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IN THIS ISSUE

GOVERNOR

Executive Order GA-08	2271
Executive Order GA-09	2271
Executive Order GA-10	2272
Proclamation 41-3723	2272
Proclamation 41-3724	2273

ATTORNEY GENERAL

Requests for Opinions	2275
-----------------------------	------

EMERGENCY RULES

TEXAS MEDICAL BOARD

COMPLAINTS

22 TAC §178.4	2277
---------------------	------

PROCEDURAL RULES

22 TAC §187.57	2278
----------------------	------

TEXAS STATE BOARD OF PHARMACY

PHARMACIES

22 TAC §291.30	2278
----------------------	------

HEALTH AND HUMAN SERVICES COMMISSION

COVID-19 EMERGENCY HEALTH CARE FACILITY LICENSING	
---	--

26 TAC §500.1	2279
---------------------	------

TEXAS BOND REVIEW BOARD

BOND REVIEW BOARD

34 TAC §181.11	2280
----------------------	------

PROPOSED RULES

TEXAS MEDICAL BOARD

PREScription OF CONTROLLED SUBSTANCES [PAIN MANAGEMENT]	
--	--

22 TAC §170.2, §170.3	2284
-----------------------------	------

22 TAC §170.9	2287
---------------------	------

TEXAS STATE BOARD OF PHARMACY

ADMINISTRATIVE PRACTICE AND PROCEDURES

22 TAC §281.35	2287
----------------------	------

LICENSING REQUIREMENTS FOR PHARMACISTS

22 TAC §283.2	2288
---------------------	------

22 TAC §283.4	2290
---------------------	------

22 TAC §283.5	2293
---------------------	------

22 TAC §283.6	2294
---------------------	------

PHARMACIES

22 TAC §291.19	2295
----------------------	------

22 TAC §291.93	2296
----------------------	------

22 TAC §291.155	2301
-----------------------	------

PHARMACISTS

22 TAC §295.1	2301
---------------------	------

22 TAC §295.8	2302
---------------------	------

PHARMACY TECHNICIANS AND PHARMACY TECHNICIAN TRAINEES

22 TAC §297.9	2306
---------------------	------

TEXAS WORKFORCE COMMISSION

TEXAS WORKFORCE COMMISSION CIVIL RIGHTS DIVISION

40 TAC §819.12	2307
----------------------	------

TEXAS PAYDAY RULES

40 TAC §821.43	2309
----------------------	------

ADOPTED RULES

TEXAS EDUCATION AGENCY

SCHOOL DISTRICTS

19 TAC §61.1063	2313
-----------------------	------

COMPTROLLER OF PUBLIC ACCOUNTS

PREPAID HIGHER EDUCATION TUITION PROGRAM

34 TAC §7.101	2316
---------------------	------

34 TAC §§7.122, 7.125, 7.136, 7.141, 7.142	2317
--	------

PROPERTY TAX ADMINISTRATION

34 TAC §9.100	2317
---------------------	------

TEXAS FORENSIC SCIENCE COMMISSION

DNA, CODIS, FORENSIC ANALYSIS, AND CRIME LABORATORIES

37 TAC §651.5	2318
---------------------	------

37 TAC §§651.202, 651.203, 651.207	2318
--	------

37 TAC §651.206	2319
-----------------------	------

37 TAC §651.210	2319
-----------------------	------

37 TAC §651.302	2320
-----------------------	------

37 TAC §651.307	2320
-----------------------	------

RULE REVIEW

Adopted Rule Reviews

State Board for Educator Certification	2321
--	------

Texas Board of Nursing	2321
------------------------------	------

IN ADDITION

Office of the Attorney General

Texas Health and Safety Code and Texas Water Code Settlement Notice.....2323

Comptroller of Public Accounts

Certification of the Average Closing Price of Gas and Oil - February 20202323

Office of Consumer Credit Commissioner

Notice of Rate Ceilings.....2323

Credit Union Department

Application for a Merger or Consolidation.....2324

Texas Council for Developmental Disabilities

Request for Applications: Leadership and Advocacy Training by Local Self-Advocacy Organization.....2324

Request for Applications: Sexual Assault Prevention & Response Projects.....2324

Texas Education Agency

Public Notice: Extension of Public Comment Periods for Commissioner Rule Proposals2325

Texas Commission on Environmental Quality

Agreed Orders.....2325

Cancellation Notice of Public Meeting on Proposed Remedial Action2328

Cancellation Notice of Public Meeting on Proposed Remedial Action2328

Enforcement Orders2329

Enforcement Orders2330

Notice of Correction to Agreed Order Number 112331

Notice of Opportunity to Comment on an Agreed Order of Administrative Enforcement Actions2331

Notice of Opportunity to Comment on a Shutdown/Default Order of Administrative Enforcement Actions2332

Notice of Opportunity to Comment on Default Orders of Administrative Enforcement Actions2332

Texas Health and Human Services Commission

Criminal History Requirements for Child Care Operations2333

Texas Department of Housing and Community Affairs

Notice of Public Hearings and Public Comment Period on the Draft 2020 - 2024 State of Texas Consolidated Plan2334

Texas Department of Insurance

Company Licensing2334

Texas Lottery Commission

Correction of Error.....2334

Scratch Ticket Game Number 2215 "ROUTE 66™ ROAD TO \$1,000,000!".....2337

Scratch Ticket Game Number 2220 "EMERALD 8s".....2342

Scratch Ticket Game Number 2222 "MATCH 2 WIN"2346

Scratch Ticket Game Number 2240 "BREAK THE BANK"2350

Texas Parks and Wildlife Department

Notice of a Public Comment Hearing on an Application for a Sand and Gravel Permit.....2354

Public Utility Commission of Texas

Notice of Application for True-Up of 2017 Federal Universal Service Fund Impacts to the Texas Universal Service Fund.....2355

East Texas Regional Water Planning Group (Region I)

Notice of Public Hearing for the East Texas Regional Water Planning Group 2021 Initially Prepared Regional Water Plan2355

Supreme Court of Texas

Order Amending Articles II and IV of the State Bar Rules.....2356

Texas Department of Transportation

Revised Public Hearing Notice - Unified Transportation Program 2360

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.

Executive Order GA-08

Relating to COVID-19 preparedness and mitigation.

WHEREAS, the novel coronavirus (COVID-19) has been recognized globally as a contagious respiratory virus; and

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on March 13, 2020, certifying that COVID-19 poses an imminent threat of disaster for all counties in the state of Texas; and

WHEREAS, COVID-19 continues to spread and to pose an increasing, imminent threat of disaster throughout Texas; and

WHEREAS, the Centers for Disease Control and Prevention (CDC) has advised that person-to-person contact heightens the risk of COVID-19 transmission; and

WHEREAS, the President's Coronavirus Guidelines for America, as promulgated by President Donald J. Trump and the CDC on March 16, 2020, call upon Americans to slow the spread of COVID-19 by avoiding social gatherings in groups of more than 10 people, using drive-thru, pickup, or delivery options at restaurants and bars, and avoiding visitation at nursing homes, among other steps; and

WHEREAS, the Texas Department of State Health Services has now determined that, as of March 19, 2020, COVID-19 represents a public health disaster within the meaning of Chapter 81 of the Texas Health and Safety Code; and

WHEREAS, under the Texas Disaster Act of 1975, "[t]he governor is responsible for meeting... the dangers to the state and people presented by disasters" (Section 418.001 of the Texas Government Code), and the legislature has given the governor broad authority to fulfill that responsibility.

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 on a statewide basis effective 11:59 p.m. on March 20, 2020, and continuing until 11:59 p.m. on April 3, 2020, subject to extension thereafter based on the status of COVID-19 in Texas and the recommendations of the CDC:

Order No. 1: In accordance with the Guidelines from the President and the CDC, every person in Texas shall avoid social gatherings in groups of more than 10 people.

Order No. 2: In accordance with the Guidelines from the President and the CDC, people shall avoid eating or drinking at bars, restaurants, and food courts, or visiting gyms or massage parlors; provided, however, that the use of drive-thru, pickup, or delivery options is allowed and highly encouraged throughout the limited duration of this executive order.

Order No. 3: In accordance with the Guidelines from the President and the CDC, people shall not visit nursing homes or retirement or long-term care facilities unless to provide critical assistance.

Order No. 4: In accordance with the Guidelines from the President and the CDC, schools shall temporarily close.

This executive order does not prohibit people from visiting a variety of places, including grocery stores, gas stations, parks, and banks, so long as the necessary precautions are maintained to reduce the transmission of COVID-19. This executive order does not mandate sheltering in place. All critical infrastructure will remain operational, domestic travel will remain unrestricted, and government entities and businesses will continue providing essential services. For offices and workplaces that remain open, employees should practice good hygiene and, where feasible, work from home in order to achieve optimum isolation from COVID-19. The more that people reduce their public contact, the sooner COVID-19 will be contained and the sooner this executive order will expire.

This executive order supersedes all previous orders on this matter that are in conflict or inconsistent with its terms, and this order shall remain in effect and in full force until 11:59 p.m. on April 3, 2020, subject to being extended, modified, amended, rescinded, or superseded by me or by a succeeding governor.

Given under my hand this the 19th day of March, 2020.

Greg Abbott, Governor

TRD-202001205



Executive Order GA-09

Relating to hospital capacity during the COVID-19 disaster.

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on March 13, 2020, certifying under Section 418.014 of the Texas Government Code that the novel coronavirus (COVID-19) poses an imminent threat of disaster for all counties in the State of Texas; and

WHEREAS, the Texas Department of State Health Services has determined that, as of March 19, 2020, COVID-19 represents a public health disaster within the meaning of Chapter 81 of the Texas Health and Safety Code; and

WHEREAS, on March 19, 2020, I issued an executive order in accordance with the President's Coronavirus Guidelines for America, as promulgated by President Donald J. Trump and the Centers for Disease Control and Prevention (CDC), and mandated certain obligations for Texans that are aimed at slowing the spread of COVID-19; and

WHEREAS, a shortage of hospital capacity or personal protective equipment would hinder efforts to cope with the COVID-19 disaster; and

WHEREAS, hospital capacity and personal protective equipment are being depleted by surgeries and procedures that are not medically necessary to correct a serious medical condition or to preserve the life of a patient, contrary to recommendations from the President's Coronavirus Task Force, the CDC, the U.S. Surgeon General, and the Centers for Medicare and Medicaid Services; and

WHEREAS, various hospital licensing requirements would stand in the way of implementing increased occupancy in the event of surge needs for hospital capacity due to COVID-19; and

WHEREAS, the "governor is responsible for meeting... the dangers to the state and people presented by disasters" under Section 41"8.011 of the Texas Government Code, and the legislature has given the governor broad authority to fulfill that responsibility; and

WHEREAS, under Section 418.012, the "governor may issue executive orders... hav[ing] the force and effect of law;" and

WHEREAS, under Section 418.016(a), the "governor may suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders or rules of a state agency if strict compliance with the provisions, orders, or rules would in any way prevent, hinder, or delay necessary action in coping with a disaster;" and

WHEREAS, under Section 418.173, failure to comply with any executive order issued during the COVID-19 disaster is an offense punishable by a fine not to exceed \$1,000, confinement in jail for a term not to exceed 180 days, or both fine and confinement.

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 that, beginning now and continuing until 11:59 p.m. on April 21, 2020, all licensed health care professionals and all licensed health care facilities shall postpone all surgeries and procedures that are not immediately medically necessary to correct a serious medical condition of, or to preserve the life of, a patient who without immediate performance of the surgery or procedure would be at risk for serious adverse medical consequences or death, as determined by the patient's physician;

PROVIDED, however, that this prohibition shall not apply to any procedure that, if performed in accordance with the commonly accepted standard of clinical practice, would not deplete the hospital capacity or the personal protective equipment needed to cope with the COVID-19 disaster.

At the request of the Texas Health and Human Services Commission, I hereby suspend the following provisions to the extent necessary to implement increased occupancy in the event of surge needs for hospital capacity due to COVID-19:

- 25 TAC Sec. 133.162(d)(4)(A)(iii)(I);
- 25 TAC Sec. 133.163(f)(1)(A)(i)(II)-(III);
- 25 TAC Sec. 133.163(f)(1)(B)(i)(III)-(IV);
- 25 TAC Sec. 133.163(m)(1)(B)(ii);
- 25 TAC Sec. 133.163(t)(1)(B)(iii)-(iv);
- 25 TAC Sec. 133.163(t)(1)(C);
- 25 TAC Sec. 133.163(t)(5)(B)-(C); and

any other pertinent regulations or statutes, upon written approval of the Office of the Governor.

This executive order shall remain in effect and in full force until 11:59 p.m. on April 21, 2020, unless it is modified, amended, rescinded, or superseded by me or by a succeeding governor.

Given under my hand this the 22nd day of March, 2020.

Greg Abbott, Governor
TRD-202001209



Executive Order GA-10

Relating to daily reporting during the COVID-19 disaster.

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on March 13, 2020, certifying under Section 418.014 of the Texas Government Code that the novel coronavirus (COVID-19) poses an imminent threat of disaster for all counties in the State of Texas; and

WHEREAS, the Texas Department of State Health Services (DSHS) has determined that, as of March 19, 2020, COVID-19 represents a public health disaster within the meaning of Chapter 81 of the Texas Health and Safety Code; and

WHEREAS, I issued Executive Order GA-08 on March 19, 2020, and Executive Order GA-09 on March 22, 2020, in response to the COVID-19 disaster; and

WHEREAS, timely information about COVID-19 testing and hospital bed capacity is crucial to efforts to cope with the COVID-19 disaster; and

WHEREAS, Vice President Mike Pence, leader of the White House Coronavirus Task Force, has requested that every governor in the United States order daily reporting of these crucial pieces of information to the Centers for Disease Control and Prevention (CDC); and

WHEREAS, the "governor is responsible for meeting... the dangers to the state and people presented by disasters" under Section 418.011 of the Texas Government Code, and the legislature has given the governor broad authority to fulfill that responsibility; and

WHEREAS, under Section 418.012, the "governor may issue executive orders... hav[ing] the force and effect of law."

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 on a statewide basis effective 11:59 p.m. on March 24, 2020:

All hospitals licensed under Chapter 241 of the Texas Health and Safety Code, and all Texas state-run hospitals, except for psychiatric hospitals, shall submit to DSHS daily reports of hospital bed capacity, in the manner prescribed by DSHS. DSHS shall promptly share this information with the CDC.

Every public or private entity that is utilizing an FDA-approved test, including an emergency use authorization test, for human diagnostic purposes of COVID-19, shall submit to DSHS, as well as to the local health department, daily reports of all test results, both positive and negative. DSHS shall promptly share this information with the CDC.

This executive order shall remain in effect and in full force until modified, amended, rescinded, or superseded by me or by a succeeding governor.

Given under my hand this the 24th day of March, 2020.

Greg Abbott, Governor
TRD-202001239



Proclamation 41-3723

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, Section 41.001(a)(2) of the Texas Election Code provides that a general or special election in this state shall be held on a uniform election date, and the next uniform election date is occurring on May 2, 2020; and

WHEREAS, Section 49.103 of the Texas Water Code provides that certain districts governed by this provision are required to hold director elections in May of each even-numbered year; and

WHEREAS, Section 41.0052 of the Texas Election Code prescribes a procedure for a political subdivision to change a general election date, but the time for making such a change has expired; and

WHEREAS, Section 31.093 of the Texas Election Code requires a county elections administrator to enter into a contract to furnish election services upon request of a political subdivision; and

WHEREAS, Section 42.0621(c) of the Texas Election Code does not require a political subdivision to enter into a contract with a county or hold a joint election with a county on the November uniform election date; and

WHEREAS, on March 13, 2020, the Governor of Texas certified that the novel coronavirus (COVID-19) poses an imminent threat of disaster and, under the authority vested in the Governor by Section 418.014 of the Texas Government Code, declared a state of disaster for all counties in Texas; and

WHEREAS, pursuant to Section 418.016 of the Texas Government Code, the Governor has the express authority to suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders or rules of a state agency if strict compliance with the provisions, orders, or rules would in any way prevent, hinder, or delay necessary action in coping with a disaster.

NOW, THEREFORE, I, GREG ABBOTT, Governor of Texas, under the authority vested in me by the Constitution and Laws of the State of Texas, do hereby suspend Sections 41.0052(a) and (b) of the Texas Election Code and Section 49.103 of the Texas Water Code to the extent necessary to allow political subdivisions that would otherwise hold elections on May 2, 2020, to move their general and special elections for 2020 only to the next uniform election date, occurring on November 3, 2020, without otherwise adjusting the term of office. I further suspend Sections 31.093 and 42.0621(c) of the Texas Election Code to the extent necessary to require all county election officers, if requested by an affected political subdivision, to enter into a contract to furnish election services with any political subdivision who postponed their election to November 3, 2020, under the authority of this proclamation.

The authority ordering the election under Section 3.004 of the Texas Election Code is the authority authorized to make the decision to postpone its election in accordance with this proclamation.

Current office holders will hold over to the extent authorized by Article XVI, Section 17 of the Texas Constitution.

IN TESTIMONY WHEREOF, I have hereto 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 18th day of March, 2020.

Greg Abbott, Governor

TRD-202001243



Proclamation 41-3724

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, Texas held its general primary election on March 3, 2020, and in multiple races, no candidate received a majority of the total number of votes cast; and

WHEREAS, Section 2.021 of the Texas Election Code requires that a runoff election be held if no candidate receives the votes necessary to be elected; and

WHEREAS, Section 41.007(b) of the Texas Election Code requires that the runoff primary election date is the fourth Tuesday in May following the general primary election, and for this year, that date is May 26, 2020; and

WHEREAS, Section 41.007(d) of the Texas Election Code provides that no other election may be held on the date of a primary election; and

WHEREAS, Section 41.008 of the Texas Election Code provides that an election held on a date not permitted is void; and

WHEREAS, on March 13, 2020, the Governor of Texas certified that the novel coronavirus (COVID-19) poses an imminent threat of disaster and, under the authority vested in the Governor by Section 418.014 of the Texas Government Code, declared a state of disaster for all counties in Texas; and

WHEREAS, the Commissioner of the Texas Department of State Health Services has now determined that, as of March 19, 2020, COVID-19 represents a public health disaster within the meaning of Chapter 81 of the Texas Health and Safety Code; and

WHEREAS, also on March 19, 2020, the Governor issued an executive order in accordance with the President's Coronavirus Guidelines for America, as promulgated by President Donald J. Trump and the Centers for Disease Control and Prevention, and mandated certain obligations for Texans that are aimed at slowing the spread of COVID-19; and

WHEREAS, Texas law provides that eligible voters have a right to cast a vote in person on the day of the election; and

WHEREAS, holding the runoff primary election on May 26, 2020, would cause the congregation of large gatherings of people in confined spaces and force numerous election workers to come into close proximity with others, thereby threatening the health and safety of many Texans and literally exposing them to risk of death due to COVID-19; and

WHEREAS, holding the runoff primary election on May 26, 2020, would therefore prevent, hinder, or delay necessary action in containing the COVID-19 disaster; and

WHEREAS, there is precedent in Texas for moving a runoff primary election to a later date, such as in 2012 when a runoff primary election was held in July; and

WHEREAS, pursuant to Section 418.016 of the Texas Government Code, the Governor has the express authority to suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders or rules of a state agency if strict compliance with the provisions, orders, or rules would in any way prevent, hinder, or delay necessary action in coping with a disaster:

NOW, THEREFORE, I, GREG ABBOTT, Governor of Texas, under the authority vested in me by the Constitution and laws of the State of Texas, do hereby suspend Section 41.007(b) of the Texas Election Code to the extent necessary to postpone the runoff primary election date until Tuesday, July 14, 2020. I further hereby suspend Section 41.007(d) of the Texas Election Code to the extent necessary to allow for the runoff primary election to be held on the same date as the special election for Texas State Senate District No. 14, which has already been ordered for Tuesday, July 14, 2020. Finally, I hereby suspend Section 41.008 of the Texas Election Code to the extent it would preclude holding the runoff primary election on July 14, 2020.

Early voting by personal appearance shall begin on Monday, July 6, 2020, in accordance with Section 85.001(b) of the Texas Election Code.

IN TESTIMONY WHEREOF, I have hereto 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 20th day of March, 2020.

Greg Abbott, Governor

TRD-202001210



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-0340-KP

Requestor:

The Honorable Eduardo Arredondo

Burnet County Attorney

220 South Pierce Street

Burnet, Texas 78611

Re: Whether a city ordinance requiring compliance with certain restrictive covenants before granting a building permit violates chapter 3000 of the Government Code (RQ-0340-KP)

Briefs requested by April 22, 2020

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

TRD-202001234

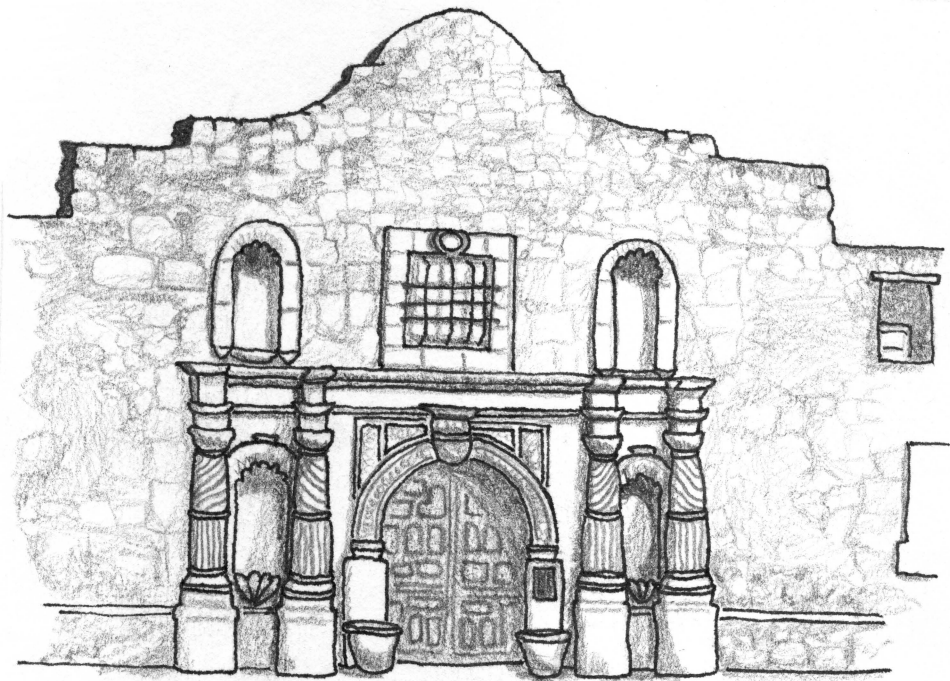
Ryan L. Bangert

Deputy Attorney General for Legal Counsel

Office of the Attorney General

Filed: March 24, 2020





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 22. EXAMINING BOARDS

PART 9. TEXAS MEDICAL BOARD

CHAPTER 178. COMPLAINTS

22 TAC §178.4

The Texas Medical Board (Board) adopts on an emergency basis the emergency amendment to 22 TAC §178.4(d) for purposes of the COVID-19 disaster declaration. The amendment is being made pursuant to Executive Order GA 09 and amends certain reporting requirements under 22 TAC §178.4(d) for instances of physicians undertaking and performing non-urgent elective surgeries or procedures.

The emergency rule amendment is adopted on an emergency basis due to the imminent peril to the public health, safety and welfare caused by unnecessary exposure of both patients and health care professionals in undertaking and performing non-urgent elective surgeries and procedures during the COVID-19 pandemic.

The amended definitions are applicable only for purposes of the COVID-19 disaster declaration and shall only remain effective until the COVID-19 disaster declaration is terminated.

The emergency rule amendment is adopted under the authority of the Texas Occupations Code, §153.001, which provides authority for the Board to recommend and adopt rules and bylaws as necessary to: govern its own proceedings; perform its duties; regulate the practice of medicine; and enforce this subtitle.

In addition, the emergency rule amendment is adopted on an emergency basis pursuant to Texas Government Code §2001.034, 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.

The statutes affected by this rule: Texas Medical Practice Act, Chapters 151 and 164, Texas Occupations Code.

§178.4. *Complaint Initiation.*

(a) A complainant may initiate a complaint by submitting the information concerning the complaint to the board. This information should include at a minimum:

- (1) The name and contact information of the complainant;
- (2) The name of the licensee against who the complaint is filed;
- (3) The time and place of the alleged violation of the Act; and
- (4) If applicable, the name and birth date of the patient who the physician has allegedly harmed.

(b) The board may file a complaint on its own initiative.

(c) The identity of a complainant, as well as the complaint itself, is part of the investigative information gathered by board employees and shall remain confidential. All complaints must provide sufficient information to identify the source or the name of the person who filed the complaint. Confidentiality shall be waived only by a written statement of the complainant specifically waiving confidentiality or by the complainant testifying in a contested case hearing. Notwithstanding the previous provisions, the name and address of an insurance agent, insurer, pharmaceutical company or third-party administrator that files a complaint against a physician shall be reported to the subject physician within 15 days of receipt by the board, unless the notice would jeopardize an investigation.

(d) A peer review committee, licensee, and all other groups named in §§160.003, 204.208, 205.304, and 206.159 of the Act shall report relevant information to the board relating to the acts of the licensee in this state if, in their opinion, that licensee poses a continuing threat to the public welfare through the licensee's continued practice. The report shall include a narrative statement describing the time, date, and place of the acts or omissions on which the report is based; and it shall be made to the board as soon as possible after the threat is identified and the relevant information can be assembled. Pursuant to Executive Order GA 09, and not withstanding any other statute, rule or provision concerning timing or when a report must be made to the Board, any peer review committee, licensee, and other group, entity, or person named in §§160.003, 204.208, 205.304, and 206.159 of the Act shall be immediately required to report any physician scheduling to perform, preparing to perform, performing, or who has performed a non-urgent elective surgery or procedure, as defined in §187.57(c) of this subtitle, while Executive Order GA 09 is in effect, immediately to the board. This duty to report is mandatory whether any type of proceeding, inquiry, investigation, or action of any kind is being considered, has been initiated, or is on-going at a hospital, ambulatory surgical center, or any other facility or medical setting. All reporting under this emergency rule is subject to confidentiality under §§160.004-160.008 of the Act; immunity for civil liability under §160.010 of the Act; and the prohibitions against discipline and discrimination under §160.012 of the Act.

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 March 24, 2020.

TRD-202001232

Scott Freshour
General Counsel
Texas Medical Board

Effective date: March 24, 2020

Expiration date: July 21, 2020

For further information, please call: (512) 305-7016



CHAPTER 187. PROCEDURAL RULES

SUBCHAPTER F. TEMPORARY SUSPENSION AND RESTRICTION PROCEEDINGS

22 TAC §187.57

The Texas Medical Board (Board) adopts on an emergency basis an amendment to 22 TAC §187.57(c) for purposes of the COVID-19 disaster declaration. The amendment is being made pursuant to Executive Order GA 09 and amends the definition of "Continuing Threat" under 22 TAC §187.57(c).

The amended rule is adopted on an emergency basis due to the imminent peril to the public health, safety and welfare caused by unnecessary exposure of both patients and health care professionals in undertaking and performing non-urgent elective surgeries and procedures during the COVID-19 pandemic.

The amended definitions are applicable only for purposes of the COVID-19 disaster declaration and shall only remain effective until the COVID-19 disaster declaration is terminated.

The emergency rule amendment is adopted under the authority of the Texas Occupations Code, §153.001, which provides authority for the Board to recommend and adopt rules and bylaws as necessary to: govern its own proceedings; perform its duties; regulate the practice of medicine; and enforce this subtitle.

In addition, the emergency rule amendment is adopted on an emergency basis pursuant to Texas Government Code §2001.034, 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.

The statutes affected by this rule: Texas Medical Practice Act, Chapters 151 and 164, Texas Occupations Code.

§187.57. Charge of the Disciplinary Panel.

(a) The disciplinary panel shall determine from the evidence or information presented to it whether a person's continuation in practice constitutes a continuing threat to the public welfare.

(b) If the disciplinary panel determines that a person's continuation in practice would constitute a continuing threat to the public welfare, the disciplinary panel shall temporarily suspend or restrict the license of that person.

(c) In accordance with the Act, §151.002(a)(2), "continuing threat to the public welfare," means a real danger to the health of a physician's patients or the public caused through the physician's lack of competence, impaired status, performance of a non-urgent elective surgery or procedure, or failure to care adequately for the physician's patients. A real danger exists if patients have an exposure to or risk of injury that is not merely abstract, hypothetical or remote and is based on actual actions or inactions of the physician. Information that the physician has committed similar actions or inactions in the past shall be considered by the disciplinary panel.

(1) For purposes of this rule all licensed health care professionals shall postpone all surgeries and procedures that are not immediately medically necessary to correct a serious medical condition of, or to preserve the life of, a patient who without immediate performance of the surgery or procedure would be at risk for serious adverse medical consequences or death, as determined by the patient's physician.

(2) Provided, however, that this prohibition shall not apply to any procedure that, if performed in accordance with the commonly accepted standard of clinical practice, would not deplete the hospital capacity or the personal protective equipment needed to cope with the COVID-19 disaster.

(d) The disciplinary panel may also temporarily restrict or suspend a license of a person upon proof that a person has been arrested for an offense under:

(1) Section 22.011(a)(2), Penal Code (sexual assault of a child);

(2) Section 22.021(a)(1)(B), Penal Code (aggravated sexual assault of a child);

(3) Section 21.02, Penal Code (continuous sexual abuse of a young child or children); or

(4) Section 21.11, Penal Code (indecent with a child).

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 March 23, 2020.

TRD-202001217

Scott Freshour

General Counsel

Texas Medical Board

Effective date: March 23, 2020

Expiration date: July 20, 2020

For further information, please call: (512) 305-7016

PART 15. TEXAS STATE BOARD OF PHARMACY

CHAPTER 291. PHARMACIES

SUBCHAPTER A. ALL CLASSES OF PHARMACIES

22 TAC §291.30

The Texas State Board of Pharmacy adopts on an emergency basis new rule §291.30, concerning Medication Limitations, and finds that it is not practical to provide the usual 30 days' prior notice and hearing. The Texas State Board of Pharmacy recognizes the extraordinary demand for chloroquine, hydroxychloroquine, mefloquine, or azithromycin as a result of COVID-19 (coronavirus).

The new rule is adopted on an emergency basis due to the imminent peril to public health, safety and welfare caused by shortages of medication for existing conditions due to COVID-19 (coronavirus).

Emergency new rule §291.30 provides limitations on the dispensing of chloroquine, hydroxychloroquine, mefloquine, or azithromycin.

The emergency new rule is adopted under §551.002 and 554.051 of the Texas Pharmacy Act (Chapters 551 - 566 and 568 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act. In addition, the new rule is adopted on an emergency basis pursuant to Texas Government Code §2001.034, 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.

The statutes affected by this rule: Texas Pharmacy Act, Chapters 551 - 566 and 568 - 569, Texas Occupations Code; Chapter 2001, Texas Government Code.

§291.30. Medication Limitations.

No prescription or medication order for chloroquine, hydroxychloroquine, mefloquine, or azithromycin may be dispensed or distributed unless all the following apply:

- (1) the prescription or medication order bears a written diagnosis from the prescriber consistent with the evidence for its use;
- (2) the prescription or medication order is limited to no more than a fourteen (14) day supply, unless the patient was previously established on the medication prior to the effective date of this rule; and
- (3) no refills may be permitted unless a new prescription or medication order is furnished.

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 March 20, 2020.

TRD-202001208

Allison Vordenbaumen Benz, R.Ph., M.S.

Executive Director

Texas State Board of Pharmacy

Effective date: March 20, 2020

Expiration date: July 17, 2020

For further information, please call: (512) 305-8010



TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 500. COVID-19 EMERGENCY HEALTH CARE FACILITY LICENSING

26 TAC §500.1

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) adopts on an emergency basis new §500.1, Hospital Off-Site Facilities in Response to COVID-19, in Title 26, Texas Administrative Code, Chapter 500, concerning an emergency rule to allow hospitals to treat and house patients more effectively in response to COVID-19. As authorized by Government Code §2001.034, the Executive Commissioner may adopt an emergency rule without prior notice or hearing upon finding that an imminent peril to the public health, safety, or welfare requires adoption on fewer than 30 days' notice. Emergency rules adopted under Government Code §2001.034 may be effective for not longer than 120 days and may be renewed for not longer than 60 days.

BACKGROUND AND PURPOSE

The purpose of the new emergency rule is to support the Governor's March 13, 2020, proclamation certifying that the COVID-19 virus poses an imminent threat of disaster in the state and declaring a state of disaster for all counties in Texas. In this proclamation, the Governor authorized the use of all available resources

of state government and of political subdivisions that are reasonably necessary to cope with this disaster and directed that government entities and businesses would continue providing essential services. HHSC accordingly finds that an imminent peril to the public health, safety, and welfare of the state requires immediate adoption of this Emergency Rule for hospital off-site facilities in response to COVID-19.

To protect current and future patients in health care facilities and the public health, safety, and welfare of the state during the COVID-19 pandemic, HHSC is adopting an emergency rule to allow a currently licensed hospital to operate an off-site inpatient facility without obtaining a new license at: (1) another type of facility currently licensed or licensed within the past 36 months or a facility pending licensure that has passed its final architectural review inspection, such as an ambulatory surgical center, an assisted living facility, a freestanding emergency medical care facility, an inpatient hospice unit, a mental hospital, or a nursing facility; (2) an outpatient facility operated by the hospital; (3) a formerly licensed hospital that closed within the past 36 months or a hospital pending licensure that has passed its final architectural review inspection; (4) a hospital exempt from licensure; and (5) a mobile, transportable, or relocatable unit.

STATUTORY AUTHORITY

The emergency rule is adopted under Government Code §2001.034 and §531.0055 and Health and Safety Code §241.026. Government Code §2001.034 authorizes the adoption of emergency rules without prior notice and hearing, if an agency finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule on fewer than 30 days' notice. Health and Safety Code, §241.026 requires HHSC to develop, establish, and enforce standards for the construction, maintenance, and operation of licensed hospitals. Government Code §531.0055 authorizes the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by Health and Human Services system agencies.

§500.1. Hospital Off-Site Facilities in Response to COVID-19.

(a) A hospital licensed under Health and Safety Code Chapter 241 that meets the requirements of this emergency rule may use an off-site facility for inpatient care under its existing license for the duration this emergency rule is in effect or any extension of this emergency rule is in effect.

(b) The off-site facility must be:

(1) an inpatient hospice unit licensed under Health and Safety Code Chapter 142 either currently or within the past 36 months, or a facility with a pending application for such a license that has passed its final architectural review inspection;

(2) a hospital no longer licensed under Health and Safety Code Chapter 241 that closed within the past 36 months, or a facility with a pending application for such a license that has passed its final architectural review inspection;

(3) a hospital exempt from licensure under Health and Safety Code Chapter 241;

(4) a mobile, transportable, or relocatable unit, as defined in Title 25 Texas Administrative Code (TAC) §133.166 (relating to Mobile, Transportable, and Relocatable Units), that otherwise complies with that section;

(5) a nursing facility or other institution licensed under Health and Safety Code Chapter 242 either currently or within the past 36 months, or a facility with a pending application for such a license that has passed its final architectural review inspection;

(6) an ambulatory surgical center licensed under Health and Safety Code Chapter 243 either currently or within the past 36 months, or a facility with a pending application for such a license that has passed its final architectural review inspection;

(7) an assisted living facility licensed under Health and Safety Code Chapter 247 either currently or within the past 36 months, or a facility with a pending application for such a license that has passed its final architectural review inspection;

(8) a freestanding emergency medical care facility licensed under Health and Safety Code Chapter 254 either currently or within the past 36 months, or a facility with a pending application for such a license that has passed its final architectural review inspection;

(9) a mental hospital licensed under Health and Safety Code Chapter 577 either currently or within the past 36 months, or a facility with a pending application for such a license that has passed its final architectural review inspection; or

(10) an outpatient facility operated by the hospital, either currently or within the past 36 months.

(c) The hospital must submit an application to use an off-site facility for inpatient care to the Texas Health and Human Services Commission (HHSC) via email at infohflc@hhsc.state.tx.us and receive written approval from HHSC prior to using an off-site facility for inpatient care.

(d) HHSC has the discretion to approve or deny any application to use an off-site facility for inpatient care. HHSC may require an inspection or additional documentation of the off-site facility prior to considering an application.

(e) In order to protect the health, safety, and welfare of patients and the public, HHSC may withdraw its approval for a hospital to use the off-site facility for inpatient care at any time. Any patients being treated in the off-site facility at the time approval is withdrawn shall be safely relocated as soon as practicable according to the hospital's policies and procedures.

(f) The requirements of 25 TAC §133.21(c)(4)(B) - (C) (relating to Scope of Hospital License) do not apply to an off-site facility applied for or used under this section.

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 March 25, 2020.

TRD-202001252

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: March 25, 2020

Expiration date: July 22, 2020

For further information, please call: (512) 834-4591



TITLE 34. PUBLIC FINANCE

PART 9. TEXAS BOND REVIEW BOARD

CHAPTER 181. BOND REVIEW BOARD

SUBCHAPTER A. BOND REVIEW RULES

34 TAC §181.11

The Texas Bond Review Board (BRB) hereby adopts a new emergency rule to Texas Administrative Code (TAC) Title 34, Part 9, Chapter 181, Subchapter A, adding §181.11, concerning Emergency Rule for Board Approval Through the BRB Exempt Process. This emergency rule is implemented as a result of the governor's declaration of a statewide emergency over the coronavirus (COVID-19). The purpose of the emergency rule is to reduce the need to hold a government public meeting to approve state debt, minimizing face-to-face contact and the public's potential exposure to the coronavirus. The BRB finds that the state of emergency presents imminent peril to public health, safety and welfare that requires the adoption of this emergency rule upon less than 30 days' notice.

The emergency rule will have no adverse economic effect on micro-businesses, small businesses or rural communities because the rule only affects the administration debt transaction submission and review. The emergency rule does not affect operations of any small or micro-business and should not have an impact on rural communities that differs from any other part of the state. The emergency rule does not affect any local economy within the state.

The emergency rule does not impose a cost on regulated persons, including other state agencies, special districts, or local governments because the rule merely adjusts the processes for submission and review of proposed public debt transactions.

The emergency rule does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action, and therefore does not constitute a taking under Texas Government Code §2007.043.

The emergency rule is adopted under Texas Government Code §1231.022(1) authorizing the BRB to adopt rules relating to applications for review, the review process, and reporting requirements. This emergency rule is adopted without prior notice or hearing pursuant to Texas Government Code §2001.034.

No other statute, articles, or codes are affected by the new rule.

§181.11. Emergency Rule for Board Approval Through the BRB Exempt Process

Pursuant to section 1231.022(3) of the Government Code, authority to approve a state security on behalf of the board is hereby delegated to the executive director; provided, however, if any board member makes a written request pursuant to §181.9(d) (relating to State Exemptions), requiring an issuer to follow the formal approval process for a state security, the executive director will be divested of approval authority for such state security and the board will acquire approval authority for the state security. All issuers of state securities requiring approval under section 1231.041(a)(1) shall file a notice of intent pursuant to §181.2 (relating to Notice of Intention to Issue) and follow the exempt approval process required for state securities exempted under section 1231.041(a)(2). As with exempted state securities, one or more board members may make a written request pursuant to §181.9(d) requiring the issuer to follow the formal approval process. To the extent there is any conflict between this section and any other rule in chapter 181 of the Texas Administrative Code, this section controls.

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 March 19, 2020.

TRD-202001200

Rob Latsha

Executive Director

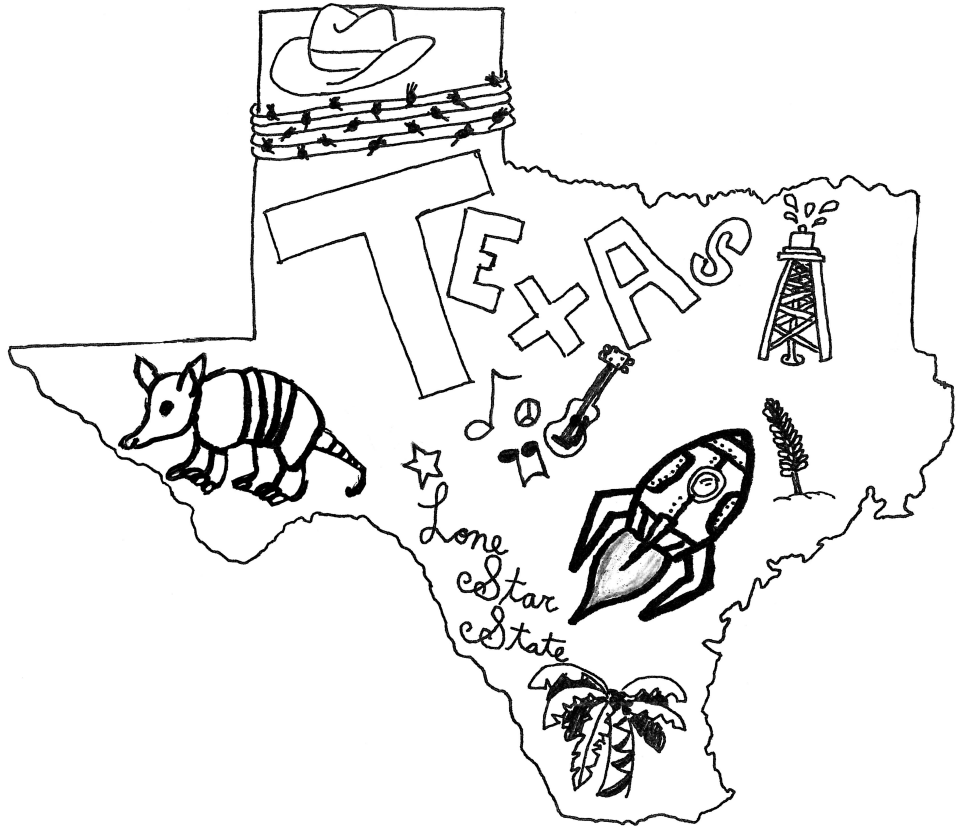
Texas Bond Review Board

Effective date: March 19, 2020

Expiration date: July 16, 2020

For further information, please call: (512) 463-1741





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 22. EXAMINING BOARDS

PART 9. TEXAS MEDICAL BOARD

CHAPTER 170. PRESCRIPTION OF CONTROLLED SUBSTANCES [PAIN MANAGEMENT]

The Texas Medical Board (Board) proposes to amend the title of 22 TAC Chapter 170 to "Prescription of Controlled Substances." Further amendments are proposed to §170.2, concerning Definitions, and §170.3, concerning Minimum Requirements for the Treatment of Chronic Pain. The Board also proposes new §170.9, in new Subchapter C, titled Prescription Monitoring Program Check.

The amendments to §170.2 are proposed pursuant to HB 2174, 86th Texas Legislature, which set forth certain opioid prescription limits for the treatment of acute pain. All proposed language represents the input and consensus of the Opioid Workgroup, composed of physicians, patients, hospitals, medical schools, and other stakeholders.

The amendments to §170.2 are as follows:

Section 170.2(2)'s definition for "acute pain" is proposed for amendment pursuant to HB 2174. The definition clarifies that acute pain is time limited to no more than 30 days from the date of initial prescription for opioids for treatment of the pain during a period of treatment for the acute condition or injury. This time limit defining acute pain is found in widely recognized literature and generally accepted throughout the medical community. This definition is fully endorsed and supported by the Opioid Workgroup.

Section 170.2(4) proposes to amend the definition for chronic pain by clarifying that chronic pain is pain that exists for a period that has continued for no less than 91 days from the date of initial prescription for opioids for treatment of the condition or injury. This time limit is found in widely recognized literature and generally accepted throughout the medical community. This definition is fully endorsed and supported by Opioid Workgroup.

Section 170.2(10) is added as a new definition for post-surgical, post-procedure, persistent non-chronic pain. The definition clarifies that there is pain that continues to exist in a period after the acute phase, but before becoming medically recognized as chronic pain. This period of pain exists for a period of more than 30 days but less than 91 days from the date of initial prescriptions for opioids during a period of treatment. This definition is found in widely recognized literature and generally accepted throughout the medical community. This proposed definition is fully endorsed and supported by Opioid Workgroup. This definition creates a period of time in which a physician will be allowed

to prescribe opioids for more than a 10-day period for a condition, injury, or disease not already excepted under HB 2174, if the standard of care permits, and allow for an appropriate period for such treatment without the requirements related to chronic pain applying. Paragraphs (11) - (14) are re-numbered accordingly.

Section 170.3 amendments are proposed pursuant to §481.0764 of the Texas Controlled Substances Act, which mandates a review of the PMP prior to the issuance of a prescription for opioids, benzodiazepines, barbiturates, and carisoprodol.

The proposed amendments to §170.3 are as follows:

Section 170.3(1)(C) is amended so that a review of the PMP is mandatory rather than optional. Remaining proposed amendments are changes made for readability and represent other non-substantive re-wording necessitated by the primary changes in text.

Section 170.3(5)(E)(v) is amended so that language indicating an option of checking the PMP when conducting a periodic review of a patient's compliance is deleted. A physician must continue to review the PMP prior to issuing each and every prescription for opioids, benzodiazepines, barbiturates, and carisoprodol. The proposed deletion is not intended to change a physician's duty to review the PMP and represents a non-substantive re-wording of the section.

Section 170.3(7) is amended to clarify that documentation of the PMP check must be maintained in the patient's medical record.

Chapter 170, New Subchapter C, §170.9, Prescription Monitoring Program Check

The Texas Medical Board (Board) proposes adding to 22 TAC §170. et. seq., a new Subchapter C, Prescription Monitoring Program Check, in accordance with Sections 481.076, 481.0764, and 481.0765 of the Texas Controlled Substances Act. The purpose of the rule is to clarify when and under what circumstances a physician is required to check the PMP before issuing certain controlled substances. The new Subchapter C adds one new section, §170.9, which contains five interrelated parts. The proposed language reflects the input and consensus of stakeholders.

New §170.9(1) provides a description of the types of physician-patient interaction and medical settings that require a PMP check. This portion of the rule also specifies that the check is required prior to and each time a prescription is issued for opioids, benzodiazepines, barbiturates, or carisoprodol to the ultimate user.

New §170.9(2) clarifies the types of physician-patient interaction and medical settings that do not require a PMP check.

New §170.9(3) clarifies that documentation of the PMP check is required. The language also clarifies that it is permissible to place a copy of the patient's PMP history in the patient's medical record to demonstrate the check was conducted as required when a prescription is issued for opioids, benzodiazepines, barbiturates, or carisoprodol to the ultimate user. This portion of the rule is the result of physician and stakeholder inquiry concerning the permissibility of using a copy of the PMP as an acceptable method to comply with the statute. This documentation method is proposed as acceptable, in addition to other appropriate forms and methods of documentation.

New §170.9(4) clarifies that physicians must perform the PMP check. This portion of the rule also specifies that physicians may allow certain other qualified individuals to check the PMP under Section 481.076(a)(5)(B) of the Health and Safety Code.

New §170.9(5) provides exceptions to the required PMP check in accordance with Section 481.0765 of the Texas Controlled Substances Act.

Scott Freshour, General Counsel for the Texas Medical Board, has determined that for each year of the first five years the amendments as proposed are in effect, the public benefit anticipated as a result of enforcing these amendments will be to clarify the requirements for treatment of pain with opioids, with due regard for potential complications, and to clarify requirements related to mandatory PMP checks, increasing public safety, health, and welfare. Providing such clarification while recognizing that some patients may experience pain that extends beyond an acute period, but resolves without the need for further treatment with opioids and within 90 days from the date of the initial prescription for opioids for the condition or injury, will increase the public's safety, health, and welfare, while minimizing certain costs to the patients and providers.

Mr. Freshour has determined that for the first five-year period this rule is in effect, there will be no effect to individuals required to comply with these rules as proposed.

Pursuant to Texas Government Code §2006.002, the agency provides the following economic impact statement for the proposed rule amendments and has determined that for each year of the first five years the proposed amendments will be in effect there will be no effect on small businesses, micro businesses, or rural communities. The agency has considered alternative methods of achieving the purpose of the proposed rule amendments and found none.

Pursuant to Texas Government Code §2001.024(a)(4), Mr. Freshour certifies that the agency has determined that for each year of the first five years the proposed rules are in effect, there is no additional estimated cost to the state or to local governments expected as a result of enforcing or administering the rule. There are no estimated reductions in costs to the state or to local governments as a result of enforcing or administering the rule. There is no estimated loss or increase in revenue to the state or to local governments as a result of enforcing or administering the rule and there are no foreseeable implications relating to cost or revenues of the state or local governments with regard to enforcing or administering the rule.

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

(1) The proposed rules do not create or eliminate a government program.

(2) Implementation of the proposed rules do not require the creation of new employee positions or the elimination of existing employee positions.

(3) Implementation of the proposed rules do 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 create a new regulation.

(6) The proposed rules do expand, limit, and repeal an existing regulation as described above.

(7) The proposed rules do not increase the number of individuals subject to the rule's applicability.

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

Comments on the proposal may be submitted to Rita Chapin, P.O. Box 2018, Austin, Texas 78768-2018, or e-mail comments to: rules.development@tmb.state.tx.us. A public hearing will be held at a later date.

SUBCHAPTER A. PAIN MANAGEMENT

22 TAC §170.2, §170.3

The amendments are proposed under the authority of the Texas Occupations Code Annotated, §153.001, which provides authority for the Board to recommend and adopt rules and bylaws as necessary to: govern its own proceedings; perform its duties; regulate the practice of medicine; and enforce this subtitle. The amendments are further proposed under the authority of Sections 481.07636, 481.076, 481.0764, and 481.0765 of the Texas Health and Safety Code.

No other statutes, articles or codes are affected by this proposal.

§170.2. Definitions.

In this Chapter:

(1) "Abuse" or "substance abuse"--the essential feature of substance abuse is a maladaptive pattern of substance use manifested by recurrent and significant adverse consequences related to the repeated use of substances.

(2) "Acute pain"--the normal, predicted, physiological response to a stimulus such as trauma, disease, and operative procedures. Acute pain is time limited to no later than 30 days from the date of the initial prescription for opioids during a period of treatment related to the acute condition or injury. The term does not include:

(A) chronic pain;

(B) pain being treated as part of cancer care;

(C) pain being treated as part of hospice or other end-of-life care;

(D) pain being treated as part of palliative care; or

(E) post-surgical, post-procedure, or persistent non-chronic pain.

(3) "Addiction"--a primary, chronic, neurobiological disease characterized by craving and compulsive use of drugs. Addiction is often characterized by impaired control over drug use, including taking more drugs more often than prescribed by a physician. It may

also be characterized by continued use despite harm to oneself or others. Genetic, psychosocial, and environmental factors may influence the development and manifestation of addiction. Physical dependence and tolerance are normal physiological consequences of extended drug therapy for pain and, alone, do not indicate addiction.

(4) "Chronic pain"--pain that is not relieved with acute, post-surgical, post-procedure, or persistent non-chronic pain treatment parameters and persists beyond the usual course of an acute condition typically caused by, or resembling that caused by, actual or potential tissue injury or trauma, disease process, or operative procedure or the healing or recovery of such condition with or without treatment. This type of pain is [a state in which pain persists beyond the usual course of an acute disease or healing of an injury. Chronic pain may be] associated with a chronic pathological[.] process that causes continuous or intermittent pain for no less than 91 days from the date of the initial prescription for opioids [over months or years].

(5) "Dangerous drugs"--medications defined by the Texas Dangerous Drug Act, Chapter 483, Texas Health and Safety Code. Dangerous drugs require a prescription, but are not included in the list of scheduled drugs. A dangerous drug bears the legend "Caution: federal law prohibits dispensing without a prescription" or "Prescription Only."

(6) "Diversion"--the use of drugs by anyone other than the person for whom the drug was prescribed.

(7) "Escalation"--increasing the dosage and/or frequency of the use of drugs.

(8) "Pain"--an unpleasant sensory and emotional experience associated with actual or potential tissue damage or described in terms of such damage.

(9) "Physical dependence"--a state of adaptation that is manifested by drug class-specific signs and symptoms that can be produced by abrupt cessation, rapid dose reduction, decreasing blood level of the drug, and/or administration of an antagonist. Physical dependence, alone, does not indicate addiction.

(10) Post-surgical, post-procedure, persistent non-chronic pain--pain that occurs due to trauma caused by the surgery or procedure; or an underlying condition, disease, or injury causing persistent non-chronic pain. These types of pain are treated in accordance with the standard of care and last 90 days or less, but more than 30 days, from the date of initial prescriptions for opioids during a period of treatment.

(11) [(+0)] "Pseudoaddiction"--the iatrogenic syndrome resulting from the misinterpretation of relief seeking behaviors as though they are drug-seeking behaviors that are commonly seen with addiction. The relief seeking behaviors resolve upon institution of effective analgesic therapy.

(12) [(+1)] "Scheduled drugs" (sometimes referred to as "Controlled Substances")--medications defined by the Texas Controlled Substances Act, Chapter 481, Texas Health and Safety Code. This Act establishes five categories, or schedules of drugs, based on risk of abuse and addiction. (Schedule I includes drugs that carry an extremely high risk of abuse and addiction and have no legitimate medical use. Schedule V includes drugs that have the lowest abuse/addiction risk).

(13) [(+2)] "Tolerance" (tachyphylaxis)--a physiological state resulting from regular use of a drug in which an increased dosage is needed to produce a specific effect, or a reduced effect is observed with a constant dose over time. Tolerance does not necessarily occur during opioid treatment and does not, alone, indicate addiction.

(14) [(+3)] "Withdrawal"--the physiological and mental readjustment that accompanies discontinuation of a drug for which a person has established a physical dependence.

§170.3. *Minimum Requirements for the Treatment of Chronic Pain.* A physician's treatment of a patient's pain will be evaluated by considering whether it meets the generally accepted standard of care and whether the following minimum requirements have been met:

(1) Evaluation of the patient.

(A) A physician is responsible for obtaining a medical history and a physical examination that includes a problem-focused exam specific to the chief presenting complaint of the patient.

(B) The medical record shall document the medical history and physical examination. In the case of chronic pain, the medical record must document:

(i) the nature and intensity of the pain;

(ii) current and past treatments for pain;

(iii) underlying or coexisting diseases and conditions;

(iv) the effect of the pain on physical and psychological function;

(v) any history and potential for substance abuse or diversion; and

(vi) the presence of one or more recognized medical indications for the use of a dangerous or scheduled drug.

(C) Prior to prescribing opioids, benzodiazepines, barbiturates, or carisoprodol [dangerous drugs or controlled substances] for the treatment of chronic pain, a physician must review [consider reviewing] prescription data and history related to the patient, if any, contained in the Prescription Drug Monitoring Program in accordance with Section 481.0764 [described by §§481.075, 481.076, and 481.0764] of the Texas Health and Safety Code and §170.9 of this Chapter (relating to Prescription Monitoring Program Check). In addition, a physician must consider obtaining at a minimum a baseline toxicology drug screen to determine the presence of drugs in a patient, if any. If a physician determines that a baseline toxicology drug screen is [such steps are] not necessary [prior to prescribing dangerous drugs or controlled substances to the patient], the physician must document in the medical record his or her rationale for not requiring the screen [completing such steps].

(2) Treatment plan for chronic pain. The physician is responsible for a written treatment plan that is documented in the medical records. The medical record must include:

(A) how the medication relates to the chief presenting complaint of chronic pain;

(B) dosage and frequency of any drugs prescribed;

(C) further testing and diagnostic evaluations to be ordered, if medically indicated;

(D) other treatments that are planned or considered;

(E) periodic reviews planned; and

(F) objectives that will be used to determine treatment success, such as pain relief and improved physical and psychosocial function.

(3) Informed consent. It is the physician's responsibility to discuss the risks and benefits of the use of controlled substances for the treatment of chronic pain with the patient, persons designated by the

patient, or with the patient's surrogate or guardian if the patient is without medical decision-making capacity. This discussion must be documented by either a written signed document maintained in the records or a contemporaneous notation included in the medical records. Discussion of risks and benefits must include an explanation of the:

- (A) diagnosis;
- (B) treatment plan;
- (C) anticipated therapeutic results, including the realistic expectations for sustained pain relief and improved functioning and possibilities for lack of pain relief;
- (D) therapies in addition to or instead of drug therapy, including physical therapy or psychological techniques;
- (E) potential side effects and how to manage them;
- (F) adverse effects, including the potential for dependence, addiction, tolerance, and withdrawal; and
- (G) potential for impairment of judgment and motor skills.

(4) Agreement for treatment of chronic pain. A proper patient-physician relationship for treatment of chronic pain requires the physician to establish and inform the patient of the physician's expectations that are necessary for patient compliance. If the treatment plan includes extended drug therapy, the physician must use a written pain management agreement between the physician and the patient outlining patient responsibilities, including the following provisions:

- (A) the physician may require laboratory tests for drug levels upon request;
- (B) the physician may limit the number and frequency of prescription refills;
- (C) only the primary pain management physician or another physician covering for the primary pain management physician in compliance with Chapter 177, Subchapter E of this title (relating to Physician Call Coverage Medical Services), may prescribe dangerous and scheduled drugs for the treatment of chronic pain. For any prescriptions issued for medications to treat acute or chronic pain by a person other than the primary pain management physician or covering physician, the terms of the agreement must require that at or before the patient's next date of service, the patient notify the primary pain management physician or covering physician about the prescription(s) issued. The terms of the agreement must require that such notice include at a minimum the name and contact information for the person who issued the prescription, the date of the prescription, and the name and quantity of the drug prescribed;
- (D) only one pharmacy designated by the patient will be used for prescriptions for the treatment of chronic pain, with an exception for those circumstances for which the patient has no control or responsibility, that prevent the patient from obtaining prescribed medications at the designated pharmacy under the agreement. For such circumstances, the agreement's terms must require that at or before the patient's next date of service, the patient notify the primary pain management physician or covering physician of the circumstances and identify the pharmacy that dispensed the medication; and
- (E) reasons for which drug therapy may be discontinued (e.g. violation of agreement).

(5) Periodic review of the treatment of chronic pain.

(A) The physician must see the patient for periodic review at reasonable intervals in view of the individual circumstances of the patient.

(B) Periodic review must assess progress toward reaching treatment objectives, taking into consideration the history of medication usage, as well as any new information about the etiology of the pain.

(C) Each periodic visit shall be documented in the medical records.

(D) Contemporaneous to the periodic reviews, the physician must note in the medical records any adjustment in the treatment plan based on the individual medical needs of the patient.

(E) A physician must base any continuation or modification of the use of dangerous and scheduled drugs for pain management on an evaluation of progress toward treatment objectives.

(i) Progress or the lack of progress in relieving pain must be documented in the patient's record.

(ii) Satisfactory response to treatment may be indicated by the patient's decreased pain, increased level of function, and/or improved quality of life.

(iii) Objective evidence of improved or diminished function must be monitored. Information from family members or other caregivers, if offered or provided, must be considered in determining the patient's response to treatment.

(iv) If the patient's progress is unsatisfactory, the physician must reassess the current treatment plan and consider the use of other therapeutic modalities.

(v) The physician must periodically review the patient's compliance with the prescribed treatment plan and reevaluate for any potential for substance abuse or diversion. In such a review, the physician must ~~consider reviewing prescription data and history related to the patient, if any, contained in the Prescription Drug Monitoring Program described by §§481.075, 481.076, and 481.0761 of the Texas Health and Safety Code and~~ consider obtaining at a minimum a toxicology drug screen to determine the presence of drugs in a patient, if any. If a physician determines that a repeat toxicology screen is ~~[such steps are]~~ not necessary, the physician must document in the medical record his or her rationale for not completing it ~~[such steps]~~.

(6) Consultation and Referral. The physician must refer a patient with chronic pain for further evaluation and treatment as necessary. Patients who are at-risk for abuse or addiction require special attention. Patients with chronic pain and histories of substance abuse or with co-morbid psychiatric disorders require even more care. A consult with or referral to an expert in the management of such patients must be considered in their treatment.

(7) Medical records. The medical records shall document the physician's rationale for the treatment plan and the prescription of drugs for the chief complaint of chronic pain and show that the physician has followed these rules. Specifically, the records must include:

- (A) the medical history and the physical examination;
- (B) diagnostic, therapeutic and laboratory results;
- (C) evaluations and consultations;
- (D) treatment objectives;
- (E) discussion of risks and benefits;
- (F) informed consent;
- (G) treatments;
- (H) medications (including date, type, dosage and quantity prescribed);

- (I) instructions and agreements; ~~and~~
- (J) periodic reviews; and
- (K) documentation of the mandatory PMP review.

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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Scott Freshour

General Counsel

Texas Medical Board

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For further information, please call: (512) 305-7016



SUBCHAPTER C. PRESCRIPTION MONITORING PROGRAM CHECK

22 TAC §170.9

STATUTORY AUTHORITY

The new rule is proposed under the authority of the Texas Occupations Code Annotated, §153.001, which provides authority for the Board to recommend and adopt rules and bylaws as necessary to: govern its own proceedings; perform its duties; regulate the practice of medicine; and enforce this subtitle. The amendments are further proposed under the authority of Sections 481.07636, 481.076, 481.0764, and 481.0765 of the Texas Health and Safety Code.

No other statutes, articles or codes are affected by this proposal.

§170.9. Prescription Monitoring Program Check.

The legislature has recognized the impact of the opioid crisis on the health and well-being of its citizens. The Prescription Monitoring Program (PMP) is a valuable tool to help prevent diversion of drugs and opioid-related overdose deaths. This subchapter establishes rules for a mandatory PMP check.

(1) Before a prescription for opioids, benzodiazepines, barbiturates, or carisoprodol will be issued to a patient, a mandatory PMP check of the patient's controlled substance prescription history is required. The review of the patient's PMP prescribing history must be completed prior to and each time a prescription is issued for opioids, benzodiazepines, barbiturates, or carisoprodol to the patient for:

(A) take-home use, upon leaving an outpatient setting such as doctor's office, or ambulatory surgical center; or

(B) upon discharge from an inpatient setting, such as a hospital admission or discharge from an emergency department visit.

(2) A mandatory PMP check is not required before or during an inpatient stay, such as a hospital admission, or during an outpatient encounter in settings, such as an emergency department or ambulatory surgical center visit.

(3) The review of the patient's PMP prescribing history must be documented in the patient's medical records. Permitted documentation methods include, but are not limited to, placing a copy of the PMP check in the patient's medical records.

(4) The PMP check required by this section may be done by:

(A) the physician; or

(B) delegated to any legally authorized personnel described in Section 481.076(a)(5)(B) of the Health and Safety Code.

(5) Exceptions. The PMP check set forth under paragraph (1) of this section is not required in the following circumstances:

(A) the prescriptions are issued pursuant to hospice care, treatment for a patient's diagnosis of cancer, or treatment for a patient's sickle cell disease and this is clearly documented in the patient's medical record; and

(B) the prescriber makes and documents a good faith attempt to comply but is unable to access the PMP because of circumstances outside the control of the prescriber.

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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Scott Freshour

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Texas Medical Board

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PART 15. TEXAS STATE BOARD OF PHARMACY

CHAPTER 281. ADMINISTRATIVE PRACTICE AND PROCEDURES

SUBCHAPTER B. GENERAL PROCEDURES IN A CONTESTED CASE

22 TAC §281.35

The Texas State Board of Pharmacy proposes a new rule §281.35, concerning Temporary Suspension or Restriction. The new rule, if adopted, will detail procedures for the temporary suspension or restriction of a license or registration.

Allison Vordenbaumen Benz, R.Ph., M.S., Executive Director/Secretary, has determined that, for the first five-year period the rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. Ms. Benz has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the proposed rule will be to provide clear procedures for the temporary suspension or restriction of a license or registration. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.

For each year of the first five years the proposed rule will be in effect, Ms. Benz 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 the future legislative appropriations to the agency;
- (4) The proposed rule does not require an increase or decrease in licensure fees paid to the agency;
- (5) The proposed rule does create a new regulation;
- (6) The proposed rule does not limit or expand an existing regulation;
- (7) The proposed rule does not increase or decrease the number of individuals subject to the rule's applicability; and
- (8) The proposed rule does not positively or adversely affect this state's economy.

Written comments on the proposed rule may be submitted to Megan G. Holloway, Assistant General Counsel, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-500, Austin, Texas, 78701, FAX (512) 305-8061. Comments must be received by 5:00 p.m., May 4, 2020.

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

The statutes affected by the proposed rule: Texas Pharmacy Act, Chapters 551 - 569, Texas Occupations Code.

§281.35. Temporary Suspension or Restriction.

(a) In accordance with §§565.059 and 568.0037 of the Act, and §2001.081 of the Administrative Procedure Act, Title 10, Chapter 2001, Government Code, the determination of the disciplinary panel may be based not only on evidence admissible under the Texas Rules of Evidence, but may be based on information necessary to ascertain facts not reasonably susceptible of proof under those rules, not precluded by statute, and of a type on which a reasonably prudent person commonly relies in the conduct of the person's affairs.

(b) Questioning of witnesses by the parties or panel members shall be permitted in the discretion of the chair of the disciplinary panel with due consideration being given to the need to obtain accurate information and prevent the harassment or undue embarrassment of witnesses.

(c) In receiving information on which to base its determination of a continuing threat to the public welfare, the disciplinary panel may accept the testimony of witnesses by telephone in the discretion of the chair of the disciplinary panel.

(d) Hearings before disciplinary panels convened under §§565.059(b)(1) and 568.0037(b)(1) of the Act are not recorded unless the respondent requests such a recording in writing at least 5 days before the hearing. If requested in a timely manner, the board will arrange for the presence of a court reporter to make the recording. The respondent shall be responsible for the cost of the court reporter, the recording, and any written transcript requested by the respondent.

(e) Minutes of the hearing will be made and maintained by the board. The board will provide a copy of the minutes to the respondent upon request.

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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Allison Vordenbaumen Benz, R.Ph., M.S.

Executive Director

Texas State Board of Pharmacy

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For further information, please call: (512) 305-8010

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CHAPTER 283. LICENSING REQUIREMENTS FOR PHARMACISTS

22 TAC §283.2

The Texas State Board of Pharmacy proposes amendments to §283.2, concerning Definitions. The amendments, if adopted, remove the definition of and references to a pharmacist intern-trainee.

Allison Vordenbaumen Benz, R.Ph., M.S., Executive Director/Secretary, has determined that, for the first five-year period the rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. Ms. Benz has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will be to provide a more streamlined approach to pharmacist internships and to allow pharmacy students to gain internship experience earlier in their educational career so that they will have more experience upon graduation. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.

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

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

Written comments on the amendments may be submitted to Megan G. Holloway, Assistant General Counsel, Texas State

Board of Pharmacy, 333 Guadalupe Street, Suite 3-500, Austin, Texas, 78701, FAX (512) 305-8061. Comments must be received by 5:00 p.m., May 4, 2020.

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

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

§283.2. *Definitions.*

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

(1) ACPE--Accreditation Council for Pharmacy Education.

(2) Applicant--An individual having applied for licensure to act as a pharmacist in Texas.

(3) Approved continuing education--Continuing education which meets the requirements of §295.8 of this title (relating to Continuing Education Requirements).

(4) Board--The Texas State Board of Pharmacy; all members, divisions, departments, sections, and employees thereof.

(5) College/School of pharmacy--A college/school of pharmacy whose professional degree program has been approved by the board and is either accredited by:

(A) ACPE; or

(B) the Canadian Council for Accreditation of Pharmacy Programs for 1993 - 2004 graduates.

(6) Competency--A demonstrated state of preparedness for the realities of professional pharmacy practice.

(7) Didactic--Systematic classroom instruction.

(8) Direct supervision--A pharmacist preceptor or healthcare professional preceptor is physically present and on-site at the licensed location of the pharmacy where the pharmacist-intern is performing pharmacist-intern duties.

(9) Extended-intern--An intern, registered with the board, who has:

(A) applied to the board for licensure by examination and has successfully passed the NAPLEX and Texas Pharmacy Jurisprudence Examination but lacks the required number of hours of internship for licensure; or

(B) applied to the board to take the NAPLEX and Texas Pharmacy Jurisprudence Examinations within six calendar months after graduation and has either:

(i) graduated and received a professional degree from a college/school of pharmacy; or

(ii) completed all of the requirements for graduation and for receipt of a professional degree from a college/school of pharmacy; or

(C) applied to the board to take the NAPLEX and Texas Pharmacy Jurisprudence Examinations within six calendar months after obtaining full certification from the Foreign Pharmacy Graduate Equivalency Commission; or

(D) applied to the Board for re-issuance of a pharmacist license which has been expired for more than two years but less than ten years and has successfully passed the Texas Pharmacy Jurisprudence Examination, but lacks the required number of hours of internship or continuing education required for licensure; or

(E) been ordered by the Board to complete an internship.

(10) Foreign pharmacy graduate--An individual whose pharmacy degree was conferred by a pharmacy school whose professional degree program has not been accredited by ACPE and approved by the board. An individual whose pharmacy degree was conferred by a pharmacy school that was accredited by the Canadian Council for Accreditation of Pharmacy Programs between 1993 and 2004, inclusively, is not considered a foreign pharmacy graduate.

(11) FPGEC--The Foreign Pharmacy Graduate Equivalency Commission.

(12) Healthcare Professional--An individual licensed as:

(A) a physician, dentist, podiatrist, veterinarian, advanced practice registered nurse, or physician assistant in Texas or another state; or

(B) a pharmacist in a state other than Texas but not licensed in Texas.

(13) Healthcare Professional Preceptor--A healthcare professional serving as an instructor for a Texas college/school-based internship program who is recognized by a Texas college/school of pharmacy to supervise and be responsible for the activities and functions of a student-intern or intern-trainee in the internship program.

~~[(14) Intern-trainee--An individual registered with the board, who is enrolled in the first year of the professional sequence of a Texas college/school of pharmacy and who may only work during times and in sites assigned by a Texas college/school of pharmacy.]~~

~~[(14) [(15)] Internship--A practical experience program that is approved by the board.~~

~~[(15) [(16)] MPJE--Multistate Pharmacy Jurisprudence Examination.~~

~~[(16) [(17)] NABP--The National Association of Boards of Pharmacy.~~

~~[(17) [(18)] NAPLEX--The North American Pharmacy Licensing Examination, or its predecessor, the National Association of Boards of Pharmacy Licensing Examination.~~

~~[(18) [(19)] Pharmaceutical care--The provision of drug therapy and other pharmaceutical services defined in the rules of the board and intended to assist in the cure or prevention of a disease, elimination or reduction of a patient's symptoms, or arresting or slowing of a disease process.~~

~~[(19) [(20)] Pharmacist-intern--A [An intern-trainee, a] student-intern, a resident-intern, or an extended-intern who is participating in a board approved internship program.~~

~~[(20) [(21)] Pharmacist Preceptor--A pharmacist licensed in Texas to practice pharmacy who meets the requirements under board rules and is recognized by the board to supervise and be responsible for the activities and functions of a pharmacist-intern in an internship program.~~

~~[(21) [(22)] Resident-intern--An individual who is registered with the board and:~~

(A) has graduated from a college/school of pharmacy; and

(B) is completing a residency program in the state of Texas accredited by the American Society of Health-System Pharmacists.

~~(22)~~ [(23)] Preceptor--A pharmacist preceptor or a health-care professional preceptor.

~~(23)~~ [(24)] Professional degree--A bachelor of science degree in pharmacy or a doctorate of pharmacy degree.

~~(24)~~ [(25)] State--One of the 50 United States of America, the District of Columbia, and Puerto Rico.

~~(25)~~ [(26)] Student-intern--An individual registered with the board who is enrolled in the professional sequence of a college/school of pharmacy[; has completed the first professional year and obtained a minimum of 30 credit hours of work towards a professional degree in pharmacy;] and is participating in a board-approved internship program.

~~(26)~~ [(27)] Texas Pharmacy Jurisprudence Examination--A licensing exam developed or approved by the Board which evaluates an applicant's knowledge of the drug and pharmacy requirements to practice pharmacy legally in the state of Texas.

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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Allison Vordenbaumen Benz, R.Ph., M.S.

Executive Director

Texas State Board of Pharmacy

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For further information, please call: (512) 305-8010



22 TAC §283.4

The Texas State Board of Pharmacy proposes amendments to §283.4, concerning Internship Requirements. The amendments, if adopted, remove references to a pharmacist intern-trainee and certain requirements for a pharmacist intern, and correct grammatical errors.

Allison Vordenbaumen Benz, R.Ph., M.S., Executive Director/Secretary, has determined that, for the first five-year period the rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. Ms. Benz has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will be to provide a more streamlined approach to pharmacist internships and to allow pharmacy students to gain internship experience earlier in their educational career so that they will have more experience upon graduation. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.

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

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

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

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

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

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

(6) The proposed amendments do limit an existing regulation by eliminating the intern-trainee designation;

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

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

Written comments on the amendments may be submitted to Megan G. Holloway, Assistant General Counsel, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-500, Austin, Texas 78701, FAX (512) 305-8061. Comments must be received by 5:00 p.m., May 4, 2020.

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

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

§283.4. Internship Requirements.

(a) Goals and competency objectives of internship.

(1) The goal of internship is for the pharmacist-intern to attain the knowledge, skills, and abilities to safely, efficiently, and effectively provide pharmacist-delivered patient care to a diverse patient population and practice pharmacy under the laws and regulations of the State of Texas.

(2) The following competency objectives are necessary to accomplish the goal of internship in paragraph (1) of this subsection: []

(A) Provides drug products. The pharmacist-intern shall demonstrate competence in determining the appropriateness of prescription drug orders and medication orders; evaluating and selecting products; and assuring the accuracy of the product/prescription dispensing process.

(B) Communicates with patients and/or patients' agents about prescription drugs. The pharmacist-intern shall demonstrate competence in interviewing and counseling patients, and/or the patients' agents, on drug usage, dosage, packaging, routes of administration, intended drug use, and storage; discussing drug cautions, adverse effects, and patient conditions; explaining policies on fees and services; relating to patients in a professional manner; and interacting to confirm patient understanding.

(C) Communicates with patients and/or patients' agents about nonprescription products, devices, dietary supplements, diet, nutrition, traditional non-drug therapies, complementary and alternative

therapies, and diagnostic aids. The pharmacist-intern shall demonstrate competence in interviewing and counseling patients and/or patients' agents on conditions, intended drug use, and adverse effects; assisting in and recommending drug selection; triaging and assessing the need for treatment or referral, including referral for a patient seeking pharmacist-guided self-care; providing information on medical/surgical devices and home diagnostic products; and providing poison control treatment information and referral.

(D) Communicates with healthcare professionals and patients and/or patients' agents. The pharmacist-intern shall demonstrate competence in obtaining and providing accurate and concise information in a professional manner and using appropriate oral, written, and nonverbal language.

(E) Practices as a member of the patient's interdisciplinary healthcare team. The pharmacist-intern shall demonstrate competence in collaborating with physicians, other healthcare professionals, patients, and/or patients' agents to formulate a therapeutic plan. The pharmacist-intern shall demonstrate competence in establishing and interpreting databases [data-bases], identifying drug-related problems and recommending appropriate pharmacotherapy specific to patient needs, monitoring and evaluating patient outcomes, and devising follow-up plans.

(F) Maintains professional-ethical standards. The pharmacist-intern is required to comply with laws and regulations pertaining to pharmacy practice; to apply professional judgment; to exhibit reliability and credibility in dealing with others; to deal professionally and ethically with colleagues and patients; to demonstrate sensitivity and empathy for patients/care givers; and to maintain confidentiality.

(G) Compounds. The pharmacist-intern shall demonstrate competence in using acceptable professional procedures; selecting appropriate equipment and containers; appropriately preparing compounded non-sterile and sterile preparations; and documenting calculations and procedures. Pharmacist-interns engaged in compounding non-sterile preparations shall meet the training requirements for pharmacists specified in §291.131 of this title (relating to Pharmacies Compounding Non-Sterile Preparations). Pharmacist-interns engaged in compounding sterile preparations shall meet the training requirements for pharmacists specified in §291.133 of this title (relating to Pharmacies Compounding Sterile Preparations).

(H) Retrieves and evaluates drug information. The pharmacist-intern shall demonstrate competence in retrieving, evaluating, managing, and using the best available clinical and scientific publications for answering a drug-related request in a timely fashion and assessing, evaluating, and applying evidence based information to promote optimal health care. The pharmacist-intern shall perform investigations on relevant topics in order to promote inquiry and problem-solving with dissemination of findings to the healthcare community and/or the public.

(I) Manages general pharmacy operations. The pharmacist-intern shall develop a general understanding of planning, personnel and fiscal management, leadership skills, and policy development. The pharmacist-intern shall have an understanding of drug security, storage and control procedures and the regulatory requirements associated with these procedures, and maintaining quality assurance and performance improvement. The pharmacist-intern shall observe and document discrepancies and irregularities, keep accurate records and document actions. The pharmacist-intern shall attend meetings requiring pharmacy representation.

(J) Participates in public health, community service or professional activities. The pharmacist-intern shall develop basic knowledge and skills needed to become an effective healthcare

educator and a responsible participant in civic and professional organizations.

(K) Demonstrates scientific inquiry. The pharmacist-intern shall develop skills to expand and/or refine knowledge in the areas of pharmaceutical and medical sciences or pharmaceutical services. This may include data analysis of scientific, clinical, sociological, and/or economic impacts of pharmaceuticals (including investigational drugs), pharmaceutical care, and patient behaviors, with dissemination of findings to the scientific community and/or the public.

(b) Hours requirement.

(1) The board requires 1,500 hours of internship for licensure. These hours may be obtained through one or more of the following methods:

(A) in a board approved student internship program, as specified in subsection (c) of this section;

(B) in a board-approved extended-internship program as specified in subsection (d) of this section; and/or

(C) graduation from a college/school of pharmacy after July 1, 2007. Persons graduating from such programs shall be credited 1,500 hours or the number of hours actually obtained and reported by the college; and/or

(D) internship hours approved and certified to the board by another state board of pharmacy.

(2) Pharmacist-interns participating in an internship may be credited no more than 50 hours per week of internship experience.

(3) Internship hours may be used for the purpose of licensure for no longer than two years from the date the internship is completed.

(c) College-/School-Based Internship Programs.

(1) Internship experience acquired by student-interns.

(A) An individual may be designated a student-intern provided he/she:

(i) submits an application to the board that includes the following information:

(I) name;

(II) addresses, phone numbers, date of birth, and social security number;

(III) college of pharmacy and expected graduation date; and

(IV) any other information requested on the application;

(ii) is enrolled in the professional sequence of a college/school of pharmacy; and

~~{(iii) has successfully completed the first professional year and obtained a minimum of 30 credit hours of work towards a professional degree in pharmacy; and}~~

~~(iii) [(iv)] has met all requirements necessary for the board to access the criminal history records information, including submitting fingerprint information and being responsible for all associated costs.~~

(B) The terms of the student internship shall be as follows.

(i) The student internship shall be gained concurrent with college attendance, which may include:

- (I) partial semester breaks such as spring breaks;
- (II) between semester breaks; and

(III) whole semester breaks provided the student-intern attended the college/school in the immediate preceding semester and is scheduled with the college/school to attend in the immediate subsequent semester.

(ii) The student internship shall be obtained in pharmacies licensed by the board, federal government pharmacies, or in a board-approved program.

(iii) The student internship shall be in the presence of and under the supervision of a healthcare professional preceptor or a pharmacist preceptor.

(C) None of the internship hours acquired outside of a school-based program may be substituted for any of the hours required in a college/school of pharmacy internship program.

(2) Expiration date for student-intern designation.

(A) The student-internship expires:

(i) if the student-intern voluntarily or involuntarily ceases enrollment, including suspension, in a college/school of pharmacy;

(ii) the student-intern fails either the NAPLEX or Texas Pharmacy Jurisprudence Examinations specified in this section; or

(iii) the student-intern fails to take either the NAPLEX or Texas Pharmacy Jurisprudence Examinations or both within six calendar months after graduation.

(B) The executive director of the board, in his/her discretion, may extend the term of the student internship if administration of the NAPLEX or Texas Pharmacy Jurisprudence Examinations is suspended or delayed.

(3) Texas colleges/schools of pharmacy internship programs.

(A) ~~Student-interns~~ [Intern-trainees and student-interns] completing a board-approved Texas college/school-based structured internship shall be credited the number of hours actually obtained and reported by the college. No credit shall be awarded for didactic experience.

(B) No more than 600 hours of the required 1,500 hours may be obtained under a healthcare professional preceptor except when a pharmacist-intern is working in a federal government pharmacy.

(C) ~~Individuals enrolled in the professional sequence of a Texas college/school of pharmacy may be designated as an intern-trainee provided he/she:~~

~~(i) submits an application to the board that includes the following information:~~

- ~~(I) name;~~
- ~~(II) addresses, phone numbers, date of birth, and social security number;~~
- ~~(III) college of pharmacy and expected graduation date; and~~
- ~~(IV) any other information requested on the application;~~

~~(ii) is enrolled in the professional sequence of a college/school of pharmacy; and~~

~~(iii) has met all requirements necessary for the board to access the criminal history records information, including submitting fingerprint information and being responsible for all associated costs. Such internship shall remain in effect during the time the intern-trainee is enrolled in the first year of the professional sequence and shall expire upon completion of the first year of the professional sequence or upon separation from the professional sequence.~~

(d) Extended-internship program.

(1) A person may be designated an extended-intern provided he/she has met one of the following requirements:

(A) passed NAPLEX and the Texas Pharmacy Jurisprudence Examinations but lacks the required number of internship hours for licensure;

(B) applied to the board to take the NAPLEX and Texas Jurisprudence Examinations within six calendar months after graduation and has:

(i) graduated and received a professional degree from a college/school of pharmacy; or

(ii) completed all of the requirements for graduation and receipt of a professional degree from a college/school of pharmacy;

(C) applied to the board to take the NAPLEX and Texas Jurisprudence Examinations within six calendar months after obtaining full certification from the Foreign Pharmacy Graduate Equivalency Commission;

(D) applied to the board for re-issuance of a pharmacist license which has expired for more than two years but less than ten years and has successfully passed the Texas Pharmacy Jurisprudence Examination, but lacks the required number of hours of internship or continuing education required for licensure;

(E) is a resident in a residency program accredited by the American Society of Health-System Pharmacists in the state of Texas; or

(F) been ordered by the Board to complete an internship.

(2) In addition to meeting one of the requirements in paragraph (1) of this subsection, an applicant for an extended-internship must:

(A) submit an application to the board that includes the following information:

- (i) name;
- (ii) addresses, phone numbers, date of birth, and social security number;
- (iii) any other information requested on the application; and

(B) meet all requirements necessary for the board to access the criminal history records information, including submitting fingerprint information and being responsible for all associated costs.

(3) The terms of the extended-internship shall be as follows.

(A) The extended-internship shall be board-approved and gained in a pharmacy licensed by the board, or a federal government pharmacy participating in a board-approved internship program.

(B) The extended-internship shall be in the presence of and under the direct supervision of a pharmacist preceptor.

(4) The extended internship remains in effect for two years. However, the internship expires immediately upon:

(A) the failure of the extended-intern to take the NAPLEX and Texas Pharmacy Jurisprudence Examinations within six calendar months after graduation or FPGEC certification;

(B) the failure of the extended-intern to pass the NAPLEX and Texas Pharmacy Jurisprudence Examinations specified in this section;

(C) upon termination of the residency program; or

(D) obtaining a Texas pharmacist license.

(5) The executive director of the board, in his/her discretion, may extend the term of the extended internship if administration of the NAPLEX and/or Texas Pharmacy Jurisprudence Examinations is suspended or delayed.

(6) An applicant for licensure who has completed less than 500 hours of internship at the time of application shall complete the remainder of the 1,500 hours of internship and have the preceptor certify that the applicant has met the objectives listed in subsection (a) of this section.

(e) Pharmacist-intern identification.

(1) Pharmacist-interns shall keep documentation of designation as a pharmacist-intern with them at all times they are serving as a pharmacist-intern and make it available for inspection by board agents.

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

(f) Change of address and/or name.

(1) Change of address. A pharmacist-intern shall notify the board electronically or in writing within 10 days of a change of address, giving the old and new address.

(2) Change of name. A pharmacist-intern shall notify the board in writing within 10 days of a change of name by:

(A) sending a copy of the official document reflecting the name change (e.g., marriage certificate, divorce decree, etc.);

(B) returning the current pharmacist-intern certificate which reflects the previous name; and

(C) paying a fee of \$20.

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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Allison Vordenbaumen Benz, R.Ph., M.S.

Executive Director

Texas State Board of Pharmacy

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For further information, please call: (512) 305-8010



22 TAC §283.5

The Texas State Board of Pharmacy proposes amendments to §283.5, concerning Pharmacist-Intern Duties. The amendments, if adopted, remove references to a pharmacist intern-trainee.

Allison Vordenbaumen Benz, R.Ph., M.S., Executive Director/Secretary, has determined that, for the first five-year period the rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. Ms. Benz has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will be to provide a more streamlined approach to pharmacist internships and to allow pharmacy students to gain internship experience earlier in their educational career so that they will have more experience upon graduation. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.

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

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

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

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

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

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

(6) The proposed amendments do limit an existing regulation by eliminating the intern-trainee designation;

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

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

Written comments on the amendments may be submitted to Megan G. Holloway, Assistant General Counsel, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-500, Austin, Texas 78701, FAX (512) 305-8061. Comments must be received by 5:00 p.m., May 4, 2020.

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

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

§283.5. *Pharmacist-Intern Duties.*

(a) A pharmacist-intern participating in a board-approved internship program may perform any duty of a pharmacist provided the duties are delegated by and under the supervision of:

(1) a pharmacist licensed by the board and approved as a preceptor by the board; or

(2) healthcare professional preceptor.

~~[(b) A pharmacist preceptor serving as an instructor for a Texas college/school-based internship program, may delegate any duty of a pharmacist to an intern-trainee. An intern-trainee may only perform the duties of a pharmacist in a site assigned by a Texas college/school of pharmacy and the direct supervision of a pharmacist preceptor assigned by a Texas college/school of pharmacy.]~~

~~[(b) [(e)] When not under the supervision of a pharmacist preceptor, a pharmacist-intern may function as a pharmacy technician and perform all of the duties of a pharmacy technician without registering as a pharmacy technician provided the pharmacist-intern:~~

~~(1) is registered with the board as a pharmacist-intern;~~

~~(2) is under the direct supervision of a pharmacist;~~

~~(3) has completed the pharmacy's on-site technician training program;~~

~~(4) has completed the training required for pharmacists in §291.133 of this title (relating to Pharmacies Compounding Sterile Preparations) if the pharmacist-intern is involved in compounding sterile preparations; and~~

~~(5) is not counted as a pharmacy technician in the ratio of pharmacists to pharmacy technicians. The ratio of pharmacists to pharmacist-interns shall be 1:1 when performing pharmacy technician duties.~~

~~[(c) [(d)] A pharmacist-intern may not:~~

~~(1) present or identify himself/herself as a pharmacist;~~

~~(2) sign or initial any document which is required to be signed or initialed by a pharmacist unless a preceptor cosigns the document; or~~

~~(3) independently supervise pharmacy technicians or pharmacy technician trainees.~~

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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22 TAC §283.6

The Texas State Board of Pharmacy proposes amendments to §283.6, concerning Preceptor Requirements and Ratio of Preceptors to Pharmacist-Interns. The amendments, if adopted, remove references to a pharmacist intern-trainee, clarify that a pharmacist preceptor must be certified by the board, and remove a fee for a duplicate or amended certificate.

Allison Vordenbaumen Benz, R.Ph., M.S., Executive Director/Secretary, has determined that, for the first five-year period the rules are in effect, there will be no fiscal implications for state

or local government as a result of enforcing or administering the rule. Ms. Benz has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will be to provide a more streamlined approach to pharmacist internships and to allow pharmacy students to gain internship experience earlier in their educational career so that they will have more experience upon graduation; and to provide clearer regulatory language that accurately reflects the current preceptor certification procedures. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.

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

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

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

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

(4) The proposed amendments do decrease fees paid to the agency by removing the fee for a duplicate or amended preceptor certificate;

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

(6) The proposed amendments do limit an existing regulation by eliminating the intern-trainee designation;

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

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

Written comments on the amendments may be submitted to Megan G. Holloway, Assistant General Counsel, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-500, Austin, Texas 78701, FAX (512) 305-8061. Comments must be received by 5:00 p.m., May 4, 2020.

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

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

§283.6. *Preceptor Requirements and Ratio of Preceptors to Pharmacist-Interns.*

(a) Preceptor requirements.

(1) Preceptors shall be:

(A) a pharmacist whose license to practice pharmacy in Texas is current and not on inactive status with the board; or

(B) a healthcare professional preceptor.

(2) To be recognized as a pharmacist preceptor, a pharmacist must:

(A) have at least:

(i) one year of experience as a licensed pharmacist;

or

(ii) six months of residency training if the pharmacy resident is in a program accredited by the American Society of Health-System Pharmacists;

(B) have completed:

(i) for initial certification, three hours of pharmacist preceptor training provided by an ACPE approved provider within the previous two years. Such training shall be:

(I) developed by a Texas college/school of pharmacy; or

(II) approved by:

(-a-) a committee comprised of the Texas college/schools of pharmacy; or

(-b-) the board; or

(ii) to continue certification, three hours of pharmacist preceptor training provided by an ACPE approved provider within the pharmacist's current license renewal period. Such training shall be:

(I) developed by a Texas college/school of pharmacy; or

(II) approved by:

(-a-) a committee comprised of the Texas college/schools of pharmacy; or

(-b-) the board; and

(C) meet the requirements of subsection (c) of this section.

(3) A pharmacist preceptor must be certified by the board.

(b) Ratio of preceptors to pharmacist-interns.

(1) A preceptor may supervise only one pharmacist-intern at any given time (1:1 ratio) except as provided in paragraph (2) of this subsection.

(2) The following is applicable to Texas college/school of pharmacy internship programs only.

(A) Supervision. Supervision of a pharmacist-intern shall be:

(i) direct supervision when the student-intern [~~or intern-trainee~~] is engaged in functions associated with the preparation and delivery of prescription or medication drug orders; and

(ii) general supervision when the student-intern [~~or intern-trainee~~] is engaged in functions not associated with the preparation and delivery of prescription or medication drug orders.

(B) Exceptions to the 1:1 ratio. There is no ratio requirement for preceptors supervising [~~intern-trainees and~~] student-interns as a part of a Texas college/school of pharmacy program.

(c) No pharmacist may serve as a pharmacist preceptor if his or her license to practice pharmacy has been the subject of an order of the board imposing any penalty set out in §565.051 of the Act during the period he or she is serving as a pharmacist preceptor or within the three-year period immediately preceding application for approval as a pharmacist preceptor. Provided, however, a pharmacist who has been the subject of such an order of the board may petition the board, in

writing, for approval to act as a pharmacist preceptor. The board may consider the following items in approving a pharmacist's petition to act as a pharmacist preceptor:

(1) the type and gravity of the offense for which the pharmacist's license was disciplined;

(2) the length of time since the action that caused the order;

(3) the length of time the pharmacist has previously served as a preceptor;

(4) the availability of other preceptors in the area;

(5) the reason(s) the pharmacist believes he/she should serve as a preceptor;

(6) a letter of recommendation from a Texas college/school of pharmacy if the pharmacist will be serving as a pharmacist preceptor for a Texas college/school of pharmacy; and

(7) any other factor presented by the pharmacist demonstrating good cause why the pharmacist should be allowed to act as a pharmacist preceptor.

~~[(d) The fee for issuance of a duplicate or amended preceptor certificate shall be \$20.]~~

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

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CHAPTER 291. PHARMACIES

SUBCHAPTER A. ALL CLASSES OF PHARMACIES

22 TAC §291.19

The Texas State Board of Pharmacy proposes amendments to §291.19, concerning Administrative Actions as a Result of a Compliance Inspection. The amendments, if adopted, update the actions that may be taken after violations are observed during a compliance inspection to reflect current procedures.

Allison Vordenbaumen Benz, R.Ph., M.S., Executive Director/Secretary, has determined that, for the first five-year period the rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. Ms. Benz has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will be clearer regulatory language that accurately reflects current inspection procedures. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.

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

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

Written comments on the amendments may be submitted to Megan G. Holloway, Assistant General Counsel, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-500, Austin, Texas, 78701, FAX (512) 305-8061. Comments must be received by 5:00 p.m., May 4, 2020.

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

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

§291.19. *Administrative Actions as a Result of a Compliance Inspection.*

As a result of a compliance inspection or compliance reinspection of a pharmacy wherein violations of the Texas Pharmacy Act, Controlled Substances Act, Dangerous Drug Act, Texas Food, Drug and Cosmetic Act, or rules adopted pursuant to such acts are observed an agent of the board:

~~[(1) an agent of the board may issue a written report of areas of non-compliance that need improvement;]~~

~~(1) [(2) an agent of the board] may issue a written warning notice listing specific violations and providing a reasonable amount of time to comply with the laws and rules; or [to which the licensee shall respond in writing to the board by the date stated on the warning notice, indicating that the violations listed in the warning notice will be corrected;]~~

~~(2) [(3) an agent of the board] may recommend the institution of [disciplinary] action against a licensee if such agent determines that:~~

~~(A) previously cited violations are continuing to occur;~~
or

~~(B) violations observed are of a nature that [written notice of non-compliance or] a written warning notice would not be in the best interest of the public.[: or]~~

~~[(4) [an agent of the board, upon determination that the violations observed are of a nature that pose an imminent peril to the public health, safety, or welfare, may recommend to the director of compliance, the institution of action by a district court in Travis County, Texas, to restrain or enjoin a licensee from continuing the violation, in addition to recommending the institution of disciplinary action against a licensee.]~~

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. CLINIC PHARMACY (CLASS D)

22 TAC §291.93

The Texas State Board of Pharmacy proposes amendments to §291.93, concerning Operational Standards. The amendments, if adopted, clarify the type of label supportive personnel may affix to a drug or device provided under the supervision of a physician according to standing delegation orders or standing medical orders.

Allison Vordenbaumen Benz, R.Ph., M.S., Executive Director/Secretary, has determined that, for the first five-year period the rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. Ms. Benz has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will be to provide clear regulations regarding labeling in clinic pharmacies. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.

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

- (1) The proposed amendments do not create or eliminate a government program;
- (2) Implementation of the proposed amendments does not require the creation of new employee positions or the elimination of existing employee positions;
- (3) Implementation of the proposed amendments does not require an increase or decrease in the future legislative appropriations to the agency;
- (4) The proposed amendments do not require an increase or decrease in fees paid to the agency;
- (5) The proposed amendments do not create a new regulation;

(6) The proposed amendments do limit an existing regulation by expressly allowing an additional type of label;

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

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

Written comments on the amendments may be submitted to Megan G. Holloway, Assistant General Counsel, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-500, Austin, Texas, 78701, FAX (512) 305-8061. Comments must be received by 5:00 p.m., May 4, 2020.

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

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

§291.93. *Operational Standards.*

(a) Registration.

(1) Licensing requirements.

(A) All clinic pharmacies shall register with the board on a pharmacy license application provided by the board, following the procedures specified in §291.1 of this title (relating to Pharmacy License Application).

(B) All clinic pharmacies shall provide a copy of their policy and procedure manual, which includes the formulary, to the board with the initial license application.

(C) The following fees will be charged.

(i) A fee as specified in §291.6 of this title (relating to Pharmacy License Fees) will be charged for the issuance of a new license and for each renewal.

(ii) A pharmacy operated by the state or a local government that qualifies for a Class D license is not required to pay a fee to obtain a license.

(D) A Class D pharmacy which changes ownership shall notify the board within ten days of the change of ownership and apply for a new and separate license as specified in §291.3 of this title (relating to Required Notifications).

(E) A clinic pharmacy shall notify the board in writing of any change in name or location as specified in §291.3 of this title.

(F) A separate license is required for each principal place of business and only one pharmacy license may be issued to a specific location.

(G) A clinic pharmacy shall notify the board in writing within 10 days of a change of the pharmacist-in-charge or staff pharmacist or consultant pharmacist.

(H) A Class D pharmacy shall notify the board in writing within ten days of closing, following the procedures as specified in §291.5 of this title (relating to Closing a Pharmacy).

(2) Registration requirements for facilities that operate at temporary clinic sites. A facility that operates a clinic at one or more

temporary locations may be licensed as a Class D pharmacy and provide dangerous drugs from these temporary locations provided:

(A) the Class D pharmacy complies with the registration requirements in paragraph (1) of this subsection;

(B) the Class D pharmacy has a permanent location where all dangerous drugs and records are stored;

(C) no dangerous drugs are stored or left for later pickup by the patient at the temporary location(s), and all drugs are returned to the permanent location each day and stored:

(i) within the Class D pharmacy; or

(ii) within the pharmacy's mobile unit provided the mobile clinic is parked at the location of the clinic pharmacy in a secure area with adequate measures to prevent unauthorized access, and the drugs are maintained at proper temperatures;

(D) the permanent location is the address of record for the pharmacy;

(E) the facility has no more than six temporary locations in operation simultaneously;

(F) the Class D pharmacy notifies the board of the locations of the temporary locations where drugs will be provided and the schedule for operation of such clinics; and

(G) the Class D pharmacy notifies the board within 10 days of a change in address or closing of a temporary location or a change in schedule of operation of a clinic.

(b) Environment.

(1) General requirements.

(A) The Class D pharmacy shall have a designated area(s) for the storage of dangerous drugs and/or devices.

(B) No person may operate a pharmacy which is unclean, unsanitary, or under any condition which endangers the health, safety, or welfare of the public.

(C) The Class D pharmacy shall comply with all federal, state, and local health laws and ordinances.

(D) A sink with hot and cold running water shall be available to all pharmacy personnel and shall be maintained in a sanitary condition at all times.

(2) Security.

(A) Only authorized personnel may have access to storage areas for dangerous drugs and/or devices.

(B) All storage areas for dangerous drugs and/or devices shall be locked by key, combination, or other mechanical or electronic means, so as to prohibit access by unauthorized individuals.

(C) The pharmacist-in-charge shall be responsible for the security of all storage areas for dangerous drugs and/or devices including provisions for adequate safeguards against theft or diversion of dangerous drugs and devices, and records for such drugs and devices.

(D) The pharmacist-in-charge shall consult with clinic personnel with respect to security of the pharmacy, including provisions for adequate safeguards against theft or diversion of dangerous drugs and/or devices, and records for such drugs and/or devices.

(E) Housekeeping and maintenance duties shall be carried out in the pharmacy, while the pharmacist-in-charge, consultant pharmacist, staff pharmacist, or supportive personnel is on the premises.

(c) Equipment. Each Class D pharmacy shall maintain the following equipment and supplies:

(1) if the Class D pharmacy prepackages drugs for provision:

(A) a typewriter or comparable equipment; and

(B) an adequate supply of child-resistant, moisture-proof, and light-proof containers and prescription, poison, and other applicable identification labels used in dispensing and providing of drugs;

(2) if the Class D pharmacy maintains dangerous drugs requiring refrigeration and/or freezing, a refrigerator and/or freezer;

(3) if the Class D pharmacy compounds prescription drug orders, a properly maintained Class A prescription balance (with weights) or equivalent analytical balance. It is the responsibility of the pharmacist-in-charge to have such balance inspected at least every three years by the appropriate authority as prescribed by local, state, or federal law or regulations.

(d) Library. A reference library shall be maintained which includes the following in hard copy or electronic format:

(1) current copies of the following:

(A) Texas Pharmacy Act and rules; and

(B) Texas Dangerous Drug Act;

(2) current copies of at least two of the following references:

(A) Facts and Comparisons with current supplements;

(B) AHFS Drug Information;

(C) United States Pharmacopeia Dispensing Information (USPDI);

(D) Physician's Desk Reference (PDR);

(E) American Drug Index;

(F) a reference text on drug interactions, such as Drug Interaction Facts. A separate reference is not required if other references maintained by the pharmacy contain drug interaction information including information needed to determine severity or significance of the interaction and appropriate recommendations or actions to be taken;

(G) reference texts in any of the following subjects: toxicology, pharmacology, or drug interactions; or

(H) reference texts pertinent to the major function(s) of the clinic.

(e) Drugs and devices.

(1) Formulary.

(A) Each Class D pharmacy shall have a formulary which lists all drugs and devices that are administered, dispensed, or provided by the Class D pharmacy.

(B) The formulary shall be limited to the following types of drugs and devices, exclusive of injectable drugs for administration in the clinic and nonprescription drugs, except as provided in subparagraph (D) of this paragraph:

(i) anti-infective drugs;

(ii) musculoskeletal drugs;

(iii) vitamins;

(iv) obstetrical and gynecological drugs and devices;

(v) topical drugs; and

(vi) serums, toxoids, and vaccines.

(C) The formulary shall not contain the following drugs or types of drugs:

(i) Nalbuphine (Nubain);

(ii) drugs used to treat erectile dysfunction; and

(iii) Schedule I - V controlled substances.

(D) Clinics with a patient population which consists of at least 80% indigent patients may petition the board to operate with a formulary which includes types of drugs and devices, other than those listed in subparagraph (B) of this paragraph based upon documented objectives of the clinic, under the following conditions.

(i) Such petition shall contain an affidavit with the notarized signatures of the medical director, the pharmacist-in-charge, and the owner/chief executive officer of the clinic, and include the following documentation:

(I) the objectives of the clinic;

(II) the total number of patients served by the clinic during the previous fiscal year or calendar year;

(III) the total number of indigent patients served by the clinic during the previous fiscal year or calendar year;

(IV) the percentage of clinic patients who are indigent, based upon the patient population during the previous fiscal year or calendar year;

(V) the proposed formulary and the need for additional types of drugs based upon objectives of the clinic; and

(VI) if the provision of any drugs on the proposed formulary require special monitoring, the clinic pharmacy shall submit relevant sections of the clinic's policy and procedure manual regarding the provision of drugs that require special monitoring.

(ii) Such petition shall be resubmitted every two years in conjunction with the application for renewal of the pharmacy license.

(I) Such renewal petition shall contain the documentation required in clause (i) of this subparagraph.

(II) If at the time of renewal of the pharmacy license, the patient population for the previous fiscal year or calendar year is below 80% indigent patients, the clinic shall be required to submit an application for a Class A pharmacy license or shall limit the clinic formulary to those types of drugs and devices listed in subparagraph (B) of this paragraph.

(iii) If a Class D pharmacy wishes to add additional drugs to the expanded formulary, the pharmacy shall petition the board in writing prior to adding such drugs to the formulary. The petition shall identify drugs to be added and the need for the additional drugs based upon objectives of the clinic as specified in clause (i) of this subparagraph.

(iv) The following additional requirements shall be satisfied for clinic pharmacies with expanded formularies.

(I) Supportive personnel who are providing drugs shall be licensed nurses or practitioners.

(II) The pharmacist-in-charge, consultant pharmacist, or staff pharmacist shall make on-site visits to the clinic at least monthly.

(III) If the pharmacy provides drugs which require special monitoring (i.e., drugs which require follow-up laboratory work or drugs which should not be discontinued abruptly), the pharmacy shall have policies and procedures for the provision of the prescription drugs to patients and the monitoring of patients who receive such drugs.

(IV) The pharmacist-in-charge, consultant pharmacists, or staff pharmacists shall conduct retrospective drug regimen reviews of a random sample of patients of the clinic on at least a quarterly basis. The pharmacist-in-charge shall be responsible for ensuring that a report regarding the drug regimen review, including the number of patients reviewed, is submitted to the clinic's medical director and the pharmacy and therapeutics committee of the clinic.

(V) If a pharmacy provides antipsychotic drugs:
(-a-) a practitioner of the clinic shall initiate the therapy;
(-b-) a practitioner shall monitor and order ongoing therapy; and
(-c-) the patient shall be physically examined by the practitioner at least on a yearly basis.

(v) The board may consider the following items in approving or disapproving a petition for an expanded formulary:

(I) the degree of compliance on past compliance inspections;

(II) the size of the patient population of the clinic;

(III) the number and types of drugs contained in the formulary; and

(IV) the objectives of the clinic.

(2) Storage.

(A) Drugs and/or devices which bear the words "Caution, Federal Law Prohibits Dispensing without prescription" or "Rx only" shall be stored in secured storage areas.

(B) All drugs shall be stored at the proper temperatures, as defined in §291.15 of this title (relating to Storage of Drugs).

(C) Any drug or device bearing an expiration date may not be provided, dispensed, or administered beyond the expiration date of the drug or device.

(D) Outdated drugs or devices shall be removed from stock and shall be quarantined together until such drugs or devices are disposed.

(E) Controlled substances may not be stored at the Class D pharmacy.

(3) Drug samples.

(A) Drug samples of drugs listed on the Class D pharmacy's formulary and supplied by manufacturers shall be properly stored, labeled, provided, or dispensed by the Class D pharmacy in the same manner as prescribed by these sections for dangerous drugs.

(B) Samples of controlled substances may not be stored, provided, or dispensed in the Class D pharmacy.

(4) Prepackaging and labeling for provision.

(A) Drugs may be prepackaged and labeled for provision in the Class D pharmacy. Such prepackaging shall be performed by a pharmacist or supportive personnel under the direct supervision of a pharmacist and shall be for the internal use of the clinic.

(B) Drugs must be prepackaged in suitable containers.

(C) The label of the prepackaged unit shall bear:

(i) the name, address, and telephone number of the clinic;

(ii) directions for use, which may include incomplete directions for use provided:

(I) labeling with incomplete directions for use has been authorized by the pharmacy and therapeutics committee;

(II) precise requirements for completion of the directions for use are developed by the pharmacy and therapeutics committee and maintained in the pharmacy policy and procedure manual; and

(III) the directions for use are completed by practitioners, pharmacists, or licensed nurses in accordance with the precise requirements developed under subclause (II) of this clause;

(iii) name and strength of the drug--if generic name, the name of the manufacturer or distributor of the drug;

(iv) quantity;

(v) lot number and expiration date; and

(vi) appropriate ancillary label(s).

(D) Records of prepackaging shall be maintained according to §291.94(c) of this title (relating to Records).

(5) Labeling for provision of drugs and/or devices in an original manufacturer's container.

(A) Drugs and/or devices in an original manufacturer's container shall be labeled prior to provision with the information set out in paragraph (4)(C) of this subsection.

(B) Drugs and/or devices in an original manufacturer's container may be labeled by:

(i) a pharmacist in a pharmacy licensed by the board; or

(ii) supportive personnel in a Class D pharmacy, provided the drugs and/or devices and control records required by §291.94(d) of this title are quarantined together until checked and released by a pharmacist.

(C) Records of labeling for provision of drugs and/or devices in an original manufacturer's container shall be maintained according to §291.94(d) of this title.

(6) Provision.

(A) Drugs and devices may only be provided to patients of the clinic.

(B) At the time of the initial provision, a licensed nurse or practitioner shall provide verbal and written information to the patient or patient's agent on side effects, interactions, and precautions concerning the drug or device provided. If the provision of subsequent drugs is delivered to the patient at the patient's residence or other designated location, the following is applicable:

(i) Written information as specified in subparagraph (B) of this paragraph shall be delivered with the medication.

(ii) The pharmacy shall maintain and use adequate storage or shipment containers and use shipping processes to ensure drug stability and potency. Such shipping processes shall include the use of appropriate packaging material and/or devices to ensure that the drug is maintained at an appropriate temperature range to maintain the integrity of the medication throughout the delivery process.

(iii) The pharmacy shall use a delivery system which is designed to ensure that the drugs are delivered to the appropriate patient.

(C) The provision of drugs or devices shall be under the continuous supervision of a pharmacist according to standing delegation orders or standing medical orders and in accordance with written policies and procedures and completion of the label as specified in subparagraph (G) of this paragraph.

(D) Drugs and/or devices may only be provided in accordance with the system of control and accountability for drugs and/or devices provided by the clinic; such system shall be developed and supervised by the pharmacist-in-charge.

(E) Only drugs and/or devices listed in the clinic formulary may be provided.

(F) Drugs and/or devices may only be provided in prepackaged quantities in suitable containers and/or original manufacturer's containers which are appropriately labeled as set out in paragraphs (4) and (5) of this subsection.

(G) Such drugs and/or devices shall be labeled by a pharmacist licensed by the board; however, when drugs and/or devices are provided under the supervision of a physician according to standing delegation orders or standing medical orders, supportive personnel may at the time of provision print on the label the following information or affix a new or [a] ancillary label containing the following information:

(i) patient's name; however, the patient's partner or family member is not required to be on the label of a drug prescribed for a partner for a sexually transmitted disease or for a patient's family members if the patient has an illness determined by the Centers for Disease Control and Prevention, the World Health Organization, or the Governor's office to be pandemic;

(ii) any information necessary to complete the directions for use in accordance with paragraph (4)(C)(ii) of this subsection;

(iii) date of provision; and

(iv) practitioner's name.

(H) Records of provision shall be maintained according to §291.94(e) of this title.

(I) Controlled substances may not be provided or dispensed.

(J) Non-sterile preparations may only be provided by the clinic pharmacy in accordance with §291.131 of this title (relating to Pharmacies Compounding Non-sterile Preparations).

(7) Dispensing. Dangerous drugs may only be dispensed by a pharmacist pursuant to a prescription order in accordance with §§291.31 - 291.35 of this title (relating to Community Pharmacy (Class A)) and §291.131 of this title.

(f) Pharmacy and therapeutics committee.

(1) The clinic pharmacy shall have a pharmacy and therapeutics committee, which shall be composed of at least three persons and shall include the pharmacist-in-charge, the medical director of the

clinic, and a person who is responsible for provision of drugs and devices.

(2) The pharmacy and therapeutics committee shall develop the policy and procedure manual.

(3) The pharmacy and therapeutics committee shall meet at least annually to:

(A) review and update the policy and procedure manual; and

(B) review the retrospective drug utilization review reports submitted by the pharmacist-in-charge if the clinic pharmacy has an expanded formulary.

(g) Policies and procedures.

(1) Written policies and procedures shall be developed by the pharmacy and therapeutics committee and implemented by the pharmacist-in-charge.

(2) The policy and procedure manual shall include, but not be limited to, the following:

(A) a current list of the names of the pharmacist-in-charge, consultant-pharmacist, staff pharmacist(s), supportive personnel designated to provide drugs or devices, and the supportive personnel designated to supervise the day-to-day pharmacy related operations of the clinic in the absence of the pharmacist;

(B) functions of the pharmacist-in-charge, consultant pharmacist, staff pharmacist(s), and supportive personnel;

(C) objectives of the clinic;

(D) formulary;

(E) a copy of written agreement between the pharmacist-in-charge and the clinic;

(F) date of last review/revision of policy and procedure manual; and

(G) policies and procedures for:

(i) security;

(ii) equipment;

(iii) sanitation;

(iv) licensing;

(v) reference materials;

(vi) storage;

(vii) packaging-repackaging;

(viii) dispensing;

(ix) provision;

(x) retrospective drug regimen review;

(xi) supervision;

(xii) labeling-relabeling;

(xiii) samples;

(xiv) drug destruction and returns;

(xv) drug and device procuring;

(xvi) receiving of drugs and devices;

(xvii) delivery of drugs and devices;

(xviii) recordkeeping; and

(xix) inspection.

(h) Supervision. The pharmacist-in-charge, consultant pharmacist, or staff pharmacist shall personally visit the clinic on at least a monthly basis to ensure that the clinic is following established policies and procedures. However, clinics operated by state or local governments and clinics funded by government sources money may petition the board for an alternative visitation schedule under the following conditions.

(1) Such petition shall contain an affidavit with the notarized signatures of the medical director, the pharmacist-in-charge, and the owner/chief executive officer of the clinic, which states that the clinic has a current policy and procedure manual on file, has adequate security to prevent diversion of dangerous drugs, and is in compliance with all rules governing Class D pharmacies.

(2) The board may consider the following items in determining an alternative schedule:

(A) the degree of compliance on past compliance inspections;

(B) the size of the patient population of the clinic;

(C) the number and types of drugs contained in the formulary; and

(D) the objectives of the clinic.

(3) Such petition shall be resubmitted every two years in conjunction with the application for renewal of the pharmacy license.

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

Filed with the Office of the Secretary of State on March 19, 2020.

TRD-202001198

Allison Vordenbaumen Benz, R.Ph., M.S.

Executive Director

Texas State Board of Pharmacy

Earliest possible date of adoption: May 3, 2020

For further information, please call: (512) 305-8010



SUBCHAPTER H. OTHER CLASSES OF PHARMACY

22 TAC §291.155

The Texas State Board of Pharmacy proposes the repeal of §291.155, concerning Limited Prescription Delivery Pharmacy (Class H). The proposed repeal of §291.155 provides for a more organized subchapter by removing the rules for a class of pharmacy that no longer exists.

Allison Vordenbaumen Benz, R.Ph., M.S., Executive Director/Secretary, has determined that, for the first five-year period the repeal is in effect, there will be no fiscal implications for state or local government as a result of repealing the rule. Ms. Benz has determined that, for each year of the first five-year period the repeal is in effect, the public benefit anticipated as a result of the repeal will be to improve the organization of the agency's regulations. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an

economic impact statement and regulatory flexibility analysis are not required.

For each year of the first five years the proposed repeal will be in effect, Ms. Benz has determined the following:

(1) The proposed repeal does not create or eliminate a government program;

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

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

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

(5) The proposed repeal does not create a new regulation;

(6) The proposed repeal does limit an existing regulation by eliminating a class of pharmacy and its requirements;

(7) The proposed repeal does not increase or decrease the number of individuals subject to the rule's applicability because there are no longer any Class H pharmacies; and

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

Written comments on the proposed repeal may be submitted to Megan G. Holloway, Assistant General Counsel, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-500, Austin, Texas, 78701, FAX (512) 305-8061. Comments must be received by 5:00 p.m., May 4, 2020.

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

The statutes affected by the proposed repeal: Texas Pharmacy Act, Chapters 551 - 569, Texas Occupations Code.

§291.155. *Limited Prescription Delivery Pharmacy (Class H).*

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

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Allison Vordenbaumen Benz, R.Ph., M.S.

Executive Director

Texas State Board of Pharmacy

Earliest possible date of adoption: May 3, 2020

For further information, please call: (512) 305-8010



CHAPTER 295. PHARMACISTS

22 TAC §295.1

The Texas State Board of Pharmacy proposes amendments to §295.1, concerning Change of Address and/or Name. The amendments, if adopted, remove the change of name fee for

pharmacists to reflect the new procedure of no longer charging this fee.

Allison Vordenbaumen Benz, R.Ph., M.S., Executive Director/Secretary, has determined that, for the first five-year period the rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. Ms. Benz has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will be clearer regulatory language that accurately reflects the current less costly process for pharmacists to notify the board of a change of name. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.

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

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

Written comments on the amendments may be submitted to Megan G. Holloway, Assistant General Counsel, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-500, Austin, Texas 78701, FAX (512) 305-8061. Comments must be received by 5:00 p.m., May 4, 2020.

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

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

§295.1. Change of Address and/or Name.

(a) Change of address. A pharmacist shall notify the board in writing within 10 days of a change of address, giving the old and new address and license number.

(b) Change of name.

(1) A pharmacist shall notify the board in writing within 10 days of a change of name by:

[(A)] sending a copy of the official document reflecting the name change (e.g., marriage certificate, divorce decree, etc.); and

[(B)] paying a fee of \$20].

(2) Pharmacists who change their name may retain the original license to practice pharmacy (wall certificate). However, if the pharmacist wants an amended license (wall certificate) issued which reflects the pharmacist's name change, the pharmacist must:

(A) return the original license (wall certificate); and

(B) pay a fee of \$35.

(3) An amended electronic renewal certificate reflecting the new name of the pharmacist will be issued by the board without a fee.

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

Filed with the Office of the Secretary of State on March 19, 2020.

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Allison Vordenbaumen Benz, R.Ph., M.S.

Executive Director

Texas State Board of Pharmacy

Earliest possible date of adoption: May 3, 2020

For further information, please call: (512) 305-8010



22 TAC §295.8

The Texas State Board of Pharmacy proposes amendments to §295.8, concerning Continuing Education Requirements. The amendments, if adopted, add a requirement for mental health awareness continuing education and clarify the continuing education requirements for pharmacists during their initial license period.

Allison Vordenbaumen Benz, R.Ph., M.S., Executive Director/Secretary, has determined that, for the first five-year period the rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. Ms. Benz has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will be increased awareness and education in the pharmacist community regarding mental health. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.

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

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

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

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

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

- (5) The proposed amendments do not create a new regulation;
- (6) The proposed amendments do expand an existing regulation by adding mental health awareness as a required continuing education topic;
- (7) The proposed amendments do not increase or decrease the number of individuals subject to the rule's applicability; and
- (8) The proposed amendments do not positively or adversely affect this state's economy.

Written comments on the amendments may be submitted to Megan G. Holloway, Assistant General Counsel, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-500, Austin, Texas, 78701, FAX (512) 305-8061. Comments must be received by 5:00 p.m., May 4, 2020.

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

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

§295.8. *Continuing Education Requirements.*

(a) Authority and purpose.

(1) Authority. In accordance with §559.053 of the Texas Pharmacy Act, (Chapters 551 - 569, Occupations Code), all pharmacists must complete and report 30 contact hours (3.0 CEUs) of approved continuing education obtained during the previous license period in order to renew their license to practice pharmacy.

(2) Purpose. The board recognizes that the fundamental purpose of continuing education is to maintain and enhance the professional competency of pharmacists licensed to practice in Texas, for the protection of the health and welfare of the citizens of Texas.

(b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) ACPE--Accreditation Council for Pharmacy Education.

(2) Act--The Texas Pharmacy Act, Chapters 551 - 569, Occupations Code.

(3) Approved programs--Live programs, home study, and other mediated instruction delivered by an approved provider or a program specified by the board and listed as an approved program in subsection (e) of this section.

(4) Approved provider--An individual, institution, organization, association, corporation, or agency that is approved by the board.

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

(6) Certificate of completion--A certificate or other official document presented to a participant upon the successful completion of an approved continuing education program.

(7) Contact hour--A unit of measure of educational credit which is equivalent to approximately 60 minutes of participation in an organized learning experience.

(8) Continuing education unit (CEU)--A unit of measure of education credit which is equivalent to 10 contact hours (i.e., one CEU = 10 contact hours).

(9) CPE Monitor--A collaborative service from the National Association of Boards of Pharmacy and ACPE that provides an electronic system for pharmacists to track their completed CPE credits.

(10) Credit hour--A unit of measurement for continuing education equal to 15 contact hours.

(11) Enduring Materials (Home Study)--Activities that are printed, recorded or computer assisted instructional materials that do not provide for direct interaction between faculty and participants.

(12) Initial license period--The time period between the date of issuance of a pharmacist's license and the next expiration date following the initial 30 day expiration date. This time period ranges from eighteen to thirty months depending upon the birth month of the licensee.

(13) License period--The time period between consecutive expiration dates of a license.

(14) Live programs--Activities that provide for direct interaction between faculty and participants and may include lectures, symposia, live teleconferences, workshops, etc.

(15) Standardized pharmacy examination--The North American Pharmacy Licensing Examination (NAPLEX).

(c) Methods for obtaining continuing education. A pharmacist may satisfy the continuing education requirements by either:

(1) successfully completing the number of continuing education hours necessary to renew a license as specified in subsection (a)(1) of this section;

(2) successfully completing during the preceding license period, one credit hour for each year of their license period, which is a part of the professional degree program in a college of pharmacy the professional degree program of which has been accredited by ACPE; or

(3) taking and passing the standardized pharmacy examination (NAPLEX) during the preceding license period as a Texas licensed pharmacist, which shall be equivalent to the number of continuing education hours necessary to renew a license as specified in subsection (a)(1) of this section.

(d) Reporting Requirements.

(1) Renewal of a pharmacist license. To renew a license to practice pharmacy, a pharmacist must report on the renewal application completion of at least thirty contact hours (3.0 CEUs) of continuing education. The following is applicable to the reporting of continuing education contact hours:

(A) at least one contact hour (0.1 CEU) specified in paragraph (1) of this subsection shall be related to Texas pharmacy laws or rules;

(B) for renewals received after August 31, 2021 and before September 1, 2023, at least one contact hour (0.1 CEU) annually, for a total of two contact hours (0.2 CEU) specified in paragraph (1) of this subsection, shall be related to best practices, alternative treatment options, and multi-modal approaches to pain management as specified in §481.0764 of the Texas Health and Safety Code;

(C) at least two contact hours (0.2 CEU) specified in paragraph (1) of this subsection shall be related to approved procedures of prescribing and monitoring controlled substances and obtained by

September 1, 2021, and must be reported on the next renewal after September 1, 2021;

(D) for renewals received after August 31, 2021 and before September 1, 2023, at least one contact hour (0.1 CEU) specified in paragraph (1) of this subsection shall be related to mental health awareness;

(E) [(D)] any continuing education requirements which are imposed upon a pharmacist as a part of a board order or agreed board order shall be in addition to the requirements of this section; and

(F) [(E)] for renewals received after August 31, 2020 and before September 1, 2022, a pharmacist must have completed the human trafficking prevention course required in §116.002 of the Texas Occupations Code.

(2) Failure to report completion of required continuing education. The following is applicable if a pharmacist fails to report completion of the required continuing education:

(A) the license of a pharmacist who fails to report completion of the required number of continuing education contact hours shall not be renewed and the pharmacist shall not be issued a renewal certificate for the license period until such time as the pharmacist successfully completes the required continuing education and reports the completion to the board; and

(B) a pharmacist who practices pharmacy without a current renewal certificate is subject to all penalties of practicing pharmacy without a license including the delinquent fees specified in the Act, §559.003.

(3) Extension of time for reporting. A pharmacist who has had a physical disability, illness, or other extenuating circumstances which prohibits the pharmacist from obtaining continuing education credit during the preceding license period may be granted an extension of time to complete the continued education requirement. The following is applicable for this extension:

(A) the pharmacist shall submit a petition to the board with his/her license renewal application which contains:

(i) the name, address, and license number of the pharmacist;

(ii) a statement of the reason for the request for extension;

(iii) if the reason for the request for extension is health related, a statement from the attending physician(s) treating the pharmacist which includes the nature of the physical disability or illness and the dates the pharmacist was incapacitated; and

(iv) if the reason for the request for the extension is for other extenuating circumstances, a detailed explanation of the extenuating circumstances and if because of military deployment, documentation of the dates of the deployment;

(B) after review and approval of the petition, a pharmacist may be granted an extension of time to comply with the continuing education requirement which shall not exceed one license renewal period;

(C) an extension of time to complete continuing education credit does not relieve a pharmacist from the continuing education requirement during the current license period; and

(D) if a petition for extension to the reporting period for continuing education is denied, the pharmacist shall:

(i) have 60 days to complete and report completion of the required continuing education requirements; and

(ii) be subject to the requirements of paragraph (2) of this subsection relating to failure to report completion of the required continuing education if the required continuing education is not completed and reported within the required 60-day time period.

(4) Exemptions from reporting requirements.

(A) All pharmacists licensed in Texas shall be exempt from the continuing education requirements in paragraph (1) of this subsection during their initial license period, with the exception of the requirements in paragraph (1)(B), (C), and (F) of this subsection which must be completed during the time periods specified in the subparagraphs.

(B) Pharmacists who are not actively practicing pharmacy shall be granted an exemption to the reporting requirements for continuing education provided the pharmacists submit a completed renewal application for each license period which states that they are not practicing pharmacy. Upon submission of the completed renewal application, the pharmacist shall be issued a renewal certificate which states that pharmacist is inactive. Pharmacists who wish to return to the practice of pharmacy after being exempted from the continuing education requirements as specified in this subparagraph must:

(i) notify the board of their intent to actively practice pharmacy;

(ii) pay the fee as specified in §295.9 of this title (relating to Inactive License); and

(iii) provide copies of completion certificates from approved continuing education programs as specified in subsection (e) of this section for 30 contact hours (3.0 CEUs). Approved continuing education earned within two years prior to the licensee applying for the return to active status may be applied toward the continuing education requirement for reactivation of the license but may not be counted toward subsequent renewal of the license.

(e) Approved Programs.

(1) Any program presented by an ACPE approved provider subject to the following conditions:

(A) pharmacists may receive credit for the completion of the same ACPE course only once during a license period;

(B) pharmacists who present approved ACPE continuing education programs may receive credit for the time expended during the actual presentation of the program. Pharmacists may receive credit for the same presentation only once during a license period; and

(C) proof of completion of an ACPE course shall contain the following information:

(i) name of the participant;

(ii) title and completion date of the program;

(iii) name of the approved provider sponsoring or cosponsoring the program;

(iv) number of contact hours and/or CEUs awarded;

(v) the assigned ACPE universal program number and a "P" designation indicating that the CE is targeted to pharmacists; and

(vi) either:

(I) a dated certifying signature of the approved provider and the official ACPE logo; or

(II) the CPE Monitor logo.

(2) Courses which are part of a professional degree program or an advanced pharmacy degree program offered by a college of pharmacy which has a professional degree program accredited by ACPE.

(A) Pharmacists may receive credit for the completion of the same course only once during a license period. A course is equivalent to one credit hour for each year of the renewal period.

(B) Pharmacists who teach these courses may receive credit towards their continuing education, but such credit may be received only once for teaching the same course during a license period.

(3) Basic cardiopulmonary resuscitation (CPR) courses which lead to CPR certification by the American Red Cross or the American Heart Association or its equivalent shall be recognized as approved programs. Pharmacists may receive credit for one contact hour (0.1 CEU) towards their continuing education requirement for completion of a CPR course only once during a license period. Proof of completion of a CPR course shall be the certificate issued by the American Red Cross or the American Heart Association or its equivalent.

(4) Advanced cardiovascular life support courses (ACLS) or pediatric advanced life support (PALS) courses which lead to initial ACLS or PALS certification by the American Heart Association or its equivalent shall be recognized as approved programs. Pharmacists may receive credit for twelve contact hours (1.2 CEUs) towards their continuing education requirement for completion of an ACLS or PALS course only once during a license period. Proof of completion of an ACLS or PALS course shall be the certificate issued by the American Heart Association or its equivalent.

(5) Advanced cardiovascular life support courses (ACLS) or pediatric advanced life support (PALS) courses which lead to ACLS or PALS recertification by the American Heart Association or its equivalent shall be recognized as approved programs. Pharmacists may receive credit for four contact hours (0.4 CEUs) towards their continuing education requirement for completion of an ACLS or PALS recertification course only once during a license period. Proof of completion of an ACLS or PALS recertification course shall be the certificate issued by the American Heart Association or its equivalent.

(6) Attendance at Texas State Board of Pharmacy Board Meetings shall be recognized for continuing education credit as follows:

(A) pharmacists shall receive credit for three contact hours (0.3 CEUs) towards their continuing education requirement for attending a full, public board business meeting in its entirety;

(B) a maximum of six contact hours (0.6 CEUs) are allowed for attendance at a board meeting during a license period; and

(C) proof of attendance for a complete board meeting shall be a certificate issued by the Texas State Board of Pharmacy.

(7) Participation in a Texas State Board of Pharmacy appointed Task Force shall be recognized for continuing education credit as follows:

(A) pharmacists shall receive credit for three contact hours (0.3 CEUs) towards their continuing education requirement for participating in a Texas State Board of Pharmacy appointed Task Force; and

(B) proof of participation for a Task Force shall be a certificate issued by the Texas State Board of Pharmacy.

(8) Attendance at programs presented by the Texas State Board of Pharmacy or courses offered by the Texas State Board of Pharmacy as follows:

(A) pharmacists shall receive credit for the number of hours for the program or course as stated by the Texas State Board of Pharmacy; and

(B) proof of attendance at a program presented by the Texas State Board of Pharmacy or completion of a course offered by the Texas State Board of Pharmacy shall be a certificate issued by the Texas State Board of Pharmacy.

(9) Pharmacists shall receive credit toward their continuing education requirements for programs or courses approved by other state boards of pharmacy as follows:

(A) pharmacists shall receive credit for the number of hours for the program or course as specified by the other state board of pharmacy; and

(B) proof of attendance at a program or course approved by another state board of pharmacy shall be a certificate or other documentation that indicates:

(i) name of the participant;

(ii) title and completion date of the program;

(iii) name of the approved provider sponsoring or cosponsoring the program;

(iv) number of contact hours and/or CEUs awarded;

(v) a dated certifying signature of the provider; and

(vi) documentation that the program is approved by the other state board of pharmacy.

(10) Completion of an Institute for Safe Medication Practices' (ISMP) Medication Safety Self Assessment for hospital pharmacies or for community/ambulatory pharmacies shall be recognized for continuing education credit as follows:

(A) pharmacists shall receive credit for three contact hours (0.3 CEUs) towards their continuing education requirement for completion of an ISMP Medication Safety Self Assessment; and

(B) proof of completion of an ISMP Medication Safety Self Assessment shall be:

(i) a continuing education certificate provided by an ACPE approved provider for completion of an assessment; or

(ii) a document from ISMP showing completion of an assessment.

(11) Pharmacist shall receive credit for three contact hours (0.3 CEUs) toward their continuing education requirements for taking and successfully passing an initial Board of Pharmaceutical Specialties certification examination administered by the Board of Pharmaceutical Specialties. Proof of successfully passing the examination shall be a certificate issued by the Board of Pharmaceutical Specialties.

(12) Programs approved by the American Medical Association (AMA) as Category 1 Continuing Medical Education (CME) and accredited by the Accreditation Council for Continuing Medical Education subject to the following conditions:

(A) pharmacists may receive credit for the completion of the same CME course only once during a license period;

(B) pharmacists who present approved CME programs may receive credit for the time expended during the actual presentation

of the program. Pharmacists may receive credit for the same presentation only once during a license period; and

(C) proof of completion of a CME course shall contain the following information:

- (i) name of the participant;
 - (ii) title and completion date of the program;
 - (iii) name of the approved provider sponsoring or cosponsoring the program;
 - (iv) number of contact hours and/or CEUs awarded;
- and
- (v) a dated certifying signature of the approved provider.

(f) Retention of continuing education records and audit of records by the board.

(1) Retention of records. Pharmacists are required to maintain certificates of completion of approved continuing education for three years from the date of reporting the contact hours on a license renewal application. Such records may be maintained in hard copy or electronic format.

(2) Audit of records by the board. The board shall audit the records of pharmacists for verification of reported continuing education credit. The following is applicable for such audits:

(A) upon written request, a pharmacist shall provide to the board documentation of proof for all continuing education contact hours reported during a specified license period(s). Failure to provide all requested records during the specified time period constitutes prima facie evidence of failure to keep and maintain records and shall subject the pharmacist to disciplinary action by the board;

(B) credit for continuing education contact hours shall only be allowed for approved programs for which the pharmacist submits documentation of proof reflecting that the hours were completed during the specified license period(s). Any other reported hours shall be disallowed. A pharmacist who has received credit for continuing education contact hours disallowed during an audit shall be subject to disciplinary action; and

(C) a pharmacist who submits false or fraudulent records to the board shall be subject to disciplinary action by the board.

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

Filed with the Office of the Secretary of State on March 19, 2020.

TRD-202001199

Allison Vordenbaumen Benz, R.Ph., M.S.

Executive Director

Texas State Board of Pharmacy

Earliest possible date of adoption: May 3, 2020

For further information, please call: (512) 305-8010



CHAPTER 297. PHARMACY TECHNICIANS AND PHARMACY TECHNICIAN TRAINEES

22 TAC §297.9

The Texas State Board of Pharmacy proposes amendments to §297.9, concerning Notifications. The amendments, if adopted,

remove the change of name fee for pharmacy technicians and pharmacy technician trainees to reflect the new procedure of no longer charging this fee.

Allison Vordenbaumen Benz, R.Ph., M.S., Executive Director/Secretary, has determined that, for the first five-year period the rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. Ms. Benz has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will be a less costly process for pharmacy technicians and pharmacy technician trainees to notify the board of a change of name. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.

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

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

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

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

(4) The proposed amendments do require a decrease in fees paid to the agency, but it is anticipated that the proposed amendments will not require an increase in other fees paid to the agency because the agency's revenue is still anticipated to cover the agency's appropriated budget without these fees;

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

(6) The proposed amendments do limit an existing regulation by removing a fee assessed on pharmacy technicians and pharmacy technician trainees;

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

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

Written comments on the amendments may be submitted to Megan G. Holloway, Assistant General Counsel, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-500, Austin, Texas 78701, FAX (512) 305-8061. Comments must be received by 5:00 p.m., May 4, 2020.

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

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

§297.9. Notifications.

(a) Change of Address and/or Name.

(1) Change of address. A pharmacy technician or pharmacy technician trainee shall notify the board electronically or in writ-

ing within 10 days of a change of address, giving the old and new address and registration number.

(2) Change of name.

(A) A pharmacy technician or pharmacy technician trainee shall notify the board in writing within 10 days of a change of name by[:

~~/(i) sending a copy of the official document reflecting the name change (e.g., marriage certificate, divorce decree, etc.).]; and]~~

~~/(ii) paying a fee of \$20.]~~

(B) An amended registration and/or certificate reflecting the new name of the pharmacy technician or pharmacy technician trainee will be issued by the board.

(b) Change of Employment. A pharmacy technician or pharmacy technician trainee shall report electronically or in writing to the board within 10 days of a change of employment giving the name and license number of the old and new pharmacy and registration number.

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

Filed with the Office of the Secretary of State on March 19, 2020.

TRD-202001196

Allison Vordenbaumen Benz, R.Ph., M.S.

Executive Director

Texas State Board of Pharmacy

Earliest possible date of adoption: May 3, 2020

For further information, please call: (512) 305-8010



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 20. TEXAS WORKFORCE COMMISSION

CHAPTER 819. TEXAS WORKFORCE COMMISSION CIVIL RIGHTS DIVISION

SUBCHAPTER B. EQUAL EMPLOYMENT OPPORTUNITY PROVISIONS

40 TAC §819.12

The Texas Workforce Commission (TWC) proposes amendments to the following section of Chapter 819, relating to the Texas Workforce Commission Civil Rights Division: Subchapter B. Equal Employment Opportunity Provisions, §819.12.

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

The purpose of the proposed Chapter 819 rule change is to align TWC's Chapter 819 Texas Workforce Commission Civil Rights Division rules with amendments to Texas Labor Code §21.054, pursuant to House Bill (HB) 1074, enacted by the 86th Texas Legislature, Regular Session (2019), signed into law effective September 1, 2019.

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

(Note: Minor editorial changes are made that do not change the meaning of the rules and, therefore, are not discussed in the Explanation of the Individual Provisions)

SUBCHAPTER B. EQUAL EMPLOYMENT OPPORTUNITY PROVISIONS

TWC proposes the following amendments to Subchapter B:

Section 819.12, Unlawful Employment Practices

Texas Labor Code §21.101 prohibits age discrimination against individuals ages 40 and older. Section 21.054 prohibits age discrimination as it relates to on-the-job training programs, retraining, apprenticeships, and other training. HB 1074 repealed Texas Labor Code §21.054(b), which limited this provision to individuals between the ages of 40 and 56.

Section 819.12(d) is amended to align with Texas Labor Code, Chapter 21, which prohibits age discrimination against individuals ages 40 and older.

PART III. IMPACT STATEMENTS

Chris Nelson, Chief Financial Officer, has determined that for each year of the first five years the rules will be in effect, the following statements will apply:

There are no additional estimated costs to the state and to local governments expected as a result of enforcing or administering the rules.

There are no estimated cost reductions to the state and to local governments as a result of enforcing or administering the rules.

There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There are no foreseeable implications relating to costs or revenue of the state or local governments as a result of enforcing or administering the rules.

There are no anticipated economic costs to individuals required to comply with the rules.

There is no anticipated adverse economic impact on small businesses, microbusinesses, or rural communities as a result of enforcing or administering the rules.

Based on the analyses required by Texas Government Code, §2001.024, TWC has determined that the requirement to repeal or amend a rule, as required by HB 1290, 85th Texas Legislature, Regular Session (2017) - to be codified at Texas Government Code, §2001.0045 - does not apply to this rulemaking.

Takings Impact Assessment

Under Texas Government Code, §2007.002(5), "taking" means a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the United States Constitution or the Texas Constitution, §17 or §19, Article I, or restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action, and is the producing cause of a reduction of at least 25 percent in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect. TWC completed a Takings Impact Analysis for the proposed

rulemaking action under Texas Government Code, §2007.043. The primary purpose of this proposed rulemaking action, as discussed elsewhere in this preamble, is to align §819.12(d) with amendments to Texas Labor Code, §21.054, pursuant to HB 1074, enacted by the 86th Texas Legislature, Regular Session (2019), and signed into law effective September 1, 2019.

The proposed rulemaking action will not create any additional burden on private real property. The proposed rulemaking action will not affect private real property in a manner that would require compensation to private real property owners under the United States Constitution or the Texas Constitution. The proposal also will not affect private real property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of the governmental action. Therefore, the proposed rulemaking will not cause a taking under Texas Government Code, Chapter 2007.

Government Growth Impact Statement

TWC has determined that during the first five years the proposed amendments will be in effect:

- the proposed amendments will not create or eliminate a government program;
- implementation of the proposed amendments will not require the creation or elimination of employee positions;
- implementation of the proposed amendments will not require an increase or decrease in future legislative appropriations to TWC;
- the proposed amendments will not require an increase or decrease in fees paid to TWC;
- the proposed amendments will not create a new regulation;
- the proposed amendments will not expand, limit, or eliminate an existing regulation;
- the proposed amendments will not change the number of individuals subject to the rules; and
- the proposed amendments will not positively or adversely affect the state's economy.

Economic Impact Statement and Regulatory Flexibility Analysis

TWC has determined that the proposed rules will not have an adverse economic impact on small businesses or rural communities, as the proposed rules place no requirements on small businesses or rural communities.

Mariana Vega, Director of Labor Market and Career Information, has determined that there is no significant negative impact upon employment conditions in the state as a result of the rules.

Bryan Snoddy, Director, Civil Rights Division, has determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the proposed rules will be to align TWC's rules with recent amendments to the Texas Labor Code.

TWC hereby certifies that the proposal has been reviewed by legal counsel and found to be within TWC's legal authority to adopt.

PART IV. COORDINATION ACTIVITIES

In the development of these rules for publication and public comment, TWC considered all information gathered in order to de-

velop rules that provide clear and concise direction to all parties involved.

Comments on the proposed rules may be submitted to TWC Policy Comments, Workforce Program Policy, attn.: Workforce Editing, 101 East 15th Street, Room 459T, Austin, Texas 78778; faxed to (512) 475-3577; or emailed to TWCPolicy-Comments@twc.state.tx.us. Comments must be received or postmarked no later than 30 days from the date this proposal is published in the *Texas Register*.

The changes are proposed under Texas Labor Code §301.0015 and §302.002(d), which provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The proposed changes affect Texas Labor Code Chapters 301 and 302.

§819.12. *Unlawful Employment Practices.*

(a) **Discrimination by Employer.** An employer commits an unlawful employment practice if based on race, color, disability, religion, sex, national origin, or age, the employer:

(1) fails or refuses to hire an individual, discharges an individual, or discriminates in any other manner against an individual in connection with compensation or the terms, conditions, or privileges of employment; or

(2) limits, segregates, or classifies an employee or applicant for employment in a manner that deprives or tends to deprive an individual of an employment opportunity or adversely affects in any other manner the status of an employee.

(b) **Discrimination by Employment Agency.** An employment agency commits an unlawful employment practice if based on race, color, disability, religion, sex, national origin, or age, it:

(1) fails or refuses to refer for employment or discriminates in any other manner against an individual; or

(2) classifies or refers an individual for employment on that basis.

(c) **Discrimination by Labor Organization.** A labor organization commits an unlawful employment practice if based on race, color, disability, religion, sex, national origin, or age, it:

(1) excludes or expels from membership or discriminates in any other manner against an individual; or

(2) limits, segregates, or classifies a member or an applicant for membership, or classifies or fails or refuses to refer for employment an individual in a [an] manner that:

(A) deprives or tends to deprive an individual of any employment opportunity;

(B) limits an employment opportunity or adversely affects in any other manner the status of an employee or of an applicant for employment; or

(C) causes or attempts to cause an employer to violate this subchapter.

(d) **Admission or Participation in Training Program.** An employer, labor organization, or joint labor-management committee controlling an apprenticeship, on-the-job training, or other training or retraining program commits an unlawful employment practice if based on race, color, disability, religion, sex, national origin, or age, it discriminates against an individual in admission to or participation in the program, unless a training or retraining opportunity or program is pro-

vided under an affirmative action plan approved by federal or state law, rule, or court order. The prohibition against discrimination based on age applies only to individuals who are at least 40 years of age [but younger than 56 years of age].

(e) Retaliation. An employer, employment agency, or labor organization, commits an unlawful employment practice based on race, color, disability, religion, sex, national origin, or age if the employer, employment agency, or labor organization retaliates or discriminates against an individual [a person] who:

- (1) opposes a discriminatory practice;
- (2) makes or files a charge;
- (3) files a complaint; or
- (4) testifies, assists, or participates in any manner in an investigation, proceeding, or hearing.

(f) Aiding or Abetting Discrimination. An employer, employment agency, or labor organization commits an unlawful employment practice if it aids, abets, incites, or coerces an individual [a person] to engage in an unlawful discriminatory practice based on race, color, disability, religion, sex, national origin, or age.

(g) Interference with the Agency or CRD. An employer, employment agency, or labor organization commits an unlawful employment practice if it willfully interferes with the performance of a duty or the exercise of a power by CRD or by the Agency in relation to CRD.

(h) Prevention of Compliance. An employer, employment agency, or labor organization commits an unlawful employment practice if it willfully obstructs or prevents an individual [a person] from complying with Texas Labor Code, Chapter 21, or a rule adopted or order issued under Texas Labor Code, Chapter 21.

(i) Discriminatory Notice or Advertisement. An employer, employment agency, labor organization, or joint labor-management committee controlling an apprenticeship, on-the-job training, or other training or retraining program commits an unlawful employment practice if it prints or publishes or causes to be printed or published a notice or advertisement relating to employment that:

- (1) indicates a preference, limitation, specification, or discrimination based on race, color, disability, religion, sex, national origin, or age; and
- (2) concerns an employee's status, employment, or admission to or membership or participation in a labor organization or training or retraining program.

(j) Bona Fide Occupational Qualification. A bona fide occupational qualification is an affirmative defense to discrimination.

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

Filed with the Office of the Secretary of State on March 19, 2020.

TRD-202001203

Jason Vaden

Director, Workforce Program Policy

Texas Workforce Commission

Earliest possible date of adoption: May 3, 2020

For further information, please call: (512) 689-9855



CHAPTER 821. TEXAS PAYDAY RULES

SUBCHAPTER C. WAGE CLAIMS

40 TAC §821.43

The Texas Workforce Commission (TWC) proposes the amendments to the following section of Chapter 821, relating to Texas Payday Rules: Subchapter C. Wage Claims, §821.43.

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

The purpose of the proposed Chapter 821 rule change is to clarify that a claimant can withdraw a wage claim at any time up to the point at which TWC's written order becomes final. An order becomes final for all purposes under the following circumstances:

--If either party does not file an appeal within 21 days from the date the Preliminary Wage Determination Order is mailed.

--If either party does not file an appeal within 14 days from the date the Wage Claim Appeal Tribunal or Commission order is mailed.

--A denial of a Motion for Rehearing becomes final 14 days after the date it is mailed.

--A denial of a Motion for Rehearing, or order of the Commission when no Motion for Rehearing has been filed, becomes final 14 days from the date it is mailed regardless as to whether a party files for judicial review of the decision.

Per §821.43 as currently written, a claimant may withdraw a wage claim whether or not it has become final. When a withdrawal request is submitted and approved, TWC no longer enforces any orders issued (including administrative penalties) and releases all liens and freezes. It is as if the claimant never filed the wage claim.

The Agency has determined that §821.43(a)(2) creates legal challenges by implying that the wage claimant may alter or set aside a claim that has become final.

Because a claimant may not alter or set aside a claim after the TWC decision is final, TWC no longer accepts a wage claim withdrawal submitted pursuant to §821.43(a)(2). Instead, in cases in which a wage claim decision has become final and the claimant wants TWC to halt collection action, the claimant may file a Satisfaction of Payment Declaration.

A Satisfaction of Payment Declaration differs from a withdrawal in that TWC will still recognize that an order has been issued, but the Collections and Civil Actions department will cease collections action on wages owed by the employer to the claimant under a wage claim. The employer will still be liable for any administrative penalties assessed on the claim. TWC will release any liens or freezes on the claim once the employer pays any administrative penalties owed.

TWC does not process contractual settlements between parties regarding wage claims. If the parties reach an outside settlement, and the TWC order is not yet final, the claimant may withdraw a wage claim. If an order has become final, the claimant may declare satisfaction of payment with respect to the settlement. The Satisfaction of Payment Declaration has the effect of ceasing the wage order collection process.

A claimant may not rescind a withdrawal of wage claim or Satisfaction of Payment Declaration once it has been submitted. If the employer does not fulfill the terms of the settlement, the claimant may not "undo" either action.

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

(Note: Minor editorial changes are made that do not change the meaning of the rules and, therefore, are not discussed in the Explanation of Individual Provisions.)

SUBCHAPTER C. WAGE CLAIMS

TWC proposes the following amendments to Subchapter C:

§821.43. Wage Claim Withdrawal

Section 821.43(a) is amended to delete paragraphs (1) and (2) to clearly stipulate that a claimant may withdraw a wage claim at any point up to when TWC's written order becomes final.

PART III. IMPACT STATEMENTS

Chris Nelson, Chief Financial Officer, has determined that for each year of the first five years the rules will be in effect, the following statements will apply:

There are no additional estimated costs to the state and to local governments expected as a result of enforcing or administering the rules.

There are no estimated cost reductions to the state and to local governments as a result of enforcing or administering the rules.

There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There are no foreseeable implications relating to costs or revenue of the state or local governments as a result of enforcing or administering the rules.

There are no anticipated economic costs to individuals required to comply with the rules.

There is no anticipated adverse economic impact on small businesses, microbusinesses, or rural communities as a result of enforcing or administering the rules.

Based on the analyses required by Texas Government Code §2001.024, TWC has determined that the requirement to repeal or amend a rule, as required by House Bill 1290, 85th Texas Legislature, Regular Session (2017), codified at Texas Government Code §2001.0045, does not apply to this rulemaking.

Takings Impact Assessment

Under Texas Government Code, §2007.002(5), "taking" means a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the United States Constitution or the Texas Constitution, §17 or §19, Article I, or restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action, and is the producing cause of a reduction of at least 25 percent in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect. TWC completed a Takings Impact Analysis for the proposed rulemaking action under Texas Government Code, §2007.043. The primary purpose of this proposed rulemaking action, as discussed elsewhere in this preamble, is to clarify that a wage claim may only be withdrawn by the claimant up to the point at which TWC's written decision becomes final.

The proposed rulemaking action will not create any additional burden on private real property. The proposed rulemaking action

will not affect private real property in a manner that would require compensation to private real property owners under the United States Constitution or the Texas Constitution. The proposal also will not affect private real property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of the governmental action. Therefore, the proposed rulemaking will not cause a taking under Texas Government Code, Chapter 2007.

Government Growth Impact Statement

TWC has determined that during the first five years the proposed amendments will be in effect:

--the proposed amendments will not create or eliminate a government program;

--implementation of the proposed amendments will not require the creation or elimination of employee positions;

--implementation of the proposed amendments will not require an increase or decrease in future legislative appropriations to TWC;

--the proposed amendments will not require an increase or decrease in fees paid to TWC;

--the proposed amendments will not create a new regulation;

--the proposed amendments will not expand, limit, or eliminate an existing regulation;

--the proposed amendments will not change the number of individuals subject to the rules; and

--the proposed amendments will not positively or adversely affect the state's economy.

Economic Impact Statement and Regulatory Flexibility Analysis

TWC has determined that the proposed rule will not have an adverse economic impact on small businesses or rural communities, as these proposed rules place no requirements on small businesses or rural communities.

Mariana Vega, Director of Labor Market and Career Information, has determined that there is no significant negative impact upon employment conditions in the state as a result of the rules.

Paul Carmona, Director of the Regulatory Integrity Division, has determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the proposed rules will be clarity for all parties with respect to the conditions under which a wage claim may be withdrawn.

TWC hereby certifies that the proposal has been reviewed by legal counsel and found to be within TWC's legal authority to adopt.

PART IV. COORDINATION ACTIVITIES

Comments on the proposed rules may be submitted to TWC Policy Comments, Workforce Program Policy, attn.: Workforce Editing, 101 East 15th Street, Room 459T, Austin, Texas 78778; faxed to (512) 475-3577; or emailed to TWCPolicyComments@twc.state.tx.us. Comments must be received or postmarked no later than 30 days from the date this proposal is published in the *Texas Register*.

The changes are proposed under Texas Labor Code §61.002(a)(2), which directs TWC to adopt rules as necessary to implement Chapter 61, the Texas Payday Law.

The proposed changes affect Texas Labor Code Chapter 61.

§821.43. *Wage Claim Withdrawal.*

(a) The Commission shall allow a claimant to withdraw a wage claim at any time before the date when the Commission's written decision becomes final. [only under the following circumstances:]

~~[(1)] [Before the Commission's written decision is final; or]~~

~~[(2)] [After the Commission's written decision is final, if the claimant certifies to the Agency that the wage claim is fully satisfied.]~~

(b) A claimant withdrawing a wage claim shall submit a form as prescribed by the Commission.

(c) The Commission shall apply the withdrawal of a wage claim to both administrative penalties and wages.

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

Filed with the Office of the Secretary of State on March 19, 2020.

TRD-202001204

Jason Vaden

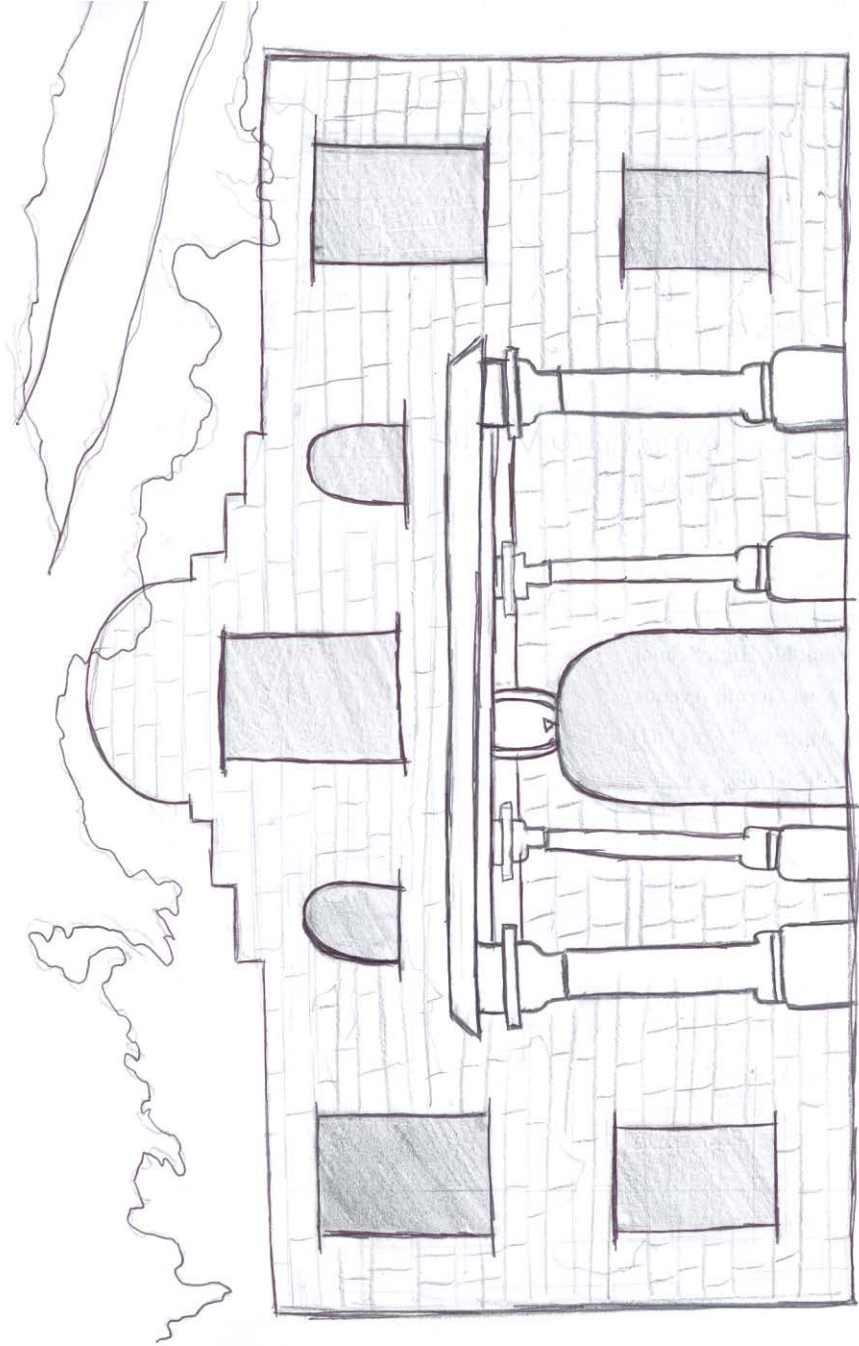
Director, Workforce Program Policy

Texas Workforce Commission

Earliest possible date of adoption: May 3, 2020

For further information, please call: (512) 689-9855





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 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 61. SCHOOL DISTRICTS

SUBCHAPTER FF. COMMISSIONER'S RULES CONCERNING VETERANS AND MILITARY DEPENDENTS

DIVISION 2. MILITARY-CONNECTED STUDENTS

19 TAC §61.1063

The Texas Education Agency (TEA) adopts new §61.1063, concerning purple star campus designation. The new section is adopted without changes to the proposed text as published in the January 10, 2020 issue of the *Texas Register* (45 TexReg 266) and will not be republished. The adopted new rule implements Senate Bill (SB) 1557, 86th Texas Legislature, 2019, by adopting in rule the criteria campuses must demonstrate in order to qualify to apply for and earn the Purple Star Designation.

REASONED JUSTIFICATION: SB 1557, 86th Texas Legislature, 2019, added Texas Education Code (TEC), §33.909, establishing the Purple Star Campus Designation and criteria campuses must demonstrate to earn the designation. TEC, §33.909, specifies that for a campus to earn the designation, the campus must designate a campus-based military liaison, create or maintain a webpage with information specific to military-connected families, establish or maintain a current campus transition program, and offer one of three initiatives: a resolution showing support for military connected students and families, recognition of Month of the Military Child or Military Family Month with relevant events hosted by the campus, or partnership with a school liaison officer to encourage and provide opportunities for active duty military members to volunteer in local schools.

Adopted new 19 TAC §61.1063 addresses the requirements of TEC, §33.909, as follows.

Adopted new subsection (a) sets forth the purpose of the adopted new rule in accordance with TEC, §33.909.

Adopted new subsection (b) establishes definitions for terms used in the adopted new rule.

Adopted new subsection (c) delineates the criteria required for campuses who voluntarily apply to earn the designation as a Purple Star Campus.

Adopted new subsection (c)(1) lists the requirements related to designating a campus-based military liaison and the duties of the liaison, including supporting military-connected students and their families, ensuring students are properly identified in the

Texas Student Data System Public Education Information Management System (TSDS PEIMS), providing supports and services for students and families based on their unique needs and high mobility, and offering professional development opportunities for staff members.

Adopted new subsection (c)(2) lists the requirements related to creating and maintaining a webpage that includes information specific to mitigating barriers as military-connected students transition in and out of Texas public schools.

Adopted new subsection (c)(3) lists the requirements related to a campus transition program led by the military liaison or student leaders or ambassadors to assist with introductions to the school environment and school processes.

Adopted new subsection (c)(4) reiterates the statutory requirement to offer at least one of the following initiatives: a resolution showing support for military connected students and families, participation in the Month of the Military Child or Military Family Month, or partner with school liaison officer to provide opportunities for active duty military members to volunteer in the local schools.

Adopted new subsection (d) specifies provisions related to the TEA application and renewal process for Purple Star Campus Designation.

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began January 10, 2020, and ended February 10, 2020. Following is a summary of public comments received and the corresponding agency responses.

Comment: An administrator commented that the new designation would increase resources available for military families as they maneuver the public education system.

Agency Response: The agency agrees.

Comment: A Texas parent commented on the need to emphasize the role of the school liaison officer partnering with districts across the state to ensure the academic well-being of military-connected students. The parent commented that the school liaison officer can help schools and military installations respond to the complexities of transition and deployment and provide resources, professional development, and mentors as well as access to Department of Defense grant opportunities and support relating to science, technology, engineering, and mathematics (STEM) and science technology academies reinforcing basic aviation space exploration (STARBASE). The parent stated that school liaison officers are key to working effectively with military parents and local districts. The parent commented that a productive collaboration between school liaison officers and schools will help provide a positive experience and quality education for military-connected students. The parent commented that the campus webpage should include a link to the school liaison officer

webpage and social media to show partnership with military installations. The parent also commented that initiatives should include Purple UP! For Military Students Day, which is supported and designated by the governor each year.

Agency Response: The agency agrees that increasing the awareness of the role of a school liaison officer can benefit districts across the state. The agency agrees that webpages should include information and links to best practices and strategies for providing supports to their military-connected student population. Information about a link to the school liaison officer webpage and social media will be included in additional guidance provided to the districts that would like to apply for and earn the Purple Star Campus Designation. The agency agrees that campuses can show support of their military-connected student population by celebrating Month of the Military Child, including Purple UP! Day. Campuses can choose the initiative(s) in which to participate under §61.1063(c)(4)(A)-(C).

Comment: An administrator commented that a district in the San Antonio area recognizes the importance of supporting military-connected families. The administrator commented that the Purple Star Campus Designation would be an opportunity for campuses to highlight activities and events currently being provided to show support for military families. The administrator commented that many campuses in their district already meet much of the criteria required to apply for and earn the Purple Star Campus Designation. The administrator stated that their district currently has middle and high schools that have trained sponsors and campus transition programs, maintain webpages specific for military families, and recognize Month of the Military Child. The administrator commented that the Purple Star Campus Designation would be a wonderful way to feature campuses and bring more military families to their district.

Agency Response: The agency agrees that the Purple Star Campus Designation would give campuses an opportunity to highlight events, activities, resources, and supports for their military-connected-student population.

Comment: A Texas parent commented that local school boards should pass a resolution to publicize each campus's support for military children and their families. The parent also suggested that local school boards should enforce the terms of the Military Interstate Children's Compact Commission (MIC3) by incorporating guidelines into local policy.

Agency Response: The agency agrees that campuses should support military children and their families; however, the agency is unable to require local school boards to adopt the commenter's suggested resolution. As an option under §61.1063(c)(4)(A), a campus can choose to draft a resolution showing support for military-connected students and families. The agency also agrees that educators should be aware of the terms of MIC3; however, the agency cannot require local school board to enforce the terms. Section 61.1063(c)(1)(C) requires professional development opportunities for staff members on issues related to military-connected students, including the Interstate Compact on Educational Opportunity for Military Children, as specified in Texas Education Code (TEC), Chapter 162, and implementation of the compact in relationship to state law and local school district policy. The agency has created a professional development training that addresses the provisions of the compact and continually provides this as a training opportunity for educators across the state.

Comment: A Texas parent commented that school websites must include information regarding the MIC3 rules and how they apply.

Agency Response: The agency agrees. The new rule specifies the criteria for a webpage that a campus must create and maintain, which includes in §61.1063(c)(2)(C) a link to information on the Interstate Compact on Educational Opportunity for Military Children, as specified in TEC, Chapter 162.

Comment: A Texas parent commented that campuses should show evidence that they work with local installation school liaison officers. The parent commented that the evidence could include having school liaison officer contact information on the webpage and fostering partnerships with school liaison officers to include activities and initiatives like adopt-a-school programs, installation tours, and career days.

Agency Response: The agency agrees that partnerships with school liaison officers are important in providing supports and services to the military-connected population. Section 61.1063(c)(4)(C) encourages a campus to partner with a school liaison officer to provide opportunities for active duty military members to volunteer in the local schools, speak at school assemblies, or host a school field trip. If the campus chooses this initiative, it will submit evidence of this collaboration to demonstrate it has met the criteria.

Comment: A Texas parent commented that the campus-based military liaison must be required to have sufficient training regarding the unique needs of military-connected students and written proof of training must be made available.

Agency Response: The agency agrees. Section 61.1063(c)(1)(B)(vi) includes the requirement that military liaisons must attend professional development or training annually to learn and understand topics related to the transition of military-connected students and their families. Campuses will receive guidance on what must be submitted to demonstrate they have met the criteria in the rule.

Comment: A Texas parent commented that school culture reflecting a friendly, warm, and welcoming environment should be evident and campuses should welcome parents to be active participants in the school upon arrival. The parent commented that districts should offer resources and information about family support organizations and services available at the district office and within each school.

Agency Response: The agency agrees. Section 61.1063(c)(3)(A)-(C) specifies the criteria for the required campus transition program. This program assists students in acclimating to a new school environment and is supported by the campus-based military liaison or student leaders or ambassadors.

Comment: A Texas parent commented that school campus websites should include the contact information of the campus-based military liaison. The parent commented that the campus should offer a mentor to bridge the gap of students who may not feel included upon their arrival. The parent commented that tours of the campus should be offered to students so they feel familiar with the school prior to attending. The parent commented that campuses should offer volunteer opportunities for parents and make them available on the campus website instead of assuming that they already know about these opportunities.

Agency Response: The agency agrees. Section 61.1063(c)(3)(C)(i)-(iii) specifies that student leaders or

ambassadors should participate in organizing and hosting newcomer social events throughout the school year that give military-connected students and families an opportunity to learn about campus culture, processes, and the community; facilitate guided tours of the campus; and accompany new students to lunch the first week of school. Section 61.1063(c)(2)(E) specifies that the campus webpage must provide the contact information of the campus's designated military liaison.

Comment: A Texas parent commented that it is a challenge for military-connected families to navigate the MIC3 rules and how they apply at the local level. The parent also commented that their military-connected child faces unique challenges such as attending new schools every two to three years resulting in no close friendships. The parent stated that the burden of being a military-connected student can be eased by including school liaison officer contact information on the campus webpage. The parent commented that school liaison officers can help establish strong partnerships with the military through mentorship programs, career days, and military installation tours. The parent commented that campuses can help America remain the pre-eminent country in the world by creating a more military-friendly environment for children of service members. The parent also commented there should be consideration for joining the Purple UP! movement and relaxing some of the stringent University Interscholastic League (UIL) rules that prevent children who attend schools on a military base from participating in extracurricular opportunities not offered by their campus.

Agency Response: The agency agrees and has determined that the criteria for campuses to apply for and earn the Purple Star Campus Designation address concerns to increase the awareness and knowledge of the Interstate Compact on Educational Opportunity for Military Children in relationship to state law and local school district policy. These concerns are also addressed by having a transition program focused on assisting military-connected students with acclimating to a new school environment, encouraging partnership with school liaison officers, and participating in Month of the Military Child, which can include Purple UP! For Military Children. Information about a link to the school liaison officer webpage and social media will be included in additional guidance provided to the districts that would like to apply for and earn the Purple Star Campus Designation. The agency does not have jurisdiction over UIL; however, provisions of the Interstate Compact on Educational Opportunity for Military Children require state and local agencies to facilitate the opportunity for inclusion of students in extracurricular activities regardless of deadlines as long as the student is otherwise qualified.

Comment: A community member commented that it is important that the campus-based military liaison have a close relationship with the school liaison officer at the military installation. The commenter stated that military families and students rely on school liaison officers to best represent their needs.

Agency Response: The agency agrees. Section 61.1063 includes opportunities for the campus to partner with the school liaison officer.

Comment: A Texas parent commented on the need for oversight and accountability of the Interstate Compact on Educational Opportunity for Military Connected Students from the local school board in terms of policy change and/or legislation. The parent also commented that campus liaisons and faculty must be knowledgeable about military child challenges, programs, partnerships, and resources. The parent commented that schools

should partner with the school liaison officer in facilitating the overall well-being and education of the military child.

Agency Response: The agency disagrees, in part, as it does not have jurisdiction regarding oversight and accountability of the Interstate Compact on Educational Opportunity for Military Children for local school board members in terms of policy and legislative changes. The agency agrees the campus-based liaison and staff should be knowledgeable about military-connected children. Section 61.1063(c)(1)(B)(vi) requires campus-based military liaisons to attend professional development or trainings annually to learn and understand topics related to military-connected students and their families. Section 61.1063(c)(1)(C) requires the campus-based military liaison to offer professional development opportunities for staff members on issues related to military-connected students. The agency agrees school environments should be welcoming to military students and their families. Section 61.1063(c)(3) establishes the criteria for campus transition programs to address these specific needs. The agency agrees that partnership with school liaison officers and campuses is important to assisting military-connected students and their families with transitioning in and out of Texas public schools.

Comment: Three individuals, including parents and a military spouse, commented that campus websites need to include information on the MIC3 rules as well as the local school liaison officer. The individuals commented that campuses should work closely and establish strong relationships with the local school liaison officers, which include providing tours of the installation, sponsoring career days, and promoting mentorship. The individual commented that campus-based military liaisons should be trained on the unique needs of military-connected students.

Agency Response: The agency agrees that such information should be included. Section 61.1063(c)(2)(C) includes as one of the criteria for the webpage to include a link to the Interstate Compact on Educational Opportunity for Military Children, as specified in TEC, Chapter 162. Information about a link to the school liaison officer webpage and social media will be included in additional guidance provided to the districts that would like to apply for and earn the Purple Star Campus Designation. The agency has also included throughout §61.1063 opportunities for campuses to engage with their local school liaison officer. The agency agrees the campus-based military liaison should be trained on the unique need of military-connected student and has included language in the criteria stated in §61.1063(c)(1)(B)(vi).

Comment: The Children's Bereavement Center of South Texas commented that the campus-based liaison should receive training in the area of impact of grief on students and ways in which healing can best occur. The Children's Bereavement Center of South Texas also suggested to modify §61.1063(c)(1)(C) by moving §61.1063(c)(1)(C)(ix) in a more prominent position so it is the second or third topic listed. The Children's Bereavement Center of South Texas stated that a child who has experienced death of a parent deserves priority attention.

Agency Response: The agency agrees that the campus-based military liaison should receive training on the impact of grief on students; however, the agency disagrees with the suggestion to prioritize topics. The list included in §61.1063(c)(1)(C)(i)-(ix) is not a list of required trainings but a list of some that are recommended to better serve their military-connected student population.

Comment: A military family advocate commented that he experienced grief and loss of a parent after losing his father in the Vietnam War. The advocate commented on his personal experience and stated that he often wonders if his life would have been improved by early intervention by teachers, counselors, principals, or other school professionals. The advocate suggested making "Gold Star" children a higher priority and moving §61.1063(c)(1)(C)(ix) from spot nine to spot number two on the list, which could make a huge difference in the eyes of surviving families of our nation's military family heroes.

Agency Response: The agency recognizes the importance of educators understanding trauma and grief related to military-connected students who lose a parent in the line of duty but disagrees with reorganizing the list in §61.1063(c)(1)(C). The list of professional development opportunities are optional and can be chosen based on the needs of the campus's military-connected student population.

Comment: A Texas parent commented that §61.1063(c)(1) should include language requiring the campus to designate an assigned staff member as a military liaison in writing. The parent also commented that §61.1063(c)(1) should include language to state that campus-based military liaisons should also work with school liaison officers.

Agency Response: The agency agrees in part that the designation of the military liaison be in writing; however, the application process will include more information on how campuses can demonstrate they have selected their campus-based military liaisons. The agency also agrees in part that the campus-based military liaison should be encouraged to work with school liaison officers; however, the agency disagrees with the comment that the campus-based military liaison be required to work with school liaison officers. There are rural districts and campuses not located near military installations that may not have access to school liaison officers.

Comment: A Texas parent commented that §61.1063(c)(2)(B) should require that information be added to each webpage about early registration options associated with the passage of HB 1597, 86th Texas Legislature, 2019.

Agency Response: This comment is outside the scope of the proposed rulemaking. However, guidance on the implementation of HB 1597 is available on the TEA Military Family Resource Webpage.

Comment: A Texas parent commented that §61.1063(c)(2) should add language on the campus webpage to include school liaison officer contact information. The parent also commented that a fifth criteria should be added to require campuses to partner with assigned school liaison officers.

Agency Response: The agency disagrees. Campuses not located in proximity to military installations may not have direct access to school liaison officers. Additionally, the agency does not have the statutory authority to include an additional criterion. Information about a link to the school liaison officer webpage and social media will be included in additional guidance provided to the districts that would like to apply for and earn the Purple Star Campus Designation.

STATUTORY AUTHORITY. The new section is adopted under Texas Education Code (TEC), §33.909, as added by Senate Bill 1557, 86th Texas Legislature, 2019, which establishes the criteria campuses must demonstrate in order to qualify to apply for and earn the Purple Star Campus Designation. TEC,

§33.909(e), requires the Texas Education Agency to adopt rules necessary to administer this statute.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code, §33.909, as added by Senate Bill 1557, 86th Texas Legislature, 2019.

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

Filed with the Office of the Secretary of State on March 20, 2020.

TRD-202001207

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: April 9, 2020

Proposal publication date: January 10, 2020

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TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 7. PREPAID HIGHER EDUCATION TUITION PROGRAM

SUBCHAPTER K. HIGHER EDUCATION SAVINGS PLAN

34 TAC §7.101

The Comptroller of Public Accounts adopts an amendment to §7.101, concerning definitions, without changes to the proposed text as published in the October 25, 2019, issue of the *Texas Register* (44 TexReg 6278). The rule will not be republished.

The amendment to §7.101 updates the definition of qualified higher education expenses in paragraph (7) to reference the federal definition of the term, which was recently amended in the Tax Cuts and Jobs Act of 2017 and House Bill 3655, 86th Legislature, 2019.

No comments were received regarding adoption of the amendment.

This amendment is adopted under Education Code, §54.702(a) and §54.710, which authorize the Prepaid Higher Education Tuition Board in the Comptroller of Public Accounts to adopt rules to implement the program.

This amendment implements Education Code, Chapter 54, Subchapter G.

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

Filed with the Office of the Secretary of State on March 16, 2020.

TRD-202001149

Victoria North
Chief Counsel, Fiscal and Agency Affairs Legal Services Division
Comptroller of Public Accounts
Effective date: April 5, 2020
Proposal publication date: October 25, 2019
For further information, please call: (512) 475-0387



SUBCHAPTER L. PREPAID TUITION UNIT UNDERGRADUATE EDUCATION PROGRAM: TEXAS TOMORROW FUND II

34 TAC §§7.122, 7.125, 7.136, 7.141, 7.142

The Comptroller of Public Accounts adopts amendments to §7.122, concerning definitions, §7.125, concerning redemption of tuition units, §7.136, concerning transfers to institutions on redemptions of tuition units, §7.141, concerning effect of program termination on contract, and §7.142, concerning statement regarding status of prepaid tuition contract, without changes to the proposed text as published in the October 25, 2019, issue of the *Texas Register* (44 TexReg 6279). The rules will not be republished.

The amendments to §7.122 update the format of the definitions listed in all paragraphs so that they are presented in the same format as other definitions listed in Chapter 7; update the definitions of beneficiary in paragraph (2) and eligible educational institution in paragraph (5) pursuant to new legislation, HB 3655, 86th Legislature, 2019; clarify the definition of enrollment period in paragraph (6) because there is no longer an initial enrollment period and delete the obsolete language; delete the definition of market value in paragraph (10) because the term is not used in Subchapter L; add paragraph (11) defining medical and dental units, private or independent institution of higher education, public junior college, public state college, public technical institute, and recognized accrediting agency to reflect the definition in the Education Code; delete the definition in paragraph (17) because the terms are defined in paragraph (11); update the definition of program or plan in paragraph (17) to allow the board to select a different name for the plan for marketing purposes; update the definition of reduced refund value in paragraph (20) because the term market value is not being used; update the definition of refund value in paragraph (21) to comport with the method determined by the board; clarify the definition of prepaid tuition contract in paragraph (15) and the definition of tuition in paragraph (26) to reflect medical and dental units for purposes of implementing HB 3655; and renumbered the paragraphs so that they are arranged in numerical order.

The amendments to §7.125 update subsections (a) and (e) to add medical and dental units because the language is no longer complete since the adoption of HB 3655.

The amendment to §7.136 revises subsection (b) to add medical and dental units because the language is no longer complete since the adoption of HB 3655.

The amendment to §7.141 updates subsection (a)(1) to add medical and dental units because the language is no longer complete since the adoption of HB 3655.

The amendments to §7.142 change the deadline in subsection (a) from January 1st to 31st to allow adequate time to post all calendar year-end transactions and change "any" to "a" in subsection (a)(5) to limit the specific institutions.

No comments were received regarding adoption of the amendments.

These amendments are adopted under Education Code, §54.752(b)(1), which authorizes the Prepaid Higher Education Tuition Board in the Comptroller of Public Accounts to adopt rules to implement the program.

These amendments implement Education Code, Chapter 54, Subchapter H.

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

Filed with the Office of the Secretary of State on March 16, 2020.

TRD-202001150

Victoria North
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Effective date: April 5, 2020
Proposal publication date: October 25, 2019
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CHAPTER 9. PROPERTY TAX ADMINISTRATION

SUBCHAPTER A. PRACTICE AND PROCEDURE

34 TAC §9.100

The Comptroller of Public Accounts adopts the repeal of existing §9.100, concerning the property value study advisory committee, without changes to the proposed text as published in the February 14, 2020, issue of the *Texas Register* (45 TexReg 997). The rule will not be republished. The comptroller repeals §9.100 to implement Section 91 of Senate Bill 2, 86th Legislature, 2019, which repealed Government Code, §403.302(m-1) and (n) effective Jan. 1, 2020.

The comptroller did not receive any comments regarding adoption of the amendment.

The repeal is adopted under Government Code, §403.302 (Determination of School District Property Values), which provides the comptroller with the authority to adopt rules governing the conduct of the property value study.

The repeal implements changes to Government Code, §403.302(m-1) and (n).

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

Filed with the Office of the Secretary of State on March 18, 2020.

TRD-202001164

Victoria North
Chief Counsel Fiscal and Agency Affairs Legal Services Division
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Effective date: April 7, 2020
Proposal publication date: February 14, 2020
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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 15. TEXAS FORENSIC SCIENCE COMMISSION

CHAPTER 651. DNA, CODIS, FORENSIC ANALYSIS, AND CRIME LABORATORIES

The Texas Forensic Science Commission ("Commission") adopts amendments to 37 Texas Administrative Code Chapter 651, concerning DNA, CODIS, Forensic Analysis, and Crime Laboratories, without changes to the text as published in the February 14, 2020, issue of the *Texas Register* (45 TexReg 1001). The rules will not be republished. These amendments apply to four rule sections: §651.5, Forensic Disciplines Subject to Commission Accreditation, which lists forensic disciplines subject to Commission crime laboratory accreditation requirements; §651.202, Definitions, which provides definitions related to the Commission's Forensic Analyst Licensing Program; §651.203, Forensic Disciplines Subject to Commission Licensing, which describes the Commission's categories of forensic analysis that are subject to forensic analyst licensure requirements; and §651.207, Forensic Analyst Licensing Requirements Including License Term, Fee and Procedure for Denial of Application and Reconsideration, which describes Commission licensing requirements for forensic analysts.

The first adopted amendment removes current restrictions on eligibility for the General Forensic Analyst Licensing Exam ("Exam") for forensic analysts practicing in certain forensic disciplines that are not subject to the accreditation requirements set forth in article 38.35 Tex. Code Crim. Proc. The Commission opted to expand the eligibility requirements for forensic analysts practicing in these disciplines after receiving multiple requests to take the Exam from practitioners in the disciplines.

The second adopted amendment provides clarity regarding certain categories of analysis listed under Materials (Trace), a forensic discipline subject to the accreditation and licensing rules. The amendment removes "physical comparison" from the list of categories of analysis subject to accreditation and licensing rules to avoid confusion regarding the application of this category to analytical work performed by document examiners who are otherwise exempt from the accreditation and licensing rules. The change clarifies that document examination analysts performing paper reconstruction are not subject to accreditation and licensing requirements solely because paper reconstruction could be considered a type of "physical comparison." Notwithstanding this adopted amendment, Materials (Trace) Analysts who perform physical determinations, chemical comparisons and/or any other category of analysis listed under Materials (Trace) will still be subject to accreditation and licensing requirements by the Commission.

The third adopted amendment harmonizes the cost of provisional forensic analyst licensure with the cost of the main forensic analyst licensure program. Under the current rules, a provisionally licensed forensic analyst pays \$220 for his or her provisional license. After the year term of the license has expired, the analyst is not required to pay anything until he or she renews in two years for a total of three years of licensure. Analysts who are not provisionally licensed pay \$220 for two

years. This amendment is necessary to provide clarity in the payment structure so that every analyst pays the same amount for the same period of licensure, whether the analyst is initially licensed on a provisional basis or not.

The fourth adopted amendment provides corresponding definitions for certain unaccredited forensic disciplines for which forensic analysts will be eligible for the Exam pursuant to the adopted amendment to remove current restrictions on eligibility for the Exam.

The amendments are necessary to reflect adoptions made by the Commission at its January 31, 2020 quarterly meeting. The adoptions are made in accordance with the Commission's forensic analyst licensing authority under Code of Criminal Procedure, Article 38.01 §§3-a and 4-a.

Summary of Comments. No comments were received regarding the amendments to these sections.

SUBCHAPTER A. ACCREDITATION

37 TAC §651.5

Statutory Authority. The amendments are adopted under Article 38.01 §§3-a and 4-a, Code of Criminal Procedure.

Cross reference to statute. The adoption affects 37 TAC §§651.5, 651.202, 651.203, and 651.207.

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

Filed with the Office of the Secretary of State on March 16, 2020.

TRD-202001144

Leigh Savage

Associate General Counsel

Texas Forensic Science Commission

Effective date: April 5, 2020

Proposal publication date: February 14, 2020

For further information, please call: (512) 936-0661

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SUBCHAPTER C. FORENSIC ANALYST LICENSING PROGRAM

37 TAC §§651.202, 651.203, 651.207

Statutory Authority. The amendments are adopted under Article 38.01 §§3-a and 4-a, Code of Criminal Procedure.

Cross reference to statute. The adoption affects 37 TAC §§651.5, 651.202, 651.203, and 651.207.

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

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SUBCHAPTER C. FORENSIC ANALYST LICENSING PROGRAM

37 TAC §651.206

The Texas Forensic Science Commission ("Commission") adopts an amendment to 37 Texas Administrative Code §651.206 without changes to the text as published in the February 14, 2020, issue of the *Texas Register* (44 TexReg 1007). The rules will not be republished. The proposed amendment exempts an interpretive toxicology analyst licensed before January 1, 2019 who seeks to add seized drugs analysis to the scope of his or her license from complying with elevated chemistry and statistics coursework requirements that took effect after January 1, 2019. Because interpretive toxicologists are already expected to have laboratory training and experience in the identification and quantitation of drugs and use many of the same instruments and techniques used in the seized drugs discipline, it would be inefficient and burdensome to require these analysts to complete additional college-level coursework. The amendment is necessary to reflect adoptions made by the Commission at its January 31, 2020 quarterly meeting. The adoptions are made in accordance with the Commission's authority under Article 38.01 §§3-a and 4-a, Code of Criminal Procedure with respect to the Commission's Forensic Analyst Licensing program.

Summary of Comments. No comments were received regarding the amendments to this section.

Statutory Authority. The amendments are proposed under Tex. Code Crim. Proc. art 38.01 §§3-a and 4-a.

Cross reference to statute. The proposal affects 37 Texas Administrative Code §651.206.

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

Filed with the Office of the Secretary of State on March 17, 2020.

TRD-202001152

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Texas Forensic Science Commission

Effective date: April 6, 2020

Proposal publication date: February 14, 2020

For further information, please call: (512) 936-0661

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37 TAC §651.210

The Texas Forensic Science Commission ("Commission") adopts an amendment to 37 Texas Administrative Code §651.210, with non-substantive changes to the text as published in the February 14, 2020, issue of the *Texas Register* (45 TexReg 1009). The rule will be republished.

The changes address capitalization of the terms "Forensic Analyst" and "Forensic Technician" where necessary. The provisional Forensic Analyst or Forensic Technician license permits an individual to become licensed for one year while working to fulfill any education or other coursework requirements the individual may be missing for full licensure. The revisions clarify

the original intent of the Commission - that an individual is only eligible for a provisional license one time and a provisional license may not be renewed. The amendments are necessary to reflect adoptions made by the Commission at the January 31, 2020, quarterly meeting. The adoptions were made in accordance with the Commission's forensic analyst licensing authority under Code of Criminal Procedure, Article 38.01 §§3-a and 4-a.

Summary of Comments. No comments were received regarding the amendments to this section.

Statutory Authority. The amendment is proposed under Tex. Code Crim. Proc., Art 38.01 §§3-a and 4-a.

Cross reference to statute. The adoption affects 37 Texas Administrative Code §651.210.

§651.210. Provisional Forensic Analyst or Forensic Technician License.

(a) Issuance. The Commission may issue a provisional Forensic Analyst or Forensic Technician License.

(b) Eligibility. An individual may apply to the Commission for a provisional Forensic Analyst or Forensic Technician License if the individual meets the following qualifications:

(1) applicant is currently employed in an accredited laboratory for which the licensing requirements of this subchapter apply; and

(2) applicant cannot meet one or more of the forensic analyst license requirements set forth in this subchapter at the time of application but plans to meet all the requirements within the one-year provisional license period and meets all other requirements described in §651.207 of this subchapter, relating to Forensic Analyst Licensing Requirements Including License Term, Fee and Procedure for Denial of Application and Reconsideration.

(c) Application. An applicant for a provisional Forensic Analyst or Forensic Technician License shall complete and submit to the Commission a current Provisional Forensic Analyst License Application form, pay the required fee and submit a signed statement on a form to be provided by the Commission stating he or she has fulfilled the eligibility requirements of this section.

(d) Provisional License Term. A provisional Forensic Analyst or Forensic Technician License is granted for a period of one year from the date of issuance and is not eligible for renewal. A provisional Forensic Analyst or Forensic Technician License may only be issued to an individual one time.

(e) Scope of Provisional License. A provisionally licensed Forensic Analyst or Forensic Technician may technically review or perform forensic analysis or draw conclusions from or interpret a forensic analysis for a court or crime laboratory to the extent a fully licensed Forensic Analyst or Forensic Technician may perform these duties.

(f) Effective Date of Forensic Analyst or Forensic Technician License Requirements for Provisionally Licensed Analysts. A provisionally licensed Forensic Analyst or Forensic Technician shall be subject to the Forensic Analyst or Forensic Technician licensing requirements in effect on the date the Forensic Analyst or Forensic Technician is granted the provisional license.

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

Filed with the Office of the Secretary of State on March 16, 2020.

TRD-202001148

Leigh Savage
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Effective date: April 5, 2020
Proposal publication date: February 14, 2020
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SUBCHAPTER D. PROCEDURE FOR PROCESSING COMPLAINTS AND LABORATORY SELF-DISCLOSURES

37 TAC §651.302

The Texas Forensic Science Commission ("Commission") adopts amendments to Title 37, Texas Administrative Code §651.302, without changes to the text as published in the February 14, 2020, issue of the *Texas Register* (45 TexReg 1010). The rule will not be republished.

The amendments change the statutory reference to the definition of "forensic analysis" in this section to Article 38.01, Code of Criminal Procedure instead of Article 38.35, Code of Criminal Procedure. Article 38.01 is the Commission's enabling statute. It sets forth the Commission's responsibilities and the limitations on its jurisdiction, including a description of investigative authority. Because §651.302 addresses the investigative process, the appropriate statutory reference should be 38.01, not 38.35 which addresses the admissibility of forensic evidence in Texas criminal cases. The amendments are necessary to reflect adoptions made by the Commission at its January 31, 2020, quarterly meeting. The adoptions are made in accordance with the Commission's rulemaking authority under Article 38.01 §3-a, Code of Criminal Procedure.

Summary of Comments. No comments were received regarding the amendments to this section.

Statutory Authority. The amendments are adopted under Article 38.01, Code of Criminal Procedure §3-a.

Cross reference to statute. The adoption affects 37 Texas Administrative Code §651.302.

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

Filed with the Office of the Secretary of State on March 17, 2020.
TRD-202001151

Leigh Savage
Associate General Counsel
Texas Forensic Science Commission
Effective date: April 6, 2020
Proposal publication date: February 14, 2020
For further information, please call: (512) 936-0661



37 TAC §651.307

The Texas Forensic Science Commission ("Commission") adopts amendments to Title 37, Texas Administrative Code §651.307 without changes as published in the February 14, 2020, issue of the *Texas Register* (45 TexReg 1011). The amendments set forth the process by which the Commission may review and refer cases that are the subject of a Commission investigation to the Office of Capital and Forensic Writs ("OCFW") pursuant to Article 38.01 §4(h), Code of Criminal Procedure. The referral option provided by Article 38.01 §4(h), Code of Criminal Procedure is referenced in Title 37, Texas Administrative Code §651.303 of the Commission's rules; however, specific procedures with regard to the referrals have not yet been adopted by the Commission and are adopted herein. The amendments are necessary to reflect adoptions made by the Commission at its January 31, 2020 quarterly meeting. The adoptions are made in accordance with the Commission's rulemaking authority under Article 38.01 §3-a, Code of Criminal Procedure.

Summary of Comments. No comments were received regarding the amendments to this section.

Statutory Authority. The amendment is proposed under Article 38.01, Code of Criminal Procedure §§4(h) and 3-a.

Cross reference to statute. The adoption affects 37 Texas Administrative Code §651.307.

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

Filed with the Office of the Secretary of State on March 16, 2020.

TRD-202001146
Leigh Savage
Associate General Counsel
Texas Forensic Science Commission
Effective date: April 5, 2020
Proposal publication date: February 14, 2020
For further information, please call: (512) 936-0661



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.

Adopted Rule Reviews

State Board for Educator Certification

Title 19, Part 7

The State Board for Educator Certification (SBEC) adopts the review of Title 19, Texas Administrative Code (TAC), Chapter 239, Student Services Certificates, pursuant to the Texas Government Code (TGC), §2001.039. The SBEC proposed the review of 19 TAC Chapter 239 in the January 3, 2020 issue of the *Texas Register* (45 TexReg 161).

Relating to the review of 19 TAC Chapter 239, the SBEC finds that the reasons for the adoption continue to exist and readopts the rules. The following is a summary of the public comments received and the responses.

Comment: Eighty-two individuals commented in support of the need for the rules in Chapter 239 and for the current requirements and standards for the School Librarian certificate to ensure school librarians are qualified and professionally prepared.

Response: The SBEC agrees. The SBEC believes the reasons for initially adopting Chapter 239 continue to exist in certifying student services certificates and in the need to uphold the current requirements and standards for the School Librarian certificate.

Comment: Ten individuals requested updates to the current School Librarian certificate due to the changing nature of the librarian profession along with new state guidelines recently adopted by the Texas State Library and Archives Commission as well as the Texas Education Agency (TEA).

Response: The request is outside the scope of the proposed rule review of Chapter 239; however, the TEA staff will consider this feedback for future rulemaking under the jurisdiction of the SBEC.

Comment: Nine individuals commented in support of the need for the rules in Chapter 239 and for the current requirements and standards for the School Counselor certificate to ensure school counselors are qualified and professionally prepared.

Response: The SBEC agrees. The SBEC believes the reasons for initially adopting Chapter 239 continue to exist in certifying student services certificates and in the need to uphold the current requirements and standards for the School Counselor certificate.

Comment: The Association of Texas Professional Educators (ATPE) requested the SBEC to revise Chapter 239 to create replacement certificates for those expiring due to House Bill (HB) 3, 86th Texas Legislature, 2019. ATPE stated that the expiration of current Legacy Master Teacher certificates will leave some certificate holders unable to continue teaching in their current assignments unless they obtain additional certification as well as make it more difficult for school districts to find

enough appropriately certified personnel to fulfill the assignments previously covered by master teacher certificates.

Response: The request is outside the scope of the proposed rule review of Chapter 239; however, the TEA staff will consider this feedback for future rulemaking under the jurisdiction of the SBEC.

Comment: One Texas administrator commented in opposition to the SBEC reviewing the Reading Specialist certificate in light of the expiration of the Master Reading Teacher certificate and not providing that same review for the Master Math and Master Science certificates. The commenter stated that with the Teacher Incentive Grant, the state has removed the master teacher certificates that would provide proficiency in the grant. The commenter stated that the perfect coordination of Master Reading, Master Math, and Master Science teacher certificates and data would complete a picture of an "Exemplary" teacher.

Response: The comment is outside the scope of the proposed rule review of Chapter 239; however, the TEA staff will provide the comment to agency staff responsible for implementation of the Teacher Incentive Allotment, created as part of HB 3, 86th Texas Legislature, 2019.

Comment: Texas Woman's University (TWU) requested that SBEC uniformly increase educator preparation program (EPP) admission standards for all candidates seeking student services certificates to require that the candidate already hold a valid certificate and have the appropriate number of creditable years of teaching experience at admission. TWU also requested that the Reading Specialist certification standards be adopted in rule.

Response: The request is outside the scope of the proposed rule review of Chapter 239; however, the TEA staff will consider this feedback for future rulemaking under the jurisdiction of the SBEC. The SBEC also provides the following clarification. An EPP may choose to increase admission requirements above the minimum required by rule.

This concludes the review of 19 TAC Chapter 239.

TRD-202001202

Cristina De La Fuente-Valadez

Director, Rulemaking

State Board for Educator Certification

Filed: March 19, 2020



Texas Board of Nursing

Title 22, Part 11

In accordance with Government Code §2001.039, the Texas Board of Nursing (Board) filed a notice of intention to review and consider for re-adoption, re-adoption with amendments, or repeal, the follow-

ing chapter contained in Title 22, Part 11, of the Texas Administrative Code, pursuant to the 2019 rule review plan adopted by the Board at its July 2018 meeting. The notice appeared in the January 31, 2020, edition of the *Texas Register* (45 TexReg 775).

Chapter 220. Nurse Licensure Compact, §220.1

Chapter 223. Fees, §223.1 and §223.2

Chapter 224. Delegation of Nursing Tasks by Registered Professional Nurses to Unlicensed Personnel for Clients with Acute Conditions or in Acute Care Environments, §§224.1 - 224.11

Chapter 226. Patient Safety Pilot Programs on Nurse Reporting Systems, §§226.1 - 226.7

The Board did not receive comment on the above rules. The Board has completed its review and has determined that the reasons for originally adopting the above rules continue to exist. The rules were also reviewed to determine whether they were obsolete, whether they reflected current legal and policy considerations and current procedures and practices of the Board, and whether they were in compliance with Texas Government Code Chapter 2001 (Texas Administrative Proce-

dures Act). The Board finds that the rules are not obsolete, reflect current legal and policy considerations, current procedures and practices of the Board, and that the rules are in compliance with the Texas Administrative Procedure Act.

The Board readopts the rules in Chapters 220, 223, 224, and 226 without changes, pursuant to the Texas Government Code §2001.039 and Texas Occupations Code §301.151, which authorizes the Board to adopt, enforce, and repeal rules consistent with its legislative authority under the Nursing Practice Act. This concludes the rule review of Chapter 220, 223, 224, and 226 under the 2019 rule review plan adopted by the Board.

TRD-202001188

John Vanderford

Assistant General Counsel

Texas Board of Nursing

Filed: March 18, 2020



IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

Office of the Attorney General

Texas Health and Safety Code and Texas Water Code Settlement Notice

The State of Texas gives notice of the following proposed resolution of an environmental enforcement action under the Texas Water Code and Texas Health and Safety Code. Before the State may enter into a voluntary settlement agreement, pursuant to section 7.110 of the Texas Water Code the State shall permit the public to comment in writing. The Attorney General will consider any written comments and may withdraw or withhold consent to the proposed agreement if the comments disclose facts or considerations indicating that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the law.

Case Title and Court: *State of Texas v. Jose Flores Cabazos a/k/a Jose Flores Cavazos d/b/a Cabazos Homes*; Cause No. D-1-GN-18-006881; in the 353rd Judicial District Court, Travis County, Texas.

Background: The State initiated the suit on behalf of the Texas Commission on Environmental Quality ("TCEQ"), involving a public drinking water system owned by Defendant Jose Flores Cabazos a/k/a Jose Flores Cavazos d/b/a Cabazos Homes. The suit alleged violations of the requirements applicable to suppliers of public drinking water, including ensuring that safe and adequate drinking water was provided to the customers. In addition, the State claimed that Defendant failed to prevent the dumping or disposal of municipal solid waste, and allowed unauthorized emissions of an air contaminant. These acts are in violation of the state drinking water regulations, regulations of the public water system, the Texas Solid Waste Disposal Act, the Texas Clean Air Act, TCEQ rules, and TCEQ administrative orders.

Proposed Settlement: The parties propose an Agreed Final Judgment which provides for an award of unpaid administrative penalties in the amount of \$16,768.75, civil penalties in the amount of \$13,000.00, plus attorney's fees and court costs to the State in the amount of \$6,231.25.

For a complete description of the proposed settlement, the Agreed Final Judgment should be reviewed in its entirety. The proposed judgment may be examined at the Office of the Attorney General, 300 W. 15th Street, 10th Floor, Austin, Texas 78701, and copies may be obtained in person or by mail for the cost of copying. A copy is also lodged with the Travis County District Court. Requests for copies of the proposed judgment and settlement, and written comments on the same, should be directed to Tyler J. Ryska, Assistant Attorney General, Office of the Texas Attorney General, P.O. Box 12548, MC 066, Austin, Texas 78711-2548, (512) 463-2012, facsimile (512) 320-0911. Written comments must be received within 30 days of publication of this notice to be considered.

TRD-202001206
Ryan L. Bangert
Deputy Attorney General for Legal Counsel
Office of the Attorney General
Filed: March 20, 2020

◆ ◆ ◆
Comptroller of Public Accounts

Certification of the Average Closing Price of Gas and Oil - February 2020

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 February 2020 is \$43.48 per barrel for the three-month period beginning on November 1, 2019, and ending January 31, 2020. Therefore, pursuant to Tax Code, §202.058, oil produced during the month of February 2020, from a qualified low-producing oil lease, is not eligible for a 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 February 2020 is \$1.26 per mcf for the three-month period beginning on November 1, 2019, and ending January 31, 2020. Therefore, pursuant to Tax Code, §201.059, gas produced during the month of February 2020, 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 February 2020 is \$50.66 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 February 2020, 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 February 2020 is \$1.84 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 February 2020, from a qualified low-producing gas well.

Inquiries should be submitted to Teresa G. Bostick, Director, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711-3528.

TRD-202001235
William Hamner
Special Counsel for Tax Administration
Comptroller of Public Accounts
Filed: March 24, 2020

◆ ◆ ◆
Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §303.003 and §303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 03/30/20 - 04/05/20 is 18% for Consumer¹/Agricultural/Commercial² credit through \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 03/30/20 - 04/05/20 is 18% for Commercial over \$250,000.

¹ Credit for personal, family or household use.

² Credit for business, commercial, investment or other similar purpose.

TRD-202001231

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: March 24, 2020



Credit Union Department

Application for a Merger or Consolidation

Notice is given that the following application has been filed with the Credit Union Department (Department) and is under consideration.

An application was received from Everman Parkway Credit Union (Fort Worth) seeking approval to merge with America's Credit Union (Garland), with America's Credit Union being the surviving 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. Any written comments must provide all 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-202001201

John J. Kolhoff

Commissioner

Credit Union Department

Filed: March 19, 2020



Texas Council for Developmental Disabilities

Request for Applications: Leadership and Advocacy Training by Local Self-Advocacy Organization

The Texas Council for Developmental Disabilities (TCDD) announces the availability of funds for one local self-advocacy organization to provide leadership and advocacy training to individuals with disabilities, students with developmental disabilities, individuals living in institutions, family members of people with disabilities, and other interested community members who do not fall into any of these categories.

Eligible applicants for this Request for Applications (RFA) are limited to local self-advocacy groups and organizations; however, applicants that do not have the capacity to receive funds can partner with an organization that can perform fiscal and administrative functions. Regardless of the involvement of a partner organization, self-advocates will take the lead on the project and conduct the training.

The funding amount for this RFA is open-ended based on activities proposed, but typical TCDD projects that address leadership and advocacy range from \$25,000 to \$150,000 per year. A maximum of one project will be funded for up to five years.

Funds available for these projects are provided to TCDD by the U.S. Department of Health and Human Services, Administration on Disabilities, pursuant to the Developmental Disabilities Assistance and Bill of Rights Act. Funding for the project is dependent on the results of a

review process established by TCDD and on the availability of funds. Non-federal matching funds of at least 10% of the total project costs are required for projects in federally designated poverty areas. Non-federal matching funds of at least 25% of total project costs are required for projects in other areas.

Additional information concerning this Request for Applications (RFA) and TCDD is available at <https://tcdd.texas.gov/grants-rfps/funding-available-for-grants/>. All questions pertaining to this RFA should be directed in writing to TCDD via email at apply@tcdd.texas.gov or via telephone at (512) 437-5432.

Deadline: Applications must be submitted by 1:00 p.m. CT on Tuesday, June 30, 2020. Applications will not be accepted after the due date.

TRD-202001246

Beth Stalvey

Executive Director

Texas Council for Developmental Disabilities

Filed: March 25, 2020



Request for Applications: Sexual Assault Prevention & Response Projects

The Texas Council for Developmental Disabilities (TCDD) announces the availability of funds for organizations to develop projects that will help reduce the number of people with intellectual and developmental disabilities (IDD) who are victims of sexual assault. Projects will work to increase the number of people who understand and can identify instances of sexual assault, as well as know how to report the crimes. Also, projects will ensure survivors have access to the appropriate formal and informal supports and services. Outcomes will be achieved through education, trainings, information sharing, and raising awareness. Groups that will be included in project activities will include people with IDD; their families, friends, and allies; and community stakeholders and organizations that provide services and supports.

TCDD has approved funding for up to 5 projects for up to \$150,000 per year. Funds available for these projects are provided to TCDD by the U.S. Department of Health and Human Services, Administration on Disabilities, pursuant to the Developmental Disabilities Assistance and Bill of Rights Act. Funding for the project is dependent on the results of a review process established by TCDD and on the availability of funds. Non-federal matching funds of at least 10% of the total project costs are required for projects in federally designated poverty areas. Non-federal matching funds of at least 25% of total project costs are required for projects in other areas.

Additional information concerning this Request for Applications (RFA) and TCDD is available at <https://tcdd.texas.gov/grants-rfps/funding-available-for-grants/>. All questions pertaining to this RFA should be directed in writing to TCDD via email at apply@tcdd.texas.gov or via telephone at (512) 437-5432.

Deadline: Applications must be submitted by 1:00 p.m. CT on Tuesday, June 30, 2020. Applications will not be accepted after the due date.

TRD-202001247

Beth Stalvey

Executive Director

Texas Council for Developmental Disabilities

Filed: March 25, 2020



Texas Education Agency

Public Notice: Extension of Public Comment Periods for Commissioner Rule Proposals

Texas Education Agency (TEA) published Proposed New 19 TAC Chapter 129, Student Attendance, Subchapter BB, Commissioner's Rules Concerning Truancy Prevention Measures and Sanctions, §129.1049, Truancy Reporting Requirements, in the February 21, 2020 issue of the *Texas Register* (45 TexReg 1166). TEA is extending the end date of the public comment period on proposed new 19 TAC §129.1049 from March 23, 2020, to April 17, 2020.

TEA published Proposed Amendment to 19 TAC Chapter 101, Assessment, Subchapter AA, Commissioner's Rules Concerning the Participation of English Language Learners in State Assessments, Division 1, Assessments of English Language Proficiency and Academic Content for English Language Learners, §101.1003, English Language Proficiency Assessments, in the February 28, 2020 issue of the *Texas Register* (45 TexReg 1295). TEA is extending the end date of the public comment period on the proposed amendment to 19 TAC §101.1003 from March 30, 2020, to April 17, 2020.

TEA published Proposed Amendment to 19 TAC Chapter 66, State Adoption and Distribution of Instructional Materials, Subchapter DD, Instructional Materials Portal, §66.1403, Instructional Materials to be Included in the Instructional Materials Portal, in the March 6, 2020 issue of the *Texas Register* (45 TexReg 1530). TEA is extending the end date of the public comment period on the proposed amendment to 19 TAC §66.1403 from April 6, 2020, to April 17, 2020.

A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_\(TAC\)/Proposed_Commissioner_of_Education_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/). Comments on the proposal may also be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701.

Further Information. For clarifying information about this notice, contact Rulemaking, TEA, (512) 475-1497.

TRD-202001242

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Filed: March 25, 2020



Texas Commission on Environmental Quality

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075, requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **May 4, 2020**. 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 **May 4, 2020**. 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: Aqua Texas, Incorporated; DOCKET NUMBER: 2019-1711-PWS-E; IDENTIFIER: RN101199495; LOCATION: Huffman, Harris County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.108(f)(1) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 15 picoCuries per liter for gross alpha particle activity based on the running annual average; PENALTY: \$405; ENFORCEMENT COORDINATOR: Amanda Conner, (512) 239-2521; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(2) COMPANY: Aqua Utilities, Incorporated; DOCKET NUMBER: 2019-1503-PWS-E; IDENTIFIER: RN101271922; LOCATION: Alvin, Brazoria County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.41(c)(3)(P), by failing to provide an all-weather access road to the well site; 30 TAC §290.45(b)(1)(C)(i) and Texas Health and Safety Code (THSC), §341.0315(c), by failing to provide a well capacity of 0.6 gallons per minute (gpm) per connection; 30 TAC §290.45(b)(1)(C)(ii) and THSC, §341.0315(c), by failing to provide a total storage capacity of 200 gallons per connection; 30 TAC §290.45(b)(1)(C)(iii) and THSC, §341.0315(c), by failing to provide two or more pumps with a total capacity of 2.0 gpm per connection at each pump station or pressure plane; 30 TAC §290.45(b)(1)(C)(iv) and THSC, §341.0315(c), by failing to provide a pressure tank capacity of 20 gallons per connection; and 30 TAC §290.46(m)(4), by failing to maintain all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances in a watertight condition and free of excessive solids; PENALTY: \$3,370; ENFORCEMENT COORDINATOR: Marla Waters, (512) 239-4712; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(3) COMPANY: Aqua Utilities, Incorporated; DOCKET NUMBER: 2019-1500-PWS-E; IDENTIFIER: RN102688090; LOCATION: Denton, Denton 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, 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; PENALTY: \$325; ENFORCEMENT COORDINATOR: Samantha Duncan, (512) 239-2511; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(4) COMPANY: Asphalt Incorporated, LLC; DOCKET NUMBER: 2019-1626-AIR-E; IDENTIFIER: RN110255965; LOCATION: Center Point, Kerr County; TYPE OF FACILITY: asphalt plant; RULES VIOLATED: 30 TAC §101.20(1) and §116.115(c), 40 Code of Federal Regulations §60.92(a)(1), Standard Permit Registration Number 150643, Air Quality Standard Permit for Hot Mix Asphalt Plants, Spe-

cial Conditions Number (1)(K)(ii), and Texas Health and Safety Code, §382.085(b), by failing to comply with the outlet grain loading limits; PENALTY: \$2,250; ENFORCEMENT COORDINATOR: Danielle Porras, (713) 767-3682; REGIONAL OFFICE: 14250 Judson Road San Antonio, Texas 78233-4480, (210) 490-3096.

(5) COMPANY: Bell County Water Control and Improvement District 2; DOCKET NUMBER: 2019-1788-PWS-E; IDENTIFIER: RN101425106; LOCATION: Little River-Academy, Bell County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.46(d)(2)(B) and §290.110(b)(4) and Texas Health and Safety Code, §341.0315(c), by failing to maintain a disinfectant residual of at least 0.5 milligram per liter of chloramine (measured as total chlorine) throughout the distribution system at all times; PENALTY: \$205; ENFORCEMENT COORDINATOR: Miles Wehner, (512) 239-2813; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(6) COMPANY: COOK THE PAINTER, LLC.; DOCKET NUMBER: 2019-1604-MSW-E; IDENTIFIER: RN106872443; LOCATION: Houston, Harris County; TYPE OF FACILITY: tire transporter; RULES VIOLATED: 30 TAC §328.60(a) and Texas Health and Safety Code (THSC), §361.112(a), by failing to obtain a scrap tire storage site registration for the facility, prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in enclosed and lockable container; and 30 TAC §328.71(g) and §37.3011, by failing to demonstrate financial assurance for the closure, post closure, and corrective action for the facility; PENALTY: \$16,946; ENFORCEMENT COORDINATOR: Hailey Johnson, (512) 239-1756; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(7) COMPANY: East Newton Water Supply Corporation; DOCKET NUMBER: 2019-1358-PWS-E; IDENTIFIER: RN101270130; LOCATION: Newton, Newton County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.51(a)(6) and TWC, §5.702, by failing to pay annual Public Health Service fees and/or any associated late fees for TCEQ Financial Administration Account Number 91760004 for Fiscal Years 2018 and 2019; 30 TAC §290.106(e) and §290.107(e), by failing to provide the results of nitrate and volatile organic chemical contaminants sampling to the executive director (ED) for the January 1, 2018 - December 31, 2018, monitoring period; 30 TAC §§290.106(e), 290.107(e), and 290.108(e), by failing to provide the results of metals and minerals, synthetic organic chemicals contaminants (Method 504, 515, and 531), and radionuclides sampling to the ED for the January 1, 2016 - December 31, 2018, monitoring period; 30 TAC §290.122(c)(2)(A) and (f), by failing to provide public notification and submit a copy of the notification, accompanied with a signed Certificate of Delivery, to the ED regarding the failure to submit a Disinfection Level Quarterly Operating Report for the second quarter of 2017 through the first quarter of 2018 monitoring periods, and regarding the failure to collect lead and copper tap samples for the January 1, 2015 - December 31, 2017, monitoring period; and 30 TAC §291.76 and TWC, §5.702, by failing to pay regulatory assessment fees for the TCEQ Public Utility Account regarding Certificate of Convenience and Necessity Number 11338 for calendar years 2017 and 2018; PENALTY: \$850; ENFORCEMENT COORDINATOR: Miles Wehner, (512) 239-2813; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(8) COMPANY: Equistar Chemicals, LP; DOCKET NUMBER: 2019-1072-AIR-E; IDENTIFIER: RN100216761; LOCATION: Pasadena, Harris County; TYPE OF FACILITY: chemical manufacturing plant; RULES VIOLATED: 30 TAC §§115.722(c)(1), 116.115(c), and 122.143(4), New Source Review (NSR) Permit Numbers 9423 and N202, Special Conditions (SC) Number 1, Federal Operating

Permit (FOP) Number O1419, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) Number 15, and Texas Health and Safety Code (THSC), §382.085(b), by failing to prevent unauthorized emissions and failing to limit highly reactive volatile organic compounds emissions to 1,200 lbs or less per one-hour block period; 30 TAC §116.115(b)(2)(F) and (c) and §122.143(4), NSR Permit Numbers 9423 and N202, SC Number 1, FOP Number O1419, GTC and STC Number 15, and THSC, §382.085(b), by failing to comply with the maximum allowable emissions rate; and 30 TAC §116.115(c) and §122.143(4), NSR Permit Numbers 9423 and N202, SC Number 1, FOP Number O1419, GTC and STC Number 15, and THSC, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$35,363; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$14,145; ENFORCEMENT COORDINATOR: Johnnie Wu, (512) 239-2524; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(9) COMPANY: Exxon Mobil Corporation; DOCKET NUMBER: 2019-1306-AIR-E; IDENTIFIER: RN102579307; LOCATION: Baytown, Harris County; TYPE OF FACILITY: petroleum refinery plant; RULES VIOLATED: 30 TAC §§101.20(3), 116.715(a), and 122.143(4), Flexible Permit Numbers 1828 and PSDTX730M4, Consent Decree Requirements Number 31, Federal Operating Permit (FOP) Number O1229, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) Number 32, and Texas Health and Safety Code (THSC), §382.085(b), by failing to comply with the emissions limit; and 30 TAC §115.764(a)(6) and §122.143(4), FOP Number O1229, GTC and STC Number 1.A, and THSC, §382.085(b), by failing to perform manual sampling of the cooling tower water for total and speciated highly reactive volatile organic compounds (HRVOC) analysis during out-of-order periods of the on-line HRVOC monitor of 24 hours or greater; PENALTY: \$19,938; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$7,975; ENFORCEMENT COORDINATOR: Carol McGrath, (210) 403-4063; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(10) COMPANY: Felix Energy Holdings II, LLC; DOCKET NUMBER: 2019-1189-AIR-E; IDENTIFIER: RN110608072; LOCATION: Pyote, Ward County; TYPE OF FACILITY: oil and gas tank battery; RULES VIOLATED: 30 TAC §116.110(a) and Texas Health and Safety Code, §382.0518(a) and §382.085(b), by failing to obtain authorization prior to constructing or modifying a source of air contaminants; PENALTY: \$50,000; ENFORCEMENT COORDINATOR: Amanda Diaz, (512) 239-2601; REGIONAL OFFICE: 9900 West IH-20, Suite 100, Midland, Texas 79706, (432) 570-1359.

(11) COMPANY: Forestar (USA) Real Estate Group Incorporated; DOCKET NUMBER: 2019-1510-EAQ-E; IDENTIFIER: RN105301543; LOCATION: Georgetown, Williamson County; TYPE OF FACILITY: residential development; RULE VIOLATED: 30 TAC §213.4(a)(1), by failing to obtain approval of an Edwards Aquifer Protection Plan prior to commencing a regulated activity over the Edwards Aquifer Recharge Zone; PENALTY: \$5,625; ENFORCEMENT COORDINATOR: Alejandro Laje, (512) 239-2547; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 339-2929.

(12) COMPANY: HAMPTON COMMERCIAL, INC dba Hampton Food Mart; DOCKET NUMBER: 2019-1651-PST-E; IDENTIFIER: RN100586163; LOCATION: Dallas, Dallas County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.49(a)(4) and TWC, §26.3475(d), by failing to provide corrosion protection for the underground storage tank (USTs) system; and 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the USTs for releases at a frequency of at least once every 30 days; PENALTY: \$13,500; ENFORCEMENT COORDINA-

TOR: Tyler Richardson, (512) 239-4872; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(13) COMPANY: Kingsville Independent School District; DOCKET NUMBER: 2019-1555-PST-E; IDENTIFIER: RN101873024; LOCATION: Kingsville, Kleberg County; TYPE OF FACILITY: fleet refueling facility; RULES VIOLATED: 30 TAC §334.7(e)(2), by failing to completely and accurately fill out an underground storage tank (UST) registration form; 30 TAC §334.49(c)(4)(C) and TWC, §26.3475(d), by failing to inspect and test the corrosion protection system for operability and adequacy of protection at a frequency of at least once every three years; 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the USTs in a manner which will detect a release at a frequency of at least once every 30 days; and 30 TAC §334.602(a), by failing to designate, train, and certify at least one named individual for each class of operator, Class A, Class B, and Class C for the facility; PENALTY: \$11,350; ENFORCEMENT COORDINATOR: Hailey Johnson, (512) 239-1756; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200 Corpus Christi, Texas 78412-5839, (361) 825-3100.

(14) COMPANY: Motiva Enterprises LLC; DOCKET NUMBER: 2019-0491-AIR-E; IDENTIFIER: RN100519651; LOCATION: Dallas, Dallas County; TYPE OF FACILITY: bulk fuel terminal; RULES VIOLATED: 30 TAC §116.115(b)(2)(F) and (c) and §122.143(4), New Source Review Permit Number 1285, Special Conditions Number 1, Federal Operating Permit Number O2713, 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 rates; PENALTY: \$35,550; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$14,220; ENFORCEMENT COORDINATOR: Johnnie Wu, (512) 239-2524; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(15) COMPANY: Port Comfort Power LLC; DOCKET NUMBER: 2019-1726-AIR-E; IDENTIFIER: RN108462102; LOCATION: Port Comfort, Calhoun County; TYPE OF FACILITY: electric generation plant; RULES VIOLATED: 30 TAC §122.143(4) and §122.145(2)(C), Federal Operating Permit Number O3917, General Terms and Conditions, and Texas Health and Safety Code, §382.085(b), by failing to submit a deviation report no later than 30 days after the end of each reporting period; PENALTY: \$1,375; ENFORCEMENT COORDINATOR: Richard Garza, (512) 239-2697; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(16) COMPANY: PRINTPACK, INCORPORATED; DOCKET NUMBER: 2019-1639-IWD-E; IDENTIFIER: RN102076163; LOCATION: Orange, Orange County; TYPE OF FACILITY: plastic film extrusion plant; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0002858000, Effluent Limitations and Monitoring Requirements Number 1, Outfall Number 001 and 101, by failing to comply with permitted effluent limitations; PENALTY: \$16,312; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$6,525; ENFORCEMENT COORDINATOR: Stephanie Frederick, (512) 239-1001; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(17) COMPANY: Shintech Incorporated; DOCKET NUMBER: 2019-1664-AIR-E; IDENTIFIER: RN100213198; LOCATION: Freeport, Brazoria County; TYPE OF FACILITY: chemical manufacturing plant; RULES VIOLATED: 30 TAC §§101.20(3), 116.115(c), and 122.143(4), New Source Review Permit Numbers 9347 and PSDTX285M5, Special Conditions Number 1, Federal Operating Permit Number O1361, General Terms and Conditions and Special Terms and Conditions Number 11, and Texas Health and Safety

Code, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$6,263; ENFORCEMENT COORDINATOR: Mackenzie Mehlmann, (512) 239-2572; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(18) COMPANY: South Texas Mining Venture L.L.P. dba Hobson Mining Project; DOCKET NUMBER: 2019-1251-WDW-E; IDENTIFIER: RN102342995; LOCATION: Hobson, Karnes County; TYPE OF FACILITY: uranium mining and refinement; RULES VIOLATED: 30 TAC §305.125(1) and §331.67(a)(1)(B), 40 Code of Federal Regulations §146.67(f), and Underground Injection Control (UIC) Permit Number Waste Disposal Well (WDW) 168, Permit Provision (PP) IX. Recordkeeping Requirements, by failing to keep complete and accurate records of all monitoring according to permit requirements; 30 TAC §331.4 and §331.64(d)(4)(A) and UIC Permit Number WDW168, PP VII.F, Operating Parameters, by failing to cease injection of waste fluids when monitoring indicates a loss of mechanical integrity has been detected; and 30 TAC §331.64(g) and UIC Permit Number WDW168, PP VIII.H, Monitoring and Testing Requirements, by failing to conduct corrosion monitoring of well materials on a quarterly basis; PENALTY: \$11,581; ENFORCEMENT COORDINATOR: Ken Moller, (512) 239-6111; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(19) COMPANY: Targa Midstream Services LLC; DOCKET NUMBER: 2019-1700-AIR-E; IDENTIFIER: RN109347666; LOCATION: Garden City, Reagan County; TYPE OF FACILITY: compressor station; RULES VIOLATED: 30 TAC §122.143(4) and §122.145(2)(C), Federal Operating Permit Number O4047/General Operating Permit Number 514, Site-wide Requirements Number (b)(2), and Texas Health and Safety Code, §382.085(b), by failing to submit a deviation report no later than 30 days after the end of each reporting period; PENALTY: \$2,888; ENFORCEMENT COORDINATOR: Johnnie Wu, (512) 239-2524; REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 655-9479.

(20) COMPANY: The Dow Chemical Company; DOCKET NUMBER: 2019-1485-IWD-E; IDENTIFIER: RN100225945; LOCATION: Freeport, Brazoria County; TYPE OF FACILITY: industrial chemical plant; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0000007000, Outfall Number 002, Effluent Limitations and Monitoring Requirements (ELMR) Number 1, Outfall Number 004, ELMR Number 2, Outfall Number 301, ELMR Number 1, Outfall Number 501, ELMR Number 1, Outfall Number 701, and ELMR Number 1; by failing to comply with permitted effluent limitations; PENALTY: \$20,250; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$8,100; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(21) COMPANY: Total Petrochemicals & Refining USA, Incorporated; DOCKET NUMBER: 2019-1792-AIR-E; IDENTIFIER: RN104751169; LOCATION: Beaumont, Jefferson County; TYPE OF FACILITY: chemical manufacturing plant; RULES VIOLATED: 30 TAC §116.115(c), New Source Review Permit Number 76852, Special Conditions Number 1, and Texas Health and Safety Code, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$1,250; ENFORCEMENT COORDINATOR: Danielle Porras, (713) 767-3682; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(22) COMPANY: voestalpine Texas LLC; DOCKET NUMBER: 2018-1266-MLM-E; IDENTIFIER: RN106597875; LOCATION: Portland, San Patricio County; TYPE OF FACILITY: direct reduced

iron/hot briquetting iron production plant; RULES VIOLATED: 30 TAC §101.4 and Texas Health and Safety Code (THSC), §382.085(a) and (b), by failing to prevent nuisance conditions; 30 TAC §101.20(3) and §116.115(b)(2)(F) and (c), New Source Review (NSR) Permit Numbers 108113 and PSDTX1344M1, General Conditions (GC) Numbers 1, 8, and 14 and Special Conditions (SC) Number 1, and THSC, §382.085(b), by failing to comply with the maximum allowable emissions rate (MAER); 30 TAC §§101.20(3), 116.115(b)(2)(F) and (c), and 122.143(4), NSR Permit Numbers 108113 and PSDTX1344M1, GC Numbers 1, 8, and 14 and SC Number 1, Federal Operating Permit Number O3903, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) Number 7, and THSC, §382.085(b), by failing to comply with the MAER; 30 TAC §101.20(3) and §116.115(c), NSR Permit Numbers 108113 and PSDTX1344M1, SC Numbers 6 and 7, and THSC, §382.085(b), by failing to conduct quarterly visible emissions observations; 30 TAC §101.20(3) and §116.115(c), NSR Permit Numbers 108113 and PSDTX1344M1, SC Number 17, and THSC, §382.085(b), by failing to store iron ore pellets in enclosed storage; 30 TAC §101.20(3) and §116.115(c), NSR Permit Numbers 108113 and PSDTX1344M1, SC Number 25A, and THSC, §382.085(b), by failing to sample the cooling water once a day for conductivity or monitor the cooling water continuously for conductivity; 30 TAC §101.20(3) and §116.115(c), NSR Permit Numbers 108113 and PSDTX1344M1, SC Number 25A, and THSC, §382.085(b), by failing to sample the cooling water for the concentration of total dissolved solids once a week; 30 TAC §101.20(3) and §116.115(c), NSR Permit Numbers 108113 and PSDTX1344M1, SC Number 30, and THSC, §382.085(b), by failing to conduct daily visible emissions observations for the wet scrubbers; 30 TAC §101.20(3) and §116.115(c), NSR Permit Numbers 108113 and PSDTX1344M1, SC Number 42D, and THSC, §382.085(b), by failing to maintain records for the quarterly inspections; 30 TAC §101.20(3) and §116.115(c), TWC, §26.121(a)(1), NSR Permit Numbers 108113 and PSDTX1344M1, SC Number 7, and THSC, §382.085(b), by failing to prevent fugitive emissions from leaving the property from process buildings or fugitive sources resulting in the unauthorized discharge of industrial waste into or adjacent to any water in the state; 30 TAC §106.6(c) and §106.261, Permit By Rule Registration Number 147082, and THSC, §382.085(b), by failing to comply with the certified emissions rate; 30 TAC §116.110(a) and §116.116(b)(1) and THSC, §382.0518(a) and §382.085(b), by failing to obtain a permit amendment prior to constructing and operating additional sources of air contaminants; 30 TAC §281.25(a)(4) and §305.125(1), 40 Code of Federal Regulations (CFR) §122.26(c), and Texas Pollutant Discharge Elimination System (TPDES) Multi-Sector General Permit (MSGP) Number TXR05CR67, Part III, Section A.3(d)(1), by failing to identify all stormwater outfalls at the plant; 30 TAC §281.25(a)(4) and §305.125(1), 40 CFR §122.26(c), and TPDES MSGP Number TXR05CR67, Part III, Section A.4(f)(1), by failing to conduct employee training at least once per year; 30 TAC §281.25(a)(4) and §305.125(1), 40 CFR §122.26(c), and TPDES MSGP Number TXR05CR67, Part III, Section B.1(c), by failing to certify that the plant's stormwater system has been evaluated and that discharges of non-stormwater and non-permitted flows do not occur; and 30 TAC §281.25(a)(4) and §305.125(1), 40 CFR §122.26(c), and TPDES MSGP Number TXR05CR67, Part IV, Section B.1(a), by failing to conduct benchmark monitoring once every six months (January - June or July - December), following permit issuance and then once each subsequent semiannual period; PENALTY: \$658,926; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$263,570; ENFORCEMENT COORDINATOR: Carol McGrath, (210) 403-4063; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(23) COMPANY: West Harris County Municipal Utility District Number 9; DOCKET NUMBER: 2019-1450-PWS-E; IDENTIFIER: RN101397552; LOCATION: Houston, Texas, Harris County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.108(f)(1) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 15 picocuries per liter for gross alpha particle activity based on the running annual average; PENALTY: \$345; ENFORCEMENT COORDINATOR: Ronica Rodriguez, (361) 825-3425; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

TRD-202001227
Charmaine Backens
Director, Litigation Division
Texas Commission on Environmental Quality
Filed: March 24, 2020



Cancellation Notice of Public Meeting on Proposed Remedial Action

The Texas Commission on Environmental Quality (TCEQ), published Notice of Public Meeting on Proposed Remedial Action in the March 20, 2020, issue of the *Texas Register* (45 TexReg 2071) in accordance with Texas Health and Safety Code (THSC), §361.187 and 30 Texas Administrative Code, §335.349(a).

The public meeting concerning the proposed remedy for the Ballard Pits Proposed State Superfund Site (the site), scheduled for April 23, 2020, in Corpus Christi, Nueces County, Texas **has been cancelled until further notice**. Statutory time periods prompted by the public meeting, such as the good faith offer time period prescribed under THSC, §361.187(d), are postponed until the public meeting is rescheduled.

For further information about the site or the public meeting, please call Crystal Taylor, TCEQ Community Relations Liaison, at (800) 633-9363.

TRD-202001187
Charmaine Backens
Director, Litigation Division
Texas Commission on Environmental Quality
Filed: March 18, 2020



Cancellation Notice of Public Meeting on Proposed Remedial Action

The Texas Commission on Environmental Quality (TCEQ) published Notice of Public Meeting on Proposed Remedial Action in the March 6, 2020, issue of the *Texas Register* (45 TexReg 1736) in accordance with Texas Health and Safety Code (THSC), §361.187 and 30 Texas Administrative Code §335.349(a). This notice was also published in the *Grapeland Messenger* and the *Houston County Courier* on March 5, 2020.

The public meeting concerning the proposed remedy for the McBay Oil and Gas State Superfund Site (the site), scheduled for April 9, 2020, in Grapeland, Houston County, Texas **has been cancelled until further notice**. Statutory time periods prompted by the public meeting, such as the good faith offer time period prescribed under THSC, §361.187(d), are postponed until the public meeting is rescheduled.

For further information about the site or the public meeting, please call John Flores, TCEQ Community Relations Liaison, at (800) 633-9363.

TRD-202001222



Enforcement Orders

An agreed order was adopted regarding RZ Traders Inc dba Pride Food Store, Docket No. 2018-1311-PST-E on March 24, 2020, assessing \$4,500 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting John S. Mercurief II, 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 the City of Shiner, Docket No. 2018-1330-PWS-E on March 24, 2020, assessing \$315 in administrative penalties with \$63 deferred. Information concerning any aspect of this order may be obtained by contacting Marla Waters, 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 Lewis Eugene Roland, Docket No. 2018-1391-MSW-E on March 24, 2020, assessing \$3,375 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Vas Manthos, 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 the City of Orange, Docket No. 2018-1631-PWS-E on March 24, 2020, assessing \$360 in administrative penalties with \$72 deferred. Information concerning any aspect of this order may be obtained by contacting Julianne Dewar, 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 ILP College Station LLC, Docket No. 2019-0088-PWS-E on March 24, 2020, assessing \$389 in administrative penalties with \$77 deferred. Information concerning any aspect of this order may be obtained by contacting Steven Hall, 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 S & Y Inc., Docket No. 2019-0099-PST-E on March 24, 2020, assessing \$6,250 in administrative penalties with \$1,250 deferred. Information concerning any aspect of this order may be obtained by contacting Alain Elegbe, 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 Albemarle Corporation, Docket No. 2019-0115-AIR-E on March 24, 2020, assessing \$3,075 in administrative penalties with \$615 deferred. Information concerning any aspect of this order may be obtained by contacting Amanda Diaz, 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 AMN Business Group Inc. dba AAA 2, Docket No. 2019-0213-PST-E on March 24, 2020, assessing \$4,718 in administrative penalties with \$943 deferred. Information concerning any aspect of this order may be obtained by contacting Hailey Johnson, 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 Saad & Sidra, LLC dba Huggy Bear Corner Store, Docket No. 2019-0243-PST-E on March 24, 2020, assessing \$3,833 in administrative penalties with \$766 deferred. Infor-

mation concerning any aspect of this order may be obtained by contacting Hailey Johnson, 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 J & T TRANSPORT, INC., Docket No. 2019-0466-PST-E on March 24, 2020, assessing \$2,515 in administrative penalties with \$503 deferred. Information concerning any aspect of this order may be obtained by contacting Tyler Richardson, 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 WDL, LLC, Docket No. 2019-0496-PWS-E on March 24, 2020, assessing \$607 in administrative penalties with \$121 deferred. Information concerning any aspect of this order may be obtained by contacting Marla Waters, 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 the City of Taft, Docket No. 2019-0512-PWS-E on March 24, 2020, assessing \$3,428 in administrative penalties with \$685 deferred. Information concerning any aspect of this order may be obtained by contacting Steven Hall, 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 Weatherford Aerospace, LLC, Docket No. 2019-0564-AIR-E on March 24, 2020, assessing \$5,437 in administrative penalties with \$1,087 deferred. Information concerning any aspect of this order may be obtained by contacting Richard Garza, 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 J & J'S PROPERTY INVESTMENT, LLC and John Son Le dba J & J'S PROPERTY INVESTMENT, LLC, Docket No. 2019-0565-PWS-E on March 24, 2020, assessing \$2,378 in administrative penalties with \$475 deferred. Information concerning any aspect of this order may be obtained by contacting Marla Waters, 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 Lone Star Ranch Stores, LLC dba Lone Star Ranch 2, Docket No. 2019-0616-PST-E on March 24, 2020, assessing \$4,875 in administrative penalties with \$975 deferred. Information concerning any aspect of this order may be obtained by contacting Hailey Johnson, 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 Clegg Industries, Inc., Docket No. 2019-0817-AIR-E on March 24, 2020, assessing \$3,750 in administrative penalties with \$750 deferred. Information concerning any aspect of this order may be obtained by contacting Johnnie Wu, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Stonetown Pleasant Oaks, LLC, Docket No. 2019-0868-MWD-E on March 24, 2020, assessing \$5,300 in administrative penalties with \$1,060 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.

An agreed order was adopted regarding J W Heidelberg Jr., Docket No. 2019-0968-MSW-E on March 24, 2020, assessing \$1,250 in administrative penalties with \$250 deferred. Information concerning any aspect of this order may be obtained by contacting Tyler Richardson, En-

forcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Pine Lake Water Supply Corporation, Docket No. 2019-1029-PWS-E on March 24, 2020, assessing \$112 in administrative penalties with \$22 deferred. Information concerning any aspect of this order may be obtained by contacting Marla Waters, 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 Colorado County Water Control and Improvement District 2, Docket No. 2019-1150-PWS-E on March 24, 2020, assessing \$357 in administrative penalties with \$71 deferred. Information concerning any aspect of this order may be obtained by contacting Danielle Porras, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Masco Cabinetry LLC, Docket No. 2019-1199-AIR-E on March 24, 2020, assessing \$4,313 in administrative penalties with \$862 deferred. Information concerning any aspect of this order may be obtained by contacting Mackenzie Mehlmann, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Monarch Utilities I L.P., Docket No. 2019-1209-PWS-E on March 24, 2020, assessing \$575 in administrative penalties with \$115 deferred. Information concerning any aspect of this order may be obtained by contacting Danielle Porras, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding REXCO, INC., Docket No. 2019-1218-WQ-E on March 24, 2020, assessing \$5,000 in administrative penalties with \$1,000 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 Chevron Phillips Chemical Company LP, Docket No. 2019-1336-AIR-E on March 24, 2020, assessing \$4,163 in administrative penalties with \$832 deferred. Information concerning any aspect of this order may be obtained by contacting Mackenzie Mehlmann, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding PENTA OPERATING, LLC dba Penta Petro, Docket No. 2019-1382-PST-E on March 24, 2020, assessing \$1,505 in administrative penalties with \$301 deferred. Information concerning any aspect of this order may be obtained by contacting Tyler Smith, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Clay D. Mathis dba Big Daddys RV Park, Docket No. 2019-1434-PWS-E on March 24, 2020, assessing \$484 in administrative penalties with \$96 deferred. Information concerning any aspect of this order may be obtained by contacting Samantha Duncan, 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 Coby Allen De La Garza, Docket No. 2019-1459-OSI-E on March 24, 2020, assessing \$175 in administrative penalties. 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.

An agreed order was adopted regarding Lowell Underwood, Docket No. 2019-1487-WR-E on March 24, 2020, assessing \$275 in administrative penalties with \$55 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 Joseph T. Vick, Sr., Docket No. 2019-1612-WOC-E on March 24, 2020, assessing \$175 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Aaron Vincent, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202001238

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: March 25, 2020



Enforcement Orders

A default order was adopted regarding JIMBO'S ROAD HOUSE, LLC, Docket No. 2018-1112-PWS-E on March 25, 2020, assessing \$180 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Ian Groetsch, 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 the City of Robert Lee, Docket No. 2018-1223-MWD-E on March 25, 2020, assessing \$27,125 in administrative penalties with \$5,425 deferred. Information concerning any aspect of this order may be obtained by contacting Caleb Olson, 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 BuckSaver, LLC, Docket No. 2018-1241-PST-E on March 25, 2020, assessing \$18,775 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting John Mercurief, 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 NEW HORIZON, INC. dba Merito Food Mart, Docket No. 2018-1370-PST-E on March 25, 2020, assessing \$18,775 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Ryan Rutledge, 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 OXY USA Inc., Docket No. 2018-1470-PWS-E on March 25, 2020, assessing \$159 in administrative penalties with \$159 deferred. Information concerning any aspect of this order may be obtained by contacting Ryan Byer, 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 Brighton Manor Apartments, L. P., Docket No. 2018-1606-PWS-E on March 25, 2020, assessing \$340 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Michaelle Garza, 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 Blanchard Refining Company LLC, Docket No. 2019-0232-AIR-E on March 25, 2020, assessing \$125,563 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Carol McGrath, 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 BASF Corporation, Docket No. 2019-0301-AIR-E on March 25, 2020, assessing \$22,500 in administrative penalties with \$4,500 deferred. Information concerning any aspect of this order may be obtained by contacting Amanda Diaz, 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 Laredo Petroleum, Inc., Docket No. 2019-0420-AIR-E on March 25, 2020, assessing \$60,000 in administrative penalties with \$12,000 deferred. Information concerning any aspect of this order may be obtained by contacting Margarita Dennis, 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 Sunoco LLC dba Sunoco Energy Services Nacogdoches, Docket No. 2019-0472-PST-E on March 25, 2020, assessing \$30,811 in administrative penalties with \$6,162 deferred. Information concerning any aspect of this order may be obtained by contacting Tyler Smith, 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 LAKESHORE UTILITY COMPANY, Docket No. 2019-0531-PWS-E on March 25, 2020, assessing \$1,736 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jaime Garcia, 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 COMBINE RETAIL LLC dba Beaumont Chevron, Docket No. 2019-0573-PST-E on March 25, 2020, assessing \$13,178 in administrative penalties with \$2,635 deferred. Information concerning any aspect of this order may be obtained by contacting Tyler Smith, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Exxon Mobil Corporation, Docket No. 2019-0641-AIR-E on March 25, 2020, assessing \$42,935 in administrative penalties with \$8,587 deferred. Information concerning any aspect of this order may be obtained by contacting Carol McGrath, 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 TEDA TPCO America Corporation, Docket No. 2019-0873-AIR-E on March 25, 2020, assessing \$10,500 in administrative penalties with \$2,100 deferred. Information concerning any aspect of this order may be obtained by contacting Margarita Dennis, 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 the City of Blanco, Docket No. 2019-0882-PWS-E on March 25, 2020, assessing \$514 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Marla Waters, 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 the City of Idalou, Docket No. 2019-0885-PWS-E on March 25, 2020, assessing \$160 in administra-

tive penalties. Information concerning any aspect of this order may be obtained by contacting Miles Wehner, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202001244
Bridget C. Bohac
Chief Clerk
Texas Commission on Environmental Quality
Filed: March 25, 2020



Notice of Correction to Agreed Order Number 11

In the November 16, 2018, issue of the *Texas Register* (43 TexReg 7564), the Texas Commission on Environmental Quality (commission) published notice of Agreed Orders, specifically Item Number 11, for LCY Elastomers LP, Docket Number 2018-1104-IWD-E. The error is as submitted by the commission.

The reference to the Docket Number should be corrected to read: "PENALTY: \$30,000; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$12,000."

For questions concerning these errors, please contact Michael Parrish at (512) 239-2548.

TRD-202001229
Charmaine Backens
Director, Litigation Division
Texas Commission on Environmental Quality
Filed: March 24, 2020



Notice of Opportunity to Comment on an Agreed Order of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Order (AO) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AO, the commission shall allow the public an opportunity to submit written comments on the proposed AO. TWC, §7.075, requires that notice of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **May 4, 2020**. TWC, §7.075, also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of the proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the 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 May 4, 2020**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The designated attorney is available to discuss the AO and/or the comment procedure at the listed phone number; however, TWC, §7.075,

provides that comments on an AO shall be submitted to the commission in **writing**.

(1) COMPANY: SAI JBA dba Tijuana Grocery; DOCKET NUMBER: 2018-1272-PST-E; TCEQ ID NUMBER: RN102443538; LOCATION: 3401 Decatur Avenue, Fort Worth, Tarrant County; TYPE OF FACILITY: underground storage tank (UST) system and a convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.8(c)(4)(A)(vii) and (B) and (5)(B)(ii), by failing to renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on October 31, 2016; TWC, §26.3467(a) and 30 TAC §334.8(c)(5)(A)(i), by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the UST. Specifically, five fuel deliveries were accepted at the facility on August 18, 2017, September 21, 2017, November 16, 2017, February 8, 2018, and June 29, 2018 without a delivery certificate; TWC, §26.3475(c)(1) and 30 TAC §334.50(b)(1)(A), by failing to monitor the USTs in a manner which will detect a release at a frequency of at least once every 30 days; TWC, §26.3475(a) and 30 TAC §334.50(b)(2), by failing to provide release detection for the pressurized piping associated with the UST system. Specifically, respondent did not conduct the annual line leak detector test on UST Number 1, Compartment B; and 30 TAC §334.10(b)(2), by failing to assure that all UST recordkeeping requirements are met. Specifically, overfill prevention records were not available for review; PENALTY: \$10,751; STAFF ATTORNEY: Taylor Pearson, Litigation Division, MC 175, (512) 239-5937; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

TRD-202001224

Charmaine Backens

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: March 24, 2020



Notice of Opportunity to Comment on a Shutdown/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 Shutdown/Default Order (S/DO). Texas Water Code (TWC), §26.3475, authorizes the commission to order the shutdown of any underground storage tank (UST) system found to be noncompliant with release detection, spill and overfill prevention, and/or, after December 22, 1998, cathodic protection regulations of the commission, until such time as the owner/operator brings the UST system into compliance with those regulations. The commission proposes a Shutdown Order after the owner or operator of a UST facility fails to perform required corrective actions within 30 days after receiving notice of the release detection, spill and overfill prevention, and/or after December 22, 1998, cathodic protection violations documented at the facility. The commission proposes a Default Order when the staff has sent an 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. In accordance with 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 **May 4, 2020**.

The commission will consider any written comments received and the commission may withdraw or withhold approval of an S/DO if a comment discloses facts or considerations that indicate that consent to the proposed S/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 S/DO is not required to be published if those changes are made in response to written comments.

A copy of the proposed S/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 S/DO shall be sent to the attorney designated for the S/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 May 4, 2020**. Written comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The commission attorney is available to discuss the S/DO and/or the comment procedure at the listed phone number; however, comments on the S/DO shall be submitted to the commission in **writing**.

(1) COMPANY: IDRIS INVESTMENTS, INC. dba AFG Food Mart; DOCKET NUMBER: 2019-0844-PST-E; TCEQ ID NUMBER: RN104004197; LOCATION: 1500 Everman Parkway, Fort Worth, Tarrant County; TYPE OF FACILITY: UST system and a convenience store with retail sales of gasoline; RULES VIOLATED: TWC, §26.3475(c)(1) and 30 TAC §334.50(b)(1)(A), by failing to monitor the USTs for releases at a frequency of at least once every 30 days; and 30 TAC §334.605(a) and (b), by failing to ensure that a certified Class A, B, and C operator is re-trained within three years of the last training date; PENALTY: \$5,650; STAFF ATTORNEY: Kevin Bartz, Litigation Division, MC 175, (512) 239-6225; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

TRD-202001223

Charmaine Backens

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: March 24, 2020



Notice of Opportunity to Comment on Default Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Default Orders (DOs). The commission staff proposes a 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 **May 4, 2020**. The commission will consider any written comments received, and the commission may withdraw or withhold approval of a DO if a comment discloses facts or considerations that indicate that consent to the proposed DO is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and

rules within the commission's jurisdiction, or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed DO is not required to be published if those changes are made in response to written comments.

A copy of each proposed DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the DO should be sent to the attorney designated for the DO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on May 4, 2020**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The commission's attorneys are available to discuss the DOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on the DOs shall be submitted to the commission in **writing**.

(1) COMPANY: Felipe Guajardo; DOCKET NUMBER: 2018-1449-MSW-E; TCEQ ID NUMBER: RN110024684; LOCATION: Mile 12.5 Road and North Western Road, Mission, Hidalgo County (Hidalgo County Appraisal District Legal Description: TEXAN GARDENS LT 7 BLK 40 10.00 AC); TYPE OF FACILITY: unauthorized municipal solid waste (MSW) site; RULES VIOLATED: 30 TAC §330.15(a) and (c), by causing, suffering, allowing, or permitting the unauthorized disposal of MSW; PENALTY: \$2,625; STAFF ATTORNEY: Ian Groetsch, Litigation Division, MC 175, (512) 239-2225; REGIONAL OFFICE: Harlingen Regional Office, 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(2) COMPANY: Glendale Water Supply Corporation; DOCKET NUMBER: 2018-1399-PWS-E; TCEQ ID NUMBER: RN101436319; LOCATION: State Highway 94 approximately five miles northeast of Trinity, Trinity County; TYPE OF FACILITY: public water system; RULES VIOLATED: Texas Health and Safety Code, §341.0315(c) and 30 TAC §290.115(f)(1), by failing to comply with the maximum contaminant level of 0.080 milligrams per liter for total trihalomethanes (TTHM) based on the locational running annual average; 30 TAC §290.117(c)(2)(A), (h), and (i)(1), by failing to collect lead and copper tap samples at the required 20 sample sites, have the samples analyzed, and submit the results to the executive director (ED); 30 TAC §290.117(i)(6) and (j), by failing to provide consumer notification of lead tap water monitoring results to persons served at the sites (taps) that were tested, and failing to mail a sample copy of the consumer notification of tap results to the ED along with certification that the consumer notification has been distributed; 30 TAC §290.122(c)(2)(A) and (f), by failing to provide public notification and submit a copy of the public notification, accompanied with a signed Certificate of Delivery, to the ED regarding the failure to collect water quality parameter samples; and 30 TAC §290.115(e)(2), by failing to conduct an operation evaluation and submit a written operation evaluation report to the ED within 90 days after being notified of the analytical result that caused the exceedance of the operational evaluation level for TTHM for Stage 2 Disinfection Byproducts at Site 2 during the fourth quarter of 2017; PENALTY: \$1,110; STAFF ATTORNEY: Kevin Bartz, Litigation Division, MC 175, (512) 239-6225; REGIONAL OFFICE: Beaumont Regional Office, 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(3) COMPANY: Serapio Lara and Lydia Lara; DOCKET NUMBER: 2019-0828-MSW-E; TCEQ ID NUMBER: RN110396421; LOCATION: 2650 Farm-to-Market Road 3175, Lytle, Atascosa County; TYPE OF FACILITY: residential property with an unauthorized municipal solid waste (MSW) site; RULES VIOLATED: 30 TAC §330.15(a) and (c), by causing, suffering, allowing, or permitting the

unauthorized disposal of MSW; PENALTY: \$1,312; STAFF ATTORNEY: Taylor Pearson, Litigation Division, MC 175, (512) 239-5937; REGIONAL OFFICE: San Antonio Regional Office, 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(4) COMPANY: TANK WORKS, INC. dba Brazos Bend Home & Ranch; DOCKET NUMBER: 2018-1611-PWS-E; TCEQ ID NUMBER: RN101176592; LOCATION: 22930 Farm-to-Market Road 1462 near Needville, Fort Bend County; TYPE OF FACILITY: public water system; RULES VIOLATED: TCEQ DO Docket Number 2016-1743-PWS-E, Ordering Provision Number 3.a.iii., by failing to issue public notification and submit a copy of the notification to the executive director (ED) regarding the failure to conduct routine coliform monitoring; TCEQ DO Docket Number 2016-1743-PWS-E, Ordering Provision Numbers 3.a.iii. and 3.a.iv., by failing to report the results of nitrate sampling to the ED and failing to issue public notification and submit a copy of the notification to the ED regarding the failure to report the results of nitrate sampling; TCEQ DO Docket Number 2016-1743-PWS-E, Ordering Provision Numbers 3.a.iii. and 3.a.iv., by failing to report the results of secondary constituent sampling to the ED, and failing to issue public notification and submit a copy of the notification to the ED regarding the failure to report the results of secondary constituent sampling; TCEQ DO Docket Number 2016-1743-PWS-E, Ordering Provision Number 3.a.iii., by failing to issue public notification and submit a copy of the notification to the ED regarding the failure to conduct repeat coliform monitoring; PENALTY: \$1,659; STAFF ATTORNEY: Clayton Smith, Litigation Division, MC 175, (512) 239-6224; REGIONAL OFFICE: Houston Regional Office, 5424 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

TRD-202001225

Charmaine Backens

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: March 24, 2020

Texas Health and Human Services Commission

Criminal History Requirements for Child Care Operations

26 TAC §745.661 (relating to What types of criminal convictions may affect a person's ability to be present at an operation?) states that the three charts listed in subsection (a) of this section are updated annually and published every January in the *Texas Register* as an "In Addition" document. The three charts are entitled: (1) Licensed or Certified Child Care Operations: Criminal History Requirements; (2) Foster or Adoptive Placements: Criminal History Requirements; and (3) Registered Child Care Homes and Listed Family Homes: Criminal History Requirements. On February 7, 2020, the charts and the proposed changes to these charts were published and made available for written public comment in the *Texas Register* (45 TexReg 492). The written public comment period closed on March 8, 2020. No comments were received. As a result, the three Criminal History Requirements charts have been adopted as proposed.

TRD-202001212

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: March 23, 2020

Texas Department of Housing and Community Affairs

Notice of Public Hearings and Public Comment Period on the Draft 2020 - 2024 State of Texas Consolidated Plan

The Texas Department of Housing and Community Affairs (TDHCA) will hold one public hearing during a 32-day Public Comment period to accept public comment on the draft 2020 - 2024 State of Texas Consolidated Plan (Consolidated Plan or the Plan). The Public Comment period for the draft Consolidated Plan will be held Monday, April 6 - Wednesday, May 6. TDHCA will provide updates via listserv and on our website for any potential additions to the hearing schedule, including additional Virtual Public Hearings via webinar due to the ongoing public health concern related to COVID-19.

The one public hearing for the Consolidated Plan is scheduled to take place as follows:

Thursday, April 16, 2020 - 2:00 p.m.

Via GoToWebinar

<https://attendee.gotowebinar.com/register/8678557833869544717>

Dial-in number: +1 (213) 929-4232, access code 712-038-180 (persons who use the dial-in number and access code without registering online will only be able to hear the public hearing and will not be able to ask questions or provide comments)

TDHCA, Texas Department of Agriculture (TDA), and Texas Department of State Health Services (DSHS) prepared the draft 2020 - 2024 State of Texas Consolidated Plan in accordance with 24 CFR §91 Subpart D. TDHCA coordinates the preparation of the Consolidated Plan documents. The Consolidated Plan covers the State's administration of the Community Development Block Grant Program (CDBG) by TDA, the Housing Opportunities for Persons with AIDS Program (HOPWA) by DSHS, and the Emergency Solutions Grants (ESG) Program, the HOME Investment Partnerships (HOME) Program, and the National Housing Trust Fund (NHTF) by TDHCA.

The Consolidated Plan analyzes the housing needs in the State of Texas, as well as, how the market is currently filling those needs. The Consolidated Plan illustrates the State's strategies in addressing the priority needs and specific goals and objectives that the State aims to accomplish throughout the 2020 - 2024 Plan. In addition, the Consolidated Plan states the intended uses of funds from HUD for the 2020 Program Year. The Program Year begins on September 1, 2020, and ends on August 31, 2021, and then repeats for each year of the Plan thereafter.

A Public Hearing and 30-day Public Comment period to allow comment for the National Housing Trust Fund (NHTF) Rehabilitation Standards will be held after the April 23 TDHCA Board Meeting. Information on the NHTF Rehabilitation Standards in this draft Consolidated Plan are preliminary and will be adjusted to address any necessary comment received during the public comment period for NHTF Rehabilitation Standards.

The draft Plan may be accessed from TDHCA's Public Comment Web page at: <http://www.tdhca.state.tx.us/public-comment.htm>.

The 32-day public comment period for the Plan will be open from Monday, April 6, 2020, through Wednesday, May 6, 2020. Anyone may submit comments on the Plan in written form or oral testimony at the public hearing. In addition, written comments concerning the Plan may be submitted by email to info@tdhca.state.tx.us or mail to the Texas Department of Housing and Community Affairs, Housing Resource Center, P.O. Box 13941, Austin, Texas 78711-3941, or by fax to (512) 475-0070 anytime during the comment period. Comments must be received no later than Wednesday, May 6, 2020, at 6:00 p.m. Austin local time.

Individuals who require auxiliary aids or services at the public hearing should contact Elizabeth Yevich, at (512) 475-3959 or Relay Texas at (800) 735-2989 at least three (3) days before the meeting so that appropriate arrangements can be made.

Non-English speaking individuals who require interpreters at the public hearings should contact Elena Peinado by phone at (512) 475-3814 or by email at elena.peinado@tdhca.state.tx.us at least three (3) days before the meeting so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Elena Peinado al siguiente número (512) 475-3814 o enviarle un correo electrónico a elena.peinado@tdhca.state.tx.us por lo menos tres días antes de la junta para hacer los preparativos apropiados.

TRD-202001251

Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

Filed: March 25, 2020

Texas Department of Insurance

Company Licensing

Application for Equitable Life & Casualty Insurance Company, a foreign life, accident and/or health company, to change its name to Sterling Annuity Insurance Company. The home office is in Salt Lake City, Utah.

Application for Equitable National Life Insurance Company, Inc., a foreign life, accident and/or health company, to change its name to Sterling National Life Insurance Company, Inc. The home office is in Salt Lake City, Utah.

Application to do business in the state of Texas for MidSouth Mutual Insurance Company, a foreign fire and/or casualty company. The home office is in Brentwood, Tennessee.

Any objections must be filed with the Texas Department of Insurance, within twenty (20) calendar days from the date of the *Texas Register* publication, addressed to the attention of Robert Rudnai, 333 Guadalupe Street, MC 103-CL, Austin, Texas 78701.

TRD-202001245

James Person

General Counsel

Texas Department of Insurance

Filed: March 25, 2020

Texas Lottery Commission

Correction of Error

The Texas Lottery Commission published notice of the game procedures for Scratch Ticket Game Number 2214 "LUCHA LIBRE LOOT" and Scratch Ticket Game Number 2221 "SPACE INVADERS™ \$50,000 CASH INVASION" in the March 20, 2020, issue of the *Texas Register* (45 TexReg 2073 - 2082). Due to an error by the Texas Register, two captions in the Texas Lottery Commission "Play Symbol" tables were printed incorrectly. The play symbol table for Scratch Ticket Game Number 2214 "LUCHA LIBRE LOOT" should have been printed as follows:

Figure 1: GAME NO. 2214 - 1.2D

PLAY SYMBOL	CAPTION
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
MASK/MÁSCARA SYMBOL	DBL
\$2.00	TWO\$
\$4.00	FOR\$
\$5.00	FIV\$
\$10.00	TEN\$
\$20.00	TWY\$
\$50.00	FFTY\$
\$100	ONHN
\$1,000	ONTH
\$30,000	30TH

The play symbol table for Scratch Ticket Game Number 2221 "SPACE INVADERS™ \$50,000 CASH INVASION" should have been printed as follows:

Figure 1: GAME NO. 2221 - 1.2D

PLAY SYMBOL	CAPTION
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
31	TRON
32	TRTO
33	TRTH
34	TRFR
35	TRV
36	TRSX
37	TRSV
38	TRET

39	TRNI
40	FRTY
STAR SYMBOL	DBL
\$5.00	FIV\$
\$10.00	TEN\$
\$15.00	FFN\$
\$20.00	TWY\$
\$25.00	TWV\$
\$50.00	FFTY\$
\$100	ONHN
\$500	FVHN
\$5,000	FVTH
\$50,000	50TH

TRD-202001211



Scratch Ticket Game Number 2215 "ROUTE 66™ ROAD TO \$1,000,000!"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2215 is "ROUTE 66™ ROAD TO \$1,000,000!". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2215 shall be \$5.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2215.

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, 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, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 3X SYMBOL, \$5.00, \$10.00, \$15.00, \$30.00, \$50.00, \$100, \$300, \$1,000 and \$66,000.

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. 2215 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
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	TWFV
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
3X SYMBOL	TRP
\$5.00	FIV\$
\$10.00	TEN\$
\$15.00	FFN\$
\$30.00	TRTY\$
\$50.00	FFTY\$
\$100	ONHN
\$300	THHN
\$1,000	ONTH
\$66,000	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 (2215), 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: 2215-0000001-001.

H. Pack - A Pack of the "ROUTE 66™ ROAD TO \$1,000,000!" Scratch Ticket Game contains 075 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The Packs will alternate. One will show the front of Ticket 001 and back of 075 while the other fold will show the back of Ticket 001 and front of 075.

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 "ROUTE 66™ ROAD TO \$1,000,000!" Scratch Ticket Game No. 2215.

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 "ROUTE 66™ ROAD TO \$1,000,000!" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose forty-five (45) Play Symbols. 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 "3X" Play Symbol, the player wins TRIPLE 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 forty-five (45) 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 forty-five (45) 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-five (45) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the forty-five (45) 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. Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

B. The top Prize Symbol will appear on every Ticket, unless restricted by other parameters, play action or prize structure.

C. No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., 05 and \$5).

D. No matching non-winning YOUR NUMBERS Play Symbols on a Ticket, unless restricted by other parameters, play action or prize structure.

E. No matching WINNING NUMBERS Play Symbols on a Ticket, unless restricted by other parameters, play action or prize structure.

F. A non-winning Prize Symbol will never match a winning Prize Symbol.

G. A Ticket may have up to three (3) matching non-winning Prize Symbols, unless restricted by other parameters, play action or prize structure.

H. The "3X" (TRP) Play Symbol will only appear on intended winning Tickets, as dictated by the prize structure.

2.3 Procedure for Claiming Prizes.

A. To claim a "ROUTE 66™ ROAD TO \$1,000,000!" Scratch Ticket Game prize of \$5.00, \$10.00, \$15.00, \$30.00, \$50.00, \$100 or \$300, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify

the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$30.00, \$50.00, \$100 or \$300 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 "ROUTE 66™ ROAD TO \$1,000,000!" Scratch Ticket Game prize of \$1,000 or \$66,000, 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 "ROUTE 66™ ROAD TO \$1,000,000!" 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.

F. If a person is indebted or owes delinquent taxes to the State, and is selected as a winner in a promotional second-chance drawing, the debt to the State must be paid within 30 days of notification or the prize will be awarded to an Alternate.

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 "ROUTE 66™ ROAD TO \$1,000,000!" 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 "ROUTE 66™ ROAD TO \$1,000,000!" 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.

2.9 Promotional Second-Chance Drawings. Any Non-Winning "ROUTE 66™ ROAD TO \$1,000,000!" Scratch Ticket may be entered into one (1) of five (5) promotional drawings for a chance to win a promotional second-chance drawing prize. See instructions on the back of the Scratch Ticket for information on eligibility and entry requirements.

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. 2215. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2215 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$5.00	768,000	9.38
\$10.00	504,000	14.29
\$15.00	264,000	27.27
\$30.00	144,000	50.00
\$50.00	45,000	160.00
\$100	19,200	375.00
\$300	3,120	2,307.69
\$1,000	16	450,000.00
\$66,000	8	900,000.00

*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 4.12. 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. 2215 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. 2215, 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-202001218

Bob Biard

General Counsel

Texas Lottery Commission

Filed: March 24, 2020



Scratch Ticket Game Number 2220 "EMERALD 8s"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2220 is "EMERALD 8s". The play style is "find symbol".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2220 shall be \$2.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2220.

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, 2, 3, 4, 5, 6, 7, 9, 8 SYMBOL, \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$50.00, \$100, \$1,000 and \$30,000. The possible green Play Symbols are: 1, 2, 3, 4, 5, 6, 7, 9 and 8 SYMBOL.

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. 2220 - 1.2D

PLAY SYMBOL	CAPTION
1 (BLACK)	ONE (BLACK)
2 (BLACK)	TWO (BLACK)
3 (BLACK)	THR (BLACK)
4 (BLACK)	FOR (BLACK)
5 (BLACK)	FIV (BLACK)
6 (BLACK)	SIX (BLACK)
7 (BLACK)	SVN (BLACK)
9 (BLACK)	NIN (BLACK)
8 SYMBOL (BLACK)	WIN\$ (BLACK)
1 (GREEN)	ONE (GREEN)
2 (GREEN)	TWO (GREEN)
3 (GREEN)	THR (GREEN)
4 (GREEN)	FOR (GREEN)
5 (GREEN)	FIV (GREEN)
6 (GREEN)	SIX (GREEN)
7 (GREEN)	SVN (GREEN)
9 (GREEN)	NIN (GREEN)
8 SYMBOL (GREEN)	DBL (GREEN)
\$2.00 (BLACK)	TWO\$ (BLACK)
\$4.00 (BLACK)	FOR\$ (BLACK)
\$5.00 (BLACK)	FIV\$ (BLACK)
\$10.00 (BLACK)	TEN\$ (BLACK)
\$20.00 (BLACK)	TWY\$ (BLACK)
\$50.00 (BLACK)	FFTY\$ (BLACK)
\$100 (BLACK)	ONHN (BLACK)
\$1,000 (BLACK)	ONTH (BLACK)
\$30,000 (BLACK)	30TH (BLACK)

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 (2220), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 125 within each Pack. The format will be: 2220-0000001-001.

H. Pack - A Pack of the "EMERALD 8s" Scratch Ticket Game contains 125 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of two (2). One Ticket will be folded over to expose a front and back of one Ticket on each Pack. Please note the Packs will be in an A, B, C and D configuration.

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 "EMERALD 8s" Scratch Ticket Game No. 2220.

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 "EMERALD 8s" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose twenty (20) Play Symbols. If a player reveals a BLACK "8" Play Symbol, the player wins the PRIZE for that symbol. If a player reveals a GREEN "8" Play Symbol, the player wins DOUBLE 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 twenty (20) 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 twenty (20) 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 twenty (20) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
17. Each of the twenty (20) 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 ten (10) times in accordance with the approved prize structure.

B. Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

C. The top Prize Symbol will appear on every Ticket, unless restricted by other parameters, play action or prize structure.

D. The BLACK "8" (WINS) Play Symbol may appear multiple times on intended winning Tickets, unless restricted by other parameters, play action or prize structure.

E. The GREEN "8" (DBL) Play Symbol will only appear on winning Tickets as dictated by the prize structure.

F. Non-winning Prize Symbols will never appear more than two (2) times.

G. Non-winning Prize Symbol(s) will never be the same as the winning Prize Symbol(s).

H. No Prize Symbol in a non-winning spot will correspond with the Play Symbol (i.e., 4 and \$4).

2.3 Procedure for Claiming Prizes.

A. To claim a "EMERALD 8s" Scratch Ticket Game prize of \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$50.00 or \$100, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$50.00 or \$100 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 "EMERALD 8s" Scratch Ticket Game prize of \$1,000 or \$30,000, the claimant must sign the winning Scratch Ticket and 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 "EMERALD 8s" Scratch Ticket Game prize, the claimant must sign the winning Scratch Ticket, thoroughly complete a claim form, and mail both 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 "EMERALD 8s" 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 "EMERALD 8s" 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. 2220. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2220 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$2.00	748,800	9.62
\$4.00	576,000	12.50
\$5.00	115,200	62.50
\$10.00	86,400	83.33
\$20.00	57,600	125.00
\$50.00	48,330	148.98
\$100	3,180	2,264.15
\$1,000	90	80,000.00
\$30,000	5	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 4.40. 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. 2220 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. 2220, 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-202001220
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: March 24, 2020



Scratch Ticket Game Number 2222 "MATCH 2 WIN"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2222 is "MATCH 2 WIN". The play style is "other".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2222 shall be \$1.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2222.

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: BANK SYMBOL, STACK OF CASH SYMBOL, CASHIER SYMBOL, CHEST SYMBOL, CLOVER SYMBOL, COINS SYMBOL, DIAMOND SYMBOL, GOLD BAR SYMBOL, HORSESHOE SYMBOL, MONEY BAG SYMBOL, SAFE SYMBOL, WISHBONE SYMBOL, \$1.00, \$2.00, \$5.00, \$10.00, \$15.00, \$20.00, \$25.00, \$40.00, \$50.00, \$100, \$200, \$500 and \$1,000.

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. 2222 - 1.2D

PLAY SYMBOL	CAPTION
BANK SYMBOL	BANK
STACK OF CASH SYMBOL	CASH
CASHIER SYMBOL	CASHIER
CHEST SYMBOL	CHEST
CLOVER SYMBOL	CLOVER
COINS SYMBOL	COINS
DIAMOND SYMBOL	DIAMND
GOLD BAR SYMBOL	GOLD
HORSESHOE SYMBOL	HORSESHOE
MONEY BAG SYMBOL	MONEYBAG
SAFE SYMBOL	SAFE
WISHBONE SYMBOL	WISHBONE
\$1.00	ONE\$
\$2.00	TWO\$
\$5.00	FIV\$
\$10.00	TEN\$
\$15.00	FFN\$
\$20.00	TWY\$
\$25.00	TWV\$
\$40.00	FRTY\$
\$50.00	FFTY\$
\$100	ONHN
\$200	TOHN
\$500	FVHN
\$1,000	ONTH

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 (2222), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 150 within each Pack. The format will be: 2222-0000001-001.

H. Pack - A Pack of the "MATCH 2 WIN" Scratch Ticket Game contains 150 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of five (5). Tickets 001 to 005 will be on the top page; Tickets

006 to 010 on the next page; etc.; and Tickets 146 to 150 will be on the last page with backs exposed. Ticket 001 will be folded over so the front of Ticket 001 and 010 will 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 "MATCH 2 WIN" Scratch Ticket Game No. 2222

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 "MATCH 2 WIN" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched

off to expose nine (9) Play Symbols. If a player reveals 2 matching Play Symbols in the same GAME, the player wins the PRIZE for that GAME. 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 nine (9) 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 nine (9) 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 nine (9) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
17. Each of the nine (9) 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 three (3) times in accordance with the approved prize structure.

B. Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

C. The top Prize Symbol will appear on every Ticket, unless restricted by other parameters, play action or prize structure.

D. Non-winning Play Symbols from one (1) GAME will not match winning Play Symbols from another GAME.

E. Non-winning Play Symbols will never appear more than two (2) times on a Ticket.

F. Non-winning Play Symbols in the same GAME will never be matching.

G. Winning Play Symbols will not appear more than two (2) times on a Ticket.

H. If a Play Symbol appears in one (1) GAME, it will not appear in another GAME on the Ticket.

2.3 Procedure for Claiming Prizes.

A. To claim a "MATCH 2 WIN" Scratch Ticket Game prize of \$1.00, \$2.00, \$5.00, \$10.00, \$20.00, \$25.00, \$40.00, \$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 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, \$40.00, \$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 "MATCH 2 WIN" Scratch Ticket Game prize of \$1,000, the claimant must sign the winning Scratch Ticket and 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 "MATCH 2 WIN" Scratch Ticket Game prize, the claimant must sign the winning Scratch Ticket, thoroughly complete a claim form, and mail both 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 "MATCH

2 WIN" 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 "MATCH 2 WIN" 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 9,120,000 Scratch Tickets in Scratch Ticket Game No. 2222. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2222 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$1.00	912,000	10.00
\$2.00	790,400	11.54
\$5.00	121,600	75.00
\$10.00	60,800	150.00
\$20.00	30,400	300.00
\$25.00	7,600	1,200.00
\$40.00	7,600	1,200.00
\$50.00	7,600	1,200.00
\$100	1,140	8,000.00
\$200	380	24,000.00
\$500	100	91,200.00
\$1,000	40	228,000.00

*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 4.70. 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. 2222 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. 2222, 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-202001221
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: March 24, 2020



Scratch Ticket Game Number 2240 "BREAK THE BANK"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2240 is "BREAK THE BANK". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2240 shall be \$2.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2240.

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, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, MONEY STACK SYMBOL, \$2.00, \$4.00, \$6.00, \$10.00, \$20.00, \$50.00, \$200, \$1,000, \$3,000 and \$30,000.

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. 2240 - 1.2D

PLAY SYMBOL	CAPTION
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
MONEY STACK SYMBOL	WIN\$
\$2.00	TWO\$
\$4.00	FOR\$
\$6.00	SIX\$
\$10.00	TEN\$
\$20.00	TWY\$
\$50.00	FFTY\$
\$200	TOHN
\$1,000	ONTH
\$3,000	THTH
\$30,000	30TH

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 (2240), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 125 within each Pack. The format will be: 2240-0000001-001.

H. Pack - A Pack of the "BREAK THE BANK" Scratch Ticket Game contains 125 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of two (2). One Ticket will be folded over to expose a front and back of one Ticket on each Pack. Please note the Packs will be in an A, B, C and D configuration.

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 "BREAK THE BANK" Scratch Ticket Game No. 2240.

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 "BREAK THE BANK" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose nineteen (19) Play Symbols. If a player matches any of the YOUR NUMBERS Play Symbols to any of the 3 LUCKY NUMBERS Play Symbols, the player wins the prize for that number. If the player reveals a "MONEY STACK" Play Symbol, the player wins the prize for that symbol instantly. 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 nineteen (19) 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 nineteen (19) 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 nineteen (19) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
17. Each of the nineteen (19) 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. Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

B. The top Prize Symbol will appear on every Ticket, unless restricted by other parameters, play action or prize structure.

C. A non-winning Prize Symbol will never match a winning Prize Symbol.

D. No matching LUCKY NUMBERS Play Symbols on a Ticket.

E. There will be no correlation between the matching Play Symbols and the prize amount.

F. The "MONEY STACK" (WIN\$) Play Symbol will never appear more than once on a Ticket.

G. No matching non-winning YOUR NUMBERS Play Symbols on a Ticket.

H. No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., 02 and \$2).

2.3 Procedure for Claiming Prizes.

A. To claim a "BREAK THE BANK" Scratch Ticket Game prize of \$2.00, \$4.00, \$6.00, \$8.00, \$10.00, \$12.00, \$20.00, \$50.00 or \$200, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$50.00 or \$200 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 "BREAK THE BANK" Scratch Ticket Game prize of \$1,000, \$3,000 or \$30,000, the claimant must sign the winning Scratch Ticket and 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 "BREAK THE BANK" Scratch Ticket Game prize, the claimant must sign the winning Scratch Ticket, thoroughly complete a claim form, and mail both 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 "Break the Bank" 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 "Break the Bank" 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 40,080,000 Scratch Tickets in Scratch Ticket Game No. 2240. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2240 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$2.00	3,847,680	10.42
\$4.00	2,244,480	17.86
\$6.00	480,960	83.33
\$8.00	160,320	250.00
\$10.00	801,600	50.00
\$12.00	320,640	125.00
\$20.00	320,640	125.00
\$50.00	160,320	250.00
\$200	16,700	2,400.00
\$1,000	501	80,000.00
\$3,000	130	308,307.69
\$30,000	25	1,603,200.00

*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 4.80. 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. 2240 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. 2240, 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-202001219
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: March 24, 2020

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Texas Parks and Wildlife Department

Notice of a Public Comment Hearing on an Application for a Sand and Gravel Permit

Uvalde County has applied to the Texas Parks and Wildlife Department (TPWD) for a General Permit pursuant to Texas Parks and Wildlife Code, Chapter 86, to remove or disturb 980 cubic yards of sedimentary material within the Nueces River in Uvalde County. The purpose is to construct a temporary low-water crossing at the site of the County Road 416 crossing that was damaged by floods. The location is approximately 5.5 miles downstream of the Highway 55 Arnold Crossing and 2.3 miles upstream of the Uvalde County Road 414 crossing. Notice is being published pursuant to 31 TAC §69.105(d).

TPWD will hold a public comment hearing regarding the application at 11:00 a.m. on April 17, 2020, at TPWD headquarters, 4200 Smith School Road, Austin, TX 78744. Due to COVID-19 transmission concerns with travelling and person-to-person gatherings, remote participation is required for the public comment hearing. Potential attendees should contact Tom Heger at (512) 389-4583 or at tom.heger@tpwd.texas.gov for information on how to participate in the hearing remotely. The hearing is not a contested case hearing under the Texas Administrative Procedure Act. Oral and written public comment will be accepted during the hearing.

Written comments may be submitted directly to TPWD and must be received no later than 30 days after the date of publication of this notice in the *Texas Register* or a newspaper, whichever is later. A written request for a contested case hearing from an applicant or a person with a justiciable interest may also be submitted and must be received by TPWD prior to the close of the public comment period. Timely hearing requests shall be referred to the State Office of Administrative Hearings. Submit written comments, questions, requests to review the application, or requests for a contested case hearing to: Tom Heger,

TPWD, by mail: 4200 Smith School Road, Austin, TX 78744; fax (512) 389-4405; or e-mail tom.heger@tpwd.texas.gov.

TRD-202001233

Robert D. Sweeney, Jr.

General Counsel

Texas Parks and Wildlife Department

Filed: March 24, 2020

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Public Utility Commission of Texas

Notice of Application for True-Up of 2017 Federal Universal Service Fund Impacts to the Texas Universal Service Fund

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) on February 20, 2020, for true-up of 2017 Federal Universal Service Fund (FUSF) Impacts to the Texas Universal Service Fund (TUSF).

Docket Style and Number: Application of Santa Rosa Telephone Cooperative, Inc. for True Up of 2017 Federal Universal Service Fund Impacts to the Texas Universal Service Fund, Docket Number 50572.

The Application: Santa Rosa Telephone Cooperative, Inc. filed a true-up in accordance with finding of fact numbers 17 and 18 of the final Order in Docket No. 48906. In that docket, the Commission determined that the Federal Communications Commission's actions were reasonably projected to reduce the amount that Santa Rosa received in FUSF revenue by \$266,436 for calendar year 2017. Based on the data, calculations, supporting documentation and affidavits included with the application, the actual impact in the FUSF revenue reductions to Santa Rosa for calendar year 2017 was \$225,482. Therefore, Santa Rosa will return to the TUSF a total amount of \$40,954 that was over-recovered for calendar year 2017.

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 50572.

TRD-202001215

Andrea Gonzalez

Rules Coordinator

Public Utility Commission of Texas

Filed: March 23, 2020

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East Texas Regional Water Planning Group (Region I)

Notice of Public Hearing for the East Texas Regional Water Planning Group 2021 Initially Prepared Regional Water Plan

Notice is hereby given that the East Texas Regional Water Planning Group (ETRWPG) is taking comment on and holding a public hearing for the East Texas Regional Water Planning Group (Region I) 2021 Initially Prepared Plan (IPP). The public hearing for the IPP will include a public comment period and will be held as follows:

5:30 p.m. Thursday May 14, 2020 - C.L. Simon Recreation/Library 1112 North Street, Nacogdoches, Texas 75961

The ETRWPG was established under provisions of Texas Senate Bill 1 (7th Texas Legislature) to develop a regional water plan for the ETRWPG which includes the following counties: Anderson,

Angelina, Cherokee, Hardin, Henderson, Houston, Jasper, Jefferson, Nacogdoches, Newton, Orange, Panola, Polk, Rusk, Sabine, San Augustine, Shelby, Smith, Trinity, and Tyler.

Copies of the IPP are available for review at the following County Clerk offices:

Anderson County, Angelina County, Cherokee County, Hardin County, Henderson County, Houston County, Jasper County, Jefferson County, Nacogdoches County, Newton County, Orange County, Panola County, Polk County, Rusk County, Sabine County, San Augustine County, Shelby County, Smith County, Trinity County, and Tyler County.

Copies of the IPP are also available for review at the following public libraries:

Kurth Memorial Library, 706 S. Raguet, Lufkin, Texas 75904
Palestine Public Library, 2000 S. Loop 256, Ste #42, Palestine Texas 75801
Singleton Memorial Library, 207 E. 6th Street, Rusk, Texas 75785
Kountze Public Library, 800 Redwood, Kountze, Texas 77625
Henderson County Library - Clint W. Murchison Memorial Library, 121 S. Prairieville Street, Athens, Texas 75751
J.H. Wooters Crockett Public Library, 709 E. Houston, Crockett, Texas 75835
Jasper Public Library, 175 E Water Street, Jasper, Texas 75951
Beaumont Public Library, 801 Pearl Street, Beaumont, Texas 77701
Nacogdoches Public Library, 1112 North Street, Nacogdoches, Texas 75961
Newton County Library, 212 High Street, Newton, Texas 75966
Orange Public Library, 220 N. 5th Street, Orange, Texas 77630
Sammy Brown Public Library, 319 S. Market Street, Carthage, Texas 75633
Livingston Municipal Library, 707 N. Tyler Avenue, Livingston, Texas 77351
Rusk County Library, 106 E. Main Street, Henderson, Texas 75652
J.R. Huffman Public Library, 375 Sabine Street, Hemphill, Texas 75948
San Augustine Public Library, 413 E. Columbia, San Augustine, Texas 75972
Fannie Brown Booth Memorial Library, 619 Tenaha Street, Center, Texas 75935
Tyler Public Library, 201 S. College Ave, Tyler, Texas 75702
Groveton Public Library, 126 W. First Street, Groveton, Texas 75845
Allan Shivers Library, 302 N. Charlton, Woodville, Texas 75979

Copies of the IPP are available for review on the Texas Water Development Board Website at <http://www.twdb.texas.gov/water-planning/rwp/plans/2021/IPP.asp>; on the East Texas Regional Water Planning Group website at www.etexwaterplan.org, and at the City of Nacogdoches, Office of the Region I Administrative Contact Stacy Corley, 202 E Pilar Street, Room 343 Nacogdoches, Texas 75961. Written and oral comments will be accepted at the public hearing. The ETRWPG will also accept written comments from **April 14, 2020**, through **July 13, 2020**, and may be emailed or mailed to the address below:

Questions and comments may be submitted to:

Rex H. Hunt, P.E.
Alan Plummer Associates, Inc.
6300 La Calma, Suite 400
Austin, Texas 78752
Phone: (512) 452-5905
rhunt@plummer.com
TRD-202001240

Stacy Corley
Region I Administration Contact
East Texas Regional Water Planning Group (Region I)
Filed: March 25, 2020

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Supreme Court of Texas
Order Amending Articles II and IV of the State Bar Rules

IN THE SUPREME COURT OF TEXAS

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Misc. Docket No. 20-9049

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ORDER AMENDING ARTICLES II AND IV OF THE STATE BAR RULES

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ORDERED that:

1. Articles II and IV of the State Bar Rules are amended as set forth in this order.
2. The amendments are effective immediately.
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 the order for publication in the *Texas Register*.

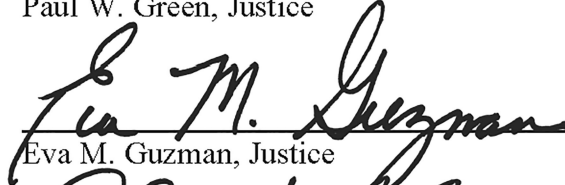
Dated: March 23, 2020.



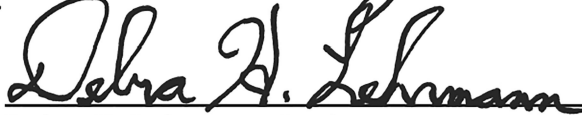
Nathan L. Hecht, Chief Justice



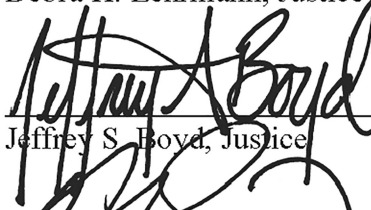
Paul W. Green, Justice



Eva M. Guzman, Justice



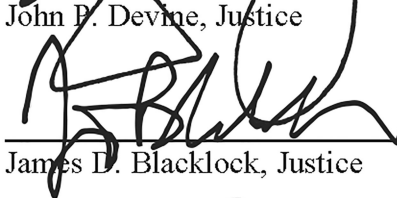
Debra H. Lehrmann, Justice



Jeffrey S. Boyd, Justice



John P. Devine, Justice



James D. Blacklock, Justice



J. Brett Busby, Justice



Jane N. Bland, Justice

**ARTICLE II
GENERAL PROVISIONS**

Section 14. Procedures for Meetings

A. All proceedings at meetings of the State Bar, of the board, of the executive committee and all other committees and sections shall be governed by the most recent edition of Robert's Rules of Order Newly Revised.

B. ~~Voting by those entitled to vote at all such meetings shall be in person.~~ Voting by proxy shall not be allowed.

C. The presence of a majority of those persons entitled to vote at all such meetings shall constitute a quorum, except that:

1. at any meeting of the State Bar, one hundred (100) members shall constitute a quorum for the transaction of business, and
2. at any meeting of a State Bar section or committee, a quorum may be less than a majority if the board has determined.

Action shall be taken only upon a majority vote of those entitled to vote, a quorum being present.

**ARTICLE IV
ADMINISTRATION**

Section 2. Meetings of the Board

A. The board shall meet regularly at least four (4) times annually, and may meet specially, at such times and places as the board shall determine. All meetings, however, shall be held within the State of Texas.

B. Meetings of the board shall be in person unless:

1. an emergency or public necessity exists within the meaning of Texas Government Code Chapter 551; and

2. the convening at one location of a quorum of the governmental body is difficult or impossible.

TRD-202001236
Jaclyn Daumerie
Rules Attorney
Supreme Court of Texas
Filed: March 24, 2020

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Texas Department of Transportation

Revised Public Hearing Notice - Unified Transportation Program

The public hearing originally scheduled for April 7, 2020, to receive comments regarding the proposed updates to the 2020 Unified Transportation Program (UTP), has been postponed due to public health precautions surrounding COVID-19. The Texas Department of Transportation (department) will hold the public hearing on Friday, April 24, 2020 at 10:00 a.m. Central Standard Time (CST) via electronic means. Instructions for accessing the hearing will be published on the department's website at: <https://www.txdot.gov/inside-txdot/get-involved/unified-transportation-program.html>.

Transportation Code, §201.991 provides that the department shall develop a UTP covering a period of 10 years to guide the development and authorize construction of transportation projects. The Texas Transportation Commission has adopted rules located in Title 43, Texas Administrative Code, Chapter 16, governing the planning and development of transportation projects, which include guidance regarding public involvement related to the adoption of the UTP and approval of any updates to the program.

Information regarding the proposed updates to the 2020 UTP is available on the department's website at: <https://www.txdot.gov/inside-txdot/get-involved/unified-transportation-program.html>.

Persons wishing to speak at the hearing may register in advance by notifying the Transportation Planning and Programming Division, at (800) 687-8108 no later than 12:00 p.m. CST on Thursday, April 23, 2020. Speakers will be taken in the order registered and will be lim-

ited to three minutes. Speakers who do not register in advance will be taken at the end of the hearing. Any interested person may offer comments or testimony; however, questioning of witnesses will be reserved exclusively to the presiding authority as may be necessary to ensure a complete record. While any persons with pertinent comments or testimony will be granted an opportunity to present them during the course of the hearing, the presiding authority reserves the right to restrict testimony in terms of time or repetitive content. Groups, organizations, or associations should be represented by only one speaker. Speakers are requested to refrain from repeating previously presented testimony.

The public hearing will be conducted in English. Persons who have special communication or accommodation needs are encouraged to contact the Transportation Planning and Programming Division at (800) 687-8108. Requests should be made at least three working days prior to the public hearing. Every reasonable effort will be made to accommodate these needs.

Interested parties who are unable to attend the hearing may submit comments regarding the proposed updates to the 2020 UTP to Peter Smith, Director of the Transportation Planning and Programming Division, P.O. Box 149217, Austin, Texas 78714-9217. Interested parties may also submit comments regarding the proposed updates to the 2020 UTP by email at UTP-PublicComments@txdot.gov, online at <https://www.txdot.gov/inside-txdot/get-involved/unified-transportation-program.html> or phone at (800) 687-8108. In order to be considered, all comments must be received at the Transportation Planning and Programming office by 4:00 p.m. CST on Friday, April 24, 2020.

TRD-202001248
Becky Blewett
Deputy General Counsel
Texas Department of Transportation
Filed: March 25, 2020

How to Use the Texas Register

Information Available: The sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

Governor - Appointments, executive orders, and proclamations.

Attorney General - summaries of requests for opinions, opinions, and open records decisions.

Texas Ethics Commission - summaries of requests for opinions and opinions.

Emergency Rules - sections adopted by state agencies on an emergency basis.

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

Adopted Rules - sections adopted following public comment period.

Texas Department of Insurance Exempt Filings - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

Review of Agency Rules - notices of state agency rules review.

Tables and Graphics - graphic material from the proposed, emergency and adopted sections.

Transferred Rules - notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

In Addition - miscellaneous information required to be published by statute or provided as a public service.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

How to Cite: Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words “TexReg” and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 43 (2018) is cited as follows: 43 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written “43 TexReg 2 issue date,” while on the opposite page, page 3, in the lower right-hand corner, would be written “issue date 43 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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