter 414, Subchapter I

TRD-202405601

Figure: 25 TAC Chapter 414, Subchapter I

Current Rules Title 25. Health Services Part 1. Department of State Health Services Chapter 414. Rights and Protections of Persons Receiving Mental Health Services Subchapter I. Consent to Treatment with Psychoactive Medication--Mental Health Services	Move to Title 26. Health and Human Services Part 1. Health and Human Services Commission Chapter 320. Rights of Individuals Subchapter B. Consent to Treatment with Psychoactive Medication
§414.401. Purpose.	§320.51. Purpose.
§414.402. Application.	§320.53. Application.
§414.403. Definitions.	§320.55. Definitions.
§414.404. Information Required To Be Given.	§320.57. Information Required To Be Given.
§414.405. Documentation of Informed Consent.	§320.59. Documentation of Informed Consent.
§414.406. Patients Admitted under Texas Statutes.	§320.61. Patients Admitted under Texas Statutes.
§414.407. Patients Committed to Mental Health Facilities under Provisions of the Texas Health and Safety Code.	§320.63. Patients Committed to Mental Health Facilities under Provisions of the Texas Health and Safety Code.
§414.408. Patients Committed to Mental Health Facilities under Provisions Other than Those Found in the Texas Health and Safety Code (i.e., Code of Criminal Procedure, Family Code).	§320.65. Patients Committed to Mental Health Facilities under Provisions Other than Those Found in the Texas Health and Safety Code (i.e., Code of Criminal Procedure, Family Code).
§414.409. Involuntary Administration of Medication to Patients Committed to Mental Health Facilities under the Texas Health and Safety Code or by Court Order.	§320.67. Involuntary Administration of Medication to Patients Committed to Mental Health Facilities under the Texas Health and Safety Code or by Court Order.
§414.410. Psychiatric Emergencies.	§320.69. Psychiatric Emergencies.
§414.411. Order Authorizing Administration of Psychoactive Medication.	§320.71. Order Authorizing Administration of Psychoactive Medication.
§414.412. Designation of Medication Classes.	§320.73. Designation of Medication Classes.
§414.413. Monitoring Compliance with Policies and Procedures.	§320.75. Monitoring Compliance with Policies and Procedures.

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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 Board of Professional Engineers and Land Surveyors

Title 22, Part 6

The Texas Board of Professional Engineers will review and consider for re-adoption, revision, or repeal Texas Administrative Code, Title 22, Part 6, Chapter 131, Organization and Administration.

This review is conducted pursuant to §2001.039 of the Government Code.

In conducting its review, the Board will determine whether the reasons for each rule continue to exist. The rule review will also determine whether each rule is obsolete, reflects current legal and policy considerations, and reflects current procedures of the Board.

Any comments pertaining to this notice may be submitted within the next 30 days to Lance Kinney, Executive Director, Texas Board of Professional Engineers, 1917 S. Interstate 35, Austin, Texas 78741 or sent by email to rules@pels.texas.gov. Any proposed changes to the rules as a result of this review will be published in the Proposed Rule Section of the *Texas Register* and will be open for an additional comment period prior to final adoption or repeal by the Board.

TRD-202405528

Lance Kinney

Executive Director

Texas Board of Professional Engineers and Land Surveyors

Filed: November 15, 2024



The Texas Board of Professional Engineers will review and consider for re-adoption, revision, or repeal Texas Administrative Code, Title 22, Part 6, Chapter 133, Licensing for Engineers.

This review is conducted pursuant to §2001.039 of the Government Code.

In conducting its review, the Board will determine whether the reasons for each rule continue to exist. The rule review will also determine whether each rule is obsolete, reflects current legal and policy considerations, and reflects current procedures of the Board.

Any comments pertaining to this notice may be submitted within the next 30 days to Lance Kinney, Executive Director, Texas Board of Professional Engineers, 1917 S. Interstate 35, Austin, Texas 78741 or sent by email to rules@pels.texas.gov. Any proposed changes to the rules as a result of this review will be published in the Proposed Rule Section of the *Texas Register* and will be open for an additional comment period prior to final adoption or repeal by the Board.

TRD-202405529

Lance Kinney

Executive Director

Texas Board of Professional Engineers and Land Surveyors

Filed: November 15, 2024



The Texas Board of Professional Engineers will review and consider for re-adoption, revision, or repeal Texas Administrative Code, Title 22, Part 6, Chapter 134, Licensing, Registration, and Certification for Surveyors.

This review is conducted pursuant to §2001.039 of the Government Code.

In conducting its review, the Board will determine whether the reasons for each rule continue to exist. The rule review will also determine whether each rule is obsolete, reflects current legal and policy considerations, and reflects current procedures of the Board.

Any comments pertaining to this notice may be submitted within the next 30 days to Lance Kinney, Executive Director, Texas Board of Professional Engineers, 1917 S. Interstate 35, Austin, Texas 78741 or sent by email to rules@pels.texas.gov. Any proposed changes to the rules as a result of this review will be published in the Proposed Rule Section of the *Texas Register* and will be open for an additional comment period prior to final adoption or repeal by the Board.

TRD-202405530

Lance Kinney

Executive Director

Texas Board of Professional Engineers and Land Surveyors

Filed: November 15, 2024



The Texas Board of Professional Engineers will review and consider for re-adoption, revision, or repeal Texas Administrative Code, Title 22, Part 6, Chapter 135, Engineering Firm Registration.

This review is conducted pursuant to §2001.039 of the Government Code.

In conducting its review, the Board will determine whether the reasons for each rule continue to exist. The rule review will also determine whether each rule is obsolete, reflects current legal and policy considerations, and reflects current procedures of the Board.

Any comments pertaining to this notice may be submitted within the next 30 days to Lance Kinney, Executive Director, Texas Board of Professional Engineers, 1917 S. Interstate 35, Austin, Texas 78741 or sent by email to rules@pels.texas.gov. Any proposed changes to the rules as a result of this review will be published in the Proposed Rule Sec-

tion of the *Texas Register* and will be open for an additional comment period prior to final adoption or repeal by the Board.

TRD-202405531
Lance Kinney
Executive Director
Texas Board of Professional Engineers and Land Surveyors
Filed: November 15, 2024



The Texas Board of Professional Engineers will review and consider for re-adoption, revision, or repeal Texas Administrative Code, Title 22, Part 6, Chapter 136, Surveying Firm Registration.

This review is conducted pursuant to §2001.039 of the Government Code.

In conducting its review, the Board will determine whether the reasons for each rule continue to exist. The rule review will also determine whether each rule is obsolete, reflects current legal and policy considerations, and reflects current procedures of the Board.

Any comments pertaining to this notice may be submitted within the next 30 days to Lance Kinney, Executive Director, Texas Board of Professional Engineers, 1917 S. Interstate 35, Austin, Texas 78741 or sent by email to rules@pels.texas.gov. Any proposed changes to the rules as a result of this review will be published in the Proposed Rule Section of the *Texas Register* and will be open for an additional comment period prior to final adoption or repeal by the Board.

TRD-202405532
Lance Kinney
Executive Director
Texas Board of Professional Engineers and Land Surveyors
Filed: November 15, 2024



The Texas Board of Professional Engineers will review and consider for re-adoption, revision, or repeal Texas Administrative Code, Title 22, Part 6, Chapter 137, Compliance and Professionalism for Engineers.

This review is conducted pursuant to §2001.039 of the Government Code.

In conducting its review, the Board will determine whether the reasons for each rule continue to exist. The rule review will also determine whether each rule is obsolete, reflects current legal and policy considerations, and reflects current procedures of the Board.

Any comments pertaining to this notice may be submitted within the next 30 days to Lance Kinney, Executive Director, Texas Board of Professional Engineers, 1917 S. Interstate 35, Austin, Texas 78741 or sent by email to rules@pels.texas.gov. Any proposed changes to the rules as a result of this review will be published in the Proposed Rule Section of the *Texas Register* and will be open for an additional comment period prior to final adoption or repeal by the Board.

TRD-202405533
Lance Kinney
Executive Director
Texas Board of Professional Engineers and Land Surveyors
Filed: November 15, 2024



The Texas Board of Professional Engineers will review and consider for re-adoption, revision, or repeal Texas Administrative Code, Title

22, Part 6, Chapter 138, Compliance and Professionalism for Surveyors.

This review is conducted pursuant to §2001.039 of the Government Code.

In conducting its review, the Board will determine whether the reasons for each rule continue to exist. The rule review will also determine whether each rule is obsolete, reflects current legal and policy considerations, and reflects current procedures of the Board.

Any comments pertaining to this notice may be submitted within the next 30 days to Lance Kinney, Executive Director, Texas Board of Professional Engineers, 1917 S. Interstate 35, Austin, Texas 78741 or sent by email to rules@pels.texas.gov. Any proposed changes to the rules as a result of this review will be published in the Proposed Rule Section of the *Texas Register* and will be open for an additional comment period prior to final adoption or repeal by the Board.

TRD-202405534
Lance Kinney
Executive Director
Texas Board of Professional Engineers and Land Surveyors
Filed: November 15, 2024



The Texas Board of Professional Engineers will review and consider for re-adoption, revision, or repeal Texas Administrative Code, Title 22, Part 6, Chapter 139, Enforcement.

This review is conducted pursuant to §2001.039 of the Government Code.

In conducting its review, the Board will determine whether the reasons for each rule continue to exist. The rule review will also determine whether each rule is obsolete, reflects current legal and policy considerations, and reflects current procedures of the Board.

Any comments pertaining to this notice may be submitted within the next 30 days to Lance Kinney, Executive Director, Texas Board of Professional Engineers, 1917 S. Interstate 35, Austin, Texas 78741 or sent by email to rules@pels.texas.gov. Any proposed changes to the rules as a result of this review will be published in the Proposed Rule Section of the *Texas Register* and will be open for an additional comment period prior to final adoption or repeal by the Board.

TRD-202405535
Lance Kinney
Executive Director
Texas Board of Professional Engineers and Land Surveyors
Filed: November 15, 2024



The Texas Board of Professional Engineers will review and consider for re-adoption, revision, or repeal Texas Administrative Code, Title 22, Part 6, Chapter 140, Criminal History and Convictions.

This review is conducted pursuant to §2001.039 of the Government Code.

In conducting its review, the Board will determine whether the reasons for each rule continue to exist. The rule review will also determine whether each rule is obsolete, reflects current legal and policy considerations, and reflects current procedures of the Board.

Any comments pertaining to this notice may be submitted within the next 30 days to Lance Kinney, Executive Director, Texas Board of Professional Engineers, 1917 S. Interstate 35, Austin, Texas 78741 or sent by email to rules@pels.texas.gov. Any proposed changes to the rules

as a result of this review will be published in the Proposed Rule Section of the *Texas Register* and will be open for an additional comment period prior to final adoption or repeal by the Board.

TRD-202405536

Lance Kinney

Executive Director

Texas Board of Professional Engineers and Land Surveyors

Filed: November 15, 2024



Texas Parks and Wildlife Department

Title 31, Part 2

The Texas Parks and Wildlife Department files this notice of intention to review the following chapters of 31 TAC, Part 2:

Chapter 56. Agency Decision to Refuse License or Permit Issuance or Renewal and Agency Decision to Suspend or Revoke Affected License or Permit

Chapter 57. Fisheries

Subchapter A. Harmful or Potentially Harmful Fish, Shellfish, and Aquatic Plants

Subchapter B. Mussels and Clams

Subchapter C. Introduction of Fish, Shellfish and Aquatic Plants

Subchapter D. Commercially Protected Finfish

Subchapter E. Permits to Possess or Sell Nongame Fish Taken from Public Fresh Water

Subchapter F. Collection of Broodstock from Texas Waters

Subchapter G. Marking of Vehicles

Subchapter H. Fishery Management Plans

Subchapter I. Consistency with Federal Regulations in the Exclusive Economic Zone

Subchapter J. Fish Pass Proclamation

Subchapter K. Scientific Areas

Subchapter L. Aquatic Vegetation Management

Subchapter M. Artificial Reefs

Subchapter N. Statewide Recreational and Commercial Fishing Proclamation

Subchapter O. Coastal Management Areas

Chapter 58. Oysters, Shrimp, and Finfish

Subchapter A. Statewide Oyster Fishery Proclamation

Subchapter B. Statewide Shrimp Fishery Proclamation

Subchapter C. Statewide Crab Fishery Proclamation

Subchapter D. Finfish Fishery Proclamation

Subchapter E. Cultivated Oyster Mariculture

Chapter 65. Wildlife

Subchapter A. Statewide Hunting Proclamation

Subchapter B. Disease Detection and Response

Subchapter C. Permits for Trapping, Transporting, and Transplanting Game Animals and Game Birds

Subchapter D. Deer Management Permit (DMP)

Subchapter F. Permits for Aerial Management of Wildlife and Exotic Species

Subchapter G. Threatened and Endangered Nongame Species

Subchapter H. Public Hunting Proclamation

Subchapter I. Depredation Permits

Subchapter J. Bobcat Proclamation

Subchapter K. Raptor Proclamation

Subchapter N. Migratory Game Bird Proclamation

Subchapter O. Commercial Nongame Permits

Subchapter P. Alligator Proclamation

Subchapter Q. Statewide Fur-bearing Animal Proclamation

Subchapter T. Deer Breeder Permits

Subchapter U. Authority to Refuse to Issue or Renew Permit

Subchapter V. Wildlife Management Association Area Hunting Lease License

Subchapter W. Special Permits

Subchapter X. Mountain Lions

This review is pursuant to Government Code, §2001.039. The department will accept comments for 30 days following the publication of this notice in the *Texas Register* as to whether the reasons for adopting the sections under review continue to exist. Final consideration of this rule review by the Parks and Wildlife Commission is scheduled for the commission meeting to be held in Austin, Texas on March 27, 2025.

Any questions or written comments pertaining to this notice of intent to review should be directed to James Murphy, General Counsel, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744. Any proposed changes to 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-202405518

James Murphy

General Counsel

Texas Parks and Wildlife Department

Filed: November 14, 2024



State Employee Charitable Campaign

Title 34, Part 12

The State Employee Charitable Campaign, State Policy Committee files this notice of its intent to review the following rules in Title 34, Part 12 of the Texas Administrative Code:

Chapter 325, General State Policy Committee Provisions; Chapter 326, Campaign Management; Chapter 327, Local Campaign Management; Chapter 329, Eligibility Criteria for Statewide Federations/Funds and Affiliated Organizations; Chapter 330, Eligibility Criteria for Local Federations/Funds, Affiliated Organizations, and Local Charitable Organizations; Chapter 331, Review and Appeal Procedures for Statewide Federations/Funds and Affiliated Organizations; Chapter 332, Review and Appeal Procedures for Local Federations/Funds, Affiliated Organizations, and Local Charitable Organizations, Chapter 333, Campaign Materials; Chapter 334, Grievance Procedures.

The review is conducted in accordance with Texas Government Code §2001.039, which requires a state agency to review and consider its rules for re-adoption, re-adoption with amendments, or repeal every four years. During the review, the SPC will assess whether the reasons for initially adopting the rules continue to exist.

Comments on the review may be submitted to Greg Bennett, State Employee Charitable Campaign State Campaign Manager, via email at greg.bennett@uwtexas.org or mail at SECC, 106 East 6th Street, Suite 900-116, Austin, Texas 78701, within 30 days following the publication of this notice in the *Texas Register*. It is requested when sending a comment that individuals include the rule section to which the comment refers and that comments sent by email include "Public Comment" in the email's subject line.

Any proposed changes to these rules as a result of the review will be published at a future time 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.

TRD-202405512

Brent Connett

SECC State Policy Committee Chair

State Employee Charitable Campaign

Filed: November 13, 2024

Adopted Rule Reviews

Texas Alcoholic Beverage Commission

Title 16, Part 3

The Texas Alcoholic Beverage Commission (TABC) has completed its review of rule 16 TAC §31.1, relating to Separation of Duties Between Commission and Executive Director. This review was done pursuant to Texas Government Code §2001.039, which directs state agencies to review and consider for re-adoption each of their rules. The proposed rule review was published in the October 11, 2024, issue of the *Texas Register* (49 TexReg 8407).

SUMMARY OF COMMENTS. TABC did not receive any comments on this rule review.

READOPTION OF RULES. After review, TABC finds that the reasons for adopting 16 TAC §31.1 continue to exist. Therefore, TABC re-adopts the rule.

TRD-202405546

Matthew Cherry

Senior Counsel

Texas Alcoholic Beverage Commission

Filed: November 15, 2024

Texas Health and Human Services Commission

Title 26, Part 1

The Texas Health and Human Services Commission (HHSC) adopts the review of the chapter below in Title 26, Part 1, of the Texas Administrative Code (TAC):

Chapter 370, Human Trafficking Resource Center

Notice of the review of this chapter was published in the September 6, 2024, issue of the *Texas Register* (49 TexReg 7059). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 370 in accordance with Texas Government Code §2001.039, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist.

The agency determined that the original reasons for adopting all rules in the chapter continue to exist and re-adopts Chapter 370. Any amendments, if applicable, to Chapter 370 identified by HHSC in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes HHSC's review of 26 TAC Chapter 370 as required by Texas Government Code §2001.039.

TRD-202405610

Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: November 19, 2024

The Texas Health and Human Services Commission (HHSC) adopts the review of the chapter below in Title 26, Part 1, of the Texas Administrative Code (TAC):

Chapter 567, Certificate of Public Advantage

Notice of the review of this chapter was published in the August 30, 2024, issue of the *Texas Register* (49 TexReg 6758). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 567 in accordance with Texas Government Code §2001.039, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist.

The agency determined that the original reasons for adopting rules in the chapter do not continue to exist and the repeal of Chapter 567 identified by HHSC in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes HHSC's review of 26 TAC Chapter 567 as required by Texas Government Code §2001.039.

TRD-202405566

Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: November 18, 2024

The Texas Health and Human Services Commission (HHSC) adopts the review of the chapter below in Title 26, Part 1, of the Texas Administrative Code (TAC):

Chapter 568, Standards of Care and Treatment in Psychiatric Hospitals

Notice of the review of this chapter was published in the September 20, 2024, issue of the *Texas Register* (49 TexReg 7645). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 568 in accordance with Texas Government Code §2001.039, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist.

The agency determined that the original reasons for adopting all rules in the chapter continue to exist and re-adopts Chapter 568. Any amendments, if applicable, to Chapter 568 identified by HHSC in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes HHSC's review of 26 TAC Chapter 568 as required by Texas Government Code §2001.039.

TRD-202405604

Jessica Miller

Director, Rules Coordination Office

Texas Health and Human Services Commission

Filed: November 19, 2024



Texas Department of Transportation

Title 43, Part 1

Notice of Readoption

The Texas Department of Transportation (department) files notice of the completion of review and the readoption of Title 43 TAC, Part 1, Chapter 2, Environmental Review of Transportation Projects, Chapter 7, Rail Facilities, Chapter 26, Regional Mobility Authorities, Chapter

28, Oversize and Overweight Vehicles and Loads, Chapter 30, Aviation, and Chapter 31, Public Transportation.

This review and readoption have been conducted in accordance with Government Code, §2001.039. The Texas Transportation Commission (commission) has reviewed these rules and determined that the reasons for adopting them continue to exist. The department received no comments on the proposed rule review, which was published in the September 6, 2024, issue of the *Texas Register* (49 TexReg 7060).

This concludes the review of Chapters 2, 7, 26, 28, 30, and 31.

TRD-202405519

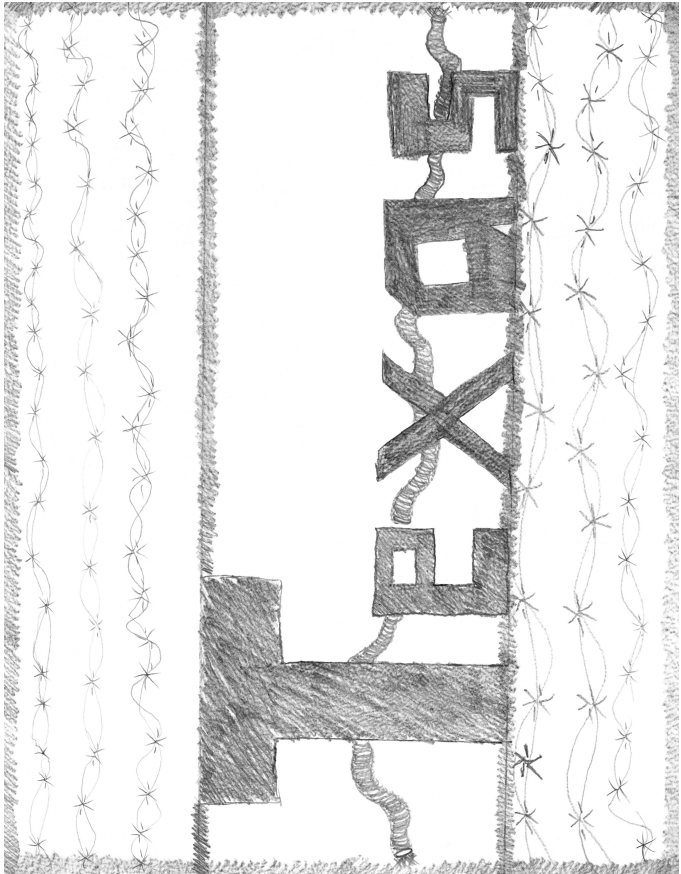
Becky Blewett

Deputy General Counsel

Texas Department of Transportation

Filed: November 14, 2024





TABLES & GRAPHICS

Graphic images included in rules are published separately in this tables and graphics section. Graphic images are arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic images are indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word “Figure” followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on.

Figure: 22 TAC §681.205

<u>Rule</u>	<u>Subsection</u>	<u>Action</u>
§681.35(a)		L4
	(1)-(8)	L4
§681.35(b)		L4
§681.35(c)		L5
§681.35(d)		L4
§681.36(a)		L5
	(1)	L4
	(2)-(7)	L5
§681.36(b)		L5
§681.37(a)	(1)-(3)	L5
	(4)-(5)	L4
§681.37(b)		L3
§681.37(c)		L3
§681.38(a)		L4
§681.38(b)		L4
§681.38(c)		L4
§681.38(d)		L4
	(2)	L4
	(3)	L1
	(5)-(6)	L5
	(7)	L4
§681.38(e)		L5
§681.38(f)		L4
§681.38(g)		L5
§681.41(a)		L5
	(1)-(3)	L5

§681.41(b)		L5
§681.41(e)		L5
§681.41(d)		L5
§681.41(c) (e)		L5
§681.41(e) (g)		L5
§681.41(f) (h)		L4
§681.41(g) (i)		L4
§681.41(h) (j)		L1
§681.41(j) (k)		L1
§681.42(b)	(1)-(3)	L1
§681.42(c)		L1
§681.42(f)	(1)-(2)	L5
§681.43(a)		L5
§681.43(b)		L5
§681.43(c)		L4
§681.43(d)		L5
§681.43(e)		L5
§681.44		L3
§681.45(b)		L4
§681.45(c)		L4
§681.45(d)	(1)-(5)	L4
§681.46(b)		L5
§681.47(b)		L5
§681.49(a)		L5
§681.49(d)		L5
§681.49(e)		L5
§681.49(g)		L5
§681.49(h)		L5
§681.49(i)		L5
§681.50(a)		L5
§681.50(b)		L5
§681.50(c)		L5
§681.50(d)		L5
§681.51(b)	(3)	L4
§681.52(d)		L4
§681.52(e)		L5
§681.52(i)		L5
§681.52(j)		L5

§681.52(k)		L5
§681.52(l)		L5
§681.52(m)		L5
§681.52(n)		L5
§681.52(o)		L5
§681.52(p)	(1)-(5)	L5
§681.52(q)		L5
§681.52(s)		L5
§681.52(u)		L5
	(1)-(2)	L5
§681.52(v)		L5
§681.52(w)		L5
§681.52(x)		L5
	(1)-(5)	L5
§681.52(y)		L5
§681.52(z)		L5
§681.52(aa)		L5
§681.52(bb)		L5
§681.52(dd)		L5
§681.52(ff)		L5
§681.53(a)		L5
§681.53(c)		L5
§681.53(d)		L5
§681.53(e)		L5
§681.53(f)		L4
§681.53(g)		L3
§681.53(h)		L5
	(1)-(2)	L4
§681.53(i)		L4
§681.91(d)		L1
§681.93(a)	(1)(A)-(F)	L5
	(2)	L5
§681.93(c)		L5
	(1)-(2)	L5
§681.93(d)		L5
§681.93(e)		L5
§681.93(f)	(1)-(2)	L5
§681.93(h)	(2)	L4

Figure: 22 TAC §781.805

Rule	Level 1: Revocation (Admin Penalty: not less than \$250; no more than \$5,000 per day)	Level 2: Suspension (Admin Penalty: not less than \$250; no more than \$5,000 per day)	Level 3: Probated Suspension (Admin Penalty: not less than \$250; no more than \$5,000 per day)	Level 4: Reprimand (Administrative Penalty: not less than \$250; no more than \$5,000 per day)
§781.301(1)			X	
§781.301(2)				X
§781.301(3)			X	
§781.301(5)				X
§781.301(6)				X
§781.301(7)				X
§781.301(8)				X
§781.301(9)	X			
§781.301(10)		X		
§781.301(11)			X	
§781.301(12)				X
§781.301(13)				X
§781.302(d), (e), and (g)- (h) (i)			X	
§781.303(1)				X
§781.303(2)				X
§781.303(3)				X
§781.303(4)			X	
§781.303(5)	X			
§781.303(6)	X			
§781.303(7)				X
§781.303(8)			X	
§781.303(9)				X
§781.304(a)				X
§781.304(b)		X		
§781.304(c)			X	
§781.304(d) and (p)				X
§781.304(e), (l), and (q)				X
§781.304(f)				X
§781.304(g)				X
§781.304(h)				X
§781.304(i)				X
§781.304(j)			X	

§781.304(m)				X
§781.304(n)			X	
§781.304(o)				X
§781.305(b) and (c)	X			
§781.305(g)(1)-(4)			X	
§781.306(a) and (b)				X
§781.307(a)				X
§781.307(b)				X
§781.307(c)			X	
§781.308		X		
§781.309(1) and (4)				X
§781.309(2)			X	
§781.309(3)				X
§781.309(5)				X
§781.309(6)				X
§781.310(a) and (b)		X		
§781.310(c) and (e)			X	
§781.310(d)				X
§781.311(b) and (g)				X
§781.311(c) and (d)				X
§781.311(e)				X
§781.311(f)(1-4)			X	
§781.312(b)				X
§781.313(b)				X
§781.316(a), (c), and (d)				X
§781.317(a)				X
§781.317(b)			X	
§781.320(e)			X	
§781.321(d)			X	
§781.321(ff)			X	
§781.322(f)			X	
§781.322(g)		X		
§781.322(h)(1) and (2)				X
§781.322(i)			X	
§781.404(b)(1)			X	
§781.404(b)(7)		X		
§781.404(b)(8)(A)				X

§781.404(b)(8)(C)				X
§781.404(b)(8)(E) and (L)				X
§781.404(b)(8)(F)				X
§781.404(b)(8)(H)			X	
§781.404(b)(8)(J)		X		
§781.404(b)(8)(K)				X
§781.404(b)(8)(M)		X		
§781.404(b)(8)(N) and (O)	X			
§781.404(b)(8)(P)				X
§781.404(b)(9)(G)				X
§781.404(b)(10)(B)			X	

Figure: 22 TAC §801.305

Rule	Level 1: Revocation	Level 2: Suspension	Level 3: Probated Suspension	Level 4: Reprimand
801.43(b)				X
801.43(c)				X
801.43(d)				X
801.43(e)				X
801.44(a)				X
801.44(b)				X
801.44(c)				X
801.44(d)				X
801.44(e)		X		
801.44(f)			X	
801.44(g)			X	
801.44(h)				X
801.44(i)				X
801.44(k)				X
801.44(l)				X
801.44(m)				X
801.44(n)			X	X
801.44(o)				X
801.44(p)			X	
801.44(q)			X	
801.44(s)				X
801.44(t)		X		
801.44(u)				X
801.44(v)		X		
801.45(b)	X			
801.45(c)	X			
801.45(d)	X			
801.46(a)				X
801.46(c)			X	
801.47(a)		X		
801.47(b)	X			
801.48(b)			X	
801.48(c)			X	
801.48(d)(1)-(3)			X	
801.48(d)(4)				X
801.48(e)				X
801.48(g)			X	
801.48(h)				X

801.50				X
801.53(a)				X
801.53(d)				X
801.53(e)				X
801.53(f)				X
801.53(g)				X
801.55(e)			X	
801.56(d)			X	
801.57(d)			X	
801.57(e)		X		
801.57(f)				X
801.57(g)			X	
801.58(d)				X
801.58(h)				X
801.58(i)			X	
801.143(b)				X
801.143(c)				X
801.143(d)				X
801.143(e)				X
801.143(f)(1)				X
801.143(f)(2)				X
801.143(f)(4)				X
801.143(f)(5)				X
801.143(h)				X
801.143(i)			X	
801.143(j)				X
801.143(k)			X	

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.

Texas State Affordable Housing Corporation

Public Comment Needed: 2025 Texas Foundations Fund

The 2025 Texas Foundations Fund Draft Guidelines are now available for public comment. A copy of the 2025 Texas Foundations Fund Draft Guidelines may be found on the Corporation's website at www.tsahc.org. Please submit public comment via email to Anna Orendain at aorendain@tsahc.org with the subject line '2025 Texas Foundations Fund Public Comment'. Public comment must be submitted for consideration by January 3, 2025, at 5:00 p.m.

TRD-202405616

David Long

President

Texas State Affordable Housing Corporation

Filed: November 19, 2024

Comptroller of Public Accounts

Certification of the Average Closing Price of Gas and Oil - October 2024

The Comptroller of Public Accounts, administering agency for the collection of the Oil Production Tax, has determined, as required by Tax Code, §202.058, that the average taxable price of oil for reporting period October 2024 is \$46.61 per barrel for the three-month period beginning on July 1, 2024, and ending September 30, 2024. Therefore, pursuant to Tax Code, §202.058, oil produced during the month of October 2024, from a qualified low-producing oil lease, is not eligible for credit on the oil production tax imposed by Tax Code, Chapter 202.

The Comptroller of Public Accounts, administering agency for the collection of the Natural Gas Production Tax, has determined, as required by Tax Code, §201.059, that the average taxable price of gas for reporting period October 2024 is \$1.01 per mcf for the three-month period beginning on July 1, 2024, and ending September 30, 2024. Therefore, pursuant to Tax Code, §201.059, gas produced during the month of October 2024, from a qualified low-producing well, is eligible for a 100% credit on the natural gas production tax imposed by Tax Code, Chapter 201.

The Comptroller of Public Accounts, administering agency for the collection of the Franchise Tax, has determined, as required by Tax Code, §171.1011(s), that the average closing price of West Texas Intermediate crude oil for the month of October 2024 is \$71.56 per barrel. Therefore, pursuant to Tax Code, §171.1011(r), a taxable entity shall not exclude total revenue received from oil produced during the month of October 2024, from a qualified low-producing oil well.

The Comptroller of Public Accounts, administering agency for the collection of the Franchise Tax, has determined, as required by Tax Code, §171.1011(s), that the average closing price of gas for the month of October 2024 is \$2.62 per MMBtu. Therefore, pursuant to Tax Code, §171.1011(r), a taxable entity shall exclude total revenue received from gas produced during the month of October 2024, from a qualified low-producing gas well.

Inquiries should be submitted to Jenny Burleson, Director, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711-3528.

This agency hereby certifies that legal counsel has reviewed this notice and found it to be within the agency's authority to publish.

TRD-202405609

Jenny Burleson

Director, Tax Policy

Comptroller of Public Accounts

Filed: November 19, 2024

Notice of Hearing on §3.330 - Data Processing Services

The Office of the Comptroller of Public Accounts received requests by interested parties to hold a public hearing pursuant to Government Code, §2001.029(b)(2) on proposed §3.330 found in Texas Administrative Code, Title 34, Part 1, Chapter 3, Subchapter O. The proposed section was published in the September 13, 2024, issue of the *Texas Register*.

The comptroller will hold a hearing to take public comments, on Friday, December 6, 2024, at 9:00 a.m. in Room 4.300 of the George H.W. Bush Building, 1801 Congress Ave, Austin, Texas 78701. Interested persons must register to testify between 8:30 - 9:00 a.m., and testimony will be heard on a first come first serve basis beginning at 9:00 a.m. All persons will have 10 minutes to present their testimony and shall also provide their testimony in writing prior to their oral testimony. We will conclude the hearing immediately following the last registered person's testimony.

The purpose of this hearing is to receive comments from interested persons, pursuant to Government Code, §2001.029.

Questions concerning the hearing or this notice should be referred to Jenny Burleson, Director, Tax Policy Division. Phone Number: (512) 475-0323. E-mail address: tp.rule.comments@cpa.texas.gov.

TRD-202405597

Jenny Burleson

Director, Tax Policy

Comptroller of Public Accounts

Filed: November 18, 2024

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, §303.009, and §304.003 Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 11/25/24 - 12/01/24 is 18.00% for consumer¹ credit.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 11/25/24 - 12/01/24 is 18.00% for commercial² credit.

The postjudgment interest rate as prescribed by §304.003 for the period of 12/01/24 - 12/31/24 is 7.75%.

¹ Credit for personal, family, or household use.

² Credit for business, commercial, investment, or other similar purpose.

TRD-202405630

Leslie L. Pettijohn

Consumer Credit Commissioner

Office of Consumer Credit Commissioner

Filed: November 20, 2024



Credit Union Department

Application to Expand Field of Membership

Notice is given that the following applications have been filed with the Credit Union Department (Department) and are under consideration.

An application was received from Community Resource Credit Union #1, Baytown, Texas, to expand its field of membership. The proposal would permit persons who work, resides, worship or attend school, and businesses located within the boundaries of Harris County, Texas, to be eligible for membership in the credit union.

An application was received from Community Resource Credit Union #2, Baytown, Texas, to expand its field of membership. The proposal would permit members of Cornerstone Credit Union Foundation to be eligible for membership in the credit union.

An application was received from Lone Star Credit Union #1, Dallas, Texas, to expand its field of membership. The proposal would permit persons who work, resides, worship or attend school, and businesses located within the boundaries of Collin County, Texas, to be eligible for membership in the credit union.

An application was received from Lone Star Credit Union #2, Dallas, Texas, to expand its field of membership. The proposal would permit persons who work, resides, worship or attend school, and businesses located within the boundaries of Ellis County, Texas, to be eligible for membership in the credit union.

Comments or a request for a meeting by any interested party relating to an application must be submitted in writing within 30 days from the date of this publication. Credit unions that wish to comment on any application must also complete a Notice of Protest form. The form may be obtained by contacting the Department at (512) 837-9236 or downloading the form at <http://www.cud.texas.gov/page/bylaw-charter-applications>. Any written comments must provide all the information that the interested party wishes the Department to consider in evaluating the application. All information received will be weighed during consideration of the merits of an application. Comments or a request for a meeting should be addressed to the Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

TRD-202405649

Michael S. Riepen

Commissioner

Credit Union Department

Filed: November 20, 2024



Notice of Final Action Taken

In accordance with the provisions of 7 TAC §91.103, the Credit Union Department provides notice of the final action taken on the following applications:

Field of Membership - Approved

Firstmark CU (San Antonio) - See *Texas Register* dated on August 30, 2024.

Community Resources CU #1 (Baytown) - See *Texas Register* dated on September 27, 2024.

Community Resources CU #2 (Baytown) - See *Texas Register* dated on September 27, 2024.

Merger or Consolidation - Approved

First Service Credit Union (Houston) and SPCO Credit Union (Houston) - See *Texas Register* dated on May 24, 2024.

Neighborhood Credit Union (Dallas) and RelyOn Credit Union (Kaufman) - See *Texas Register* dated on June 28, 2024.

TRD-202405629

Michael S. Riepen

Commissioner

Credit Union Department

Filed: November 20, 2024



Texas Commission on Environmental Quality

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ, agency, 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 **January 3, 2025**. TWC, §7.075, also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-2545 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at P.O. Box 13087, Austin, Texas 78711-3087 and must be received by 5:00 p.m. on **January 3, 2025**. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission's enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on the AOs shall be submitted to the commission in writing.

(1) COMPANY: Afton Chemical Corporation; DOCKET NUMBER: 2022-1013-AIR-E; IDENTIFIER: RN101613230; LOCATION: Pasadena, Harris County; TYPE OF FACILITY: lube and fuel additives manufacturing plant; RULES VIOLATED: 30 TAC §116.115(b)(2)(F) and (c) and §122.143(4), New Source Review Permit Number 18161,

Special Conditions Number 1, Federal Operating Permit Number O1460, General Terms and Conditions and Special Terms and Conditions Number 13, and Texas Health and Safety Code, §382.085(b), by failing to comply with the maximum allowable emissions rate; PENALTY: \$66,000; ENFORCEMENT COORDINATOR: Desmond Martin, (512) 239-2814; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(2) COMPANY: Alliance Community Fellowship; DOCKET NUMBER: 2024-0412-PWS-E; IDENTIFIER: RN111473393; LOCATION: Fort Worth, Tarrant County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.43(c), by failing to ensure that all potable water storage facilities are covered and designed, fabricated, erected, tested, and disinfected in strict accordance with current American Water Works Association standards; 30 TAC §290.43(c)(4), by failing to provide all ground storage tanks with a liquid level indicator; 30 TAC §290.45(d)(2)(B)(ii) and Texas Health and Safety Code (THSC), §341.0315(c), by failing to provide a ground storage capacity equal to 50% of the maximum daily demand; and 30 TAC §290.45(d)(2)(B)(v) and THSC, §341.0315(c), by failing to provide a minimum pressure tank capacity of 220 gallons with additional capacity, if necessary, based on a sanitary survey conducted by the Executive Director; PENALTY: \$1,750; ENFORCEMENT COORDINATOR: Tessa Bond, (512) 239-1269; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(3) COMPANY: Alphonsa Enterprise, LLC dba King Food Store; DOCKET NUMBER: 2023-0818-PST-E; IDENTIFIER: RN102282902; LOCATION: Hidalgo, Hidalgo County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.10(b)(2), by failing to assure that all underground storage tank (UST) recordkeeping requirements are met; 30 TAC §334.48(e)(1) and §334.50(b)(1)(A), (d)(1)(B)(ii), and (9)(A)(iii) and TWC, §26.3475(c)(1), by failing to conduct reconciliation of detailed inventory control records at least once every 30 days in a manner sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the 30-day period plus 130 gallons, and failing to monitor the UST in a manner which will detect a release at a frequency of at least once every 30 days by taking appropriate steps to ensure that a statistical inventory reconciliation (SIR) analysis report is received from the vendor in no more than 15 calendar days following the last day of the 30-day period for which the SIR analysis is performed, and additionally, failing to conduct a test of the proper operation of the release detection equipment at least annually; 30 TAC §334.48(g)(1)(A)(ii), (B), and (h)(1)(A) and (B), and TWC, §26.3475(c)(1) and (2), by failing to test the spill prevention equipment at least once every three years to ensure the equipment is liquid tight, and failing to inspect the overfill prevention equipment at least once every three years to ensure that the equipment is set to activate at the correct level and will activate when a regulated substance reaches that level, furthermore, failing to conduct walkthrough inspections of the spill prevention and release detection equipment at least once every 30 days, and also, failing to conduct the annual walkthrough inspection of the containment sumps and submersible turbine pumps and under dispenser areas that do not have containment sumps; and 30 TAC §334.606, by failing to maintain required operator training certification records and make them available for inspection upon request by agency personnel; PENALTY: \$5,454; ENFORCEMENT COORDINATOR: Eresha DeSilva, (512) 239-5084; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(4) COMPANY: Aqua Development, Incorporated; DOCKET NUMBER: 2023-1055-PWS-E; IDENTIFIER: RN102678554; LOCATION: Newark, Wise County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.45(b)(1)(D)(iv) and

Texas Health and Safety Code, §341.0315(c), by failing to provide a pressure tank capacity of 20 gallons per connection; PENALTY: \$780; ENFORCEMENT COORDINATOR: Tessa Bond, (512) 239-1269; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(5) COMPANY: BEARCAT GP, LLC; DOCKET NUMBER: 2024-0403-PWS-E; IDENTIFIER: RN111853503; LOCATION: Aledo, Parker County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.46(d)(2)(A) and §290.110(b)(4) and Texas Health and Safety Code, §341.0315(c), by failing to maintain a disinfectant residual of at least 0.2 milligrams per liter of free chlorine throughout the distribution system at all times; 30 TAC §290.46(e)(4)(A), by failing to operate the facility under the direct supervision of a water works operator who holds an applicable, valid Class D or higher license issued by the Executive Director; 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: \$13,057; ENFORCEMENT COORDINATOR: Taner Hengst, (512) 239-1143; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(6) COMPANY: BRYSON DEVELOPMENT LLC; DOCKET NUMBER: 2023-0150-EAQ-E; IDENTIFIER: RN111585006; LOCATION: Leander, Williamson County; TYPE OF FACILITY: construction site; RULE VIOLATED: 30 TAC §213.23(a)(1), by failing to obtain approval of an approved Edwards Aquifer Protection Plan prior to commencing a regulated activity over the Edwards Aquifer Contributing Zone; PENALTY: \$1,625; ENFORCEMENT COORDINATOR: Nick Lohret-Froio, (512) 239-4495; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(7) COMPANY: CAL'S CONVENIENCE, INCORPORATED; DOCKET NUMBER: 2024-0260-PST-E; IDENTIFIER: RN101875375; LOCATION: Sterling City, Sterling County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.48(c) and §334.50(b)(1) and (2)(A), (B)(iii), and (d)(1) and TWC, §26.3475(a) and (c)(1), by failing to monitor the underground storage tanks (USTs) installed prior to January 1, 2009 in a manner which will detect a release at a frequency of at least once every 30 days, and failing to monitor the USTs and associated pressurized piping installed on or after January 1, 2009 in a manner which will detect a release at a frequency of at least once every 30 days by using interstitial monitoring, and additionally, failing to conduct effective manual or automatic inventory control procedures for the USTs at the facility; PENALTY: \$8,263; ENFORCEMENT COORDINATOR: Adriana Fuentes, (956) 430-6057; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(8) COMPANY: City of Magnolia; DOCKET NUMBER: 2024-0340-PWS-E; IDENTIFIER: RN101390334; LOCATION: Magnolia, Montgomery County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(j)(1)(D) and Texas Health and Safety Code (THSC), §341.0351, by failing to notify the Executive Director prior to making any significant change in the distribution system that involves interconnection with another public water system; 30 TAC §290.45(b)(1)(D)(i) and THSC, §341.0315(c), by failing to provide two or more wells having a total capacity of 0.6 gallons per minute per connection; and 30 TAC §290.46(l), by failing to flush all dead-end mains at monthly intervals; PENALTY: \$2,142; ENFORCEMENT COORDINATOR: Tessa Bond, (512) 239-1269;

REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(9) COMPANY: City of Rotan; DOCKET NUMBER: 2022-1009-MWD-E; IDENTIFIER: RN102177805; LOCATION: Rotan, Fisher County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §30.350(d) and §305.125(1) and TCEQ Permit Number WQ0011256001, Special Provisions Number 2, by failing to employ or contract with one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid Class D license or higher; 30 TAC §217.33(a) and §305.125(1) and TCEQ Permit Number WQ0011256001, Monitoring Requirements Number 5, by failing to have the automatic flow measuring device accurately calibrated by a trained person at plant start-up and thereafter not less often than annually; 30 TAC §305.125(1) and §319.5(b) and TCEQ Permit Number WQ0011256001, Effluent Limitations and Monitoring Requirements B, by failing to collect and analyze effluent samples at the intervals specified in the permit; 30 TAC §305.125(1) and (5) and TCEQ Permit Number WQ0011256001, Operational Requirements Number 1, by failing to ensure the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained; and 30 TAC §305.125(1) and (11)(B) and §319.7(a) and (c) and TCEQ Permit Number WQ0011256001, Special Provisions Number 4.d, by failing to maintain adequate irrigation records at the facility and make them readily available for review by a TCEQ representative for a period of three years; PENALTY: \$9,563; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(10) COMPANY: CSWR-Texas Utility Operating Company, LLC; DOCKET NUMBER: 2024-0055-PWS-E; IDENTIFIER: RN102688041; LOCATION: Waxahachie, Ellis County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.46(q)(1), formerly 290.46(q)(2), by failing to issue a boil water notice to customers of the facility within 24 hours of a water outage event; PENALTY: \$2,055; ENFORCEMENT COORDINATOR: Miles Caston, (512) 239-4593; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(11) COMPANY: GenTex Power Corporation; DOCKET NUMBER: 2022-0854-AIR-E; IDENTIFIER: RN100723915; LOCATION: Bastrop, Bastrop County; TYPE OF FACILITY: electrical power plant; RULES VIOLATED: 30 TAC §§101.20(3), 116.115(b)(2)(F) and (c), and 122.143(4), New Source Review Permit Numbers 41437 and PSDTX941, Special Conditions Number 1, Federal Operating Permit Number O1994, General Terms and Conditions and Special Terms and Conditions Number 6, and Texas Health and Safety Code, §382.085(b), by failing to comply with the maximum allowable emissions rate; PENALTY: \$7,050; ENFORCEMENT COORDINATOR: Mackenzie Mehlmann, (512) 239-2572; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(12) COMPANY: Haynie Leadership Group, Incorporated dba A and V Water; DOCKET NUMBER: 2024-0166-PWS-E; IDENTIFIER: RN105819635; LOCATION: Decatur, Wise County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.106(e), by failing to provide the results of nitrate sampling to the Executive Director for the January 1, 2022 - December 31, 2022, monitoring period; and 30 TAC §290.109(c)(3)(C)(i), by failing to conduct a Level 1 Assessment within 30 days after exceeding a Level 1 treatment technique trigger on August 17, 2023; PENALTY: \$1,000; ENFORCEMENT COORDINATOR: Savannah Jackson, (512) 239-4306; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(13) COMPANY: INV Nylon Chemicals Americas, LLC; DOCKET NUMBER: 2021-0858-WDW-E; IDENTIFIER: RN102663671; LOCATION: Victoria, Victoria County; TYPE OF FACILITY: chemical manufacturing plant; RULES VIOLATED: 30 TAC §305.125(1) and §331.63(e), 40 Code of Federal Regulations (CFR) §146.67(c), and Underground Injection Control (UIC) Permit Numbers Waste Disposal Well (WDW) 004, 029, 105, 106, and 143, Permit Provision (PP) VII.E. Operating Parameters, by failing to maintain an annulus pressure of at least 100 pounds per square inch gauge greater than the injection tubing pressure to prevent leaks from the well into unauthorized zones; 30 TAC §305.125(1) and §331.63(h), 40 CFR §146.67(c), and UIC Permit Numbers WDW004, 029, 030, 106, and 144, PP V.C. Character of the Waste Streams, by failing to maintain any chemical or physical characteristic of the injected fluids within specified permit limits; 30 TAC §305.125(1) and §331.64(b), 40 CFR §146.68(a), and UIC Permit Number WDW143, PP VII.F. Monitoring and Testing, by failing to sample and analyze injected fluids with a frequency sufficient to yield representative data of their characteristics; 30 TAC §305.125(1) and §331.67(a) and UIC Permit Number WDW029, PP IX. Record Keeping Requirements, by failing to keep complete and accurate records of all monitoring according to permit requirements; and 30 TAC §331.63(g), by failing to test and calibrate quarterly all gauges, pressure sensing, and recording devices; PENALTY: \$148,140; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$59,256; ENFORCEMENT COORDINATOR: Stephanie McCurley, (512) 239-2607; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(14) COMPANY: INV Nylon Chemicals Americas, LLC; DOCKET NUMBER: 2023-1019-WDW-E; IDENTIFIER: RN102663671; LOCATION: Victoria, Victoria County; TYPE OF FACILITY: chemical manufacturing plant; RULES VIOLATED: 30 TAC §305.125(1) and §331.64(d), 40 Code of Federal Regulations §146.67(f) and Underground Injection Control Permit Number Waste Disposal Well 029, Permit Provision VIII.A. Monitoring and Testing Requirements, by failing to properly maintain and use continuous recording devices to record the injection flow; PENALTY: \$4,235; ENFORCEMENT COORDINATOR: Stephanie McCurley, (512) 239-2607; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(15) COMPANY: INV Nylon Chemicals Americas, LLC f/k/a INVISTA S.a r.l.; DOCKET NUMBER: 2019-1004-MLM-E; IDENTIFIER: RN102663671; LOCATION: Victoria, Victoria County; TYPE OF FACILITY: chemical manufacturing plant and fleet refueling facility; RULES VIOLATED: 30 TAC §305.125(1) and §331.63(c), 40 Code of Federal Regulations (CFR) §146.67(a), and Underground Injection Control (UIC) Permit Number Waste Disposal Well (WDW) 030, Permit Provision (PP) VII.B Operating Parameters, by failing to maintain an operating wellhead injection pressure that does not exceed the permitted maximum; 30 TAC §305.125(1) and §331.63(e), 40 CFR §146.67(c), and UIC Permit Number WDW004, PP VII.E. Operating Parameters, by failing to maintain an annulus pressure of at least 100 pounds per square inch gauge greater than the injection tubing pressure to prevent leaks from the well into unauthorized zones; 30 TAC §305.125(1) and §331.63(h) and UIC Permit Numbers WDW004, 028, 030, 105, 106, 142, 143, and 144, PP V.C. Character of the Waste Streams, by failing to maintain any chemical or physical characteristic of the injected fluids within specified permit limits; 30 TAC §305.125(1) and §331.64(d), 40 CFR §146.67(f) and UIC Permit Numbers WDW004 and 144, PP VIII.A. Monitoring and Testing Requirements, by failing to properly maintain and use continuous recording devices to record the injection pressure at WDW004 and 144; 30 TAC §305.125(1) and §331.64(g)(2) and UIC Permit Number WDW143, PP VIII.H Monitoring and Testing Requirements, by failing to ensure the corrosion monitoring test used materials identical

to those used in the construction of the well, and that those materials are continuously exposed to the operating pressures and temperatures and flow rates of the injection operation; 30 TAC §305.125(1) and §331.67(a) and UIC Permit Numbers WDW004, 030, 106, and 144, PP IX. Record Keeping Requirements, by failing to keep complete and accurate records of all monitoring according to permit requirements; and 30 TAC §334.50(b)(2) and TWC, §26.3475(a), by failing to provide release detection for the pressurized piping associated with the underground storage tank system; PENALTY: \$131,168; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$52,468; ENFORCEMENT COORDINATOR: Stephanie McCurley, (512) 239-2607; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(16) COMPANY: Maple Energy Holdings, LLC; DOCKET NUMBER: 2022-0973-AIR-E; IDENTIFIER: RN111527826; LOCATION: Pecos, Reeves County; TYPE OF FACILITY: oil and gas production plant; RULES VIOLATED: 30 TAC §106.4(c) and Texas Health and Safety Code (THSC), §382.085(b), by failing to maintain all emissions control equipment in good condition and operated properly during operation of the facility; and 30 TAC §116.110(a) and THSC, §382.0518(a) and §382.085(b), by failing to obtain authorization prior to constructing or modifying a source of air contaminants; PENALTY: \$14,250; ENFORCEMENT COORDINATOR: Danielle Porras, (713) 767-3682; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(17) COMPANY: Nationwide Tank and Pipe LLC; DOCKET NUMBER: 2022-0767-AIR-E; IDENTIFIER: RN105155436; LOCATION: New Braunfels, Comal County; TYPE OF FACILITY: fiberglass tank manufacturing plant; RULES VIOLATED: 30 TAC §§101.20(2), 113.1060, 116.115(c), and 122.143(4), 40 Code of Federal Regulations (CFR) §63.5910(a) and (b)(3) and (4), New Source Review (NSR) Permit Number 83082, Special Conditions (SC) Number 4, Federal Operating Permit (FOP) Number O2996, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) Numbers 1.E and 5, and Texas Health and Safety Code (THSC), §382.085(b), by failing to submit the 40 CFR Part 63 Subpart WWWW semiannual compliance report no later than 31 days after the end of the reporting period; and 30 TAC §116.115(b)(2)(F) and (c) and §122.143(4), NSR Permit Number 83082, SC Number 12, FOP Number O2996, GTC and STC Number 5, and THSC, §382.085(b), by failing to comply with the maximum allowable emissions rate; PENALTY: \$18,087; ENFORCEMENT COORDINATOR: Mackenzie Mehlmann, (512) 239-2572; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(18) COMPANY: Rhome Estates LLC; DOCKET NUMBER: 2024-0411-PWS-E; IDENTIFIER: RN111595864; LOCATION: Rhome, Wise County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 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: \$1,000; ENFORCEMENT COORDINATOR: Taner Hengst, (512) 239-1143; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(19) COMPANY: SR Superior LLC; DOCKET NUMBER: 2024-0194-WR-E; IDENTIFIER: RN104486410; LOCATION: Grand Lake Estates, Montgomery County; TYPE OF FACILITY: reservoir; RULE VIOLATED: 30 TAC §297.59(c), Water Rights Permit Number 5712, and Special Conditions (a), by failing to maintain the reservoir at operating level as required by the permit; PENALTY: \$750; EN-

FORCEMENT COORDINATOR: Monica Larina, (361) 881-6965; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401, (361) 881-6900.

(20) COMPANY: VARDHMAN INVESTMENT, INCORPORATED dba Dickinson Food Mart; DOCKET NUMBER: 2022-1051-PST-E; IDENTIFIER: RN101909463; LOCATION: Dickinson, Galveston County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.49(a)(1) and TWC, §26.3475(d), by failing to provide corrosion protection for the underground storage tank (UST) system; and 30 TAC §334.50(b)(1)(B) and TWC, §26.3475(c)(1), by failing to monitor the USTs installed on or after January 1, 2009, for releases in a manner which will detect a release at a frequency of at least once every 30 days by using interstitial monitoring; PENALTY: \$6,750; ENFORCEMENT COORDINATOR: Celicia Garza, (210) 657-8422; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 492-3096.

TRD-202405606

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: November 19, 2024



Correction of Error

The Texas Commission on Environmental Quality (Commission) adopted amendments to 30 TAC §§330.1, 330.3, 330.5, 330.7, 330.13, 330.15 and 330.23 as part of a larger rulemaking in the November 8, 2024, issue of the *Texas Register* (49 TexReg 8930). Due to an error by the Texas Register, the amendments were published with an incomplete range of rules listed. The range of rules should have been listed as follows:

30 TAC §§330.1, 330.3, 330.5, 330.7, 330.13, 330.15

TRD-202405619



Enforcement Orders

An agreed order was adopted regarding City of Streetman, Docket No. 2022-0568-PWS-E on November 19, 2024 assessing \$4,287 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Taylor Pack Ellis, 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 Angel Campos Sr., Guadalupe Campos, and Miguel Campos dba Little Angel's Auto & Scrap Metal Recycling, Docket No. 2022-0586-MLM-E on November 19, 2024 assessing \$2,925 in administrative penalties with \$585 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 Wasfia Enterprise LLC dba Cypress Plaza 2, Docket No. 2022-0863-PST-E on November 19, 2024 assessing \$6,304 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Alexander Kepczyk, 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 Regal 5 LLC dba Joe's Future Food Mart, Docket No. 2022-1376-PST-E on November 19, 2024 assessing \$3,375 in administrative penalties with \$675 deferred. Infor-

mation concerning any aspect of this order may be obtained by contacting Adriana Fuentes, 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 CAREFREE VALLEY MHP HARLINGEN TX, LLC, Docket No. 2022-1531-PWS-E on November 19, 2024 assessing \$188 in administrative penalties with \$37 deferred. Information concerning any aspect of this order may be obtained by contacting Ashley Lemke, 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 Vaquerano Automotive, LLC dba Custom Auto II Collision Auto Repair, Docket No. 2022-1706-AIR-E on November 19, 2024 assessing \$675 in administrative penalties with \$135 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 Dupre Logistics LLC dba Dupre Transport, Docket No. 2023-1109-PST-E on November 19, 2024 assessing \$2,255 in administrative penalties with \$451 deferred. Information concerning any aspect of this order may be obtained by contacting Faye Renfro, 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 Z B ENTERPRISES, INC. dba Overton Texaco, Docket No. 2023-1119-PST-E on November 19, 2024 assessing \$3,375 in administrative penalties with \$675 deferred. Information concerning any aspect of this order may be obtained by contacting Adriana Fuentes, 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 Black Branch Terminals LLC, Docket No. 2023-1123-PST-E on November 19, 2024 assessing \$3,979 in administrative penalties with \$795 deferred. Information concerning any aspect of this order may be obtained by contacting Eresha DeSilva, 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 Lockhart, Docket No. 2023-1209-PST-E on November 19, 2024 assessing \$3,751 in administrative penalties with \$750 deferred. Information concerning any aspect of this order may be obtained by contacting Faye Renfro, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was adopted regarding Texan Oilers, LLC, Docket No. 2023-1210-PST-E on November 19, 2024 assessing \$2,625 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Danielle Fishbeck, 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 Texas Water Utilities, L.P., Docket No. 2023-1396-PWS-E on November 19, 2024 assessing \$750 in administrative penalties with \$150 deferred. 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 Karina Montiel dba MONTIEL SPRINKLERS KS LLC, Docket No. 2023-1403-LII-E on November 19, 2024 assessing \$874 in administrative penalties with \$174 de-

ferred. 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 Carterbug Holdings, LLC, Docket No. 2023-1581-MWD-E on November 19, 2024 assessing \$5,000 in administrative penalties with \$1,000 deferred. Information concerning any aspect of this order may be obtained by contacting Mistie Gonzales, 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 CUA, LLC, Docket No. 2023-1704-AIR-E on November 19, 2024 assessing \$4,688 in administrative penalties with \$937 deferred. Information concerning any aspect of this order may be obtained by contacting Krystina Sepulveda, 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 Angel Elias dba Judy K's Kountry Kitchen, Docket No. 2024-0031-PWS-E on November 19, 2024 assessing \$4,152 in administrative penalties with \$830 deferred. 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 Chitwan Rhino LLC dba Kwik Pik Food Mart, Docket No. 2024-0035-PST-E on November 19, 2024 assessing \$3,375 in administrative penalties with \$675 deferred. Information concerning any aspect of this order may be obtained by contacting Ramya Wendt, 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 Charlotte Retief dba Cowboy Capital RV Park & Campground and Gerhard Retief dba Cowboy Capital RV Park & Campground, Docket No. 2024-0053-PWS-E on November 19, 2024 assessing \$2,750 in administrative penalties with \$550 deferred. Information concerning any aspect of this order may be obtained by contacting Mason DeMasi, 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 CHINA SPRING HOLDINGS LP, Docket No. 2024-0093-PWS-E on November 19, 2024 assessing \$1,020 in administrative penalties with \$204 deferred. Information concerning any aspect of this order may be obtained by contacting Deshaune Blake, 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 PRICEWISE LLC, Docket No. 2024-0095-PST-E on November 19, 2024 assessing \$5,655 in administrative penalties with \$1,131 deferred. Information concerning any aspect of this order may be obtained by contacting Lauren Little, 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 Files Valley Water Supply Corporation, Docket No. 2024-0431-PWS-E on November 19, 2024 assessing \$1,575 in administrative penalties with \$315 deferred. Information concerning any aspect of this order may be obtained by contacting Taner Hengst, 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 Emerald Forest Utility District, Docket No. 2024-0461-PWS-E on November 19, 2024 assessing \$1,020 in administrative penalties with \$204 deferred. Information concerning any aspect of this order may be obtained by contacting Kaisie Hubschmitt, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was adopted regarding South Hulen Ventures LLC, Docket No. 2024-0749-PST-E on November 19, 2024 assessing \$2,625 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Adriana Fuentes, 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 Dr Horton-Texas Ltd, Docket No. 2024-0803-WQ-E on November 19, 2024 assessing \$3,000 in administrative penalties with \$600 deferred. Information concerning any aspect of this order may be obtained by contacting Madison Stringer, 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 ISMAT, LLC dba E Z Shop 13, Docket No. 2024-0830-PST-E on November 19, 2024 assessing \$4,490 in administrative penalties with \$898 deferred. Information concerning any aspect of this order may be obtained by contacting Faye Renfro, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was adopted regarding Jerry D. Williams, Docket No. 2024-1223-OSI-E on November 19, 2024 assessing \$175 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Nancy Sims, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was adopted regarding Stewart, William A. Jr., Docket No. 2024-1258-WOC-E on November 19, 2024 assessing \$175 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Arti Patel, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202405654

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: November 20, 2024



Enforcement Orders

A default order was adopted regarding Antonio Saucedo, Docket No. 2020-0635-MSW-E on November 20, 2024 assessing \$7,500 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jim Sallans, 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 City of Beeville, Docket No. 2020-1272-MWD-E on November 20, 2024 assessing \$132,853 in administrative penalties with 26,570 deferred. Information concerning any aspect of this order may be obtained by contacting Alejandro Laje, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding Chaos Shaw AKA Chongbai Xia dba Twin Lakes Water, Docket No. 2021-1377-PWS-E on November 20, 2024 assessing \$0 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Benjamin Warms, Staff Attorney at (512) 239 3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711 3087.

A default and shutdown order was adopted regarding OHK GLOBAL INC dba Snappy Foods 19, Docket No. 2022-1056-PST-E on November 20, 2024 assessing \$25,256 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jennifer Peltier, 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 Texas Water Systems, Inc., Docket No. 2023-0703-PWS-E on November 20, 2024 assessing \$24,239 in administrative penalties with \$4,847. Information concerning any aspect of this order may be obtained by contacting Mason Demasi, 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 Hailiang Copper Texas Inc, Docket No. 2023-0715-IWD-E on November 20, 2024 assessing \$28,750 in administrative penalties with \$5,750 deferred. Information concerning any aspect of this order may be obtained by contacting Mistie Gonzales, 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 SR Aus, LLC, Docket No. 2023-0728-MWD-E on November 20, 2024 assessing \$32,937 in administrative penalties with \$6,587 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 B-TEXAS MULCH LLC, Docket No. 2023-0791-MSW-E on November 20, 2024 assessing \$8,564 in administrative penalties with \$1,712 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 Thomas Howard Watson II, Docket No. 2023-0935-WQ-E on November 20, 2024 assessing \$35,250 in administrative penalties with \$7,050. Information concerning any aspect of this order may be obtained by contacting Megan Crinklaw, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default and shutdown order was adopted regarding OHK GLOBAL INC dba Panthers 1, Docket No. 2023-1294-PST-E on November 20, 2024 assessing \$21,000 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jennifer Peltier, 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 Scout Energy Management LLC, Docket No. 2023-1472-AIR-E on November 20, 2024 assessing \$186,663 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Caleb 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 Lee Nmi Weir, Docket No. 2023-1493-WQ-E on November 20, 2024 assessing \$7,750 in admin-

istrative penalties with \$1,550 deferred. Information concerning any aspect of this order may be obtained by contacting Monica Larina, 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 Sasol Chemicals (USA) LLC, Docket No. 2023-1703-AIR-E on November 20, 2024 assessing \$34,500 in administrative penalties with \$6,900 deferred. Information concerning any aspect of this order may be obtained by contacting Krystina Sepulveda, 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 Fairway Methanol LLC, Docket No. 2023-1721-AIR-E on November 20, 2024 assessing \$158,925 in administrative penalties with \$31,785 deferred. Information concerning any aspect of this order may be obtained by contacting Caleb 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 City of Amarillo, Docket No. 2024-0022-MWD-E on November 20, 2024 assessing \$44,625 in administrative penalties with \$8,925 deferred. Information concerning any aspect of this order may be obtained by contacting Mistie Gonzales, 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 Texas Water Utilities, L.P., Docket No. 2024-0034-PWS-E on November 20, 2024 assessing \$1,187 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Taner Hengst, 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 Victoria County Water Control and Improvement District No. 1, Docket No. 2024-0214-PWS-E on November 20, 2024 assessing \$1,337 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Taner Hengst, 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 Xevex Materials' LLC, Docket No. 2024-0234-MLM-E on November 20, 2024 assessing \$11,250 in administrative penalties with \$2,250 deferred. Information concerning any aspect of this order may be obtained by contacting Mistie Gonzales, 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 COWBOY'S READY MIX, LLC, Docket No. 2024-0263-MLM-E on November 20, 2024 assessing \$14,500 in administrative penalties with \$2,900 deferred. Information concerning any aspect of this order may be obtained by contacting Megan Crinklaw, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default and shutdown order was adopted regarding OHK GLOBAL INC dba Snappy Foods 8, Docket No. 2024-0367-PST-E on November 20, 2024 assessing \$40,761 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jennifer Peltier, Staff Attorney at (512) 239 3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711 3087.

A default and shutdown order was adopted regarding OHK GLOBAL INC dba Snappy Foods 23, Docket No. 2024-0368-PST-E on November 20, 2024 assessing \$39,008 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting

Jennifer Peltier, Staff Attorney at (512) 239 3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711 3087.

A default and shutdown order was adopted regarding OHK GLOBAL INC dba Snappy Foods 20, Docket No. 2024-0371-PST-E on November 20, 2024 assessing \$42,285 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jennifer Peltier, Staff Attorney at (512) 239 3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711 3087.

A default and shutdown order was adopted regarding OHK GLOBAL INC dba Snappy Foods 17, Docket No. 2024-0372-PST-E on November 20, 2024 assessing \$43,758 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jennifer Peltier, Staff Attorney at (512) 239 3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711 3087.

A default and shutdown order was adopted regarding OHK GLOBAL INC dba Snappy Foods 16, Docket No. 2024-0373-PST-E on November 20, 2024 assessing \$30,285 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jennifer Peltier, Staff Attorney at (512) 239 3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711 3087.

A default and shutdown order was adopted regarding OHK GLOBAL INC dba Snappy Foods 14, Docket No. 2024-0374-PST-E on November 20, 2024 assessing \$42,266 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jennifer Peltier, Staff Attorney at (512) 239 3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711 3087.

A default and shutdown order was adopted regarding OHK GLOBAL INC dba Panthers 5, Docket No. 2024-0375-PST-E on November 20, 2024 assessing \$7,702 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jennifer Peltier, Staff Attorney at (512) 239 3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711 3087.

A default and shutdown order was adopted regarding OHK GLOBAL INC dba Panthers 3, Docket No. 2024-0387-PST-E on November 20, 2024 assessing \$4,500 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jennifer Peltier, Staff Attorney at (512) 239 3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711 3087.

A default and shutdown order was adopted regarding OHK GLOBAL INC dba Panthers 6, Docket No. 2024-0389-PST-E on November 20, 2024 assessing \$5,000 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jennifer Peltier, Staff Attorney at (512) 239 3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711 3087.

A default and shutdown order was adopted regarding OHK GLOBAL INC dba Panthers 4, Docket No. 2024-0390-PST-E on November 20, 2024 assessing \$9,000 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jennifer Peltier, 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 FLOWER GROVE CO-OPERATIVE GIN, Docket No. 2024-0393-PST-E on November 20, 2024 assessing \$21,113 in administrative penalties with \$4,222 deferred. Information concerning any aspect of this order may be obtained by contacting Lauren Little, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202405655

Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: November 20, 2024



Notice and Comment Hearing Draft Permit No.: O2151

This is a notice for a notice and comment hearing on Federal Operating Permit Number O2151. During the notice and comment hearing informal questions on the Federal Operating Permit will be answered and formal comments will be received. The Texas Commission on Environmental Quality (TCEQ) has scheduled the notice and comment hearing regarding this application and draft permit as follows:

Date: January 14, 2025

Time: 7:00 p.m.

Location: Columbus Club Hall Brazoria

20632 N. Highway 36

Brazoria, Texas 77422

Location phone: (979) 798-4483

Application and Draft Permit. Chevron Phillips Chemical Company, LP, 10001 Six Pines Dr, The Woodlands, Texas 77380-1498, an All Other Basic Organic Chemical Manufacturing facility, has applied to the TCEQ for a Significant Revision of Federal Operating Permit (herein referred to as permit) No. O2151, Application No. 34858 to authorize operation of the Sweeny Complex, Olefins and NGL Assets area. The area addressed by the application is located at 21441 Loop 419 (new street name: Freedom Lane) in Sweeny, Brazoria County, Texas 77480-1426. This application was received by the TCEQ on March 2, 2023.

The TCEQ Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if approved, will codify the conditions under which the site must operate. The TCEQ Executive Director recommends issuance of the draft permit. The purpose of a federal operating permit is to improve overall compliance with the rules governing air pollution control by clearly listing all applicable requirements, as defined in Title 30 Texas Administrative Code (30 TAC) §122.10. The permit will not authorize new construction or new emissions.

Notice and Comment Hearing. The hearing will be structured for the receipt of oral or written comments by interested persons. Registration and an informal discussion period with commission staff members will begin during the first 30 minutes. During the informal discussion period, the public is encouraged to ask questions and engage in open discussion with the applicant and the TCEQ staff concerning this application and draft permit. Issues raised during this discussion period **will only** be addressed in the formal response to comments if the issue is also presented during the hearing. After the conclusion of the informal discussion period, the TCEQ will conduct a notice and comment hearing regarding the application and draft permit. Individuals may present oral statements when called upon in order of registration. A reasonable time limit may be established at the hearing to assure that enough time is allowed for every interested person to speak. There will be no open discussion during the hearing. The purpose of this hearing will be to receive formal public comment which the TCEQ will consider in determining whether to revise and/or issue the permit and in determining the accuracy and completeness of the permit. Any person may attend this meeting and submit written or oral comments. The hearing will be conducted in accordance with the Texas Clean Air Act §382.0561, as

codified in the Texas Health and Safety Code, and 30 Texas Administrative Code §122.340.

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact the TCEQ Public Education Program toll free at (800) 687-4040 or (800) RELAY-TX (TDD), at least five business days prior to the hearing.

Any person may also submit written comments before the hearing to the Texas Commission on Environmental Quality, Office of Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087, or electronically at www14.tceq.texas.gov/epic/eComment/. Written comments should include (1) your name, address, and daytime telephone number, and (2) the draft permit number found at the top of this notice.

A notice of proposed final action that includes a response to comments and identification of any changes to the draft permit will be mailed to everyone who submitted: written comments and/or hearing requests, attended and signed in at the hearing, or requested to be on the mailing list for this application. This mailing will also provide instructions for public petitions to the U.S. Environmental Protection Agency (EPA) to request that the EPA object to the issuance of the proposed permit. After receiving a petition, the EPA may only object to the issuance of a permit which is not in compliance with applicable requirements or the requirements of 30 Texas Administrative Code Chapter 122.

Mailing List. In addition to submitting public comments, a person may ask to be placed on a mailing list for this application by sending a request to the TCEQ Office of the Chief Clerk at the address above. Those on the mailing list will receive copies of future public notices (if any) mailed by the Chief Clerk for this application.

Information. For additional information about this permit application or the permitting process, please contact the Texas Commission on Environmental Quality, Public Education Program, MC-108, P.O. Box 13087, Austin, Texas 78711-3087 or toll free at (800) 687-4040. General information about the TCEQ can be found at www.tceq.texas.gov. Si desea información en español, puede llamar al (800) 687-4040.

Further information may also be obtained for Chevron Phillips Chemical Company, LP by calling Wendy Irwin, Public Affairs Representative at (979) 491-5815.

Notice Issuance Date: November 13, 2024

TRD-202405650

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: November 20, 2024



Notice of District Petition TCEQ Internal Control No. D-09162024-030

Notice issued November 14, 2024

TCEQ Internal Control No. D-09162024-030: CR Austin Resort, LLC, a Delaware limited liability company and CR Resort Austin, LLC, a Delaware limited liability company (Petitioners) filed a petition for creation of Moonlight Bend Municipal Utility District (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioners hold title to a majority in value of the land to be included in the proposed District; (2) there is one lienholder, VICI LENDCO, LLC, on the property

to be included in the proposed District and the lienholder consents to the creation of the proposed District; (3) the proposed District will contain approximately 591.6905 acres located within Burnet County, Texas; and (4) none of the land within the proposed District is within the corporate limits or extraterritorial jurisdiction of any city. The petition further states that the proposed District will design, construct, acquire, improve, extend, finance, and issue bonds for: (1) maintenance, operation, and conveyance of an adequate and efficient water works and wastewater system for domestic and commercial purposes; (2) maintenance, operation, and conveyance of works, improvements, facilities, plants, equipment, and appliances helpful or necessary to provide more adequate drainage for the proposed District, and to control, abate, and amend local storm waters or other harmful excesses of waters; (3) conveyance of roads and improvements in aid of roads; and (4) maintenance, operation, and conveyance of such other additional facilities, systems, plants, and enterprises as shall be consonant with all of the purposes for which the proposed District is created. Additionally, the proposed District will design, acquire, construct, finance, issue bonds for, and convey to the State, a county, or a municipality for operation and maintenance of one or more roads, or any improvement in aid of such roads, pursuant to Texas Water Code Section 54.234. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately \$64,575,000 (\$59,000,000 for water, wastewater, and drainage and \$5,575,000 for roads).

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results. The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202405652

Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: November 20, 2024



Notice of District Petition TCEQ Internal Control No. D-10282024-044

Notice issued November 14, 2024

TCEQ Internal Control No. D-10282024-044: Capital Creek Ranch LLC, a Texas limited liability company; its manager Capital Creek Ranch Manager LLC, a Texas limited liability company, its manager Amelia Homes LLC, a Texas limited liability company, and its manager Kratos Holdings LLC, a Texas limited liability company (Petitioners), filed a petition for creation of San Jacinto Municipal Utility District No. 15 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and Chapter 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioners hold title to a majority in value of the land to be included in the proposed District; (2) the lienholder has consented to inclusion of the land into the corporate boundaries of the District; (3) the proposed District will contain approximately 1,426.404 acres located within San Jacinto County, Texas; and (4) none of the land within the proposed District is within the corporate limits or extraterritorial jurisdiction of any city. The petition further states that the proposed District will: (1) purchase, construct, acquire, provide, operate, maintain, repair, improve, or extend, inside or outside of its boundaries, any and all works, improvements, facilities, systems, plants, equipment, and appliances necessary or helpful to supply and distribute water for municipal, domestic, industrial, and commercial purposes; (2) to collect, transport, process, dispose of, and control domestic, industrial, and commercial wastes; to gather, conduct, divert, abate, amend, and control local storm water or other local harmful excesses of water or provide adequate drainage in the District; (3) and to purchase, construct, acquire, provide, operate, maintain, repair, improve, or extend, inside or outside of its boundaries, such additional facilities, systems, plants, equipment, appliances, and enterprises; (4) additional work and services which may be performed by the District include the purchase, construction, acquisition, provision, operation, maintenance, repair, improvement, extension, and development of a roadway system of the District.

According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners from such information as they have at this time, that such cost will be approximately \$43,655,705.09 (\$13,738,871.87 for drainage facilities, \$22,847,525.44 for paving and roads, and \$7,069,307.78 for water and wastewater facilities).

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results. The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief

description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202405653

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: November 20, 2024



Notice of District Petition TCEQ Internal Control No.
D-11012024-002

Notice issued November 20, 2024

TCEQ Internal Control No. D-11012024-002: D.R. Horton-Texas, Ltd., A Texas limited partnership and 109 Chapel Lakes Investments, Ltd, a Texas limited partnership (Petitioners) filed a petition for creation of Montgomery County MUD No. 249 (District) of Montgomery County with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioners hold title to a majority in value of the land to be included in the proposed District; (2) there are no lienholders on the property to be included in the proposed District; (3) the proposed District will contain approximately 152.339 acres of land located within Montgomery County, Texas; and (4) the land within the proposed district is wholly within the corporate limits of City of Conroe, Texas. By Resolution No. 2695-24, approved on April 25, 2024 the Conroe, Texas, gave its consent to the creation of the proposed District, pursuant to Texas Water Code §54.016. The Property is located wholly within the extraterritorial jurisdiction of the City of Conroe, Montgomery County, Texas (the "City"). In accordance with Local Government Code §42.042 and Texas Water Code §54.016, the Petitioners submitted a petition to the City, requesting the City's consent to the creation of the District. After more than 90 days passed without receiving consent, the Petitioners submitted a petition to the City to provide water and sewer services to the proposed District. The 120-day period for reaching a mutually agreeable contract as established by the Texas Water Code §54.016(c) expired and the information provided indicates that the Petitioners and the City have not executed a mutually agreeable contract for service. Pursuant to Texas Water Code §54.016(d), failure to execute such an agreement constitutes authorization for the Petitioners to initiate proceedings to include the land within the

proposed District. The petition further states that the proposed District will: (1) purchase, construct, acquire, maintain, own, operate, repair, improve and extend of a waterworks and sanitary sewer system for residential and commercial purposes; (2) construct, acquire, improve, extend, maintain and operate works, improvements, facilities, plants, equipment, and appliances helpful or necessary to provide more adequate drainage for the proposed District; (3) control, abate and amend local storm waters or other harmful excesses of waters; (4) such other purchase, construction, acquisition, improvement, maintenance and operation of such additional facilities, systems, plants and enterprises, and road facilities, as shall be consistent with all of the purposes for which the proposed District is created; (5) provide supplemental services to preserve, maintain, and enhance the economic health and vitality of the proposed District as a community and business center; and, (6) to provide services authorized under the laws governing the proposed District to serve the land.

According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately \$27,100,000 (\$17,900,000 for water, wastewater, and drainage plus \$1,700,000 for recreation plus \$7,500,000 for roads).

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results. The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202405656

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: November 20, 2024



Notice of District Petition TCEQ Internal Control No.
D-11052024-003

Notice issued November 14, 2024

TCEQ Internal Control No. D-11052024-003: Qualico Developments (U.S.), Inc., a Delaware Corporation (Petitioner) filed a petition for creation of Mason Municipal Utility District of Hays County (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the holders of title of the land within the proposed District; (2) there is one lienholder, Bank OZK, on the property to be included in the proposed District and information provided indicates that the aforementioned entity has consented to the petition; (3) the proposed District will contain approximately 306.490 acres located within Hays County, Texas, and (4) no portion of the land within the proposed District is within the corporate boundaries or extraterritorial jurisdiction of any municipality. The petition further states that the purposes of and the general nature of the work proposed to be done by the proposed District shall be the purchase, construction, acquisition, repair, extension and improvement of land, easements, works, improvements, facilities, plants, equipment and appliances necessary to: (1) provide a water supply for municipal uses, domestic uses and commercial purposes; (2) collect, transport, process, dispose of and control all domestic, industrial, or communal wastes whether in fluid, solid, or composite waste; (3) gather, conduct, divert and control local storm water or other local harmful excesses of water in the proposed District; (4) design, acquire, construct, finance, improve, operate, and maintain macadamized, graveled, or paved roads, or improvements in aid of those roads; and (5) provide such other facilities, systems, plants and enterprises as shall be consonant with the purposes for which the proposed District is created and permitted under state law. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioner that the cost of said project will be approximately \$54,070,000 (\$35,350,000 for water, sewer, and drainage plus \$18,720,000 for roads).

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results. The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be

a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202405651

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: November 20, 2024



Notice of Opportunity to Comment on a Default 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 Default Order (DO). 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 **January 3, 2025**. The commission will consider any written comments received, and the commission may withdraw or withhold approval of a DO if a comment discloses facts or considerations that indicate that consent to the proposed DO is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction, or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed DO is not required to be published if those changes are made in response to written comments.

A copy of the 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 January 3, 2025**. The commission's attorney is available to discuss the DO and/or the comment procedure at the listed phone number; however, TWC, §7.075, provides that comments on the DO shall be submitted to the commission in **writing**.

(1) COMPANY: CoastalPlains Estate, LLC; DOCKET NUMBER: 2023-0207-WQ-E; TCEQ ID NUMBER: RN111558649; LOCATION: 6541 North Bob White Way, Sanger, Denton 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: \$5,000; STAFF ATTORNEY: Jennifer Peltier, Litigation, MC 175, (512) 239-0544; REGIONAL

OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

TRD-202405608

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: November 19, 2024



Notice of Opportunity to Comment on Agreed Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed 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 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 **January 3, 2025**. TWC, §7.075, also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building 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 January 3, 2025**. The designated attorneys are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on an AO shall be submitted to the commission in **writing**.

(1) COMPANY: ABRAXAS CORPORATION; DOCKET NUMBER: 2021-0206-MWD-E; TCEQ ID NUMBER: RN101521391; LOCATION: 3301 Cattlebaron Road, Parker County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §217.33(c)(1)(B) and §305.125(1) and (5), and Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0015010001, Operational Requirement Number 1, by failing to ensure the facility and all of its systems of collection, treatment, and disposal were properly operated and maintained; 30 TAC §305.125(1) and TPDES Permit Number WQ0015010001, Monitoring and Reporting Requirements Number 7.c, by failing to report to the TCEQ in writing, any effluent violation which deviates from the permitted effluent limitation by more than 40% within five working days of becoming aware of the noncompliance; 30 TAC §30.350(d) and §305.125(1), and TPDES Permit Number WQ0015010001, Other Requirements Number 1, by failing to employ or contract with one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid Class C license or higher; 30 TAC §305.125(1) and (5), and TPDES Permit Number WQ0015010001, Operational Requirements Number 1, by failing to ensure the facility and all of its systems of collection, treatment, and disposal were properly

operated and maintained; and 30 TAC §217.63(c) and §305.125(1) and (5), and TPDES Permit Number WQ0015010001, Operational Requirements Number 1, by failing to ensure the facility and all of its systems of collection, treatment, and disposal were properly operated and maintained; PENALTY: \$40,395; STAFF ATTORNEY: Benjamin Warms, Litigation, MC 175, (512) 239-5144; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(2) COMPANY: Conroe Bay Water - Sewer Supply Corporation; DOCKET NUMBER: 2022-0994-PWS-E; TCEQ ID NUMBER: RN101193134; LOCATION: 15121 Starboard Drive near Willis, Montgomery County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 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; PENALTY: \$500; STAFF ATTORNEY: Georgette Oden, Litigation, MC 175, (512) 239-3321; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

TRD-202405607

Gitanjali Yadav

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: November 19, 2024



General Land Office

Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence Under the Texas Coastal Management Program

On January 10, 1997, the State of Texas received federal approval of the Coastal Management Program (CMP) (62 *Federal Register* pp. 1439 - 1440). Under federal law, federal agency activities and actions affecting the Texas coastal zone must be consistent with the CMP goals and policies identified in 31 TAC Chapter 26. Requests for federal consistency review were deemed administratively complete for the following project(s) during the period of, November 7, 2024 to November 15, 2024. As required by federal law, the public is given an opportunity to comment on the consistency of proposed activities in the coastal zone undertaken or authorized by federal agencies. Pursuant to 31 TAC §§30.20(f), 30.30(h), and 30.40(e), the public comment period extends 30 days from the date published on the Texas General Land Office web site. The notice was published on the web site on Friday, November 22, 2024. The public comment period for this project will close at 5:00 p.m. on Sunday, December 22, 2024.

Federal License and Permit Activities:

Applicant: Epic Crude Terminal

Location: The project site is located in the Inner Harbor of the Corpus Christi Ship Channel (CCSC), within the EPIC Crude Terminal at the intersection of Lantana Street and Up River Road, in Corpus Christi, Nueces County, Texas.

Latitude and Longitude: 27.816600, -97.470351

Project Description: The applicant proposes to deepen the existing basin from the currently authorized maximum depth of -49ft mean lower low water (MLLW) to a maximum depth of -53ft MLLW and conduct 10-year maintenance dredging to maintain the terminal basin at -53ft MLLW depth. The project will consist of dredging to deepen and maintain the existing dock slip, including the slip's side and end slopes.

Approximately 76,560 cubic yards of material will be dredged by mechanical and/or hydraulic dredge methods to deepen the slip to the proposed -53ft MLLW depth. After the deepening has been completed, the proposed 10-year maintenance dredging activity would consist of mechanical/hydraulic dredging, as well as silt blade dredging. Mechanical/hydraulic maintenance dredging will occur once per year and result in the removal of approximately 4,000 cubic yards of dredged material. Silt blade maintenance dredging will occur in between mechanical/hydraulic maintenance dredging events. Silt blade dredging will only be used for minor slip maintenance activities where the majority of the slip is at the appropriate depth, but spot specific maintenance is required to address high spots and/or shoaling along the fender line. Silt blade bottom contouring is a dredging method that involves the redistribution of bottom sediment within the permitted slip limits. Redistribution will be accomplished by spreading the material from one area of the slip to another in order to achieve target depth. In no case will material be redistributed outside the slip limits or into the Federal Channel. Silt blade bottom contouring will primarily be used to evenly contour the bottom elevation of the berthing areas and along the side slopes of the docking facility. The material dredged by mechanical and/or hydraulic dredging will be discharged into one or more of the following Dredge Material Placement Areas (DMPA): Suntide DMPA, Tule Lake DMPA No. 6, South Shore DMPA - Cells A & B, DMPA No. 1, Herbie A. Maurer DMPA, Rincon B West, DMPA 14, DMPA 13, and/or Good Hope DMPA Cell J & I. The applicant does not propose compensatory mitigation for the project because it would occur within an existing and actively maintained terminal basin and would not result in the loss of waters of the US.

Type of Application: U.S. Army Corps of Engineers permit application # SWG-1991-01796. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Note: The consistency review for this project may be conducted by the Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

CMP Project No: 25-1048-F1

Applicant: Gulf Sulphur Services, Ltd.

Location: The project site is located in Galveston Harbor/Channel, 4500 Old Port Industrial Road, adjacent to the Pelican Island Causeway, in Galveston, Galveston County, Texas.

Latitude and Longitude: 29.8379656, -95.0767774

Project Description: The applicant is requesting to modify an existing permit to mechanically and/or hydraulically deepen the existing Galveston Sulphur Terminal Basin from -43 ft MLLW to -46 ft MLLS, dredging approximately 7,800 cubic yards of material to be disposed at Adloy Dredge Material Placement Area. The applicant is not proposing mitigation as the project only requires modification of an existing permit to dredge within and existing dredge footprint with no 404 impacts, and no impacts are proposed to special aquatic sites.

Type of Application: U.S. Army Corps of Engineers permit application # SWG-1997-02926. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899.

CMP Project No: 25-1059-F1

Applicant: Triad Frisco Partners, LLC

Location: The project site is located in the Sabine-Neches Canal, near 7034 South 1st Avenue, in Sabine Pass, Jefferson County, Texas.

Latitude and Longitude: 29.730556, -93.871389

Project Description: The applicant proposes to dredge approximately 305,638 cubic yards from 13.27 acres of the Sabine-Neches Canal and

remove approximately 300-linear-foot of existing bulkhead, as well as a 20-foot by 40-foot boat ramp structure, at their North Yard facility. The applicant also proposes to construct a new ship dock including a 500-foot by 40-foot dock platform, a 150-foot by 25-foot approach way on the upstream end, a 95-foot by 25-foot approach way on the downstream end, installation of four mooring dolphins, and two 140-foot pedestrian walkways. Additionally, an articulated concrete block revetment mattress will be installed along 300 feet of shoreline. The applicant proposes to place the dredged material into placement areas 5, 5B, 8, or 9, or the JD Murphree Wildlife Management Area Beneficial Use Site. Additionally, the applicant is requesting a 10-year authorization period for maintenance dredging. The applicant is not proposing mitigation as there are no impacts to special aquatic sites.

Type of Application: U.S. Army Corps of Engineers permit application # SWG-2003-00357. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Note: The consistency review for this project may be conducted by the Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

CMP Project No: 25-1061-F1

Further information on the applications listed above, including a copy of the consistency certifications or consistency determinations for inspection, may be obtained from the Texas General Land Office Public Information Officer at 1700 N. Congress Avenue, Austin, Texas 78701, or via email at pialegal@glo.texas.gov. Comments should be sent to the Texas General Land Office Coastal Management Program Coordinator at the above address or via email at federal.consistency@glo.texas.gov.

TRD-202405641

Jennifer Jones

Chief Clerk, Deputy Land Commissioner

General Land Office

Filed: November 20, 2024



Official Notice to Vessel Owner/Operator (Pursuant to Section 40.254, Tex. Nat. Res. Code)

PRELIMINARY REPORT

Authority

This preliminary report and notice of violation was issued by the Deputy Director, Oil Spill Prevention and Response Division (OSPR), Texas General Land Office, on 11/06/2024.

Facts

Based on an investigation conducted by Texas General Land Office-Region 2 staff on 11/06/2024, the Commissioner of the General Land Office (GLO), has determined that a 53 Chris Craft, identified as GLO Vessel Tracking Number 98483 is in a wrecked, derelict and substantially dismantled condition without the consent of the commissioner. The vessel is located at 29° 33' 51" N, 95° 03' 15" W in Harris County, Texas. The GLO determined that pursuant to OSPRA §40.254(b)(2)(B), that the vessel does have intrinsic value. The GLO has also determined that, because of the vessel's location and condition, the vessel poses a THREAT TO THE ENVIRONMENT/THREAT TO PUBLIC HEALTH, SAFETY, OR WELFARE.

Violation

YOU ARE HEREBY GIVEN NOTICE, pursuant to the provisions of §40.254 of the Texas Natural Resources Code, (OSPRA) that you are in violation of OSPRA §40.108(a) that prohibits a person from leaving, abandoning, or maintaining any structure or vessel in or on coastal wa-

ters, on public or private lands, or at a public or private port or dock if the structure or vessel is in a wrecked, derelict, or substantially dismantled condition, and the Commissioner determines the vessel is involved in an actual or threatened unauthorized discharge of oil; a threat to the public health, safety, and welfare; a threat to the environment; or a navigational hazard. The Commissioner is authorized by OSPRA §40.108(b) to dispose of or contract for the disposal of any vessel described in §40.108(a).

Recommendation

The Deputy Director has determined the person responsible for abandoning this vessel (GLO Tracking Number 97492) and recommends that the Commissioner order the abandoned vessel be disposed of in accordance with OSPRA §40.108.

The owner or operator of this vessel can request a hearing to contest the violation and the removal and disposal of the vessel. If the owner or operator wants to request a hearing, a request in writing must be made within twenty (20) days of this notice being posted on the vessel. The request for a hearing must be sent to: Texas General Land Office, Oil Spill Prevention and Response Division, P.O. Box 12873, Austin, Texas 78711. Failure to request a hearing may result in the removal and disposal of the vessel by the GLO. If the GLO removes and disposes of the vessel, the GLO has authority under TNRC §40.108(b) to recover the costs of removal and disposal from the vessel's owner or operator.

Rev. 08/20

TRD-202405565

Jennifer Jones

Chief Clerk, Deputy Land Commissioner
General Land Office

Filed: November 15, 2024



Texas Lottery Commission

Correction of Error

The Texas Lottery Commission (Commission) published notice of Scratch Ticket Game Number 2629 "\$50 BLOWOUT" in the November 15, 2024, issue of the *Texas Register* (49 TexReg 9406). Due to an error by the Commission, the game number was published incorrectly in the title of the document. The game number was noted correctly in the text of the document. The correct number of the game is 2629, not 2626 as published in the title of the document.

The correct title of the document should read as follows:

Scratch Ticket Game Number 2629 "\$50 BLOWOUT"

TRD-202405567

Bob Biard

General Counsel

Texas Lottery Commission

Filed: November 18, 2024



Notice of Public Comment Hearing

A public hearing to receive comments regarding the proposed amendments to 16 TAC §§401.101 (Lottery Procurement Procedures),

401.102 (Protests of the Terms of a Formal Competitive Solicitation), 401.103 (Protests of Contract Award), 401.104 (Contract Monitoring Roles and Responsibilities), 401.153 (Qualifications for License), 401.158 (Suspension or Revocation of License), 401.160 (Standard Penalty Chart), 401.301 (General Definitions), 401.302 (Scratch Ticket Game Rules), 401.304 (Draw Game Rules (General)), 401.355 (Restricted Sales), and 401.501 (Lottery Security) will be held on Wednesday, January 15, 2025 at 1:00 p.m., at 1801 Congress Ave., Austin, Texas 78701, George H. W. Bush Building, 4th Floor, Board Room 4.300.

Persons requiring any accommodation for disability should notify Dorota Bienkowska at (512) 344-5392 or dorota.bienkowska@lottery.state.tx.us at least 72 hours prior to the public hearing.

TRD-202405646

Bob Biard

General Counsel

Texas Lottery Commission

Filed: November 20, 2024



Scratch Ticket Game Number 2600 "CASINO NIGHT"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2600 is "CASINO NIGHT". The play style is "multiple games".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2600 shall be \$10.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2600.

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: 1 DICE SYMBOL, 2 DICE SYMBOL, 3 DICE SYMBOL, 4 DICE SYMBOL, 5 DICE SYMBOL, 6 DICE SYMBOL, BAR SYMBOL, BELL SYMBOL, CHERRY SYMBOL, CHEST SYMBOL, CLOVER SYMBOL, COIN SYMBOL, CROWN SYMBOL, DIAMOND SYMBOL, GOLD SYMBOL, KEY SYMBOL, LIGHTNING SYMBOL, ORANGE SYMBOL, POT OF GOLD SYMBOL, RING SYMBOL, SCALE SYMBOL, STAR SYMBOL, TROPHY SYMBOL, 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, \$10.00, \$15.00, \$20.00, \$25.00, \$30.00, \$50.00, \$100, \$200, \$500, \$1,000, \$10,000, \$50,000 and \$250,000.

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. 2600 - 1.2D

PLAY SYMBOL	CAPTION
1 DICE SYMBOL	ONE
2 DICE SYMBOL	TWO
3 DICE SYMBOL	THREE
4 DICE SYMBOL	FOUR
5 DICE SYMBOL	FIVE
6 DICE SYMBOL	SIX
BAR SYMBOL	BAR
BELL SYMBOL	BELL
CHERRY SYMBOL	CHERRY
CHEST SYMBOL	CHEST
CLOVER SYMBOL	CLOVER
COIN SYMBOL	COIN
CROWN SYMBOL	CROWN
DIAMOND SYMBOL	DIAMOND
GOLD SYMBOL	GOLD
KEY SYMBOL	KEY
LIGHTNING SYMBOL	LIGHTN
ORANGE SYMBOL	ORANGE
POT OF GOLD SYMBOL	POTGOLD
RING SYMBOL	RING
SCALE SYMBOL	SCALE
STAR SYMBOL	STAR
TROPHY SYMBOL	TROPHY
01	ONE
02	TWO
03	THR
04	FOR

05	FIV
06	SIX
07	SVN
08	EGT
09	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWV
26	TWSX
27	TWSV
28	TWET
29	TWNI
30	TRTY
\$10.00	TEN\$
\$15.00	FFN\$
\$20.00	TWY\$

\$25.00	TWV\$
\$30.00	TRTY\$
\$50.00	FFTY\$
\$100	ONHN
\$200	TOHN
\$500	FVHN
\$1,000	ONTH
\$10,000	10TH
\$50,000	50TH
\$250,000	250TH

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 (2600), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 050 within each Pack. The format will be: 2600-000001-001.

H. Pack - A Pack of the "CASINO NIGHT" Scratch Ticket Game contains 050 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). Ticket back 001 and 050 will both be exposed.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "CASINO NIGHT" Scratch Ticket Game No. 2600.

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 "CASINO NIGHT" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose sixty-nine (69) Play Symbols. GAME 1: The player scratches each ROLL to reveal 2 "DICE" Play Symbols and a PRIZE. If the YOUR DICE Play Symbols add up to 7 or 11 in the same ROLL, the player wins the PRIZE for that ROLL. GAME 2: The player scratches the entire roulette wheel to reveal 1 ROULETTE NUMBER Play Symbol and 6 YOUR NUMBERS Play Symbols. If any of the

YOUR NUMBERS Play Symbols match the ROULETTE NUMBER Play Symbol, the player wins the prize for that number. GAME 3: 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. GAME 4: If the player reveals 3 matching Play Symbols in the same SPIN, the player wins the PRIZE for that SPIN. BONUS: If the player reveals 2 matching prize amounts in the same BONUS, the player wins that amount. Each game is played separately. 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 sixty-nine (69) 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 sixty-nine (69) 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 sixty-nine (69) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the sixty-nine (69) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. GENERAL: A Ticket can win up to twenty-six (26) times in accordance with the prize structure.

B. GENERAL: Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

C. GENERAL: The top Prize Symbol will appear on every Ticket unless restricted by other parameters, play action or prize structure.

D. GENERAL: The top Prize Symbol of "\$250,000" (250TH) will only appear in GAME 3 and GAME 4 on winning and Non-Winning Tickets in accordance with the prize structure.

E. GAME 1: Non-winning Prize Symbols will never appear more than two (2) times.

F. GAME 1: There will be no matching ROLLS. ROLLS are considered matching if they have the same Play Symbols in the same spots.

G. GAME 1: There will not be two (2) adjacent vertical or diagonal Play Symbols which equal to seven (7) or eleven (11), unless restricted by other parameters, play action or prize structure.

H. GAME 1: Non-winning Prize Symbol(s) will never be the same as winning Prize Symbol(s).

I. GAME 2: Non-winning YOUR NUMBERS Play Symbols will all be different.

J. GAME 2: Non-winning Prize Symbols will never appear more than two (2) times.

K. GAME 2: Non-winning Prize Symbol(s) will never be the same as winning Prize Symbol(s).

L. GAME 2: No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., 10 and \$10).

M. GAME 3: Each Ticket will have four (4) different WINNING NUMBERS Play Symbols.

N. GAME 3: Non-winning YOUR NUMBERS Play Symbols will all be different.

O. GAME 3: Non-winning Prize Symbols will never appear more than four (4) times.

P. GAME 3: Non-winning Prize Symbol(s) will never be the same as the winning Prize Symbol(s).

Q. GAME 3: No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., 20 and \$20).

R. GAME 4: Non-winning Play Symbol(s) from one (1) SPIN will not match winning Play Symbol(s) from another SPIN.

S. GAME 4: No three (3) or more matching non-winning Play Symbols will appear in adjacent spots vertically or diagonally.

T. GAME 4: No more than two (2) matching non-winning Play Symbols will appear in one (1) SPIN.

U. GAME 4: There will be no matching non-winning SPINs. SPINs are considered matching if they have the same Play Symbols in the same spots.

V. GAME 4: Non-winning Prize Symbols will never appear more than two (2) times.

W. GAME 4: Non-winning Prize Symbol(s) will never be the same as winning Prize Symbol(s).

X. BONUS: Matching Prize Symbols will only appear in a winning BONUS play area as dictated by the prize structure.

Y. BONUS: A Ticket will not have matching non-winning Prize Symbols across the two (2) BONUS play areas.

Z. BONUS: Non-winning Prize Symbols will not be the same as winning Prize Symbols across the two (2) BONUS play areas.

2.3 Procedure for Claiming Prizes.

A. To claim a "CASINO NIGHT" Scratch Ticket Game prize of \$10.00, \$15.00, \$20.00, \$25.00, \$30.00, \$50.00, \$100, \$200 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not

required, to pay a \$25.00, \$30.00, \$50.00, \$100, \$200 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "CASINO NIGHT" Scratch Ticket Game prize of \$1,000, \$10,000, \$50,000 or \$250,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "CASINO NIGHT" 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 "CASINO NIGHT" 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 "CASINO NIGHT" 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 8,040,000 Scratch Tickets in Scratch Ticket Game No. 2600. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2600 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$10.00	723,600	11.11
\$15.00	482,400	16.67
\$20.00	482,400	16.67
\$25.00	160,800	50.00
\$30.00	160,800	50.00
\$50.00	160,800	50.00
\$100	110,550	72.73
\$200	9,447	851.06
\$500	1,072	7,500.00
\$1,000	201	40,000.00
\$10,000	20	402,000.00
\$50,000	8	1,005,000.00
\$250,000	4	2,010,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.51. 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. 2600 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. 2600, 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-202405643

Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: November 20, 2024



Scratch Ticket Game Number 2627 "\$5 MILLION TITANIUM BLACK"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2627 is "\$5 MILLION TITANIUM BLACK". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2627 shall be \$100.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2627.

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, 20, 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, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 2X SYMBOL, 5X SYMBOL, 10X SYMBOL, STAR SYMBOL, HORSESHOE SYMBOL, POT OF GOLD SYMBOL, COIN SYMBOL, JOKER SYMBOL, KEY SYMBOL, CHERRY SYMBOL, BELL SYMBOL,

DIAMOND SYMBOL, BOOT SYMBOL, CACTUS SYMBOL, CLOVER SYMBOL, LADYBUG SYMBOL, WISHBONE SYMBOL, CROWN SYMBOL, HEART SYMBOL, BAR SYMBOL, RING SYMBOL, ANCHOR SYMBOL, SEVEN SYMBOL, PIG SYMBOL, MONEY ROLL SYMBOL, LEMON SYMBOL, BANANA SYMBOL, MELON SYMBOL, APPLE SYMBOL, GRAPE SYMBOL, PALM TREE SYMBOL, SMILE SYMBOL, LIGHTNING BOLT SYMBOL, \$150, \$200, \$300, \$500, \$1,000, \$2,500, \$50,000 and \$5,000,000.

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. 2627 - 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
20	TWY
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	FRTO
43	FRTH
44	FRFR
45	FRFV
46	FRSX
47	FRSV
48	FRET
49	FRNI
50	FFTY
51	FFON
52	FFTO
53	FFTH
54	FFFR
55	FFFV
56	FFSX
57	FFSV
58	FFET
59	FFNI

60	SXTY
61	SXON
62	SXTO
63	SXTH
64	SXFR
65	SXFV
66	SXSX
67	SXSV
68	SXET
69	SXNI
70	SVTY
71	SVON
72	SVTO
73	SVTH
74	SVFR
75	SVFV
2X SYMBOL	DBL
5X SYMBOL	WINX5
10X SYMBOL	WINX10
STAR SYMBOL	STAR
HORSESHOE SYMBOL	HRSHOE
POT OF GOLD SYMBOL	PTGOLD
COIN SYMBOL	COIN
JOKER SYMBOL	JOKER
KEY SYMBOL	KEY
CHERRY SYMBOL	CHRY
BELL SYMBOL	BELL
DIAMOND SYMBOL	DIMND
BOOT SYMBOL	BOOT

CACTUS SYMBOL	CACTUS
CLOVER SYMBOL	CLOVER
LADYBUG SYMBOL	LBUG
WISHBONE SYMBOL	BONE
CROWN SYMBOL	CROWN
HEART SYMBOL	HEART
BAR SYMBOL	BAR
RING SYMBOL	RING
ANCHOR SYMBOL	ANCHR
SEVEN SYMBOL	SEVN
PIG SYMBOL	PIG
MONEY ROLL SYMBOL	ROLL
LEMON SYMBOL	LEMN
BANANA SYMBOL	BNNA
MELON SYMBOL	MELN
APPLE SYMBOL	APPL
GRAPE SYMBOL	GRPE
PALM TREE SYMBOL	PALM
SMILE SYMBOL	SMILE
LIGHTNING BOLT SYMBOL	BOLT
\$150	ONFF
\$200	TOHN
\$300	THHN
\$500	FVHN
\$1,000	ONTH
\$2,500	25HN
\$50,000	50TH
\$5MILL	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 (2627), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 015 within each Pack. The format will be: 2627-0000001-001.

H. Pack - A Pack of the "\$5 MILLION TITANIUM BLACK" Scratch Ticket Game contains 015 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). Ticket back 001 and 015 will both be exposed.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "\$5 MILLION TITANIUM BLACK" Scratch Ticket Game No. 2627.

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 "\$5 MILLION TITANIUM BLACK" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose ninety-six (96) Play Symbols. BONUS PLAY INSTRUCTIONS: If a player reveals 2 matching Play Symbols in the same BONUS, the player wins the prize for that BONUS. \$5 MILLION TITANIUM BLACK PLAY INSTRUCTIONS: A player scratches the entire play area to reveal 12 WINNING NUMBERS Play Symbols and 36 YOUR NUMBERS Play Symbols. 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 Play Symbol. If the player reveals a "5X" Play Symbol, the player wins 5 TIMES the prize for that Play Symbol. If the player reveals a "10X" Play Symbol, the player wins 10 TIMES the prize for that Play 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 ninety-six (96) 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 ninety-six (96) 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 ninety-six (96) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the ninety-six (96) 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 Ticket will not have matching non-winning Prize Symbols across the four (4) BONUS play areas.

D. BONUS: A non-winning Prize Symbol in one (1) BONUS play area will never match a winning Prize Symbol in another BONUS play area.

E. BONUS: A Ticket will not have matching non-winning Play Symbols across the four (4) BONUS play areas.

F. \$5 MILLION TITANIUM BLACK - Key Number Match: There will be no matching non-winning YOUR NUMBERS Play Symbols on a Ticket.

G. \$5 MILLION TITANIUM BLACK - Key Number Match: There will be no matching WINNING NUMBERS Play Symbols on a Ticket.

H. \$5 MILLION TITANIUM BLACK - Key Number Match: A Ticket may have up to fourteen (14) matching non-winning Prize Symbols, unless restricted by other parameters, play action or prize structure.

I. \$5 MILLION TITANIUM BLACK - Key Number Match: A non-winning Prize Symbol will never match a winning Prize Symbol.

J. \$5 MILLION TITANIUM BLACK - Key Number Match: The "2X" (DBL) Play Symbol will only appear on winning Tickets, as dictated by the prize structure.

K. \$5 MILLION TITANIUM BLACK - Key Number Match: The "5X" (WINX5) Play Symbol will only appear on winning Tickets, as dictated by the prize structure.

L. \$5 MILLION TITANIUM BLACK - Key Number Match: The "10X" (WINX10) Play Symbol will only appear on winning Tickets, as dictated by the prize structure.

2.3 Procedure for Claiming Prizes.

A. To claim a "\$5 MILLION TITANIUM BLACK" Scratch Ticket Game prize of \$150, \$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 \$150, \$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 "\$5 MILLION TITANIUM BLACK" Scratch Ticket Game prize of \$1,000, \$2,500 or \$50,000, 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. To claim a "\$5 MILLION TITANIUM BLACK" Scratch Ticket Game top level prize of \$5,000,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers in Austin, Dallas, Fort Worth, Houston or San Antonio, Texas. 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 and proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). 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.

D. As an alternative method of claiming a "\$5 MILLION TITANIUM BLACK" Scratch Ticket Game prize, including the top level prize of \$5,000,000, 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.

E. 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.

F. 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 "\$5 MILLION TITANIUM BLACK" 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 "\$5 MILLION TITANIUM BLACK" 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 5,520,000 Scratch Tickets in Scratch Ticket Game No. 2627. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2627 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$150	552,000	10.00
\$200	276,000	20.00
\$300	184,000	30.00
\$500	368,000	15.00
\$1,000	36,432	151.52
\$2,500	2,760	2,000.00
\$50,000	21	262,857.14
\$5,000,000	4	1,380,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.89. 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. 2627 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. 2627, 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-202405645

Bob Biard

General Counsel

Texas Lottery Commission

Filed: November 20, 2024



Scratch Ticket Game Number 2635 "AZULEJOS"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2635 is "AZULEJOS". The play style is "row/column/diagonal".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2635 shall be \$5.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2635.

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: 1 SYMBOL, 2 SYMBOL, 3 SYMBOL, 4 SYMBOL, 5 SYMBOL, 6 SYMBOL, 7 SYMBOL, 8 SYMBOL, 9 SYMBOL, 10 SYMBOL, 11 SYMBOL, 12 SYMBOL, 13 SYMBOL, 14 SYMBOL, 15 SYMBOL, 16 SYMBOL, 17 SYMBOL, 18 SYMBOL, 19 SYMBOL, 20 SYMBOL, 21 SYMBOL, 22 SYMBOL, 23 SYMBOL, 24 SYMBOL, 25 SYMBOL, 26 SYMBOL, 27 SYMBOL, 28 SYMBOL, 29 SYMBOL, 30 SYMBOL, 31 SYMBOL, 32 SYMBOL, 33 SYMBOL, 34 SYMBOL, 35 SYMBOL, 36 SYMBOL, 37 SYMBOL, 38 SYMBOL, 39 SYMBOL and 40 SYMBOL.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. This style game does not have Play Symbol captions. Normally, one caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbols are as follows:

Figure 1: GAME NO. 2635 - 1.2D

PLAY SYMBOL	CAPTION
1 SYMBOL	
2 SYMBOL	
3 SYMBOL	
4 SYMBOL	
5 SYMBOL	
6 SYMBOL	
7 SYMBOL	
8 SYMBOL	
9 SYMBOL	
10 SYMBOL	
11 SYMBOL	
12 SYMBOL	
13 SYMBOL	
14 SYMBOL	
15 SYMBOL	
16 SYMBOL	
17 SYMBOL	
18 SYMBOL	
19 SYMBOL	
20 SYMBOL	
21 SYMBOL	
22 SYMBOL	
23 SYMBOL	
24 SYMBOL	
25 SYMBOL	
26 SYMBOL	
27 SYMBOL	

28 SYMBOL	
29 SYMBOL	
30 SYMBOL	
31 SYMBOL	
32 SYMBOL	
33 SYMBOL	
34 SYMBOL	
35 SYMBOL	
36 SYMBOL	
37 SYMBOL	
38 SYMBOL	
39 SYMBOL	
40 SYMBOL	

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 (2635), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 075 within each Pack. The format will be: 2635-0000001-001.

H. Pack - A Pack of the "AZULEJOS" Scratch Ticket Game contains 075 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The Packs will alternate from Pack to Pack. Fanfold A: Ticket front 001 will be on the top Ticket and 075 back will be on the last page. Fanfold B: Ticket back 001 will be on the top and Ticket front 075 will be on the last page.

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 "AZULEJOS" Scratch Ticket Game No. 2635.

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 "AZULEJOS" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose forty-two (42) Play Symbols. 1) The player completely scratches the YOUR TILES Play Symbols to reveal 18 tiles. 2) The player scratches ONLY the tiles on GAMES 1 - 3 that exactly match the YOUR TILES Play Symbols. 3) If the player reveals a complete row, column or diagonal line, the player wins the prize for that line. 1) El jugador raspa completamente los Símbolos de Juego de TUS AZULEJOS para revelar 18 azulejos. 2) El jugador SOLAMENTE raspa los azulejos en los JUEGOS 1 - 3 que son exactamente iguales a los Símbolos de Juego de TUS AZULEJOS. 3) Si el jugador revela una línea completa, horizontal, vertical o diagonal, el jugador gana el premio para esa línea. 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 forty-two (42) 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. This style of game does not have Play Symbol Captions;
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 forty-two (42) 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 forty-two (42) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
17. Each of the forty-two (42) 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. A Ticket can win up to eleven (11) times in accordance with the prize structure.

B. Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order of Play Symbols.

C. There will be no duplicate Play Symbols in the YOUR TILES/TUS AZULEJOS play area.

D. Each Ticket will have a unique exposed pattern. An exposed pattern is all twenty-four (24) of the Play Symbols contained within the GAME 1/JUEGO 1, GAME 2/JUEGO 2 and GAME 3/JUEGO 3 play areas on the Ticket.

E. There will be at least twelve (12) YOUR TILES/TUS AZULEJOS Play Symbols that match Play Symbols in GAME 1/JUEGO 1, GAME 2/JUEGO 2 or GAME 3/JUEGO 3.

F. A Play Symbol will not be repeated across the GAME 1/JUEGO 1, GAME 2/JUEGO 2 and GAME 3/JUEGO 3 play areas.

G. On all Tickets, GAME 2/JUEGO 2 will match at least one (1) of its Play Symbols with the YOUR TILES/TUS AZULEJOS Play Symbols, unless affected by other parameters, play action or prize structure.

H. On all Tickets, GAME 3/JUEGO 3 will match at least one (1) of its Play Symbols with the YOUR TILES/TUS AZULEJOS Play Symbols, unless affected by other parameters, play action or prize structure.

2.3 Procedure for Claiming Prizes.

A. To claim a "AZULEJOS" Scratch Ticket Game prize of \$5.00, \$10.00, \$15.00, \$20.00, \$25.00, \$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 \$25.00, \$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 "AZULEJOS" Scratch Ticket Game prize of \$1,000, \$10,000 or \$100,000, 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 "AZULEJOS" 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 vali-

dated 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 "AZULEJOS" 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 "AZULEJOS" 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 7,200,000 Scratch Tickets in Scratch Ticket Game No. 2635. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2635 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$5.00	840,000	8.57
\$10.00	432,000	16.67
\$15.00	120,000	60.00
\$20.00	120,000	60.00
\$25.00	96,000	75.00
\$50.00	96,000	75.00
\$75.00	7,500	960.00
\$100	18,000	400.00
\$200	2,520	2,857.14
\$300	1,620	4,444.44
\$500	780	9,230.77
\$1,000	240	30,000.00
\$10,000	20	360,000.00
\$100,000	4	1,800,000.00

*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 4.15. 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. 2635 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. 2635, 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-202405647
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: November 20, 2024



Scratch Ticket Game Number 2665 "\$5,000,000 FORTUNE"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2665 is "\$5,000,000 FORTUNE". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2665 shall be \$100.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2665.

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, 02, 03, 04, 06, 07, 08, 09, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 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, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 5X SYMBOL, 10X SYMBOL, \$200, \$250, \$400, \$500, \$1,000, \$2,500, \$50,000 and \$5,000,000.

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. 2665 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
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
20	TWY
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	FRTO
43	FRTH
44	FRFR
45	FRFV
46	FRSX
47	FRSV
48	FRET
49	FRNI
50	FFTY
51	FFON
52	FFTO
53	FFTH
54	FFFR
55	FFFV
56	FFSX
57	FFSV
58	FFET

59	FFNI
60	SXTY
61	SXON
62	SXTO
63	SXTH
64	SXFR
65	SXFV
66	SXSX
67	SXSV
68	SXET
69	SXNI
5X SYMBOL	WINX5
10X SYMBOL	WINX10
\$200	TOHN
\$250	TOFF
\$400	FRHN
\$500	FVHN
\$1,000	ONTH
\$2,500	25HN
\$50,000	50TH
\$5,000,000	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 (2665), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 015 within each Pack. The format will be: 2665-0000001-001.

H. Pack - A Pack of the "\$5,000,000 FORTUNE" Scratch Ticket Game contains 015 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The Packs will alternate from Pack to Pack. Fanfold A: Ticket front 001 will be on the top Ticket and 015 back will be on the last page. Fanfold B: Ticket back 001 will be on the top and Ticket front 015 will be on the last page.

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 "\$5,000,000 FORTUNE" Scratch Ticket Game No. 2665.

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 "\$5,000,000 FORTUNE" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose seventy-two (72) Play Symbols. BONUS PLAY INSTRUCTIONS: If a player reveals 2 matching prize amounts in the same BONUS play area, the player wins that amount. \$5,000,000 FORTUNE PLAY INSTRUCTIONS: If a 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 "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. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly seventy-two (72) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;
8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Scratch Ticket must not be counterfeit in whole or in part;
10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;
11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;
13. The Scratch Ticket must be complete and not miscut, and have exactly seventy-two (72) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;
14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;
15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the seventy-two (72) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the seventy-two (72) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. GENERAL: A Ticket can win up to thirty-three (33) times in accordance with the prize structure.

B. GENERAL: Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

C. KEY NUMBER MATCH: Each Ticket will have six (6) different WINNING NUMBERS Play Symbols.

D. KEY NUMBER MATCH: Non-winning YOUR NUMBERS Play Symbols will all be different.

E. KEY NUMBER MATCH: Non-winning Prize Symbols will never appear more than five (5) times.

F. KEY NUMBER MATCH: The top Prize Symbol will appear on every Ticket, unless restricted by other parameters, play action or prize structure.

G. KEY NUMBER MATCH: The "5X" (WINX5) and "10X" (WINX10) Play Symbols will never appear in the WINNING NUMBERS or BONUS Play Symbol spots.

H. KEY NUMBER MATCH: The "5X" (WINX5) and "10X" (WINX10) Play Symbols will only appear on winning Tickets as dictated by the prize structure.

I. KEY NUMBER MATCH: Non-winning Prize Symbol(s) will never be the same as the winning Prize Symbol(s).

J. BONUS: Matching BONUS Prize Symbols will only appear in a winning BONUS play area as dictated by the prize structure.

K. BONUS: A Ticket will not have matching non-winning Prize Symbols across the three (3) BONUS play areas.

L. BONUS: Non-winning BONUS Prize Symbols will never be the same as the winning BONUS Prize Symbols.

2.3 Procedure for Claiming Prizes.

A. To claim a "\$5,000,000 FORTUNE" Scratch Ticket Game prize of \$200, \$250, \$400 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 \$200, \$250, \$400 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 "\$5,000,000 FORTUNE" Scratch Ticket Game prize of \$1,000, \$2,500 or \$50,000, 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. To claim a "\$5,000,000 FORTUNE" Scratch Ticket Game top level prize of \$5,000,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers in Austin, Dallas, Fort Worth, Houston or San Antonio, Texas. 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 and proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). 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.

D. As an alternative method of claiming a "\$5,000,000 FORTUNE" Scratch Ticket Game prize, including the top level prize of \$5,000,000, 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.

E. 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.

F. 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 "\$5,000,000 FORTUNE" 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 "\$5,000,000 FORTUNE" 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 5,760,000 Scratch Tickets in Scratch Ticket Game No. 2665. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2665 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$200	864,000	6.67
\$250	192,000	30.00
\$400	192,000	30.00
\$500	192,000	30.00
\$1,000	24,480	235.29
\$2,500	8,400	685.71
\$50,000	35	164,571.43
\$5,000,000	4	1,440,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.91. 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. 2665 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. 2665, 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-202405648
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: November 20, 2024

Request for Proposals - Office Renovations General Contractor - Construction Manager

The Permian Basin Regional Planning Commission (PBRPC) is seeking proposals from qualified architect or general contracting firms to coordinate and oversee construction with the demolition and renovation of interior office space of the office space located at 2910 LaForce Blvd, Midland, Texas 79706.

The Request for Proposals (RFP) may be obtained by downloading the RFP and attachments from PBRPC's website at pbrpc.org/procurement-and-bid-opportunities. Proposals must be received by 12:00 p.m. (CDT), December 16, 2024, at the PBRPC office.

TRD-202405523
 Virginia Belew
 Executive Director
 Permian Basin Regional Planning Commission
 Filed: November 14, 2024

◆ ◆ ◆
Office of Public Utility Counsel

Notice of Annual Public Hearing

◆ ◆ ◆
Permian Basin Regional Planning Commission

Pursuant to the Public Utility Regulatory Act, Texas Utilities Code § 13.064, the Office of Public Utility Counsel (OPUC) will conduct its annual public hearing in person and virtually:

December 12, 2024 from 1:00 - 2:00 p.m. CT

The meeting will include presentations from OPUC, the Public Utility Commission of Texas, the Electric Reliability Council of Texas (ERCOT), legislators, and key industry stakeholders. OPUC represents residential and small commercial consumers, as a class, in the electric, water, wastewater, and telecommunications utility industries in Texas.

Members of the public are welcome to attend and learn about the Texas electric grid, consumer rights, and the interconnected roles of these entities in ensuring a reliable, resilient grid for Texas consumers. Those in attendance will be provided an opportunity to offer public comments and ask questions during the meeting.

Attend in person:

Texas Capitol Extension Auditorium

1100 Congress Avenue

Austin, Texas 78701

Room E1.004

or

Join via Microsoft Teams Live Event Meeting:

https://teams.microsoft.com/l/meetup-join/19%3ameeting_MGJIZTk-yNTEtMjQ5Ny00NmMwLWl0ZjktYzY4MWEwZWU0ZWE3%40t-hread.v2/0?context=%7b%22Tid%22%3a%228ab1207e-27c0-403f-92a7-fff564f962dd%22%2c%22Oid%22%3a%22e8914302-f6bd-478c-839a-16628438cb7f%22%7d

For additional information, please contact Mary Elen Williams, Government Relations, at P.O. Box 12397, Austin, Texas 78711-2397 or (512) 936-7500 or (877) 839-0363 or email: opuc_customer@opuc.texas.gov.

TRD-202405628

Chris Ekoh

Deputy Public Counsel

Office of Public Utility Counsel

Filed: November 20, 2024

Public Utility Commission of Texas

Notice of Application for Recovery of Universal Service Funding

Notice is given to the public of an application filed with the Public Utility Commission of Texas (Commission) on November 13, 2024, for recovery of universal service funding under Public Utility Regulatory Act (PURA) §56.025 and 16 Texas Administrative Code (TAC) §26.406.

Docket Style and Number: Application of Electra Telephone Company, Inc. to Recover Funds from the Texas Universal Service Fund under PURA §56.025 and 16 TAC §26.406 For Calendar Year 2024, Docket Number 57291.

The Application: Electra Telephone Company, Inc. seeks recovery of funds from the Texas Universal Service Fund (TUSF) due to Federal Communications Commission actions resulting in a reduction in the Federal Universal Service Fund (FUSF) revenues available to Electra Telephone Company for 2024. Electra Telephone requests that the Commission allow recovery of funds from the TUSF in the amount of \$596,690 for 2024 to replace the projected reduction in FUSF revenue.

Persons wishing to intervene or comment on the action sought should contact the Commission by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at (888) 782-8477. A deadline for intervention in this proceeding will be established. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 57291.

TRD-202405521

Andrea Gonzalez

Rules Coordinator

Public Utility Commission of Texas

Filed: November 14, 2024

Department of Savings and Mortgage Lending

Correction of Error

The Finance Commission of Texas adopted the repeal of 7 TAC §§79.1 - 79.5, 79.20, 79.30, 79.40, and 79.50 in the November 15, 2024, issue of the *Texas Register* (49 TexReg 9220). Due to an error by the Department of Savings and Mortgage Lending in submitting the rules, the first paragraph of the preamble contained information for a different adopted rulemaking.

The correct text for the first paragraph of the preamble is as follows:

The Finance Commission of Texas (commission), on behalf of the Department of Savings and Mortgage Lending (SML), adopts the repeal of all preexisting rules in 7 TAC Chapter 79: §§79.1 - 79.5, 79.20, 79.30, 79.40, and 79.50. The commission's proposal was published in the September 6, 2024, issue of the *Texas Register* (49 TexReg 6943). The rules are adopted without changes to the published text and will not be republished.

TRD-202405638

Iain A. Berry

General Counsel

Department of Savings and Mortgage Lending

Filed: November 20, 2024

Supreme Court of Texas

Final Approval of Amendments to Texas Rule of Civil Procedure 194

Supreme Court of Texas

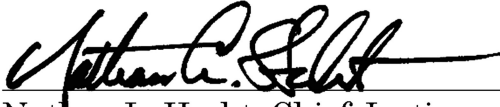
Misc. Docket No. 24-9097

Final Approval of Amendments to Texas Rule of Civil Procedure 194

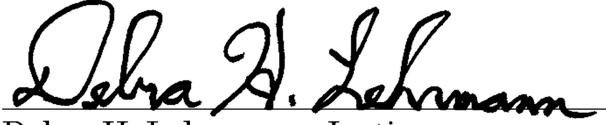
ORDERED that:

1. On July 22, 2024, in Misc. Dkt. No. 24-9044, the Court preliminarily approved amendments to Texas Rule of Civil Procedure 194 and invited public comment.
2. The comment period has expired, and no additional changes have been made to the amendments. This Order gives final approval to the amendments to Texas Rule of Civil Procedure 194, as set forth in Misc. Dkt. 24-9044 and reproduced below, effective December 1, 2024.
3. The Clerk is directed to:
 - a. file a copy of this Order with the Secretary of State;
 - b. cause a copy of this Order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
 - c. send a copy of this Order to each elected member of the Legislature; and
 - d. submit a copy of this Order for publication in the *Texas Register*.


Dated: November 12, 2024.



Nathan L. Hecht, Chief Justice



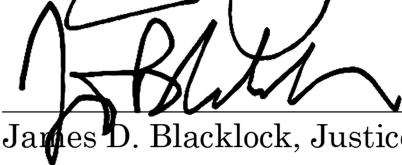
Debra H. Lehrmann, Justice



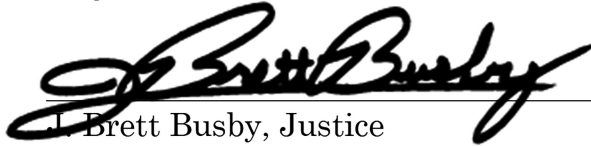
Jeffrey S. Boyd, Justice



John P. Devine, Justice



James D. Blacklock, Justice



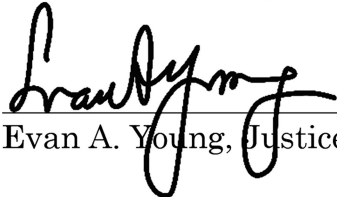
J. Brett Busby, Justice



Jane N. Bland, Justice



Rebeca A. Huddle, Justice



Evan A. Young, Justice

TEXAS RULES OF CIVIL PROCEDURE

RULE 194. REQUIRED DISCLOSURES IN SUITS NOT GOVERNED BY
THE FAMILY CODE

194.4 Pretrial Disclosures.

- (a) **In General.** In addition to the disclosures required by Rule 194.2 and 194.3, a party must provide to the other parties and promptly file the following information about the evidence that it may present at trial other than solely for impeachment:
- (1) the name and, if not previously provided, the address, and telephone number of each witness—separately identifying those the party expects to present and those it may call if the need arises; and
 - (2) ~~an identification of a list identifying~~ each document or other exhibits, including summaries of other evidence—separately identifying those items the party expects to offer and those it may offer if the need arises.
- (b) **Time for Pretrial Disclosures.** Unless the court orders otherwise, these disclosures must be made at least 30 days before trial.

TRD-202405513
Jaclyn Daumerie
Rules Attorney
Supreme Court of Texas
Filed: November 13, 2024

◆ ◆ ◆
Final Approval of Amendments to Texas Rule of Civil
Procedure 621a

Supreme Court of Texas

Misc. Docket No. 24-9098

Final Approval of Amendments to Texas Rule of Civil Procedure 621a

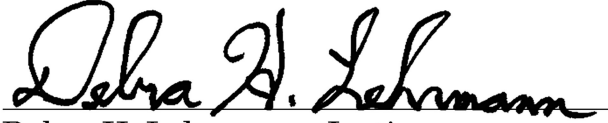
ORDERED that:

1. On July 22, 2024, in Misc. Dkt. No. 24-9045, the Court preliminarily approved amendments to Texas Rule of Civil Procedure 621a and invited public comment.
2. The comment period has expired, and no additional changes have been made to the amendments. This Order gives final approval to the amendments to Texas Rule of Civil Procedure 621a, as set forth in Misc. Dkt. 24-9045 and reproduced below, effective December 1, 2024.
3. The Clerk is directed to:
 - a. file a copy of this Order with the Secretary of State;
 - b. cause a copy of this Order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
 - c. send a copy of this Order to each elected member of the Legislature; and
 - d. submit a copy of this Order for publication in the *Texas Register*.

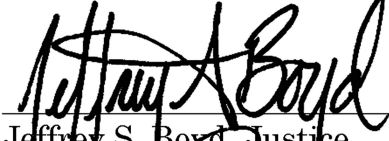
Dated: November 12, 2024.



Nathan L. Hecht, Chief Justice



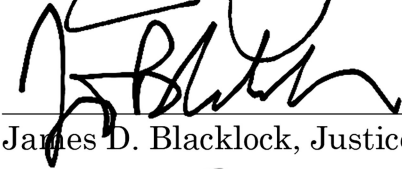
Debra H. Lehrmann, Justice



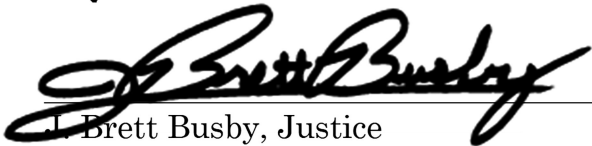
Jeffrey S. Boyd, Justice



John P. Devine, Justice



James D. Blacklock, Justice



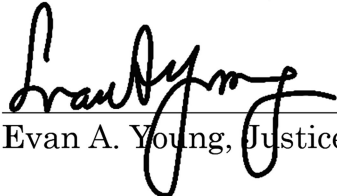
J. Brett Busby, Justice



Jane N. Bland, Justice



Rebeca A. Huddle, Justice



Evan A. Young, Justice

TEXAS RULES OF CIVIL PROCEDURE

RULE 621a. DISCOVERY AND ENFORCEMENT OF JUDGMENT

At any time after rendition of judgment, and so long as said judgment has not been suspended by a supersedeas bond or by order of a proper court and has not become dormant as provided by ~~Article 3773, V.A.T.S.~~Section 34.001, Civil Practice and Remedies Code, the successful party may, for the purpose of obtaining information to aid in the enforcement of such judgment, initiate and maintain in the trial court in the same suit in which said judgment was rendered any discovery proceeding authorized by these rules for pre-trial matters. Also, at any time after rendition of judgment, either party may, for the purpose of obtaining information relevant to motions allowed by Texas Rules of Appellate Procedure ~~47 and 49~~24 initiate and maintain in the trial court in the same suit in which said judgment was rendered any discovery proceeding authorized by these rules for pre-trial matters. The rules governing and related to such pre-trial discovery proceedings shall apply in like manner to discovery proceedings after judgment. The rights herein granted to the parties shall inure to their successors or assignees, in whole or in part. Judicial supervision of such discovery proceedings after judgment shall be the same as that provided by law or these rules for pre-trial discovery and proceedings insofar as applicable.

TRD-202405514
Jaclyn Daumerie
Rules Attorney
Supreme Court of Texas
Filed: November 13, 2024

Preliminary Approval of Amendments to Texas Rule of Civil Procedure 10 and Texas Rule of Appellate Procedure 6 (Joint Order, Court of Criminal Appeals Misc. Docket No. 24-008)



Supreme Court of Texas

Misc. Docket No. 24-9099

Preliminary Approval of Amendments to Texas Rule of Civil Procedure 10 and Texas Rule of Appellate Procedure 6

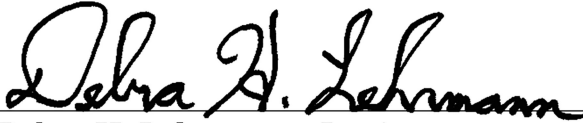
ORDERED that:

1. The Court invites public comments on proposed amendments to Texas Rule of Civil Procedure 10 and Texas Rule of Appellate Procedure 6.
2. Comments regarding the proposed amendments should be submitted in writing to rulescomments@txcourts.gov by March 1, 2025.
3. The Court will issue an order finalizing the amendments after the close of the comment period. The Court may change the amendments in response to public comments. The Court expects the amendments to take effect on April 1, 2025.
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*.

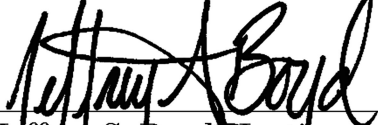
Dated: November 19, 2024.



Nathan L. Hecht, Chief Justice



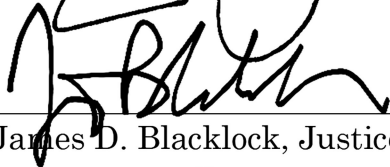
Debra H. Lehrmann, Justice



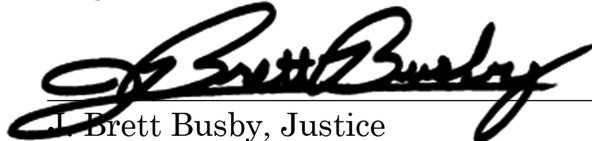
Jeffrey S. Boyd, Justice



John P. Devine, Justice



James D. Blacklock, Justice



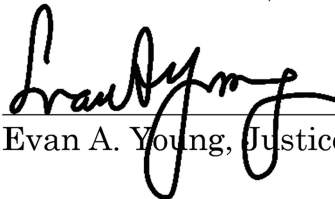
Brett Busby, Justice



Jane N. Bland, Justice



Rebeca A. Huddle, Justice



Evan A. Young, Justice

TEXAS RULES OF CIVIL PROCEDURE

RULE 10. WITHDRAWAL OF ATTORNEY

An attorney may withdraw from representing a party only upon written motion for good cause shown. If another attorney is to be substituted as attorney for the party, the motion shall state: the name, address, telephone number, email address, telecopier number, if any, and State Bar of Texas identification number of the substitute attorney; that the party approves the substitution; and that the withdrawal is not sought for delay only. If another attorney is not to be substituted as attorney for the party, the motion shall state: that a copy of the motion has been delivered to the party; that the party has been notified in writing of his right to object to the motion; whether the party consents to the motion; the party's last known address, telephone number, and email address; and all pending settings and deadlines. If the motion is granted, the withdrawing attorney shall immediately notify the party in writing of any additional settings or deadlines of which the attorney has knowledge at the time of the withdrawal and has not already notified the party. The Court may impose further conditions upon granting leave to withdraw. Notice or delivery to a party shall be either made to the party in person or mailed to the party's last known address by both certified and regular first class mail. If the attorney in charge withdraws and another attorney remains or becomes substituted, another attorney in charge must be designated of record with notice to all other parties in accordance with Rule 21a.

TEXAS RULES OF APPELLATE PROCEDURE

Rule 6. Representation by Counsel

6.5. Withdrawal of Lead Counsel

An appellate court may, on appropriate terms and conditions, permit lead counsel to withdraw from representing a party in the appellate court.

- (a) *Contents of Motion.* A motion for leave to withdraw must contain the following:
 - (1) a list of current deadlines and settings in the case;
 - (2) the party's name and last known address, ~~and~~ telephone number, and email address;
 - (3) a statement that a copy of the motion was delivered to the party; and
 - (4) a statement that the party was notified in writing of the right to object to the motion.
- (b) *Delivery to Party.* The motion must be delivered to the party in person or mailed — both by certified and by first-class mail — to the party at the party's last known address.
- (c) *If Motion Granted.* If the court grants the motion, the withdrawing lead counsel must immediately notify the party, in writing, of any deadlines or settings that the attorney knows about at the time of withdrawal but that were not previously disclosed to the party. The withdrawing lead counsel must file a copy of that notice with the court clerk.
- (d) *Exception for Substitution of Lead Counsel.* If an attorney substitutes for a withdrawing lead counsel, the motion to withdraw need not comply with (a) but must state only the substitute attorney's name, mailing address, telephone number, email address, fax number, if any, and State Bar of Texas identification number. The withdrawing lead counsel must comply with (b) but not (c).

TRD-202405618
Jaclyn Daumerie
Rules Attorney
Supreme Court of Texas
Filed: November 19, 2024

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Texas Water Development Board

Notice for 2022 State Water Plan Amendment Adoption

Notice of Intent to Adopt Amendment

The Texas Water Development Board (TWDB) will consider the adoption of an amendment to the 2022 State Water Plan at its regularly scheduled Board meeting in January, 2025. Please see the TWDB website for information on that meeting: <https://www.twdb.texas.gov/>.

The state water plan amendment under consideration includes amendments to the Region B, F, G, and M 2021 Regional Water Plans that were adopted by the regions to remove infeasible water management strategies. The state water plan amendment also includes amendments to the Region G, H, and L 2021 Regional Water Plans that were adopted by the regions to add water management strategies and projects in order for those projects to be eligible for funding the State Water Implementation Fund for Texas. The amendments to the 2021 Regional Water Plans were approved by the Board at the August 15, 2024 and November 6, 2024 TWDB Board meetings, along with approval to conduct the public hearing for the associated state water plan amendment.

The TWDB will conduct a public hearing in accordance with Texas Water Code §16.053(h) and 31 Texas Administrative Code §§357.51(h),

and 358.4(a) on December 18, 2024, to receive public comment on a proposed amendment to the 2022 State Water Plan, Water for Texas 2022. The hearing will begin at 2:30 p.m. in Room 170, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, Texas 78701.

Interested persons are encouraged to attend the public hearing to present comments concerning the proposed amendment. Those who cannot attend the hearings may provide written comments on or before December 18, 2024, to Mr. Ashley Harden, General Counsel, Texas Water Development Board, P.O. Box 13231, Capitol Station, Austin, Texas 78711 or by email to PUBLIC-COMMENT@twdb.texas.gov. The TWDB will receive public comment on the proposed amendment until close of business at 5 p.m. on December 18, 2024.

All public comments should be sent directly to PUBLIC-COMMENT@twdb.texas.gov. Please do not submit comments through any third-party forms and/or websites. Receipt of third-party submissions cannot be guaranteed.

A copy of the proposed amendment is available on the TWDB's website at <https://www.twdb.texas.gov/waterplanning/swp/2022/index.asp>.

TRD-202405602
Ashley Harden
General Counsel
Texas Water Development Board
Filed: November 18, 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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