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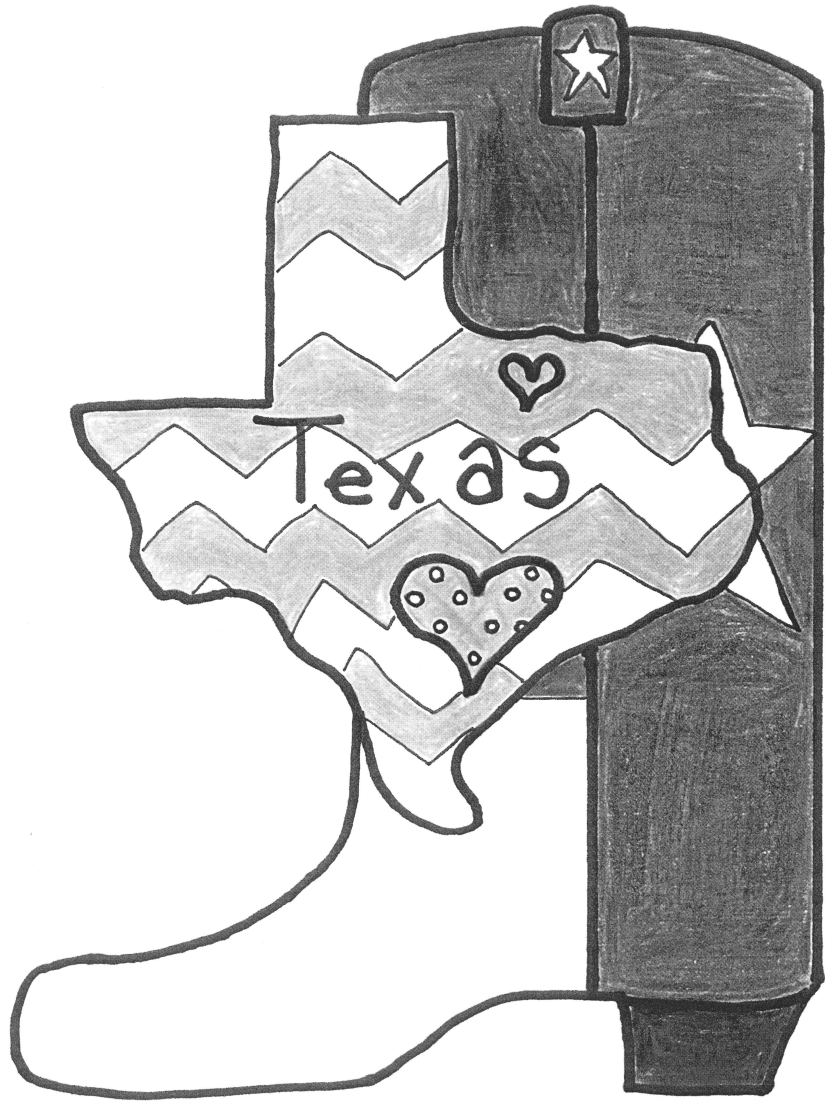
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THE GOVERNOR

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

Proclamation 41-3801

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on May 31, 2020, certifying under Section 418.014 of the Texas Government Code that the threats and incidents of violence starting on May 29, 2020, which have endangered public safety, constitute and pose an imminent threat of disaster for all counties in the State of Texas; and

WHEREAS, in each subsequent month effective through today, I have issued proclamations renewing the disaster declaration for all Texas counties; and

WHEREAS, these events have caused or imminently threatened widespread or severe damage, injury, and property loss, among other harms, at a time when the State of Texas is responding to the novel coronavirus (COVID-19) disaster; and

WHEREAS, while all Americans are entitled to exercise their First Amendment rights, it is imperative that order is maintained, all persons are kept safe and healthy, and property is protected; and

WHEREAS, peaceful protestors, many of whom are responding to the senseless taking of life by the reprehensible actions of a few, should themselves be protected from harm; and

WHEREAS, the declaration of a state of disaster has facilitated and expedited the use and deployment of resources to enhance preparedness and response to the ongoing threats, including by ensuring that federal law enforcement officers can fully assist with the efforts; and

WHEREAS, a state of disaster continues to exist in all counties due to threats of widespread or severe damage, injury, and property loss, among other harms;

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby renew the disaster proclamation for all counties in Texas.

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

Pursuant to Section 418.016(a), I hereby continue the suspension of all relevant provisions within Chapter 1701 of the Texas Occupations Code, as well as Title 37, Chapters 211 - 229 of the Texas Administrative Code, to the extent necessary for the Texas Commission on Law Enforcement to allow federal law enforcement officers to perform peace officer duties in Texas. Additionally, pursuant to Section 418.016, any regulatory statute prescribing the procedures for conduct of state business or any order or rule of a state agency that would in any way prevent, hinder, or delay necessary action in coping with this disaster shall be suspended upon written approval of the Office of the Governor. However, to the extent that the enforcement of any state statute or administrative rule regarding contracting or procurement would impede any state agency's emergency response that is necessary to cope with this declared disaster, I hereby suspend such statutes and rules for the duration of this declared disaster for that limited purpose.

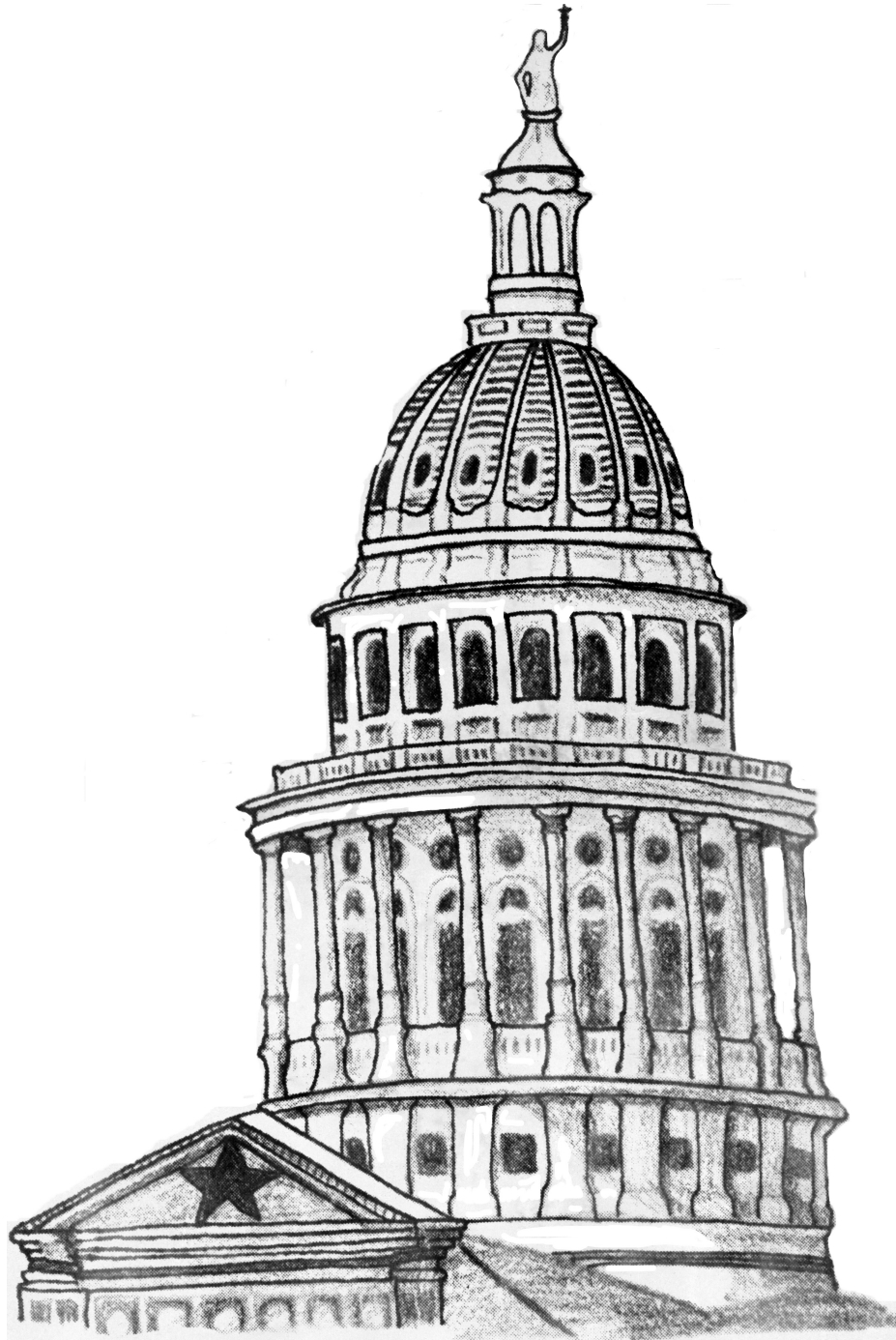
In accordance with the statutory requirements, copies of this proclamation shall be filed with the applicable authorities.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 25th day of January, 2021.

Greg Abbott, Governor

TRD-202100379





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-0396-KP

Requestor:

Mr. Rusty Friedrichs
Goliad County Auditor
Post Office Box 526
Goliad, Texas 77963

Re: Residency requirement to become a candidate for county attorney (RQ-0396-KP)

Briefs requested by February 18, 2021

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

TRD-202100372
Austin Kinghorn
General Counsel
Office of the Attorney General
Filed: January 26, 2021



Opinions

Opinion No. KP-0348

Mr. Brian K. Guthrie
Executive Director
Teacher Retirement System of Texas
1000 Red River Street
Austin, Texas 78701-2698

Re: Application of section 552.143 of the Government Code to investment information published in a media source of general circulation (RQ-0365-KP)

S U M M A R Y

Under subsection 552.143(b) of the Government Code, certain information prepared or maintained by a governmental body or a private investment fund is confidential and excepted from the general disclosure requirement under the Public Information Act, unless the specified information has been publicly released. The facts recited in the request letter do not establish a basis for the conclusion that informa-

tion reported in the newspaper was derived from information prepared or maintained by a governmental body or a private investment fund or that otherwise confidential information was publicly released as authorized under the Act.

Opinion No. KP-0349

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

Re: Information a local jurisdiction must provide if denying or conditionally approving a plat under chapters 212 and 232 of the Local Government Code and the authority of local governments to establish prerequisites to the submission of a plat application (RQ-0367-KP)

S U M M A R Y

Sections 212.0091 and 232.0026 of the Local Government Code prohibit local jurisdictions from denying or conditionally approving a plan or plat with generic statements, instead requiring specific reasons with accompanying citations to law for anything other than full approval of a plan or plat. A municipal or county authority that does not provide such specificity violates chapter 212 or 232, respectively. If a local jurisdiction fails to adequately explain the reason for the denial or conditional approval as required in section 212.0091 or 232.0026, the plan or plat is approved, and a local authority's decision to deny approval of a plan or plat is subject to judicial review.

Subsections 212.009(a) and 232.0025(d) require the local authority responsible for approving plats to approve, approve with conditions, or disapprove a plan or plat within 30 days after the date the plan or plat is filed. A court is unlikely to construe the language of those provisions to prohibit local authorities from requiring reports or studies to be completed prior to the submission of a plan or plat.

Opinion No. KP-0350

The Honorable Rafael Anchía
Chair, Committee on International Relations & Economic Development
Texas House of Representatives
Post Office Box 2910
Austin, Texas 78768-2910

Re: Whether hotel occupancy tax revenue may be used to fund a public space at an apartment complex under section 351.101 of the Tax Code (RQ-0368-KP)

S U M M A R Y

Chapter 351 of the Tax Code authorizes an expenditure of hotel occupancy tax revenue in the direct promotion of tourism and the convention and hotel industry, provided the expenditure is for one of the specified uses listed in the statute. To the extent the particular agreement about which you ask expressly provides that the public space is intended to benefit the residents of the apartment complex and does not promote tourism and the convention and hotel industry, it does not satisfy section 351.101. While it is ultimately a fact question, a court is

unlikely to determine that the expenditure as described is an authorized expenditure of hotel occupancy tax revenue.

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

TRD-202100371
Austin Kinghorn
General Counsel
Office of the Attorney General
Filed: January 26, 2021



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 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 133. HOSPITAL LICENSING

SUBCHAPTER C. OPERATIONAL REQUIREMENTS

25 TAC §133.51

The Department of State Health Services is renewing the effectiveness of emergency new §133.51 for a 60-day period. The text of the emergency rule was originally published in the October 9, 2020, issue of the *Texas Register* (45 TexReg 7085).

Filed with the Office of the Secretary of State on January 19, 2021.

TRD-202100263

Nycia Deal
Attorney

Department of State Health Services
Original effective date: September 25, 2020
Expiration date: March 23, 2021

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



CHAPTER 135. AMBULATORY SURGICAL CENTERS

SUBCHAPTER A. OPERATING REQUIREMENTS FOR AMBULATORY SURGICAL CENTERS

25 TAC §135.2, §135.26

The Department of State Health Services is renewing the effectiveness of emergency amended §135.2 and §135.26 for a 60-day period. The text of the emergency rule was originally published in the October 2, 2020, issue of the *Texas Register* (45 TexReg 6830).

Filed with the Office of the Secretary of State on January 19, 2021.

TRD-202000260

Nycia Deal
Attorney
Department of State Health Services
Original effective date: September 23, 2020
Expiration date: March 21, 2021
For further information, please call: (512) 834-4591



CHAPTER 448. STANDARD OF CARE SUBCHAPTER F. PERSONNEL PRACTICES AND DEVELOPMENT

25 TAC §448.603

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) adopts on an emergency basis in Title 25 Texas Administrative Code, Chapter 448, Standard of Care, an amendment to §448.603, concerning Training, to expand a licensed chemical dependency treatment facility's (CDTF) ability to provide staff training on abuse, neglect, and exploitation and nonviolent crisis intervention through live, interactive, instructor-led, electronic means, using synchronous audiovisual interaction, in response to COVID-19.

As authorized by Texas Government Code §2001.034, the Commission 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 Texas 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 emergency rulemaking 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 amendment to §448.603, concerning Training.

To protect patients and the public health, safety, and welfare of the state during the COVID-19 pandemic, HHSC is adopting an emergency amendment to temporarily permit a licensed CDTF to provide abuse, neglect, and exploitation training to staff through live, interactive, instructor-led, electronic means, performed using a synchronous audiovisual interaction, to reduce the risk of COVID-19 transmission. HHSC is also adopting an emergency

amendment to temporarily permit a licensed CDTF to provide nonviolent crisis intervention training to staff through live, interactive, instructor-led, electronic means, performed using a synchronous audiovisual interaction, to reduce the risk of COVID-19 transmission. There are no other changes to §448.603.

STATUTORY AUTHORITY

The emergency rulemaking is adopted under Texas Government Code §2001.034 and §531.0055 and Texas Health and Safety Code §464.009. Texas 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. Texas Government Code §531.0055 authorizes the Executive Commissioner of HHSC to adopt rules and policies necessary for the operation and provision of health and human services by the health and human services system. Texas Health and Safety Code §464.009 authorizes the Executive Commissioner of HHSC to adopt rules governing organization and structure, policies and procedures, staffing requirements, services, client rights, records, physical plant requirements, and standards for licensed CDTFs.

This emergency amendment implements Texas Government Code §531.0055 and Texas Health and Safety Code §464.009.

§448.603. Training.

(a) - (c) (No change.)

(d) The following initial training(s) must be received within the first 90 days of employment and must be completed before the employee can perform a function to which the specific training is applicable. Subsequent training must be completed as specified.

(1) Abuse, Neglect, and Exploitation. All residential program personnel with any direct client contact shall receive eight hours of live, interactive, instructor-led, electronic or face-to-face abuse, neglect, and exploitation training [as described in Figure: 40 TAC §148.603(d)(1) which is attached hereto and incorporated herein as if set forth at length]. All outpatient program personnel with any direct client contact shall receive[received] two hours of live, interactive, instructor-led, electronic or face-to-face abuse, neglect and exploitation training.

(2) - (3) (No change.)

(4) Nonviolent Crisis Intervention. All direct care staff in residential programs and outpatient programs shall receive this training. The live, interactive, instructor-led, electronic or face-to-face training shall teach staff how to use verbal and other non-physical methods for prevention, early intervention, and crisis management. The instructor shall have documented successful completion of a course for crisis intervention instructors or have equivalent documented training and experience.

(A) The initial training shall be four hours in length.

(B) Staff shall complete two hours of annual training thereafter.

(5) - (7) (No change.)

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 January 26, 2021.

TRD-202100332

Karen Ray

Chief Counsel

Department of State Health Services

Effective date: January 27, 2021

Expiration date: May 26, 2021

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



TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 500. COVID-19 EMERGENCY

HEALTH CARE FACILITY LICENSING

SUBCHAPTER A. HOSPITALS

26 TAC §500.2

The Health and Human Services Commission is renewing the effectiveness of emergency new §500.2 for a 60-day period. The text of the emergency rule was originally published in the October 9, 2020, issue of the *Texas Register* (45 TexReg 7086).

Filed with the Office of the Secretary of State on January 26, 2021.

TRD-202100368

Nycia Deal

Attorney

Health and Human Services Commission

Original effective date: October 1, 2020

Expiration date: March 29, 2021

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



SUBCHAPTER B. END STAGE RENAL DISEASE FACILITIES

26 TAC §500.20

The Health and Human Services Commission is renewing the effectiveness of emergency new §500.20 for a 60-day period. The text of the emergency rule was originally published in the October 9, 2020, issue of the *Texas Register* (45 TexReg 7087).

Filed with the Office of the Secretary of State on January 26, 2021.

TRD-202100335

Nycia Deal

Attorney

Health and Human Services Commission

Original effective date: September 30, 2020

Expiration date: March 28, 2021

For further information, please call: (512) 438-3161



CHAPTER 510. PRIVATE PSYCHIATRIC
HOSPITALS AND CRISIS STABILIZATION
UNITS

SUBCHAPTER C. OPERATIONAL
REQUIREMENTS

26 TAC §510.48

The Health and Human Services Commission is renewing the effectiveness of emergency new §510.48 for a 60-day period. The text of the emergency rule was originally published in the October 9, 2020, issue of the *Texas Register* (45 TexReg 7088).

Filed with the Office of the Secretary of State on January 21, 2021.

TRD-202000295

Nycia Deal
Attorney

Health and Human Services Commission

Original effective date: September 25, 2020

Expiration date: March 23, 2021

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



CHAPTER 550. LICENSING STANDARDS
FOR PRESCRIBED PEDIATRIC EXTENDED
CARE CENTERS

SUBCHAPTER C. GENERAL PROVISIONS
DIVISION 1. OPERATIONS AND SAFETY
PROVISIONS

26 TAC §550.213

The Health and Human Services Commission is renewing the effectiveness of emergency new §550.213 for a 60-day period. The text of the emergency rule was originally published in the October 9, 2020, issue of the *Texas Register* (45 TexReg 7089).

Filed with the Office of the Secretary of State on January 26, 2021.

TRD-202100334

Nycia Deal
Attorney

Health and Human Services Commission

Original effective date: September 30, 2020

Expiration date: March 28, 2021

For further information, please call: (512) 438-3161



CHAPTER 558. LICENSING STANDARDS
FOR HOME AND COMMUNITY SUPPORT
SERVICES AGENCIES

SUBCHAPTER I. RESPONSE TO COVID-19
AND PANDEMIC-LEVEL COMMUNICABLE
DISEASE

26 TAC §558.960

The Health and Human Services Commission is renewing the effectiveness of emergency new §558.960 for a 60-day period. The text of the emergency rule was originally published in the October 9, 2020, issue of the *Texas Register* (45 TexReg 7090).

Filed with the Office of the Secretary of State on January 26, 2021.

TRD-202100377

Nycia Deal
Attorney

Health and Human Services Commission

Original effective date: September 30, 2020

Expiration date: March 28, 2021

For further information, please call: (512) 438-3161



**TITLE 40. SOCIAL SERVICES AND ASSIS-
TANCE**

**PART 1. DEPARTMENT OF AGING
AND DISABILITY SERVICES**

CHAPTER 9. INTELLECTUAL DISABILITY
SERVICES--MEDICAID STATE OPERATING
AGENCY RESPONSIBILITIES

SUBCHAPTER D. HOME AND COMMUNITY-
BASED SERVICES (HCS) PROGRAM AND
COMMUNITY FIRST CHOICE (CFC)

40 TAC §9.198, §9.199

The Department of Aging and Disability Services is renewing the effectiveness of emergency new §9.198 and §9.199 for a 60-day period. The text of the emergency rules was originally published in the October, 2, 2020, issue of the *Texas Register* (45 TexReg 6849).

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

TRD-202100261

Nycia Deal
Attorney

Department of Aging and Disability Services

Original effective date: September 24, 2020

Expiration date: March 22, 2021

For further information, please call: (512) 438-3161



SUBCHAPTER N. TEXAS HOME LIVING
(TXHML) PROGRAM AND COMMUNITY
FIRST CHOICE (CFC)

40 TAC §9.597

The Department of State Health Services is renewing the effectiveness of emergency new §9.597 for a 60-day period. The text

of the emergency rule was originally published in the October 2, 2020, issue of the *Texas Register* (45 TexReg 6854).

Filed with the Office of the Secretary of State on January 19, 2021.

TRD-202000262

Nycia Deal

Attorney

Department of State Health Services

Original effective date: September 24, 2020

Expiration date: March 22, 2021

For further information, please call: (512) 438-3161



**CHAPTER 19. NURSING FACILITY
REQUIREMENTS FOR LICENSURE AND
MEDICAID CERTIFICATION
SUBCHAPTER CC. COVID-19 EMERGENCY
RULE**

40 TAC §19.2803

The Department of Aging and Disability Services is renewing the effectiveness of emergency new §19.2803 for a 60-day period. The text of the emergency rule was originally published in the October 2, 2020, issue of the *Texas Register* (45 TexReg 6856).

Filed with the Office of the Secretary of State on January 21, 2020.

TRD-202100294

Nycia Deal

Attorney

Department of Aging and Disability Services

Original effective date: September 24, 2020

Expiration date: March 22, 2021

For further information, please call: (512) 438-3161



**CHAPTER 98. DAY ACTIVITY AND HEALTH
SERVICES REQUIREMENTS
SUBCHAPTER D. LICENSURE AND
PROGRAM REQUIREMENTS**

40 TAC §98.65

The Department of Aging and Disability Services is renewing the effectiveness of emergency new §98.65 for a 60-day period. The text of the emergency rule was originally published in the October 9, 2020, issue of the *Texas Register* (45 TexReg 7096).

Filed with the Office of the Secretary of State on January 26, 2020.

TRD-202100376

Nycia Deal

Attorney

Department of Aging and Disability Services

Original effective date: September 30, 2020

Expiration date: March 28, 2021

For further information, please call: (512) 438-3161



PROPOSED RULES

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

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

TITLE 1. ADMINISTRATION

PART 2. TEXAS ETHICS COMMISSION

CHAPTER 18. GENERAL RULES CONCERNING REPORTS

1 TAC §18.15

The Texas Ethics Commission (the Commission) proposes amendments to Texas Ethics Commission rules in Chapter 18. Specifically, the Commission proposes amendments to §18.15, regarding Additional Fine.

The amendments to §18.15 clear the way for the Commission to once again exercise its express statutory authority to issue additional fines against delinquent filers who refuse to pay their fines.

For a filer to be subject to the additional penalty, *two* conditions must be met: (1) the filer must fail to file a required report within 30 days of the deadline, and (2) the filer must fail to pay the statutory penalty within 10 days of receiving a warning letter from the Commission. See Tex. Elec. Code § 254.042(b) (campaign finance); Tex. Gov't Code § 305.033(b) (lobby); Tex. Gov't Code § 572.033(b) (personal financial statement). If both of those conditions are met, then the filer is liable for an additional civil penalty "in an amount determined by commission rule...."

Existing §18.15 has two problems. The most critical problem is that it draws the boundaries of eligibility too broadly, stating that an additional fine may be imposed if *either* of two conditions are met. The language of the current rule purports to give the Commission authority to assess an additional penalty if a report is more than 30 days late "or" a filer fails to pay a fine with 10 days of receiving a notice of lateness. The proposed amendment would fix this problem by substituting "or" for "and."

Existing §18.15 also fails to set a specific amount. The statutes require "an amount determined by commission rule." Commission staff has proposed that the amount be set at \$2,500, which is the Office of the Attorney General's ("OAG's") threshold for filing a lawsuit. By setting the amount at \$2,500, the proposed amendment would satisfy the statute's demand for a specific amount. But more importantly, the amendment would make the Commissioners' choice very clear: voting to exercise their authority under the rule would result in a referral to the Attorney General and lawsuit filed against the filer.

J.R. Johnson, General Counsel, has determined that for the first five-year period the proposed amended rule is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed rule.

The General Counsel has also determined that for each year of the first five years the proposed amended rule is in effect, the public benefit will be consistency, simplicity and clarity in the Commission's rules that set out the administrative waiver process. There will not be an effect on small businesses, microbusinesses or rural communities. There is no anticipated economic cost to persons who are required to comply with the proposed amended rule.

The General Counsel has determined that during the first five years that the proposed amended rule is in effect, it will not: create or eliminate a government program; require the creation of new employee positions or the elimination of existing employee positions; require an increase in future legislative appropriations to the agency; require an increase or decrease in fees paid to the agency; expand, limit, or repeal an existing regulation; increase or decrease the number of individuals subject to the rules' applicability; or positively or adversely affect this state's economy.

The Commission invites comments on the proposed amended rule from any member of the public. A written statement should be emailed to public_comment@ethics.state.tx.us, or mailed or delivered to Anne Temple Peters, Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070. A person who wants to offer spoken comments to the Commission concerning the proposed amended rule may do so at any Commission meeting during the agenda item relating to the proposed amended rule. Information concerning the date, time, and location of Commission meetings is available by telephoning (512) 463-5800 or on the Commission's website at www.ethics.state.tx.us.

The amendments are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code.

The proposed amended rule affects Title 15 of the Election Code.

§18.15. Additional Fine.

In addition to any other fine assessed under this chapter, the commission may vote to impose a fine of \$2,500 against a filer whose report is more than 30 days late and [or] who has not paid the penalty related to that report [an assessed fine] within 10 days after receiving the commission notice of lateness[, subject to the statutory limit].

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 January 22, 2021.

TRD-202100309

J.R. Johnson
General Counsel
Texas Ethics Commission
Earliest possible date of adoption: March 7, 2021
For further information, please call: (512) 463-5800



CHAPTER 20. REPORTING POLITICAL CONTRIBUTIONS AND EXPENDITURES

SUBCHAPTER F. REPORTING REQUIREMENT FOR A GENERAL PURPOSE COMMITTEE

1 TAC §20.434

The Texas Ethics Commission (the Commission) proposes amendments to Texas Ethics Commission rules in Chapter 20. Specifically, the Commission proposes amendments to §20.434, regarding Alternate Reporting Requirements for General-Purpose Committees.

The Commission needs to correct some outdated cross-references in 20.434. Specifically, Rule 20.434 references Rule 20.433(a)(11) and 20.433(a)(20)(B), but those references have been out of date since 2012, when Rule 20.433 was amended. To reflect those 2012 changes, the cross-references in Rule 20.434 should be amended to 20.433(11) and 20.433(25)(B).

J.R. Johnson, General Counsel, has determined that for the first five-year period the proposed amended rule is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed rule.

The General Counsel has also determined that for each year of the first five years the proposed amended rule is in effect, the public benefit will be correction of obsolete references in the Commission's rules. There will not be an effect on small businesses, microbusinesses or rural communities. There is no anticipated economic cost to persons who are required to comply with the proposed amended rule.

The General Counsel has determined that during the first five years that the proposed amended rule is in effect, it will not: create or eliminate a government program; require the creation of new employee positions or the elimination of existing employee positions; require an increase in future legislative appropriations to the agency; require an increase or decrease in fees paid to the agency; expand, limit, or repeal an existing regulation; increase or decrease the number of individuals subject to the rules' applicability; or positively or adversely affect this state's economy.

The Commission invites comments on the proposed amended rule from any member of the public. A written statement should be emailed to public_comment@ethics.state.tx.us, or mailed or delivered to Anne Temple Peters, Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070. A person who wants to offer spoken comments to the Commission concerning the proposed amended rule may do so at any Commission meeting during the agenda item relating to the proposed amended rule. Information concerning the date, time, and location of Commission meetings is available by telephoning (512) 463-5800 or on the Commission's website at www.ethics.state.tx.us.

The amendments are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code.

The proposed amended rule affects Title 15 of the Election Code.

§20.434. *Alternate Reporting Requirements for General-Purpose Committees.*

(a) This section and Election Code §254.1541 apply only to a general-purpose committee with less than \$27,000 in one or more accounts maintained by the committee in which political contributions are deposited, as of the last day of the preceding reporting period for which the committee was required to file a report.

(b) The alternative reporting requirement in Election Code §254.1541 applies only to contributions.

(c) A report by a campaign treasurer of a general-purpose committee to which this section and Election Code §254.154 apply shall include the information required by §20.433 of this title (Contents of General-Purpose Committee Sworn Report of Contributions and Expenditures) except that the campaign treasurer may choose a threshold reporting amount for political contributions of \$190 instead of the threshold reporting amount of \$90 set out in §20.433(11) and (25)(B) [~~§20.433(a)(11) and (a)(20)(B)~~] of this title.

(d) A monthly report by a campaign treasurer of a general-purpose committee to which this section and Election Code §254.154 apply shall include the information required by §20.433 of this title (Contents of General-Purpose Committee Sworn Report of Contributions and Expenditures), except that the campaign treasurer may choose a threshold reporting amount for political contributions of \$40 instead of the threshold reporting amount of \$20 set out in §20.433(11) and (25)(B) [~~§20.433(a)(11) and (a)(20)(B)~~] of this title.

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

Filed with the Office of the Secretary of State on January 22, 2021.

TRD-202100308
J.R. Johnson
General Counsel
Texas Ethics Commission
Earliest possible date of adoption: March 7, 2021
For further information, please call: (512) 463-5800



TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 157. HEARINGS AND APPEALS

SUBCHAPTER AA. GENERAL PROVISIONS FOR HEARINGS BEFORE THE COMMISSIONER OF EDUCATION

19 TAC §157.1061

The Texas Education Agency (TEA) proposes an amendment to §157.1061, concerning general provisions for hearings before the commissioner of education. The proposed amendment would update the procedures for a motion for rehearing to align with statute.

BACKGROUND INFORMATION AND JUSTIFICATION: Texas Government Code (TGC), §2001.004, requires that state agencies adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Section 157.1061 implements TGC, §2001.004, by specifying the requirements for a motion for rehearing before the commissioner of education. The motion for rehearing is a prerequisite to a judicial appeal.

TGC, §2001.146, provides the procedures and deadlines for filing a motion for rehearing in a contested case. The proposed amendment to §157.1061 would update the rule to align with the procedures and deadlines established in statute.

Subsection (a) would be amended to specify that a motion for rehearing must be filed by a party representative within 25 days after the date the decision or order that is the subject of the motion is signed.

Subsection (b) would be amended to specify that replies to a motion for rehearing must be filed with the agency within 40 days after the date the decision or order that is the subject of the motion is signed.

Subsection (c) would be amended to specify agency action on the motion for rehearing must be taken within 55 days after the date the decision or order that is the subject of the motion is signed. If agency action is not taken within the 55-day period, the motion for rehearing would be overruled by operation of law.

Subsection (d) would be amended to specify that the agency may, by written order, extend the period of time for filing the motions or replies and taking agency action, except that an extension may not extend the period for agency action beyond 100 days after the date the decision or order that is the subject of the motion is signed.

Subsection (e) would be amended to specify in the event of an extension, the motion for rehearing is overruled by operation of law on the date fixed by the order, or in the absence of a fixed date, 100 days after the date the decision or order that is the subject of the motion is signed.

FISCAL IMPACT: Von Byer, general counsel for legal services, has determined that for the first five-year period the proposal is in effect there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

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

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

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

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

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed

rulemaking. During the first five years the proposed rulemaking would be in effect, it would expand an existing regulation by extending existing deadlines to conform with statute.

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

PUBLIC BENEFIT AND COST TO PERSONS: Mr. Byer has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be ensuring that rule language is based on current law. There is no anticipated economic cost to persons who are required to comply with the proposal.

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

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

PUBLIC COMMENTS: The public comment period on the proposal begins February 5, 2021, and ends March 8, 2021. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on February 5, 2021. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_\(TAC\)/Proposed_Commissioner_of_Education_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/).

STATUTORY AUTHORITY. The amendment is proposed under Texas Government Code (TGC), §2001.004, which requires state agencies to adopt rules of practice for formal and informal procedures; and TGC, §2001.146, which provides procedures and deadlines for filing a motion for rehearing in a contested case.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Government Code, §2001.004 and §2001.146.

§157.1061. Motions for Rehearing.

(a) In the absence of a finding of imminent peril, a motion for rehearing is a prerequisite to a judicial appeal. A motion for rehearing must be filed by a party representative within 25 [20] days after the date the decision or order that is the subject of the motion is signed [party representative is notified of the final decision or order].

(b) Replies to a motion for rehearing must be filed with the agency within 40 [30] days after the date the decision or order that is the subject of the motion is signed [party representative is notified of the final decision or order].

(c) Agency action on the motion for rehearing must be taken within 55 [45] days after the date the decision or order that is the subject of the motion is signed [a party representative is notified of the final decision or order]. If agency action is not taken within the 55-day [45-day] period, the motion for rehearing is overruled by operation of law 55 [45] days after the date the decision or order that is the subject of the

motion is signed [party representative is notified of the final decision or order].

(d) The agency may, by written order, extend the period of time for filing the motions or replies and taking agency action, except that an extension may not extend the period for agency action beyond 100 [90] days after the date the decision or order that is the subject of the motion is signed [a party representative is notified of the final order or decision].

(e) In the event of an extension, the motion for rehearing is overruled by operation of law on the date fixed by the order, or in the absence of a fixed date, 100 [90] days after the date the decision or order that is the subject of the motion is signed [party representative is notified of the final decision or order].

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 January 25, 2021.

TRD-202100326

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: March 7, 2021

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



TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 9. PROPERTY TAX ADMINISTRATION

SUBCHAPTER C. APPRAISAL DISTRICT ADMINISTRATION

34 TAC §9.416

The Comptroller of Public Accounts proposes amendments to §9.416 concerning continuation of a residence homestead exemption while a replacement structure is constructed. The eligibility time for a property that is rendered uninhabitable or unstable as a result of a disaster is addressed and updated. The proposed amendments implement Senate Bill 443, 86th Legislature, 2019.

In subsection (a), the comptroller proposes amendments to update and revise the period of time allowed for continuing homestead exemptions for property damaged by a calamity or by wind or water damage as permitted under Tax Code, §11.135(a-1).

The comptroller also proposes to remove current subsection (b) and renumber current subsection (c) to (b).

Tom Currah, Chief Revenue Estimator, has determined that during the first five years that the proposed amendments are in effect, the amendments: will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase

or decrease in fees paid to the agency; will not increase or decrease the number of individuals subject to the rules' applicability; and will not positively or adversely affect this state's economy. This proposal amends current rules.

Mr. Currah also has determined that the proposed amendments would have no significant fiscal impact on the state government, units of local government, or individuals. The proposed amendments would benefit the public by improving the administration of local property valuation and taxation. There would be no anticipated significant economic cost to the public. The proposed amendments would have no significant fiscal impact on small businesses or rural communities.

You may submit comments on the proposal to Korry Castillo, Director, Property Tax Assistance Division, P.O. Box 13528, Austin, Texas 78711 or to the email address: ptad.rulecomments@cpa.texas.gov. The comptroller must receive your comments no later than 30 days from the date of publication of the proposal in the *Texas Register*.

This amendment is proposed under Tax Code, §11.135 (Continuation of Residence Homestead Exemption While Replacement Structure Is Constructed; Sale of Property), which requires the comptroller to adopt rules to implement this section.

This rule implements Tax Code, §11.135.

§9.416. Continuation of Residence Homestead Exemption While Replacement Structure is Constructed.

(a) If a qualified residential structure for which the owner receives an exemption under Tax Code, §11.13, is rendered uninhabitable or unusable in a manner qualifying under Tax Code, §11.135, the owner is entitled to a continuation of the exemption. The exemption's duration shall be limited pursuant to Tax Code, §11.135(a-1). [under the conditions described in Tax Code, §11.135(a), the owner is entitled to a continuation of the exemptions for so long as the requirements of Tax Code, §11.135(a) are met. The chief appraiser shall continue the exemptions without the owner being required to file any form or request for the continuation.]

[(b) If the chief appraiser determines that the property owner has not complied with the provisions of Tax Code, §11.135(a), the chief appraiser shall follow the notice and billing requirements of Tax Code, §11.135(e) as though the property had been sold before the owner completed construction of a qualified replacement structure on the property.]

(b) [(e)] A property owner receiving a continuation of an exemption under Tax Code, §11.135, shall notify the appraisal office within 30 days after the date that eligibility for the continuation ends.

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

Filed with the Office of the Secretary of State on January 20, 2021.

TRD-202100288

Victoria North

General Counsel for Fiscal and Agency Affairs

Comptroller of Public Accounts

Earliest possible date of adoption: March 7, 2021

For further information, please call: (512) 475-2220



34 TAC §9.419

The Comptroller of Public Accounts proposes amendments to §9.419, concerning procedures for determining property tax exemptions for motor vehicles leased for personal use. The comptroller proposes amendments to implement statutory requirements and new legislation.

The proposed amendments change the heading of §9.419 from "Procedures for Determining Property Tax Exemption for Motor Vehicles Leased for Personal Use" to "Property Tax Exemption for Certain Leased Motor Vehicles".

The proposed amendments §9.419 delete subsection (a) prescribing the effective date of the rule as redundant with the legislation enacting Tax Code, §11.252 and unnecessary as the subsection states the section is effective for motor vehicles leased on or after January 2, 2001, approximately nineteen years ago.

The proposed amendments re-letter subsequent subsections.

The proposed language of re-lettered subsection (a)(1), prescribing the definition of a lease, complies with Tax Code, §11.252(h) and conforms to the definition of a lease in Tax Code, §152.001(6).

The proposed language of re-lettered subsection (a)(2), prescribing the definition of a lessee, conforms with the definition of a lease under re-lettered subsection (a)(1).

The proposed language of re-lettered subsection (a)(3), prescribing the definition of a lessor, conforms with the definition of a lease under re-lettered subsection (a)(1).

The proposed language of re-lettered subsection (a)(4), prescribing the definition of a Lessee's Affidavit, conforms the language to newly amended Tax Code, §11.252.

The proposed language of re-lettered subsection (a)(6), prescribing the definition of reasonable time, provides more concise language.

The proposed language of re-lettered subsection (b)(1) deletes the word "model" from the description of forms in the section.

The proposed language of re-lettered subsection (b)(1)(A) conforms the title of the Lessee's Affidavit to the language of newly amended Tax Code, §11.252.

The proposed language of newly re-lettered subparagraph (b)(1)(B) changes the title of Form 50-288 from "Lessor's Rendition or Property Report for Leased Automobiles" to "Lessor's Rendition or Property Report Leased Automobiles".

The proposed re-lettered subsection (b)(2) adds lessees to the parties required to use the comptroller's forms adopted by reference in the section, and states that the forms are available from the Comptroller of Public Accounts Property Tax Assistance Division. The proposed amended forms may be viewed at comptroller.texas.gov/taxes/property-tax/rules/index.php. The proposal further amends subsection (b)(2) to amend subparagraphs (A) and (B) to replace the word "model" with the word "comptroller's" in reference to the forms.

The proposal amends re-lettered subsection (b)(3) to eliminate unnecessary language in order to make the subsection more concise, and adds language to conform to newly amended language in Tax Code, §11.252.

The proposal amends re-lettered subsection (b) by removing paragraph (4) as a redundant provision.

The proposal re-numbers subsequent paragraphs.

The proposed amendments re-letter and re-number paragraph (4) to add the statutory authority for chief appraisers to enter into agreements for the electronic exchange of information under Tax Code, §1.085 and confirm that nothing in the section should be construed to limit that authority.

The proposal adds new paragraph (5) to clarify that nothing in the section is to be construed to limit the electronic execution of documents according to the laws of the State of Texas.

The new subsection (c) is proposed to adopt appropriate procedures and requirements for a lessee's affidavit in connection with the appropriate procedures and exemption application requirements of this section to determine if a motor vehicle subject to a lease qualifies for exemption under Tax Code, §11.252.

The proposed new paragraph (1) complies with the language of Tax Code, §11.252, to require that a lessee must not hold a motor vehicle subject to a lease for the production of income, and that the motor vehicle must be used primarily for activities that do not include the production of income.

The proposal adds new paragraph (2), subparagraphs (A), (B) and (C), and clauses (i) and (ii) to comply with newly amended language in Tax Code, §11.252 concerning the presumption of use primarily for motor vehicles that are not involved in the production of income.

The proposal deletes subsection (d).

The proposal adds new subsection (d) to prescribe the use of the Lessor's Rendition or Property Report Leased Automobiles (Form 50-288) to be used by the lessor to report each leased vehicle owned and whether the lessee has designated the vehicle as not held for the production and not used for the production of income in accordance with Tax Code, §11.252(i).

The proposal adds new paragraphs (1)(A), (B), (C) and (D) to require on the lessor report: the year, make, model and vehicle identification number of each leased vehicle; the name of the lessee and address at which the leased vehicle is kept; whether the lessee has designated the vehicle as not held for the production and not used for the production of income; and whether the lessor maintains a lessee's affidavit, electronic image of the lessee's affidavit, or a certified copy of the lessee's affidavit for the leased vehicle.

The proposal adds new paragraph (2) to require that the lessor provide the Lessor's Rendition or Property Report Leased Automobiles (Form 50-288) to the chief appraiser in the manner provided by subchapter B, Chapter 22, Tax Code in accordance with Tax Code, §11.252(j).

The proposal adds new paragraph (3) to prescribe that the lessor must use the Lessor's Rendition or Property Report Leased Automobiles (Form 50-288) to render each leased vehicle reported on the Lessor's Exemption Application Motor Vehicles Leased for Use Other than Production of Income (Form 50-286) for which the lessor does not maintain a lessee's affidavit, an electronic image of a lessee's affidavit, or a certified copy of a lessee's affidavit.

The proposal adds new subsection (e) to require that the lessor to submit the Lessor's Exemption Application Motor Vehicles Leased for Use Other than Production of Income (Form 50-286) to the chief appraiser in order to apply for the exemption available under Tax Code, §11.252.

The proposal deletes subsection (f). Tax Code, §11.252 does not provide authority for the lessee's affidavit to be prima facie

evidence of qualification for a motor vehicle to be exempt and Tax Code, §11.252 does not authorize a limit or expansion on the chief appraiser's discretion under Tax Code, §11.43 and §11.45 in considering evidence of an exemption.

The proposal deletes subsections (g) and (h). Tax Code, §11.252 does not authorize a limit or expansion on a chief appraiser's authority for review and action on an exemption application. The review and action on the exemption application is authorized for chief appraisers under Tax Code, §11.43 and §11.45.

The proposal re-letters subsequent subsections.

The proposal amends re-lettered subsection (f) to add the language "...electronic images of the affidavits, or certified copies of the affidavits..." to subparagraph (A), (B) & (C) to conform to newly amended language in Tax Code, §11.252 and to combine with existing paragraph (1).

The proposal re-numbers existing subparagraphs A, B, C, and E to new paragraphs numbered 1-4.

The proposal deletes subparagraph (D) as unnecessary and redundant language with subsection (b) of the section.

The proposal amends re-lettered subparagraph (D) to add the language "...electronic images of the affidavits, or certified copies of the affidavits...".

The proposal deletes re-numbered paragraph (2) as the exemption is for the lessor of a qualifying motor vehicle under lease and the chief appraiser has discretionary authority under Tax Code, §11.45 to act on an application for exemption and Tax Code, §11.252 does not provide separate or additional authority for a chief appraiser to request information from the lessees.

The proposal amends re-lettered subsection (g) to change title of Form 50-286 from "Lessor's Application for Personal Use Lease Automobile Exemptions" to "Lessor's Exemption Application Motor Vehicles Leased for Use Other than Production of Income (Form 50-286)".

Tom Currah, Chief Revenue Estimator, has determined that during the first five years that the proposed amendments are in effect, the amendments: will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; will not increase or decrease the number of individuals subject to the rules' applicability; and will not positively or adversely affect this state's economy. This proposal amends current rules.

Mr. Currah also has determined that the proposed amendments would have no significant fiscal impact on the state government, units of local government, or individuals. The proposed amendments would benefit the public by improving the administration of local property valuation and taxation. There would be no anticipated significant economic cost to the public. The proposed amendments would have no significant fiscal impact on small businesses or rural communities.

You may submit comments on the proposal to Korry Castillo, Director, Property Tax Assistance Division, P.O. Box 13528, Austin, Texas 78711 or to the email address: ptad.rulecomments@cpa.texas.gov. The comptroller must receive your comments no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The comptroller proposes the amendments under Tax Code, §11.252 (Motor Vehicles Leased for use Other than Production of Income) which requires the comptroller to adopt procedural rules to establish exemption application requirements, appropriate procedures to determine whether a motor vehicle subject to a lease qualifies for an exemption under the section, adoption of a form to be completed by lessees for use by lessors in application for the exemption, and the prescription of a property report form to be used by owners of vehicles subject to a lease.

The comptroller further proposes the amendments under Tax Code, §22.24 (Rendition and Report Forms) which authorizes the comptroller to prescribe and approve forms for the rendition and reporting of property.

These amendments implement Tax Code, §11.252 (Motor Vehicles Leased for Use Other than Production of Income).

§9.419. Property Tax Exemption for Certain Leased Motor Vehicles [Procedures for Determining Property Tax Exemption for Motor Vehicles Leased for Personal Use.]

[(a) Effective Date. This section is effective for motor vehicles that are leased on or after January 2, 2001.]

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

(1) Lease--An agreement, other than a rental as defined by Tax Code, §152.001(5), whereby an owner of a motor vehicle gives exclusive use of the motor vehicle to another for consideration. [whereby an owner of a motor vehicle for consideration gives exclusive use of a motor vehicle to another] for a period that is longer than 180 days.

(2) Lessee--A person who enters into a lease for a specific motor [vehicle primarily for the personal use of the lessee or the lessee's family].

(3) Lessor--The owner of a motor vehicle that is subject to a lease. [A person who owns a motor vehicle that is leased to another person.]

(4) Lessee's Affidavit or Affidavit--A properly notarized sworn statement that a lessee or authorized representative of the lessee if the lessee is an entity described by Tax Code, §11.252(b) executes to attest that the lessee does not hold the leased motor vehicle for the production of income and the leased motor vehicle is used primarily for activities that do not involve the production of income. [does not primarily use the leased motor vehicle for the production of income.]

(5) Motor vehicle--A passenger car or truck with a shipping weight of 9,000 pounds or less.

(6) Reasonable date and/or time--A time that is after 10:00 a.m. and before 5:00 p.m., Monday through Friday, excluding holidays, unless the appraisal district and the lessor agree otherwise. [A work weekday, Monday through Friday, and a time that is after 8:00 a.m. and before 5:00 p.m., unless the appraisal district and the lessor agree otherwise.]

(b) [(e)] The comptroller will make available [model] forms that are adopted by reference in paragraph (1) of this subsection. Copies of the forms can be obtained from the Comptroller of Public Accounts' Property Tax Assistance Division.

(1) The comptroller adopts by reference the following [model] forms:

(A) Lessee's Affidavit Motor Vehicle Use Other than Production of Income [of Primarily Non Income Producing Vehicle Use] (Form 50-285); and

(B) Lessor's Rendition or Property Report [for] Leased Automobiles (Form 50-288).

(2) A chief appraiser, lessee and [or] lessor must use the comptroller's [model] forms [that are] adopted by reference in paragraph (1) of this subsection, available from the Comptroller of Public Accounts Property Tax Assistance Division unless the [non-model] form:

(A) substantially complies with the corresponding comptroller [model] form by using the same language in the same sequence as the comptroller [model] form;

(B) is an electronic version of a comptroller's [model] form and preserves the same language in the same sequence as the comptroller's [model] form; or

(C) has been approved by the comptroller in writing before the form is used.

(3) A lessor shall maintain the affidavit, an electronic image of the affidavit, or a certified copy of the affidavit and must produce the affidavit, electronic image of the affidavit, or certified copy of the affidavit to the chief appraiser for inspection or copying when requested, subject to the conditions of subsection (f)(1) of this section. [After a lessee's affidavit is signed by a lessee and properly notarized, a lessor may make an electronic image of the lessee's affidavit and may produce the electronic image of the affidavit to the chief appraiser when an inspection is requested, subject to the condition of subsection (e)(1)(D) of this section.]

[(4) Subject to the limitations that are provided in paragraph (2) of this subsection, if a chief appraiser uses a form other than the one that the comptroller has adopted, then the chief appraiser must make the form available to the lessor. A chief appraiser may not mandate the use of his form in lieu of the comptroller's model form and may not deny a lessor's claim for exemption based solely on the lessor's failure to use the chief appraiser's form.]

(4) [(5)] No provision in this section should be construed as limiting the chief appraiser's authority to enter into an agreement for electronic exchange of information under Tax Code, §1.085. [covered by this section in a format agreed to by the chief appraiser and the lessor.]

(5) No provision in this section should be construed as limiting the ability to electronically execute a document according to the laws of the State of Texas.

(c) The Lessee's Affidavit for Motor Vehicle Use Other than Production of Income (Form 50-285) should be completed by lessees and the affidavit, electronic image of the lessee's affidavit, or certified copy of the lessee's affidavit should be maintained by lessors in connection with applying for the exemption available under Tax Code, §11.252.

(1) For lessor to qualify for the exemption, the Lessee must not hold the motor vehicle for the production of income and the motor vehicle must be used primarily for activities that do not include the production of income.

(2) A motor vehicle is presumed to be used primarily for activities that do not involve the production of income if:

(A) 50% or more of the miles the motor vehicle is driven in a year are for non-income producing purposes;

(B) the motor vehicle is leased to the State of Texas or a political subdivision of the State of Texas; or

(C) the motor vehicle:

(i) is leased to an organization that is exempt from federal income taxation under Internal Revenue Code, §501(a), as an organization described by Internal Revenue Code, §501(c)(3); and

(ii) would be exempt from taxation if the vehicle were owned by the organization.

(d) The Lessor's Rendition or Property Report Leased Automobiles (Form 50-288) shall be used as the property report form required by Tax Code, §11.252(i).

(1) To meet the reporting requirements of Tax Code, §11.252(i), the lessor shall list each leased vehicle the lessor owns on January 1, regardless of whether the leased vehicle qualifies for an exemption under Tax Code, §11.252, and provide the following:

(A) the year, make, model, and vehicle identification number for each leased vehicle;

(B) the name of the lessee and address at which the leased vehicle is kept;

(C) whether the lessee has designated the leased vehicle as not held for the production of income and used primarily for activities that do not involve the production of income; and

(D) whether the lessor maintains a lessee's affidavit, electronic image of the lessee's affidavit, or a certified copy of the lessee's affidavit for the leased vehicle.

(2) To meet the reporting requirements of Tax Code, §11.252(j), the Lessor shall provide the form to the chief appraiser in the manner provided by Subchapter B, Chapter 22, Tax Code.

[(d) A lessor satisfies the requirements of Tax Code, §11.252, for exemption of leased motor vehicles if the lessor:]

[(1) properly completes and timely files with the chief appraiser the Lessor's Rendition or Property Report for Leased Automobiles (Form 50-288);]

[(2) properly completes and timely files with the chief appraiser the comptroller-prescribed model application form (Lessor's Application for Personal Use Lease Automobile Exemptions);]

[(3) receives Lessee's Affidavit of Primarily Non Income Producing Vehicle Use (Form 50-285) that the lessee executed on or before the date on which the required forms that are enumerated in paragraphs (1) and (2) of this subsection have been filed; and]

[(4) maintains each Lessee's Affidavit of Primarily Non Income Producing Vehicle Use (Form 50-285) that pertains to each leased motor vehicle for which the lessor seeks an exemption.]

(e) To apply for the exemption allowed under Tax Code, §11.252(a), the lessor shall submit a fully completed and properly executed Lessor's Exemption Application Motor Vehicles Leased for Use Other than Production of Income (Form 50-286) to the chief appraiser pursuant to Tax Code, §11.43 and §11.45, and indicate at the appropriate space on the form that the lessor is applying for the exemption allowed under Tax Code, §11.252(a) for each qualifying leased vehicle.

(f) [(e)] A chief appraiser may inspect and/or obtain copies of lessees' affidavits, electronic images of the affidavits, or certified copies of the affidavits that the lessor maintains. [(4)] Unless agreed to otherwise, a lessor and a chief appraiser shall use the following procedures when the chief appraiser proposes to inspect and/or copy lessees' affidavits, electronic images of the affidavits, or certified copies of the affidavits on leased motor vehicles for which the lessor seeks an exemption.

(1) [(A)] No less than 10 days prior to the inspection, the chief appraiser shall provide the lessor with notice of the chief appraiser's intention to inspect and/or copy the lessees' affidavits, electronic images of the affidavits, or certified copies of the affidavits in the lessor's possession or control. The notice must state a reasonable [date and] time when the chief appraiser proposes to inspect and/or copy the lessees' affidavits, electronic images of the affidavits, or certified copies of the affidavits and shall identify the affidavits, electronic images of the affidavits, or certified copies of the affidavits that will be subject to inspection and/or copy.

(2) [(B)] If the proposed date or time is not convenient, then the lessor may propose an alternate reasonable date or time by notifying the chief appraiser in writing.

(3) [(C)] The lessor shall provide the chief appraiser with reasonable accommodations to inspect and/or copy any of the lessees' affidavits, electronic images of the affidavits, or certified copies of the affidavits or shall permit the chief appraiser to take the affidavits, electronic images of the affidavits, or certified copies of the affidavits off premises for a period of no less than 48 hours to inspect and/or copy.

[(D)] The lessor may provide electronic images of the lessees' affidavits, unless the chief appraiser does not have equipment to receive or read electronic images. If the image is not sufficiently clear to distinguish the characteristics of a lessee's handwriting and to see the notarized signature and any other relevant details, the chief appraiser may request to inspect an original lessee's affidavit.]

(4) [(E)] If the lessor is located more than 150 miles from the appraisal district's office, then the chief appraiser may submit a written request that the lessor deliver [either copy and mail] the identified lessees' affidavits, electronic images of the affidavits, or certified copies of the affidavits [or send the original affidavits] to the chief appraiser for at least 14 days for inspection and copying. The chief appraiser and the lessor may determine who should bear the costs of delivery and copying if any [and mailing].

[(2)] A chief appraiser should first attempt to obtain information from the lessor. If the lessor does not provide the requested information within the specified time period, then the chief appraiser may contact the lessee directly.]

[(f)] A properly executed Lessee's Affidavit of Primarily Non Income Producing Vehicle Use (Form 50-285) is prima facie evidence that the motor vehicle is not held for the production of income and is used primarily for non-income producing activities. A chief appraiser shall also consider the following evidence of primarily non-income producing use:]

[(1)] an affidavit by the lessee's spouse or other credible person who has information about the use of the leased motor vehicle and mileage records; and]

[(2)] a statement by the lessee's employer that the motor vehicle was not used or required to be used in the lessee's employment.]

[(g)] If a chief appraiser has reason to question, in whole or in part, the validity of the lessor's application for exemption, then the chief appraiser may investigate and shall notify the lessor of the chief appraiser's intent to investigate. The notice that is required by this rule shall:]

[(1)] identify the motor vehicle that the chief appraiser questions as qualifying for the exemption;]

[(2)] state separately the reason for questioning the claimed exemption or lessee's affidavit;]

[(3)] specify the additional information that the chief appraiser seeks; and]

[(4)] state the due date upon which the requested information must be delivered.]

[(h)] If a chief appraiser determines that some of the motor vehicles that the lessor claims in the application for exemption do not qualify for exemption, then the chief appraiser may modify the exemption by disallowing the amount of value that the non-exempt leased motor vehicles represent, but shall grant the exemption on the remaining value of the leased motor vehicles. Any notice of modification or denial of the claimed exemption shall be made in accordance with the notice requirements of Tax Code, §11.43 and §11.45.]

(g) [(i)] The comptroller-prescribed exemption [model] application form (Lessor's Exemption Application Motor Vehicles Leased for Use Other than Production of Income (Form 50-286) [for Personal Use Lease Automobile Exemptions]) is not adopted by reference herein and may be revised at the discretion of the comptroller. Current forms can be obtained from the Comptroller of Public Accounts' Property Tax Assistance Division.

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 January 20, 2021.

TRD-202100289

Victoria North

General Counsel for Fiscal and Agency Affairs

Comptroller of Public Accounts

Earliest possible date of adoption: March 7, 2021

For further information, please call: (512) 475-2220



SUBCHAPTER D. APPRAISAL REVIEW BOARD

34 TAC §9.804

The Comptroller of Public Accounts proposes the repeal of §9.804, concerning arbitration of Appraisal Review Board determinations issued for tax year 2017 and previous tax years. This section is being repealed because §§9.4251 - 9.4266 of this title replaced §9.804 effective May 29, 2018.

Tom Currah, Chief Revenue Estimator, has determined that during the first five years that the proposed rule repeal is in effect, the repeal: will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; will not increase or decrease the number of individuals subject to the rules' applicability; and will not positively or adversely affect this state's economy. This proposal repeals the current rule.

Mr. Currah also has determined that the proposed rule repeal would have no significant fiscal impact on the state government, units of local government, or individuals. The proposed rule repeal would benefit the public by improving the administration of local property valuation and taxation. There would be no anticipated significant economic cost to the public. The proposed

rule repeal would have no significant fiscal impact on small businesses or rural communities.

You may submit comments on the proposal to Korry Castillo, Director, Property Tax Assistance Division, P.O. Box 13528, Austin, Texas 78711 or to the email address: ptad.rulecomments@cpa.texas.gov. The comptroller must receive your comments no later than 30 days from the date of publication of the proposal in the *Texas Register*.

This repeal is proposed under Tax Code, §41A.13, which provides the comptroller with the authority to adopt rules relating to the implementation and administration of the provisions of Tax Code, §41A.

The repeal implements Tax Code, §41A.13.

§9.804. Arbitration of Appraisal Review Board Determinations Issued for Tax Year 2017 and Previous Tax Years.

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

Filed with the Office of the Secretary of State on January 20, 2021.

TRD-202100287

Victoria North

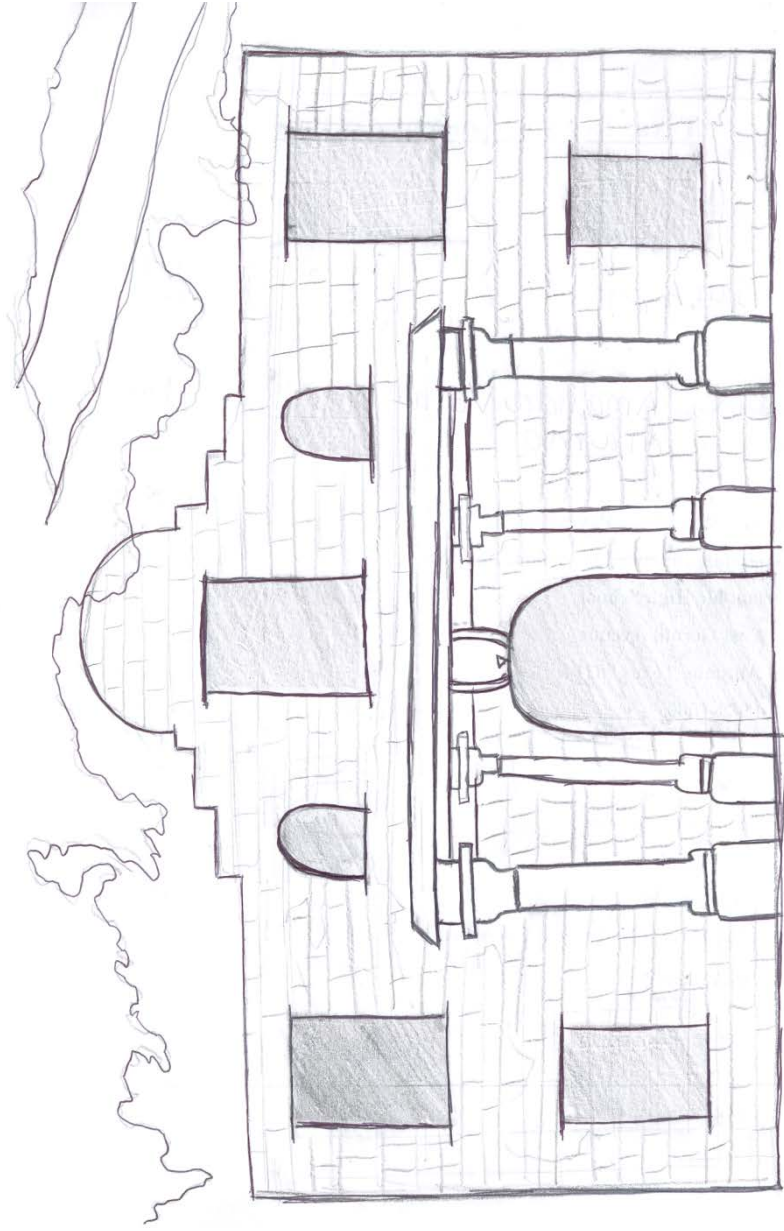
General Counsel for Fiscal and Agency Affairs

Comptroller of Public Accounts

Earliest possible date of adoption: March 7, 2021

For further information, please call: (512) 475-2220





ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

TITLE 1. ADMINISTRATION

PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 370. STATE CHILDREN'S HEALTH INSURANCE PROGRAM

SUBCHAPTER G. STANDARDS FOR CHIP MANAGED CARE

1 TAC §370.602

The Texas Health and Human Services Commission (HHSC) adopts an amendment to §370.602, concerning Member Complaints and Appeals. Section 370.602 is adopted without changes to the proposed text as published in the July 24, 2020, issue of the *Texas Register* (45 TexReg 5081). Therefore, the rule will not be republished.

BACKGROUND AND JUSTIFICATION

The amendment is necessary to comply with The Patient Protection and Affordable Care Act of 2010, §2719, as codified in the United States Code, Title 42 §300gg-19(b), which standardizes the external review process of adverse benefit determinations for members of commercial health insurance issuers to meet federal consumer protection standards.

The amendment also clarifies the current Children's Health Insurance Program (CHIP) managed care organization (MCO) Member Internal Complaint and Appeal Process.

In accordance with the Code of Federal Regulations, Title 42, §457.1120, HHSC elected to follow the statewide standard review process that Texas commercial health insurance issuers use, instead of a program specific review process. Therefore, §2719 also applies to CHIP MCOs.

The CHIP external review process was administered by Texas Department of Insurance (TDI). As of June 30, 2018, TDI no longer administers the CHIP external review process. All CHIP MCOs follow the federal Health and Human Services-administered external review process described in this rule amendment.

COMMENTS

The 31-day comment period ended August 24, 2020. During this period, HHSC received comments regarding the proposed rule from one commenter, Driscoll Health Plan. A summary of the comment relating to the rule and HHSC's response follows.

Comment: The Driscoll Health Plan does not have any comments on the CHIP Appeals Process changes.

Response: No response necessary.

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies;

Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; and Texas Health and Safety Code Chapters 62 and 63, which provide HHSC with the authority to administer CHIP in Texas and adopt rules as necessary to implement the chapters.

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 January 21, 2021.

TRD-202100296

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: February 10, 2021

Proposal publication date: July 24, 2020

For further information, please call: (617) 271-3389



TITLE 16. ECONOMIC REGULATION

PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION

CHAPTER 91. DOG OR CAT BREEDERS PROGRAM

16 TAC §91.25, §91.92

The Texas Commission of Licensing and Regulation (Commission) adopts amendments to existing rules at 16 Texas Administrative Code (TAC), Chapter 91, §91.25 and §91.92, regarding the Licensed Breeders Program, without changes to the proposed text as published in the October 16, 2020, issue of the *Texas Register* (45 TexReg 7357). These rules will not be republished.

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The rules under 16 TAC, Chapter 91, implement the Dog or Cat Breeders Act, Texas Occupations Code, Chapter 802.

The adopted rules are necessary to implement Senate Bill (SB) 1531, 86th Legislature, Regular Session (2019). SB 1531 made

changes to the portion of the Dog or Cat Breeders Act, Occupations Code, Chapter 802, pertaining to criminal history of animal cruelty or neglect. In accordance with SB 1531, the adopted rules add a nolo contendere plea as a ground for denying or refusing to renew a breeder license. The adopted rules also incorporate the procedural changes provided for in SB 1531 by requiring the Department to deny, refuse to renew, suspend, or revoke a license in accordance with the Dog or Cat Breeders Act (Chapter 802) as well as Occupations Code Chapters 51 and 53, which also contain provisions related to criminal history. Finally, the adopted rules make two editorial changes: combining two subsections which are virtually identical, and correcting a reference to the Dog or Cat Breeders Act and the Licensed Breeder rules.

The proposed rules were presented to and discussed by the Licensed Breeder Advisory Committee at its meeting on September 23, 2020. The Advisory Committee did not make any changes to the proposed rules and voted that the proposed rules be published in the *Texas Register* for public comment.

SECTION-BY-SECTION SUMMARY

The adopted rules amend §91.25(a) by adding a nolo contendere plea of animal cruelty or neglect to the list of reasons for which the Department must deny or refuse to renew a breeder license. The adopted rules also remove subsection (b), which lists reasons for which the Department may deny or refuse to renew a license.

The adopted rules amend §91.92(a) by requiring the Department to deny, refuse to renew, suspend, or revoke a dog or cat breeder license in accordance with Occupations Code, Chapters 51, 53, and 802. The adopted rules amend §91.92(b) by including language from current §91.25(b) stating that the Department may deny or refuse to renew a license in certain circumstances. The adopted rules also correct a reference in §91.92(b)(1) to the Dog or Cat Breeders Act and the Licensed Breeder rules.

PUBLIC COMMENTS

The Department drafted and distributed the proposed rules to persons internal and external to the agency. The proposed rules were published in the October 16, 2020, issue of the *Texas Register* (45 TexReg 7357). The deadline for public comments was November 16, 2020. The Department received one comment from one interested party on the proposed rules during the 30-day public comment period. The public comment is summarized below.

Comment--The Texas Humane Legislation Network (THLN) agreed with the proposed rules. In particular, THLN expressed support for adding a nolo contendere plea as a ground for denying or refusing to renew a breeder license.

Department Response--The Department appreciates the comment. The Department did not make any changes to the proposed rules in response to this comment.

ADVISORY BOARD RECOMMENDATIONS AND COMMISSION ACTION

The Licensed Breeder Advisory Committee met on November 30, 2020, to discuss the proposed rules and the public comment received. The Advisory Committee recommended that the Commission adopt the proposed rules as published in the *Texas Register*. At its meeting on January 19, 2021, the Commission adopted the proposed rules as recommended by the Advisory Committee.

STATUTORY AUTHORITY

The adopted rules are adopted under Texas Occupations Code, Chapters 51 and 802, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department. The adopted rules are also adopted under Texas Government Code, Chapter 411, Subchapter F, and Texas Occupations Code, Chapters 51 and 53, which establish the Department's statutory authority to conduct criminal history background checks on an applicant for or a holder of a license, certificate, registration, title, or permit issued by the Department.

The statutory provisions affected by the adopted rules are those set forth in Texas Occupations Code, Chapters 51 and 802. No other statutes, articles, or codes are affected by the proposed rules.

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

Filed with the Office of the Secretary of State on January 25, 2021.

TRD-202100325

Brad Bowman

General Counsel

Texas Department of Licensing and Regulation

Effective date: February 14, 2021

Proposal publication date: October 16, 2020

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



TITLE 22. EXAMINING BOARDS

PART 16. TEXAS BOARD OF PHYSICAL THERAPY EXAMINERS

CHAPTER 337. DISPLAY OF LICENSE

22 TAC §337.1

The Texas Board of Physical Therapy Examiners adopts amendments to 22 Texas Administrative Code (TAC) §337.1. Display of License.

The amendment is proposed to require licensees who provide physical therapy services through telehealth, home visits, or other non-traditional modes to provide information on accessing the board's online license verification system.

The amendments are adopted without changes to the proposed text as published in the November 27, 2020 issue of the *Texas Register* (45 TexReg 8459). The rule will not be republished.

No public comment was received.

The amended rules are adopted under the Physical Therapy Practice Act, Title 3, Subtitle H, Chapter 453, Occupations Code, which provides the Texas Board of Physical Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

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

Filed with the Office of the Secretary of State on January 21, 2021.

TRD-202100297

Ralph A. Harper

Executive Director

Texas Board of Physical Therapy Examiners

Effective date: March 1, 2021

Proposal publication date: November 27, 2020

For further information, please call: (512) 305-6900



22 TAC §337.2

The Texas Board of Physical Therapy Examiners adopts an amendment to 22 Texas Administrative Code (TAC) §337.2, relating to Consumer Information Sign. The amendment is adopted without changes to the proposed text as published in the November 27, 2020 issue of the *Texas Register* (45 TexReg 8460) and will not be republished.

The amendment is adopted to require licensees who provide physical therapy services through telehealth, home visits, or other non-traditional modes to provide information on directing complaints regarding non-compliance with the Texas Physical Therapy Practice Act/Rules to the Texas Board of Physical Therapy Examiners.

No public comment was received.

The amended rules are adopted under the Physical Therapy Practice Act, Title 3, Subtitle H, Chapter 453, Occupations Code, which provides the Texas Board of Physical Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

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

Filed with the Office of the Secretary of State on January 21, 2021.

TRD-202100298

Ralph A. Harper

Executive Director

Texas Board of Physical Therapy Examiners

Effective date: March 1, 2021

Proposal publication date: November 27, 2020

For further information, please call: (512) 305-6900



CHAPTER 341. LICENSE RENEWAL

22 TAC §341.3

The Texas Board of Physical Therapy Examiners adopts amendments to 22 Texas Administrative Code (TAC) §341.3, regarding Qualifying Continuing Competence Activities. The amendment is adopted without changes to the proposed text as published in the November 27, 2020, issue of the *Texas Register* (45 TexReg 8461) and will not be republished.

The amendments are adopted to clarify the documentation required for continuing competence approval of college or university courses in paragraph (2); to update language for completion

of a residency or fellowship and required hours for mentorship of a resident or fellow to align with the standards set forth by the American Board of Physical Therapy Residency and Fellowship Education (ABPTRFE) in paragraph (5)(C) and (D); and to add paragraph (7) which provides a means for licensees to claim continuing competence credit for engaging in non-work related voluntary charity care.

No public comment was received.

The amended rules are adopted under the Physical Therapy Practice Act, Title 3, Subtitle H, Chapter 453, Occupations Code, which provides the Texas Board of Physical Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

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

Filed with the Office of the Secretary of State on January 21, 2021.

TRD-202100299

Ralph A. Harper

Executive Director

Texas Board of Physical Therapy Examiners

Effective date: March 1, 2021

Proposal publication date: November 27, 2020

For further information, please call: (512) 305-6900



PART 30. TEXAS STATE BOARD OF EXAMINERS OF PROFESSIONAL COUNSELORS

CHAPTER 681. PROFESSIONAL COUNSELORS

SUBCHAPTER C. APPLICATION AND LICENSING

22 TAC §681.92

The Texas Behavioral Health Executive Council adopts the repeal of §681.92, relating to Experience Requirements (Internship), without changes to the text as published in the December 4, 2020, issue of the *Texas Register* (45 TexReg 8702). The rule will not be republished. This adopted repeal corresponds with the adoption of a new rule elsewhere in this edition of the *Texas Register*.

Reasoned Justification.

The adopted repeal of the rule is needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Sections 507.151 and 507.152 of the Tex. Occ. Code authorize the Executive Council to administer and enforce Chapters 501, 502, 503, 505, and 507 of the Tex. Occ. Code, as well as adopt rules as necessary to perform the Executive Council's duties and implement Chapter 507.

The Executive Council has adopted a new rule, in this edition of the *Texas Register*, which concerns the same subject matter, details, and requirements found in this rule, therefore the repeal of this rule is necessary to implement H.B. 1501.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority

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

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

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

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

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

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 January 20, 2021.

TRD-202100281

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Professional Counselors

Effective date: February 9, 2021

Proposal publication date: December 4, 2020

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



22 TAC §681.92

The Texas Behavioral Health Executive Council adopts new §681.92, relating to Experience Requirements (Internship). Section 681.92 is adopted without changes to the proposed text as published in the December 4, 2020, issue of the *Texas Register* (45 TexReg 8704) and will not be republished.

Reasoned Justification.

The new rule is needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Sections 507.151 and 507.152 of the Tex. Occ. Code authorizes the Executive Council to administer and enforce Chapters 501, 502, 503, 505, and 507 of the Tex. Occ. Code, as well as adopt rules as necessary to perform the Executive Council's duties and implement Chapter 507.

If a rule will pertain to the qualifications necessary to obtain a license; the scope of practice, standards of care, or ethical practice for a profession; continuing education requirements; or a schedule of sanctions then the rule must first be proposed to the Executive Council by the applicable board for the profession before the Executive Council may propose or adopt such a rule, see §507.153 of the Tex. Occ. Code. The new rule pertains to the qualifications necessary to obtain a license and incorporates changes necessary to implement H.B. 1501. Therefore, this rule is covered by §507.153 of the Tex. Occ. Code.

The Texas State Board of Examiners of Professional Counselors, in accordance with §503.2015 of the Tex. Occ. Code, previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 503 and 507 of the Tex. Occ. Code and may adopt this rule.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority.

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

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

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

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

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

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 January 20, 2021.

TRD-202100282

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Marriage and Family Therapists

Effective date: February 9, 2021

Proposal publication date: December 4, 2020

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



22 TAC §681.164

The Texas Behavioral Health Executive Council adopts new §681.164, relating to Licensing of Persons with Criminal Convictions. Section 681.164 is adopted with changes to the proposed text as published in the December 4, 2020, issue of the *Texas Register* (45 TexReg 8705). The rule will be republished.

Reasoned Justification.

The new rule is needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Sections 507.151 and 507.152 of the Tex. Occ. Code authorizes the Executive Council to administer and enforce Chapters 501, 502, 503, 505, and 507 of the Tex. Occ. Code, as well as adopt rules as necessary to perform the Executive Council's duties and implement Chapter 507.

If a rule will pertain to the qualifications necessary to obtain a license then the rule must first be proposed to the Executive Council by the applicable board for the profession before the Executive Council may propose or adopt such a rule, see §507.153 of the Tex. Occ. Code. The new rule determines which felonies and misdemeanors directly relate to the duties and responsibilities of a licensee, which can affect an applicant's eligibility for a license based on the applicant's criminal history. Therefore, the rule is covered by §507.153 of the Tex. Occ. Code.

The Texas State Board of Examiners of Professional Counselors, in accordance with §503.2015 of the Tex. Occ. Code, previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 503 and 507 of the Tex. Occ. Code and may adopt this rule.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority

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

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

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

of sanctions for violations of this chapter or rules adopted under this chapter.

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

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

§681.164. *Licensing of Persons with Criminal Convictions.*

(a) The following felonies and misdemeanors directly relate to the duties and responsibilities of a licensee:

- (1) offenses listed in Article 42A.054 of the Code of Criminal Procedure;
- (2) a sexually violent offense, as defined by Article 62.001 of the Code of Criminal Procedure;
- (3) any felony offense wherein the judgment reflects an affirmative finding regarding the use or exhibition of a deadly weapon;
- (4) any criminal violation of Chapter 503 (Licensed Professional Counselor Act) of the Occupations Code;
- (5) any criminal violation of Chapter 35 (Insurance Fraud) or Chapter 35A (Medicaid Fraud) of the Penal Code;
- (6) any criminal violation involving a federal health care program, including 42 USC Section 1320a-7b (Criminal penalties for acts involving Federal health care programs);
- (7) any offense involving the failure to report abuse or neglect;
- (8) any state or federal offense not otherwise listed herein, committed by a licensee while engaged in the practice of professional counseling;
- (9) any criminal violation of Section 22.041 (abandoning or endangering a child) of the Penal Code;
- (10) any criminal violation of Section 21.15 (invasive visual recording) of the Penal Code;
- (11) any criminal violation of Section 43.26 (possession of child pornography) of the Penal Code;
- (12) any criminal violation of Section 22.04 (injury to a child, elderly individual, or disabled individual) of the Penal Code;
- (13) three or more drug or alcohol related convictions within the last 10 years, evidencing possible addiction that will have an effect on the licensee's ability to provide competent services; and
- (14) any attempt, solicitation, or conspiracy to commit an offense listed herein.

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 January 20, 2021.

TRD-202100283

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Professional Counselors

Effective date: February 9, 2021

Proposal publication date: December 4, 2020

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

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PART 35. TEXAS STATE BOARD OF EXAMINERS OF MARRIAGE AND FAMILY THERAPISTS

CHAPTER 801. LICENSURE AND REGULATION OF MARRIAGE AND FAMILY THERAPISTS

SUBCHAPTER C. APPLICATIONS AND LICENSING

22 TAC §801.204

The Texas Behavioral Health Executive Council adopts new §801.204, relating to Licensing of Military Service Members, Military Veterans, and Military Spouses. Section 801.204 is adopted without changes to the proposed text as published in the October 23, 2020, issue of the *Texas Register* (45 TexReg 7515) and will not be republished.

Reasoned Justification.

The new rule is needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Sections 507.151 and 507.152 of the Tex. Occ. Code authorizes the Executive Council to administer and enforce Chapters 501-503, 505, and 507 of the Tex. Occ. Code, as well as adopt rules as necessary to perform the Executive Council's duties and implement Chapter 507.

If a rule will pertain to the qualifications necessary to obtain a license then the rule must first be proposed to the Executive Council by the applicable board for the profession before the Executive Council may propose or adopt such a rule, see §507.153 of the Tex. Occ. Code. The adopted new rule pertains to the licensing of military service members, military veterans, and military spouses; therefore, the rule is covered by §507.153 of the Tex. Occ. Code.

The Texas State Board of Examiners of Marriage and Family Therapists, in accordance with §502.1515 of the Tex. Occ. Code, previously voted and by a majority approved to propose the adoption of this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Tex. Occ. Code and may adopt this rule.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

A commenter stated support for the requirement that applicants must be licensed for two years preceding the date of application in order for academic and experience requirements to be met; the commenter believed this will help ensure that licensees have recent and relevant clinical experience before providing services in Texas. The commenter also appreciated that the board defined substantially equivalent as either meeting or exceeding Texas requirements.

Agency Response.

The Executive Council appreciates the commenter's supportive comments. The Executive Council notes that substantial equivalency was not specifically defined in this adopted rule as either meeting or exceeding Texas requirements; but military service members, military veterans, and military spouses' academic and experience requirements are deemed substantially equivalent to Texas' requirements if the applicant holds a license as an LMFT in another United States jurisdiction for the two years immediately preceding the date of application and has no disciplinary history.

Statutory Authority.

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

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

In accordance with §502.1515 of the Tex. Occ. Code the Board previously voted and, by a majority, approved to propose the adoption this rule to the Executive Council. The rule is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may adopt this rule.

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

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

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TRD-202100278

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Marriage and Family Therapists

Effective date: February 9, 2021

Proposal publication date: October 23, 2020

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



22 TAC §801.206

The Texas Behavioral Health Executive Council adopts new §801.206, relating to Licensing of Persons with Criminal Convictions. Section 801.206 is adopted with changes to the proposed text as published in the October 2, 2020, issue of the *Texas Register* (45 TexReg 6956) and will be republished.

Reasoned Justification.

The new rule is needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Sections 507.151 and 507.152 of the Tex. Occ. Code authorizes the Executive Council to administer and enforce Chapters 501, 502, 503, 505, and 507 of the Tex. Occ. Code, as well as adopt rules as necessary to perform the Executive Council's duties and implement Chapter 507.

If a rule will pertain to the qualifications necessary to obtain a license then the rule must first be proposed to the Executive Council by the applicable board for the profession before the Executive Council may propose or adopt such a rule, see §507.153 of the Tex. Occ. Code. The new rule determines which felonies and misdemeanors directly relate to the duties and responsibilities of a licensee, which can affect an applicant's eligibility for a license based on the applicant's criminal history. Therefore, the rule is covered by §507.153 of the Tex. Occ. Code.

The Texas State Board of Examiners of Marriage and Family Therapists, in accordance with §502.1515 of the Tex. Occ. Code, previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Tex. Occ. Code and may adopt this rule.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority.

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

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

In accordance with §502.1515 of the Tex. Occ. Code the Board previously voted and, by a majority, approved to propose the adoption this rule to the Executive Council. The rule is specifically authorized by §502.1515 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may adopt this rule.

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

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

§801.206. *Licensing of Persons with Criminal Convictions.*

The following felonies and misdemeanors directly relate to the duties and responsibilities of a licensee:

- (1) offenses listed in Articles 42A.054 of the Code of Criminal Procedure;
- (2) a sexually violent offense, as defined by Article 62.001 of the Code of Criminal Procedure;
- (3) any felony offense wherein the judgment reflects an affirmative finding regarding the use or exhibition of a deadly weapon;
- (4) any criminal violation of Chapter 502 (Licensed Marriage and Family Therapist Act of the Occupations Code);

(5) any criminal violation of Chapter 35 (Insurance Fraud) or Chapter 35A (Medicaid Fraud) of the Penal Code;

(6) any criminal violation involving a federal health care program, including 42 USC §130a-7b (Criminal penalties for acts involving Federal health care programs);

(7) any offense involving the failure to report abuse or neglect;

(8) any state or federal offense not otherwise listed herein, committed by a licensee while engaged in the practice of marriage and family therapy;

(9) any criminal violation of §22.041 (Abandoning or Endangering a Child) of the Penal Code;

(10) any criminal violation of §21.15 (Invasive Visual Recording) of the Penal Code;

(11) any criminal violation of §43.26 (Possession of Child Pornography) of the Penal Code;

(12) any criminal violations of §22.04 (Injury to a Child, Elderly Individual, or Disabled Individual) of the Penal Code;

(13) three or more drug or alcohol related convictions within the last 10 years, evidencing possible addiction that will have an effect on the licensee's ability to provide competent services; and

(14) any attempt, solicitation, or conspiracy to commit an offense listed herein.

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

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TRD-202100279

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Marriage and Family Therapists

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



SUBCHAPTER D. SCHEDULE OF SANCTIONS

22 TAC §801.305

The Texas Behavioral Health Executive Council adopts amended §801.305, relating to Schedule of Sanctions. Section 801.305 is adopted without changes to the proposed text as published in the December 11, 2020, issue of the *Texas Register* (45 TexReg 8830) and will not be republished.

Reasoned Justification.

The rule amendment is being adopted so the schedule of sanctions better aligns with §801.302, regarding severity level and sanction guide. Any action listed on the schedule of sanctions as a warning letter or conditional letter of agreement has been amended to a Level 5 Reprimand. Warning letters and conditional letters of agreement do not involve a formal disciplinary action and are now covered by §801.303, regarding other actions. Typographical corrections have also been made; such

as an action was listed as a Level 3 Administrative Penalty, but Administrative Penalty is not one of the severity levels listed in §801.302, this action has been corrected to a Level 3 Suspension.

If a rule will pertain to a schedule of sanctions then the rule must first be proposed to the Executive Council by the applicable board for the profession before the Executive Council may propose or adopt such a rule, see §507.153 of the Tex. Occ. Code. The adopted amendment pertains to a schedule of sanctions for marriage and family therapists; therefore, this rule is covered by §507.153 of the Tex. Occ. Code.

The Texas State Board of Examiners of Marriage and Family Therapists, in accordance with §502.1515 of the Tex. Occ. Code, previously voted and, by a majority, approved to propose the adoption of this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Tex. Occ. Code and may adopt this rule.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority.

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

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

In accordance with §502.1515 of the Tex. Occ. Code the Board previously voted and, by a majority, approved to propose the adoption this rule to the Executive Council. The rule is specifically authorized by §502.1515 of the Tex. Occ. Code, which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also adopts this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been

proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 502 and 507 of the Texas Occupations Code and may adopt this rule.

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

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

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TRD-202100280

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Marriage and Family Therapists

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



PART 41. TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL

CHAPTER 881. GENERAL PROVISIONS SUBCHAPTER B. RULEMAKING

22 TAC §881.21

The Texas Behavioral Health Executive Council adopts amended §881.21, relating to Petition for Rulemaking. Section 881.21 is adopted without changes to the proposed text as published in the October 2, 2020, issue of the *Texas Register* (45 TexReg 6958) and will not be republished.

Reasoned Justification.

The amended rule is being adopted to clarify the requirement that any requested rule change involving those matters set forth in §507.153(a) of the Occupations Code must be taken up and reviewed by the appropriate member board before being considered for proposal and adoption by the Executive Council.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority.

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

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

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

Lastly, the Executive Council adopts this rule under the authority found in §2001.021 of the Tex. Gov't Code which requires state agencies to prescribe by rule the form for a petition for adoption of rules by interested persons and the procedure for its submission, consideration, and disposition.

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

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

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TRD-202100276

Darrel D. Spinks

Executive Director

Texas Behavioral Health Executive Council

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For further information, please call: (512) 305-7700



CHAPTER 885. FEES

22 TAC §885.1

The Texas Behavioral Health Executive Council adopts amended §885.1, relating to Fees. Section 885.1 is adopted without changes to the proposed text as published in the October 2, 2020, issue of the *Texas Register* (45 TexReg 6960) and will not be republished.

Reasoned Justification.

The amended rule is adopted to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Sections 507.151 and 507.152 of the Tex. Occ. Code authorizes the Executive Council to administer and enforce Chapters 501, 502, 503, 505, and 507 of the Tex. Occ. Code, as well as adopt rules as necessary to perform the Executive Council's duties and implement Chapter 507. Section 507.154 of the Tex. Occ. Code authorizes the

Executive Council to set fees necessary to cover the costs of administering Chapters 501, 502, 503, 505, and 507 of the Tex. Occ. Code. The Executive Council adopted a rule to implement this statutory duty but the adopted fee schedule omitted the initial licensure fee that is being charged for Licensed Marriage and Family Therapist (LMFT) applications, this adopted fee is the same as the fee that was being charged by the LMFT Board; the LMFT associate extension base fee was off by \$5 dollars and needed to be increased accordingly; the mention of an upgrade fee for a Licensed Master Social Worker-Advanced Practitioner (LMSW-AP) needed to be deleted since LMSW-AP applications are no longer being accepted; and the \$5 fee previously listed in the Texas.gov column for examinations fees is actually the base fee and the fee schedule needed to be amended accordingly.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority.

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

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

The Executive Council adopts this amended rule pursuant to the authority found in §507.154 of the Tex. Occ. Code which authorizes the Executive Council to set fees necessary to cover the costs of administering Chapters 501, 502, 503, 505, and 507 of the Tex. Occ. Code.

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

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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Darrel D. Spinks
Executive Director
Texas Behavioral Health Executive Council
Effective date: February 9, 2021
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For further information, please call: (512) 305-7706



TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 40. EPINEPHRINE AUTO-INJECTOR AND ANAPHYLAXIS POLICIES

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DSHS), adopts new §§40.11 - 40.18, concerning Epinephrine Auto-Injector Policies in Certain Entities, and new §§40.21 - 40.28, concerning Epinephrine Auto-Injector Policies in Youth Facilities.

New §40.17 and §40.27 are adopted with changes to the proposed text as published in the October 16, 2020, issue of the *Texas Register* (45 TexReg 7382). New §§40.11 - 40.16 and 40.18 and new §§40.21 - 40.26 and 40.28 are adopted without changes to the proposed text as published in the October 16, 2020, issue of the *Texas Register* (45 TexReg 7382), and therefore will not be republished.

BACKGROUND AND JUSTIFICATION

The adopted rules implement House Bill (H.B.) 1849 and H.B. 4260, 86th Legislature, Regular Session, 2019, which amended Texas Human Resources Code, Chapter 42, Subchapter C, and Texas Health and Safety Code, Chapter 773, Subchapter A. The bills require the adoption of rules for the stocking and administering of unassigned epinephrine auto-injectors in amusement parks, restaurants, sports venues, child-care facilities, day camps or youth camps, youth centers, small employer-based day-care facilities, temporary shelter day-care facilities, and listed family homes that voluntarily adopt unassigned epinephrine auto-injector policies. If a venue or youth facility voluntarily adopts a policy, trained personnel or volunteers may administer an epinephrine auto-injector to a person reasonably believed to be experiencing anaphylaxis.

DSHS convened the Stock Epinephrine Advisory Committee (SEAC) to request recommendations on how to integrate evidence-based practices in the rules while allowing flexibility for the entities and youth facilities. The SEAC recommended stocking at least one adult epinephrine auto-injector pack, the required training to implement the rules, and the requirement to report the administration of an epinephrine auto-injector to DSHS within 10 business days after the administration of an epinephrine auto-injector. The new rules allow flexibility so that venues and youth facilities may develop policies specific to each location, including geography and venue population size.

COMMENTS

The 31-day comment period ended November 16, 2020.

During this period, DSHS received comments regarding the proposed rules from seven commenters, including the Texas

Nurses Association, the Texas Nurse Practitioners, and the Texas School Nurses Organization, and four individuals. A summary of comments relating to the rules and DSHS's responses follows.

Comment: One commenter stated that children or adults who have a prescription for an epinephrine auto-injector should provide the epinephrine auto-injector. Epinephrine auto-injectors should not be placed in venues where they may not be needed.

Response: DSHS disagrees and declines to revise the rule in response to this comment. The purpose of the adopted rules is to implement the requirements found in H.B. 1849 and H.B. 4260, which pertain to unassigned epinephrine auto-injector policies.

Comment: One commenter expressed concerns regarding the cost of epinephrine auto-injectors and the cost of training individuals.

Response: No changes were made in response to the comment. Adoption of an unassigned epinephrine auto-injector policy is voluntary. If venues and youth facilities decide to adopt and implement a policy, they may utilize free or reduced cost epinephrine auto-injector programs and training programs, if available.

Comment: One commenter suggested including pediatric epinephrine auto-injectors in child-care facilities, day camps, youth camps, and youth centers.

Response: No changes were made in response to the comment. Venues and youth facilities may acquire additional epinephrine auto-injectors based on the entity's assessment.

Comment: Two commenters described their support of the rules.

Response: No changes were made in response to the comments.

Comment: Regarding §40.17, multiple commenters recommended changing "physician" to "authorized healthcare provider," as advanced practice nurse practitioners can prescribe epinephrine auto-injectors.

Response: DSHS agrees and made the suggested change to §40.17.

Comment: Regarding §40.27, multiple commenters recommended changing "physician" to "authorized healthcare provider," as advanced practice nurse practitioners can prescribe epinephrine auto-injectors.

Response: DSHS agrees and made the suggested change to §40.27.

SUBCHAPTER B. EPINEPHRINE AUTO-INJECTOR POLICIES IN CERTAIN ENTITIES

25 TAC §§40.11 - 40.18

STATUTORY AUTHORITY

The new sections are authorized by Texas Health and Safety Code, §773.0145, which authorizes the Executive Commissioner of HHSC to adopt rules regarding the maintenance, administration, and disposal of epinephrine auto-injectors in amusement parks, restaurants, sports venues, child-care facilities, day camps or youth camps, youth centers, small employer-based day-care facilities, temporary shelter day-care facilities, and listed family homes that voluntarily adopt unassigned epinephrine auto-injector policies. The new sections

are authorized by Texas Government Code, §531.0055, and Texas Health and Safety Code, §1001.075, which authorize the Executive Commissioner of HHSC to adopt rules and policies necessary for the operation and provision of health and human services by DSHS and for the administration of Texas Health and Safety Code, Chapter 1001.

§40.17. *Report on Administering Unassigned Epinephrine Auto-Injectors.*

(a) The venue that adopts a policy for administering unassigned epinephrine auto-injectors shall submit a report no later than the 10th business day after the date an epinephrine auto-injection is administered, in accordance with the unassigned epinephrine auto-injector policy adopted under this subchapter. The report shall be submitted to the prescribing authorized healthcare provider and the Department of State Health Services (DSHS).

(b) Notifications to the commissioner of DSHS shall be submitted on the designated electronic form available on the DSHS School Health Program website, available at dshs.texas.gov.

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 January 20, 2021.

TRD-202100292

Barbara L. Klein

General Counsel

Department of State Health Services

Effective date: February 9, 2021

Proposal publication date: October 16, 2020

For further information, please call: (512) 776-7279



SUBCHAPTER C. EPINEPHRINE AUTO-INJECTOR POLICIES IN YOUTH FACILITIES

25 TAC §§40.21 - 40.28

STATUTORY AUTHORITY

The new sections are authorized by Texas Health and Safety Code, §773.0145, which authorizes the Executive Commissioner of HHSC to adopt rules regarding the maintenance, administration, and disposal of epinephrine auto-injectors in amusement parks, restaurants, sports venues, child-care facilities, day camps or youth camps, youth centers, small employer-based day-care facilities, temporary shelter day-care facilities, and listed family homes that voluntarily adopt unassigned epinephrine auto-injector policies. The new sections are authorized by Texas Government Code, §531.0055, and Texas Health and Safety Code, §1001.075, which authorize the Executive Commissioner of HHSC to adopt rules and policies necessary for the operation and provision of health and human services by DSHS and for the administration of Texas Health and Safety Code, Chapter 1001.

§40.27. *Report on Administering Unassigned Epinephrine Auto-Injectors.*

(a) The youth facility (facility) shall submit a report no later than the 10th business day after the date facility personnel administer an

unassigned epinephrine auto-injector. The report shall be submitted to the owner of the facility, the prescribing authorized healthcare provider, and the Department of State Health Services (DSHS).

(b) Notifications to DSHS shall be submitted on the designated electronic form available on DSHS's School Health Program website found at dshs.texas.gov. DSHS will submit a copy of the report to the Child Care Regulation Department of the Texas Health and Human Services Commission.

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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Barbara L. Klein

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Department of State Health Services

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TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 307. BEHAVIORAL HEALTH PROGRAMS

SUBCHAPTER D. OUTPATIENT COMPETENCY RESTORATION

**26 TAC §§307.151, 307.153, 307.155, 307.157, 307.159,
307.161, 307.163, 307.165, 307.167, 307.169, 307.171,
307.173, 307.175**

The Texas Health and Human Services Commission (HHSC) adopts new §307.151, concerning Purpose; §307.153, concerning Application; §307.155, concerning Definitions; §307.157, concerning Criteria for Admission to an Outpatient Competency Restoration Program; §307.159, concerning Recommendation Regarding Outpatient Competency Restoration Program Admission; §307.161, concerning General Service Requirements; §307.163, concerning Assessment, Reassessment and Court Reporting; §307.165, concerning Discharge Requirements; §307.167, concerning Data; §307.169, concerning Written Policies and Procedures; §307.171, concerning Staff Member Training; §307.173, concerning Rights; and §307.175, concerning Compliance with Statutes and Rules.

New §§307.153, 307.155, 307.159, 307.161, 307.167, 307.169, 307.171, and 307.175 are adopted with changes to the proposed text as published in the September 25, 2020, issue of the *Texas Register* (45 TexReg 6667). These rules will be republished. Sections 307.151, 307.157, 307.163, 307.165 and 307.173 are adopted without changes to the proposed text as published in the September 25, 2020, issue of the *Texas Register* (45 TexReg 6667). These rules will not be republished.

BACKGROUND AND JUSTIFICATION

The new sections are necessary to implement amendments made to the Code of Criminal Procedure, Chapter 46B, by Senate Bill (S.B.) 1326, 85th Legislature, Regular Session, 2017, which added competency restoration to outpatient treatment options. Specifically, S.B. 1326 provides that an individual charged with certain crimes may be released on bail and ordered to participate in an outpatient competency restoration (OCR) program contingent upon the availability of the service and an evaluation of the individual's level of risk to the community. These rules establish standards for entities that contract with HHSC to provide OCR services.

COMMENTS

The 31-day comment period ended October 26, 2020.

During this period, HHSC received comments regarding the proposed rules from three commenters, including the Texas Psychological Association, Disability Rights Texas, and one other individual. A summary of comments relating to the rules and HHSC's responses follows.

Comment: One commenter expressed concerns that §307.159 allows any person to assess if OCR services are appropriate for individuals admitted into the OCR program. Code of Criminal Procedure, Article 46B.074 directs testimony be provided by an expert for an individual committed to a competency restoration program.

Response: HHSC declines to make modifications to the rule in response to this comment. Code of Criminal Procedure, Article 46B.074 addresses the testimony required to commit a defendant to jail-based competency restoration services and does not pertain to the issue of what is the appropriate treatment setting for the particular defendant.

Articles 46B.0711 and 46B.072 require that an "appropriate outpatient competency restoration program is available for the defendant" for a court to order the defendant's participation in an OCR program. These provisions do not require the determination of whether a program is appropriate to be made by a particular party. However, the court must receive and approve a comprehensive treatment plan to order a defendant to participate in an OCR program.

Additionally, Article 46B.077(a) requires the OCR program to develop an individual program of treatment for a defendant, assess and evaluate whether the defendant is likely to be restored to competency in the foreseeable future, and report to the court and local mental health authority or local intellectual and developmental disability authority on the defendant's progress toward achieving competency. Article 46B.0805(d) requires the OCR program to notify the court regarding the defendant's entry into the program and subsequent notices required by 46B.079.

Comment: One commenter expressed concerns that §307.159 does not provide timeframes for the OCR program provider to conduct clinical and risk of violence assessments, court notifications for recommendations of program admission, and documentation of individual ineligible in the individual's record.

Response: HHSC declines to make modifications to the rule in response to this comment. Articles 46B.0711 and 46B.072 require that an "appropriate outpatient competency restoration program is available for the defendant" for a court to order the defendant's participation in an OCR program. These provisions do not require the determination of whether a program is appropriate to be made within a specific timeframe. This would be a matter subject to a court's request.

Comment: One commenter expressed concerns that §307.161 does not clarify recorded video activities should be interactive and include discussions to identify roles and responsibilities and procedures. The commenter also expressed concerns relating to how the effectiveness of training is assessed when telecommunications or IT is used.

Response: HHSC agrees to modify §307.161 by requiring competency restoration education to be interactive and requiring discussion of written text, video, and experiential learning in §307.161(1)(B) - (D). HHSC also added new paragraph (5) requiring an OCR program to identify each person's role and responsibility in court proceedings in the OCR program's training module.

Comment: One commenter recommends aligning OCR standards in §307.163 with the standards of a Jail-based Competency Restoration (JBCR) program, which requires testimony by an expert under Code of Criminal Procedures, Article 46B.074.

Response: HHSC declines to make modifications to the rule in response to this comment. Article 46B.074 addresses the qualifications of the witness providing testimony required to commit the defendant to a competency restoration program.

Comment: One commenter expressed concerns in response to §307.165 regarding transportation to and from outpatient psychiatry appointments and pharmacy visits for individuals enrolled in the OCR program.

Response: HHSC declines to make modifications to the rule in response to this comment. Individuals in an OCR program work in coordination with the local mental health authority, local behavioral health authority, local intellectual or developmental disability authority, or private providers under contract with HHSC to identify resources needed for the individual while enrolled in the OCR program to ensure continuity of care as provided in §307.165(a)(2). The OCR program is not obligated to provide transportation to and from pharmacy visits.

Comment: One commenter expressed concerns that §307.167 does not capture and report on the same data elements that a JBCR program is required to report.

Response: HHSC agrees to modify §307.167 by including administrative outcomes in new §307.167(c). Current §307.167 already includes individual outcomes as also required for a JBCR program.

Comment: One commenter requested revisions to distinguish the written policy and procedure requirements in §307.169(5) and (8) for admitting an individual.

Response: HHSC agrees with the commenter and added clarifying language to differentiate the policy and procedure requirement in §307.169(5) to outline processes for admitting an individual within the OCR program provider's catchment area, whereas, the requirement in §307.169(8)(A) must outline processes for admitting an individual outside of the OCR program provider's catchment area.

Comment: One commenter expressed concerns that §307.175 does not include the following references in the list of statutes and rules that a provider must comply with: 40 TAC Chapter 4, Subchapter C, Rights of Individuals with an Intellectual Disability; 25 TAC Chapter 404 Subchapter E, Rights of Persons Receiving Mental Health Services; 26 TAC Chapter 306 Subchapter A, Standards for Services to Individuals with Co-occurring Psychiatric and Substance Use Disorders (COPSD); 25 TAC, Chap-

ter 414, Subchapter I, Consent to Treatment with Psychoactive Medication--Mental Health Services; and 25 TAC Chapter 415, Subchapter F, Interventions in Mental Health Services.

Response: HHSC added cross references in §307.175(6) relating to Abuse, Neglect, and Exploitation in Local Authorities and Community Centers and §307.175(7) relating to Interventions in Mental Health Services. The cross reference to Consent to Treatment with Psychoactive Medication--Mental Health Services is addressed in §307.161(3); the cross reference to Rights of Individuals Receiving Mental Health Services and Rights of Individuals with an Intellectual Disability is addressed in §307.173(a)(1); and the cross reference to Standards for Services to Individuals with Co-occurring Psychiatric and Substance Use Disorders (COPSD) is addressed in §307.175(5).

HHSC made minor grammatical edits to §307.153(1), §307.155(7), §307.159(a), §307.169(8)(A), §307.169(11)(C), §307.169(14), §307.175(4) and §307.175(5).

HHSC made minor editorial changes to refer to other providers in §307.153(2) for clarity, updated the definition of "intellectual disability" in §307.155(5) to mirror the definition in the JBCR rules, and clarified that the plan referred to in §307.159(b)(2) and §307.169(6) is a treatment plan.

HHSC made minor editorial changes by including cross references in §307.159(b) and §307.171(4) for clarity.

HHSC made minor editorial changes in §307.161(1) to clarify to whom an OCR program provider must make competency restoration education available.

HHSC made a minor editorial change by removing the biannual reporting requirement under §307.167. OCR program providers already enter data regarding §307.167(1) - (12) into the HHSC automation system upon the individual's admission into and discharge from the OCR program. Additional minor editorial changes clarify what information must be submitted to HHSC for each individual admission and discharge.

STATUTORY AUTHORITY

The new sections are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Health and Safety Code §§534.052 and 534.058, which authorize the Executive Commissioner to develop rules and standards for services provided by community centers and their subcontractors; and Texas Code of Criminal Procedure Articles 46B.0095, 46B.077, 46B.0711, 46B.079, 46B.0805, 46B.082, 46B.083, and 46B.086, which set forth requirements for OCR programs.

The adopted new sections affect Texas Government Code §531.0055 and Texas Health and Safety Code §§534.052 and 534.058.

§307.153. *Application.*

This subchapter applies to:

- (1) local mental health authorities (LMHAs), local behavioral health authorities (LBHAs), and LMHA or LBHA subcontractors that administer OCR programs; and
- (2) other providers under contract with the Texas Health and Human Services Commission to administer an OCR program.

§307.155. *Definitions.*

The following words and terms, when used in this subchapter, have the following meanings.

(1) **Adaptive behavior**--The effectiveness with which, or degree to which, an individual meets the standards of personal independence and social responsibility expected of the individual's age and cultural group.

(2) **Competency restoration**--The treatment or education process for restoring an individual's ability to consult with the individual's attorney with a reasonable degree of rational understanding, including a rational and factual understanding of the court proceedings and charges against the individual.

(3) **Court**--A court of law presided over by a judge, judges, or a magistrate in civil and criminal cases.

(4) **HHSC**--Texas Health and Human Services Commission.

(5) **ID**--Intellectual disability. Consistent with Texas Health and Safety Code §591.003, significantly sub-average general intellectual functioning that is concurrent with deficits in adaptive behavior and originating before age 18.

(6) **Individual**--A person receiving services under this subchapter.

(7) **IST**--Incompetent to stand trial. The term has the meaning described in Texas Code of Criminal Procedure, Article 46B.003.

(8) **LBHA**--Local behavioral health authority. An entity designated as an LBHA by HHSC in accordance with Texas Health and Safety Code §533.0356.

(9) **LIDDA**--Local intellectual and developmental disability authority. An entity designated as a LIDDA by HHSC in accordance with Texas Health and Safety Code §533A.035(a).

(10) **LMHA**--Local mental health authority. An entity designated as an LMHA by HHSC in accordance with Texas Health and Safety Code §533.035.

(11) **Medical record**--An organized account of information relevant to the medical services provided to an individual, including an individual's history, present illness, findings on examination, treatment and discharge plans, details of direct and indirect care and services, and notes on progress.

(12) **OCR**--Outpatient competency restoration. A community-based program with the specific objective of attaining restoration to competency pursuant to Texas Code of Criminal Procedure Chapter 46B.

(13) **OCR provider**--An entity identified in §307.153 of this subchapter (relating to Application) that provides OCR services.

(14) **Ombudsman**--The Ombudsman for Behavioral Health Access to Care established by Texas Government Code §531.02251, including care for mental health conditions and substance use disorders.

(15) **Subcontractor**--A person or entity that contracts with an OCR provider to provide OCR services.

(16) **TAC**--Texas Administrative Code.

§307.159. *Recommendation Regarding Outpatient Competency Restoration Program Admission.*

(a) If a court determines an individual is IST, the OCR provider must assess the individual to determine if OCR services are appropriate by ensuring the following assessments are conducted:

- and
- (1) a clinical assessment, including substance use history;
 - (2) a risk of violence assessment.

(b) If an OCR provider determines that OCR services are appropriate for an individual, the provider must:

- (1) inform the court, in writing, that the individual is being recommended for admission into the OCR program; and
- (2) develop and submit a comprehensive treatment plan to the court in accordance with Texas Code of Criminal Procedure, Article 46B.077(a)(1) listing services the individual will be provided, including:
 - (A) competency restoration education;
 - (B) access to housing resources;
 - (C) access to transportation resources; and
 - (D) a regimen of medical, psychiatric, or psychological care or treatment; and
- (3) identify the persons responsible for providing treatment to the individual.

(c) If an OCR provider determines that OCR services are inappropriate for an individual, the provider must:

- (1) inform the court, in writing, of the individual's ineligibility for admission into the OCR program; and
- (2) document reasons for ineligibility in the individual's record.

§307.161. General Service Requirements.

An OCR provider:

- (1) must make competency restoration education interactive and available in multiple learning formats to the individual receiving competency restoration education, which may include:
 - (A) discussion;
 - (B) written text and discussion;
 - (C) recorded video and discussion; and
 - (D) experiential learning, such as role-playing or mock trial, and discussion;
- (2) must ensure an individual who requires accommodations receives adapted materials and approaches as needed, including accommodations for language barriers and disabilities;
- (3) must make available an appropriate prescribed regimen of medical, psychiatric, or psychological care or treatment, including administration of psychoactive medication in accordance with 25 TAC Chapter 414, Subchapter I (relating to Consent to Treatment with Psychoactive Medication--Mental Health Services);
- (4) may use telecommunications or information technology to provide competency restoration services that are compliant with the Health Insurance Portability and Accountability Act; and
- (5) must identify each person's role and responsibility in court proceedings in the OCR program's training module for individuals in the OCR program.

§307.167. Data.

(a) An OCR provider must collect and report the following data into HHSC's designated automation system for each individual admitted to or discharged from an OCR program, including:

- (1) whether the individual has been charged with a felony;
- (2) whether the individual has been charged with a misdemeanor;
- (3) whether the individual withdrew from the OCR program without the court's authorization;
- (4) whether the individual received an additional charge of a Class B misdemeanor or a higher category of offense while ordered to the OCR program;
- (5) whether the individual has been restored to competency within the time frame allotted by statute;
- (6) the number of days from the day the court orders OCR to the day the individual begins participation in the OCR program;
- (7) the number of days for an individual charged with a felony to restore to competency;
- (8) the number of days for an individual charged with a misdemeanor to restore to competency;
- (9) whether the individual was charged with a felony and not restored to competency within the initial restoration period, and for whom an extension of services was sought;
- (10) whether the individual was charged with a misdemeanor and not restored to competency within the initial restoration period, and for whom an extension of services was sought;
- (11) whether an individual has not restored to competency at the conclusion of court-ordered services; and
- (12) types of services provided to the individual other than psychiatric services and competency restoration education.

(b) In a format specified by HHSC, an OCR provider must submit costs associated with operating the OCR program to HHSC quarterly.

(c) In a format specified by HHSC, an OCR provider must submit administrative outcomes on the OCR program regarding:

- (1) reported and confirmed cases of abuse, neglect, and exploitation;
- (2) reported and confirmed cases of rights violations;
- (3) restraints and seclusions used;
- (4) emergency medications used;
- (5) serious injuries; and
- (6) deaths.

§307.169. Written Policies and Procedures.

An OCR provider must develop and implement written policies and procedures that outline processes for:

- (1) maintaining a list of each staff member providing OCR services, including the staff members':
 - (A) position and credentials;
 - (B) reporting structure; and
 - (C) responsibilities;
- (2) maintaining staff member training records;
- (3) describing an individual's eligibility and ineligibility criteria for OCR services;
- (4) screening an individual's appropriateness for OCR services;

(5) admitting an individual within the OCR program provider's catchment area;

(6) developing a treatment plan;

(7) delivering all required components of competency restoration;

(8) admitting an individual:

(A) who is referred by another LMHA, LBHA, or LIDDA that is outside of the OCR program's catchment area but is within close physical proximity to the OCR program;

(B) who is without an OCR program in the individual's service area; and

(C) where OCR services are potentially appropriate;

(9) documenting the types of services provided in the OCR program other than competency restoration services in accordance with §307.161 of this subchapter (relating to General Service Requirements);

(10) regularly monitoring, evaluating, and documenting the individual's progress towards attainment of competency to stand trial and likeliness to restore to competency in the foreseeable future in accordance with §307.163 of this subchapter (relating to Assessment, Reassessment, and Court Reporting);

(11) notifying the court:

(A) that the initial restoration period will expire and when it will expire;

(B) if the individual has attained competency or is not likely to attain competency in the foreseeable future;

(C) if an extension for continued restoration services is requested as specified in the Texas Code of Criminal Procedure, Article 46B.080; and

(D) the individual's readiness to return to court;

(12) complying with reporting procedures specified in Texas Code of Criminal Procedure, Article 46B.079;

(13) preparing for an individual's planned or unplanned discharge from the OCR program and ensuring continuity of care in accordance with §307.165 of this subchapter (relating to Discharge Requirements), as appropriate; and

(14) educating an individual about the individual's rights and participation in the OCR program.

§307.171. Staff Member Training.

An OCR provider must ensure staff members complete training and document evidence of training in the following:

(1) trauma informed care;

(2) cultural competency;

(3) rights of persons receiving OCR services in accordance with §307.173 of this subchapter (relating to Rights);

(4) identifying, preventing, and reporting abuse, neglect, and exploitation in accordance with 25 TAC Chapter 414, Subchapter L (relating to Abuse, Neglect, and Exploitation in Local Authorities and Community Centers) to the Texas Department of Family and Protective Services at 1-800-252-5400 or online at www.txabusehotline.org in accordance with applicable state laws and rules; and

(5) using a protocol for preventing and managing aggressive behavior, including de-escalation intervention techniques in ac-

cordance with 25 TAC Chapter 415, Subchapter F (relating to Interventions in Mental Health Services).

§307.175. Compliance with Statutes and Rules.

In addition to any applicable federal or state law or rule, an OCR provider must comply with:

(1) Texas Health and Safety Code Chapter 574;

(2) Texas Code of Criminal Procedure Chapter 46B;

(3) Health Insurance Portability and Accountability Act of 1996 and other applicable federal and state laws, including:

(A) Texas Health and Safety Code Chapter 241, Subchapter G;

(B) Texas Health and Safety Code Chapter 595;

(C) Texas Health and Safety Code Chapter 611; and

(D) Texas Health and Safety Code §533.009 and §614.017;

(4) 25 TAC Chapter 405, Subchapter K (relating to Deaths of Persons Served by TXMHMR Facilities or Community Mental Health and Mental Retardation Centers) as it relates to community-based services and community centers;

(5) Chapter 306, Subchapter A of this title (relating to Standards for Services to Individuals with Co-occurring Psychiatric and Substance Use Disorders (COPSD));

(6) 25 TAC Chapter 414, Subchapter L (relating to Abuse, Neglect, and Exploitation in Local Authorities and Community Centers); and

(7) 25 TAC Chapter 415, Subchapter F (relating to Interventions in Mental Health Services).

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

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Karen Ray

Chief Counsel

Health and Human Services Commission

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For further information, please call: (512) 838-4352



TITLE 28. INSURANCE

PART 2. TEXAS DEPARTMENT OF INSURANCE, DIVISION OF WORKERS' COMPENSATION

CHAPTER 112. SCOPE OF LIABILITY FOR COMPENSATION

INTRODUCTION. The Texas Department of Insurance, Division of Workers' Compensation (DWC) adopts amendments to 28 Texas Administrative Code §§112.101, 112.102, 112.203, 112.301, and 112.401, concerning the scope of liability for com-

pensation. The amendments to §§112.101, 112.102, 112.203, and 112.301 are adopted without changes to the proposed text as published in the November 13, 2020, issue of the *Texas Register* (45 TexReg 8099) and will not be republished. The amendments to §112.401 are adopted with one change to the proposed text as published in the November 13, 2020, issue of the *Texas Register* (45 TexReg 8099). DWC deleted the implementation date that originally appeared in the proposed text of §112.401, concerning Election of Coverage by Certain Professional Athletes, to make the effective date of these amendments 20 days after the date on which they are filed with the secretary of state. Section 112.401 will be republished.

REASONED JUSTIFICATION. The adopted amendments are necessary to update the rule language to conform with the changes the Legislature made to Texas Labor Code §406.145 under House Bill (HB) 1665, 86th Legislature, Regular Session (2019). The adopted amendments also delete the headings for Subchapters B, C, D, and E in Chapter 112 to simplify how the rules are organized and make them easier to access and more-user friendly. Only the headings used for Subchapters B, C, D, and E are deleted. The sections in Subchapters B, C, D, and E are not deleted.

The amendments to §112.101(a), (b), (c)(2), (d), and (e) replace "shall" with "must." The amendments to §112.101(d) add "insurance" before "carrier" and amend §112.101(e) to remove "the" before "Texas" and the comma after "Code." DWC also amends the title of §112.101 to replace "Regarding" with "regarding" and "Between" with "between." These amendments clarify the meaning of the rules and conform them to current agency style.

The amendments to §112.102(b), (d), (e), and (f) replace "shall" with "must." The amendments to §112.102(f) remove "the" before "Texas," as well as "Workers' Compensation Act," and the comma after "§406.005." The amendments add "Labor Code" after "Texas." These amendments clarify the meaning of the rules and conform them to current agency style.

The amendments to §112.203(a) remove "the Commission and" from the hiring contractor filing requirements and are consistent with Labor Code changes in HB 1665, 86th Legislature, Regular Session (2019) that now require a copy of a subsequent hiring agreement, to which the joint agreement under Labor Code §406.145 does not apply, to be filed with DWC only on request. This amendment is necessary to reflect DWC's intent that the agreement no longer must be filed with DWC. DWC also amends §112.203(b) and (d) to replace "Commission" with "division." These amendments are necessary to reflect DWC's current agency name and are consistent with the amendments made to Chapter 112 in 2018. DWC also amends the title of §112.203 to replace "To" with "to." This amendment conforms to current agency style.

DWC amends the title of §112.301 to "Labor Agent's Notification of Coverage for Certain Farm or Ranch Employees." This amendment adds clarity to the section title in the absence of subchapter titles.

The amendments to §112.401(e) expand the acceptable ways to deliver the agreement or contract between a professional athlete and a franchise. The amendments to §112.401(b) replace "Texas Workers' Compensation Commission" with "Texas Department of Insurance, Division of Workers' Compensation," and amendments to §112.401(d) replace "Commission" with "division." DWC also amends the required language of the agreement or contract between a professional athlete and a franchise.

The amendments are necessary to reflect the division's current name and conform this section to current agency style.

SUMMARY OF COMMENTS AND AGENCY RESPONSE.

Commenter: DWC received one written comment from the Office of Injured Employee Counsel (OIEC) in support of the proposal.

Agency Response to the Comment: DWC appreciates the comment.

28 TAC §112.101, §112.102

STATUTORY AUTHORITY. The commissioner of workers' compensation adopts the amendments to §112.101 and §112.102 under Labor Code §§402.00111, 402.00116, 402.061, 406.122, and 406.123.

Labor Code §402.00111(a) states that, except as otherwise provided, the commissioner of workers' compensation will exercise all executive authority, including rulemaking authority, under Title 5 of the Labor Code.

Labor Code §402.00116 provides that the commissioner of workers' compensation will administer and enforce this title, other Texas workers' compensation laws, and other laws granting jurisdiction or applying to DWC or the commissioner.

Labor Code §402.061 authorizes the commissioner to adopt rules as necessary to implement and enforce the Texas Workers' Compensation Act.

Labor Code §406.122 states that a subcontractor and the subcontractor's employees are not employees of a general contractor if the subcontractor and general contractor have entered into a written agreement where the subcontractor assumes the responsibilities of an employer. The section further provides that an owner operator and the owner operator's employees are not employees of a motor carrier if the owner operator and motor carrier have entered into an agreement where the owner operator assumes the responsibilities of an employer.

Labor Code §406.123 provides that a general contractor and a subcontractor may enter into certain agreements and requires the general contractor to file a copy of the agreement with their insurance carrier. The general contractor must file a copy with the division only if they are a certified self-insurer. The section further allows motor carriers and owner operators to enter into agreements where the motor carrier agrees to provide workers' compensation insurance to the owner operator.

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 January 21, 2021.

TRD-202100303

Kara Mace

Deputy Commissioner of Legal Services

Texas Department of Insurance, Division of Workers' Compensation

Effective date: February 10, 2021

Proposal publication date: November 13, 2020

For further information, please call: (512) 804-4703

◆ ◆ ◆
28 TAC §112.203

STATUTORY AUTHORITY. The commissioner of workers' compensation adopts the amendments to §112.203 under Labor Code §§402.00111, 402.00116, 402.061, 406.122, 406.123, 406.144, and 406.145.

Labor Code §402.00111(a) states that, except as otherwise provided, the commissioner of workers' compensation will exercise all executive authority, including rulemaking authority, under Title 5 of the Labor Code.

Labor Code §402.00116 provides that the commissioner of workers' compensation will administer and enforce this title, other Texas workers' compensation laws, and other laws granting jurisdiction or applying to DWC or the commissioner.

Labor Code §402.061 authorizes the commissioner to adopt rules as necessary to implement and enforce the Texas Workers' Compensation Act.

Labor Code §406.122 states that a subcontractor and the subcontractor's employees are not employees of a general contractor if the subcontractor and general contractor have entered into a written agreement where the subcontractor assumes the responsibilities of an employer. The section further provides that an owner operator and the owner operator's employees are not employees of a motor carrier if the owner operator and motor carrier have entered into an agreement where the owner operator assumes the responsibilities of an employer.

Labor Code §406.123 provides that a general contractor and a subcontractor may enter into certain agreements and requires the general contractor to file a copy of the agreement with their insurance carrier. The general contractor must file a copy with the division only if they are a certified self-insurer. The section further allows motor carriers and owner operators to enter into agreements where the motor carrier agrees to provide workers' compensation insurance to the owner operator.

Labor Code §406.144 states a hiring contractor is not responsible for providing workers' compensation insurance coverage for an independent contractor unless the hiring contractor and independent contractor enter into an agreement under which the hiring contractor, for the purpose of providing workers' compensation insurance coverage, is the employer of the independent contractor.

Labor Code §406.145 permits a hiring contractor and an independent subcontractor to enter into a joint agreement declaring the subcontractor as an independent contractor and not an employee of the hiring contractor for workers' compensation purposes. The joint agreement applies to each hiring agreement between the parties until the first anniversary of its filing date unless a later hiring agreement expressly states the joint agreement does not apply.

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

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Kara Mace
Deputy Commissioner of Legal Services
Texas Department of Insurance, Division of Workers' Compensation
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For further information, please call: (512) 804-4703



28 TAC §112.301

STATUTORY AUTHORITY. The commissioner of workers' compensation adopts the amendments to §112.301 under Labor Code §§402.00111, 402.00116, 402.061, and 406.163.

Labor Code §402.00111(a) states that, except as otherwise provided, the commissioner of workers' compensation will exercise all executive authority, including rulemaking authority, under Title 5 of the Labor Code.

Labor Code §402.00116 provides that the commissioner of workers' compensation will administer and enforce this title, other Texas workers' compensation laws, and other laws granting jurisdiction or applying to DWC or the commissioner.

Labor Code §402.061 authorizes the commissioner to adopt rules as necessary to implement and enforce the Texas Workers' Compensation Act.

Labor Code §406.163 states that a labor agent must notify each person the agent contracts with whether the agent has workers' compensation insurance coverage. If the agent has workers' compensation insurance coverage, they must present evidence of the coverage to each person the agent contracts with.

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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28 TAC §112.401

STATUTORY AUTHORITY. The commissioner of workers' compensation adopts the amendments to §112.401 under Labor Code §§402.00111, 402.00116, 402.061, and 406.095.

Labor Code §402.00111(a) states that, except as otherwise provided, the commissioner of workers' compensation will exercise all executive authority, including rulemaking authority, under Title 5 of the Labor Code.

Labor Code §402.00116 provides that the commissioner of workers' compensation will administer and enforce this title, other Texas workers' compensation laws, and other laws granting jurisdiction or applying to DWC or the commissioner.

Labor Code §402.061 authorizes the commissioner to adopt rules as necessary to implement and enforce the Texas Workers' Compensation Act.

Labor Code §406.095 states a professional athlete employed under a contract for hire or a collective bargaining agreement, who sustains an injury in the course and scope of the athlete's employment, must elect to receive either the benefits available under this subtitle or the benefits under the contract or agreement. Labor Code §406.095(b) states the commissioner by rule will establish the procedures and requirements for an election under this section.

§112.401. Election of Coverage by Certain Professional Athletes.

(a) A professional athlete employed by a franchise with workers' compensation insurance coverage and subject to Texas Labor Code §406.095 must elect to receive either the benefits available under the Act or the equivalent benefits available under the athlete's contract or collective bargaining agreement. The election must be made not later than the 15th day after the athlete sustains an injury in the course and scope of employment. If the athlete fails to make an election, the athlete will be presumed to have elected the option which provides the highest benefits.

(b) When a contract is signed by a professional athlete, the employer must give the athlete a copy of the following statement: "(Name of employer) has workers' compensation coverage from (name of insurance carrier). If the benefits available to you under your contract and any applicable collective bargaining agreement are equivalent to or greater than those available to you under Texas Labor Code §406.095, you are required to elect whether to receive the benefits available to you under the Act or the benefits available to you under your contract and any applicable collective bargaining agreement. You must make this election no later than 15 days after sustaining an injury. If you elect to receive the benefits available to you under your contract and any applicable collective bargaining agreement, you cannot obtain workers' compensation income or medical benefits if you are injured. You can get more information about your workers' compensation rights and the benefits available to you under the Act from any office of the Texas Department of Insurance, Division of Workers' Compensation, or by calling 1-800-252-7031."

(c) The election must be in writing and must:

- (1) indicate the date of the injury for which the election is being made;
- (2) indicate whether the athlete elects to receive the benefits available under the Act or the benefits provided under the contract or agreement; and
- (3) be signed by the athlete and the employer.

(d) If the athlete elects to receive the benefits available under the Act, a legible copy of the election must be provided to the division in the form and manner prescribed by the division within 10 days of the date of execution. A copy must also be provided to the franchise's workers' compensation insurance carrier within 10 days of the date of execution. The franchise must maintain the original election and provide a copy to the athlete.

(e) If the athlete elects to receive the benefits available under the contract and any agreement, the election must be filed with the franchise's workers' compensation insurance carrier within 10 days of the date of execution. An agreement is not considered filed if it is illegible or incomplete. Both the athlete and the franchise must keep a copy of the election.

(f) An election made under this section is irrevocable and binding on the athlete and the athlete's legal beneficiaries for a compensable injury incurred on the date specified in the election.

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

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Kara Mace

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Texas Department of Insurance, Division of Workers' Compensation

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CHAPTER 116. GENERAL PROVISIONS-- SUBSEQUENT INJURY FUND

28 TAC §116.11

The Texas Department of Insurance, Division of Workers' Compensation (DWC) adopts amendments to 28 Texas Administrative Code §116.11, relating to Request for Reimbursement from the Subsequent Injury Fund (SIF). The amendments are adopted with changes to the proposed text published in the December 4, 2020, issue of the *Texas Register* (45 TexReg 8736). Two references to Texas Administrative Code sections were added. The rule will be republished.

REASONED JUSTIFICATION. Section 116.11 applies to an insurance carrier's request to the SIF for reimbursement under Texas Labor Code §403.006. The amended section is necessary to update DWC's method for receiving SIF requests to increase the security of protected health information and increase SIF processing efficiency.

The previous version of §116.11 required that an insurance carrier file its reimbursement requests with the SIF administrator in writing, but the rule did not require the use of DWC forms when requesting reimbursement and specify the manner of delivery of the SIF request. DWC amends §116.11 to require electronic submission of SIF requests in the form and manner DWC prescribes to improve the security of protected private claim data contained in the SIF requests.

SIF staff developed DWC forms for each type of SIF request. To increase DWC's efficiency in processing requests, DWC adopts amendments to §116.11 to require insurance carriers to electronically submit all §116.11(a)(1)-(5) requests using DWC Form-095 through DWC Form-098. Subsections (c) and (f) require electronic submission and use of DWC Form-095, *Overtured Order or Designated Doctor Opinion*. Subsection (d) requires electronic submission and use of DWC Form-096, *Refund of Death Benefits*. Subsection (e) requires electronic submission and use of DWC Form-097, *Multiple Employment*. Subsection (g) requires electronic submission and use of DWC Form-098, *Pharmaceutical*. Each form instructs how the SIF reimbursement request may be electronically submitted to DWC.

SUMMARY OF COMMENTS AND AGENCY RESPONSE.

Commenters: DWC received one written comment, and no oral comments. The commenter in support of the proposal is the Office of Injured Employee Counsel (OIEC). DWC received no comments to change the proposal or against the proposal.

Comment on §116.11. One commenter supports the amendments to increase protection of confidential injured employee health information and increase efficiency in the SIF reimbursement process.

Agency Response to Comment on §116.11. DWC appreciates the comment in support of the amendments to §116.11.

STATUTORY AUTHORITY. The commissioner of workers' compensation adopts the amendments to 28 TAC §116.11 under Labor Code §§402.00111, 402.00116, 402.061, 401.024, 403.006, 408.0041, and 408.042.

Labor Code §402.00111(a) states that, except as otherwise provided, the commissioner of workers' compensation will exercise all executive authority, including rulemaking authority, under Title 5 of the Labor Code.

Labor Code §402.00116 provides that the commissioner of workers' compensation will administer and enforce this title, other Texas workers' compensation laws, and other laws granting jurisdiction to or applicable to DWC or the commissioner.

Labor Code §402.061 provides that the commissioner of workers' compensation will adopt rules as necessary to implement and enforce Title 5 of the Labor Code.

Labor Code §401.024 defines electronic submission and provides that the commissioner of workers' compensation by rule may permit or require use of electronic transmission for transmitting any authorized or required data.

Labor Code §403.006 describes the SIF account and outlines reimbursement liability.

Labor Code §408.0041 provides that an insurance carrier is entitled to apply for and receive reimbursement from the SIF for any overpayment of benefits that were paid based on the opinion of the designated doctor if that opinion is reversed or modified by a final order of the division or a court.

Labor Code §408.042 provides that an insurance carrier is entitled to apply for and receive reimbursement from the SIF for the amount of income and death benefits paid to an injured worker that are based on wages paid from a noninjury employer.

§116.11. *Request for Reimbursement from the Subsequent Injury Fund.*

(a) An insurance carrier may request:

(1) reimbursement from the Subsequent Injury Fund (SIF) under Labor Code §403.006(b)(2) for an overpayment of income, death, or medical benefits when the insurance carrier has made an unrecoverable overpayment pursuant to the decision of an administrative law judge, the Appeals Panel, or an interlocutory order, and that decision or order is reversed or modified by final arbitration, order, or decision of the commissioner, State Office of Administrative Hearings, or a court of last resort;

(2) reimbursement from the SIF under Labor Code §403.007(d) for death benefits paid to the SIF before a legal beneficiary was determined to be entitled to receive death benefits;

(3) for a compensable injury that occurs on or after July 1, 2002, reimbursement from the SIF for the amount of income benefits

paid to an injured employee based on multiple employment and paid under Labor Code §408.042;

(4) for a compensable injury that occurs on or after September 1, 2007, reimbursement from the SIF for the amount of income, death benefits, or a combination paid to an injured employee or a legal beneficiary based on multiple employment and paid under Labor Code §408.042;

(5) reimbursement from the SIF, under Labor Code §408.0041(f) and (f-1), for an overpayment of benefits made by the insurance carrier based on the opinion of the designated doctor if that opinion is reversed or modified by a final arbitration award or a final order or decision of the commissioner or a court; or

(6) reimbursement from the SIF made in accordance with rules adopted by the commissioner under Labor Code §413.0141. For purposes of this subsection only, an injury is determined not to be compensable following:

(A) The final decision of the commissioner or the judgment of the court of last resort; or

(B) A claimant's failure to respond within one year of a timely dispute of compensability filed by an insurance carrier. In this instance only, the effective date of the determination of noncompensability is one year from the date the insurance carrier filed the dispute with the division.

(i) A determination under this paragraph does not constitute final adjudication. It does not preclude a party from pursuing their claim through the division's dispute resolution process, and it does not permit a health care provider to pursue a private claim against the claimant.

(ii) If the claim is later determined to be compensable, the insurance carrier must reimburse the SIF for any initial pharmaceutical payment that the SIF previously reimbursed to the insurance carrier. The insurance carrier's reimbursement of the SIF must be paid within the timeframe the insurance carrier has to comply with the agreement, decision and order, or other judgment that found the claim to be compensable.

(b) The amount of reimbursement the insurance carrier may be entitled to is equal to the amount of unrecoverable overpayments paid and does not include any amounts the insurance carrier overpaid voluntarily or as a result of its own errors. An unrecoverable overpayment of income or death benefits for the purpose of reimbursement from the SIF only includes those benefits that were overpaid by the insurance carrier pursuant to an interlocutory order, a designated doctor's opinion, or a decision, which were finally determined to be not owed and which, in the case of an overpayment of income or death benefits to the injured employee or legal beneficiary, were not recoverable or convertible from other income or death benefits.

(c) To request reimbursement under subsection (a)(1) of this section for insurance carrier claims of benefit overpayments made under an interlocutory order or decision of the commissioner that is later reversed or modified by final arbitration, order, decision of the commissioner, the State Office of Administrative Hearings, or court of last resort, an insurance carrier must:

(1) submit the request electronically in the form and manner prescribed by the division;

(2) provide a claim-specific summary of the reason the insurance carrier is seeking reimbursement and the total amount of reimbursement requested, including how it was calculated;

(3) provide a detailed payment record showing the dates and amounts of the payments, payees, type of benefits and periods of benefits paid, all plain language notices (PLNs) about the payment of benefits, all certifications of maximum medical improvement and assignments of impairment rating, and documentation that shows the overpayment was unrecoupable as described in subsection (b) of this section, if applicable;

(4) provide the name, address, and federal employer identification number of the payee (insurance carrier) for any reimbursement that may be due;

(5) provide copies of all relevant orders and decisions (benefit review conference reports, interlocutory orders, contested case hearing decisions and orders, Appeals Panel decisions, and court orders) relating to the requested reimbursement and show which document is the final decision on the matter;

(6) provide copies of all relevant reports and DWC forms the employer filed with the insurance carrier; and

(7) provide copies of all medical bills, preauthorization request documents, relevant independent review organization (IRO) decisions, medical fee dispute decisions, contested case hearing decisions and orders, Appeals Panel decisions, and court orders on medical disputes associated with the overpayment, if the request is based on an overpayment of medical benefits.

(d) To request reimbursement under subsection (a)(2) of this section for reimbursement of death benefits paid to the SIF before a legal beneficiary is determined to be entitled to receive death benefits, an insurance carrier must:

(1) submit the request electronically in the form and manner prescribed by the division;

(2) provide a claim-specific summary of the reason the insurance carrier is seeking reimbursement and the total amount of reimbursement requested, including how it was calculated;

(3) provide a detailed payment record showing the dates and amounts of payments, payees, and periods of benefits paid;

(4) provide the name, address, and federal employer identification number of the payee (insurance carrier) for any reimbursement that may be due;

(5) provide the documentation the legal beneficiary submitted with the claim for death benefits under §122.100 of this title (relating to Claim for Death Benefits); and

(6) provide the final award of the commissioner or the final judgment of a court of competent jurisdiction determining that the legal beneficiary is entitled to the death benefits.

(e) To request reimbursement under subsections (a)(3) or (4) of this section regarding multiple employment, the requester must submit the request on an annual basis for the payments made during the same or previous fiscal year. The fiscal year begins each September 1 and ends on August 31 of the next calendar year. For example, insurance carrier payments made during the fiscal year from September 1, 2009, through August 31, 2010, must be submitted by August 31, 2011. Any claims for insurance carrier payments related to multiple employment that are not submitted within the required timeframe will not be reviewed for reimbursement. To request reimbursement under subsections (a)(3) or (4) of this section, an insurance carrier must:

(1) submit the request electronically in the form and manner prescribed by the division;

(2) provide a claim-specific summary of the reason the insurance carrier is seeking reimbursement and the total amount of reimbursement requested, including how it was calculated;

(3) provide a detailed payment record showing the dates and amounts of payments, payees, type of benefits and periods of benefits paid, all PLNs about the payment of benefits, and documentation that shows the overpayment was unrecoupable as described in subsection (b) of this section, if applicable;

(4) provide the name, address, and federal employer identification number of the payee (insurance carrier) for any reimbursement that may be due;

(5) provide information documenting the injured employee's average weekly wage amounts paid from all nonclaim employment held at the time of the work-related injury under §122.5 of this title (relating to Employee's Multiple Employment Wage Statement); and

(6) provide information documenting the injured employee's average weekly wage amounts paid based on employment with the claim employer.

(f) To request reimbursement under subsection (a)(5) of this section, for insurance carrier claims of benefit overpayments made pursuant to a designated doctor's opinion that is later reversed or modified by a final arbitration award or a final order or decision of the commissioner or a court, an insurance carrier must:

(1) submit the request electronically in the form and manner prescribed by the division;

(2) provide a claim-specific summary of the reason the insurance carrier is seeking reimbursement and the total amount of reimbursement requested, including how it was calculated;

(3) provide a detailed payment record showing the dates and amounts of payments, payees, type of benefits and periods of benefits paid, PLNs about the payment of benefits, and all certifications of maximum medical improvement and assignments of impairment rating;

(4) provide the name, address, and federal employer identification number of the payee (insurance carrier) for any reimbursement that may be due;

(5) provide copies of all relevant designated doctors' opinions (including responses to letters of clarification) and orders and decisions (IRO decisions, interlocutory orders, contested case hearing decisions and orders, arbitration awards, Appeals Panel decisions, and court orders) relating to the designated doctor's opinion and the payment made pursuant to the designated doctor's opinion for which reimbursement is being requested, and indicate which document is the final decision on the matter;

(6) provide copies of all relevant reports and DWC forms the employer filed with the insurance carrier; and

(7) provide copies of all medical bills and preauthorization request documents associated with an overpayment of medical benefits.

(g) To request reimbursement under subsection (a)(6) of this section regarding initial pharmaceutical coverage, a requester must submit the request in the same or following fiscal year after a determination that the injury is not compensable. The fiscal year begins each September 1 and ends on August 31 of the next calendar year. For example, if an injury is determined to be not compensable during the fiscal year from September 1, 2009, through August 31, 2010, the request for reimbursement under Labor Code §413.0141 must be submitted by August 31, 2011. Any claims for insurance

carrier payments related to initial pharmaceutical coverage that are not submitted within the required timeframe will not be reviewed for reimbursement. An insurance carrier must:

- (1) submit the request electronically in the form and manner prescribed by the division;
- (2) provide a claim-specific summary of the reason the insurance carrier is seeking reimbursement and the total amount of reimbursement requested;
- (3) provide a detailed payment record showing the dates of payments, including documentation on dates of payment of initial pharmaceutical coverage (i.e., during the first seven days following the date of injury), payment amounts, and payees;
- (4) provide the name, address, and federal employer identification number of the payee (insurance carrier) for any reimbursement that may be due;
- (5) provide documentation that the pharmaceutical services were provided during the first seven days following the date of injury, not counting the actual date the injury occurred, and identify the prescribed pharmaceutical services; and
- (6) provide documentation of:
 - (A) the final resolution of any dispute either from the commissioner or court of last resort that determines the injury is not compensable; or
 - (B) a claimant's failure to respond in accordance with subsection (a)(6)(B) of this section.

(h) The prescribed forms under this section are on the division's website at www.tdi.texas.gov/wc/index.html. An insurance carrier seeking reimbursement from the SIF must timely provide to the SIF administrator by electronic transmission, as that term is used in §102.5(h) of this title (relating to General Rules for Written Communications to and from the Commission), all forms and documentation reasonably required by the SIF administrator to determine entitlement to reimbursement or payment from the SIF and the amount of reimbursement to which the insurance carrier is entitled. The insurance carrier must also provide notice to the SIF of any relevant pending dispute, litigation, or other information that may affect the request for reimbursement.

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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Texas Department of Insurance, Division of Workers' Compensation

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CHAPTER 180. MONITORING AND ENFORCEMENT

SUBCHAPTER A. GENERAL RULES FOR ENFORCEMENT

28 TAC §180.1

INTRODUCTION. The Texas Department of Insurance, Division of Workers' Compensation (DWC) adopts an amendment to 28 Texas Administrative Code §180.1, Definitions to align the rule with Texas Labor Code §408.0043, Professional Specialty Certification Required for Certain Review, as amended by Senate Bill (SB) 1742, 86th Legislature, Regular Session (2019), effective September 1, 2019. The Legislature added subparagraph (c) to §408.0043 to require that, when a health care service is requested, ordered, provided, or to be provided by a physician, a physician performing a peer review, utilization review, or independent review, it must be of the same or a similar specialty as that physician who requested or performed the health care service. DWC adopts §180.1 without changes to the proposed text published in the November 27, 2020, issue of the *Texas Register* (45 TexReg 8487). The rule will not be republished.

REASONED JUSTIFICATION. The amended §180.1(4) is necessary to add to the definition of "appropriate credentials" language from Labor Code §408.0043(c) to require that a reviewing physician have the same or similar specialty as the physician that requested or performed the health care service. Amended §180.1(4) cites the credential requirements for dentist reviewers under Labor Code §408.0044 and chiropractor reviewers under Labor Code §408.0045. An insurance carrier, independent review organization, or utilization review agent must determine on a case-by-case basis whether a physician reviewer's credentials are consistent with the specialty of the physician who requested or performed the health care service under review and the type of health care service under review. The required comparison of the requesting physician's credentials to the reviewing physician's credentials is consistent with existing Texas Department of Insurance (TDI) requirements in 28 TAC §12.202 for independent review and 28 TAC §19.1706 for utilization review of group health services.

The amendment is limited to utilization reviews, independent reviews, or peer reviews by physicians of health care services requested or provided by physicians. In addition, the existing DWC and TDI rules governing medical necessity disputes (28 TAC §133.308), peer reviewers (28 TAC §180.22(g)), and utilization review personnel (28 TAC §19.2006) continue to apply. The reviewing health care provider must have the appropriate credentials under 28 TAC §180.1(4), including the "certifications, education, training, and experience to provide the health care that an injured employee is receiving or is requesting to receive."

This amendment does not alter the appropriate credentials for designated doctors, doctors performing required medical examinations, or doctors serving as members of the medical quality review panel. In addition, the amendment does not alter the appropriate credentials for utilization reviews, independent reviews, or peer reviews of health care services requested or provided by other types of health care providers.

SUMMARY OF COMMENTS AND AGENCY RESPONSE.

Commenters: DWC received four written comments, and no oral comments. Commenters in support of the proposal with changes were: The Office of Injured Employee Counsel, Insurance Council of Texas, and an individual. A commenter against the proposal was MedicusRx.

Comment on §180.1.

One commenter proposed additional language to require other health care professionals to meet the requirements of Labor Code §408.0043.

Agency Response to Comment on §180.1.

DWC disagrees. The amendment aligns the current definition of "appropriate credentials" in §180.1(4) with the current statutory requirements for doctors who perform certain reviews of health care services in the Texas workers' compensation system. The language added to the rule mirrors the language and the requirements of Labor Code §408.0043. Because additional changes were not included in the 2019 statutory changes, DWC's position is that such rule changes are not necessary at this time. Other health care providers performing reviews still must have the appropriate credentials under §180.1(4), including the certifications, education, training, and experience to provide the health care that an injured employee is receiving or is requesting to receive. Including other health care professionals in the amendment to §180.1 is inconsistent with DWC's interpretation of Labor Code §408.0043.

Comment on §180.1. One commenter suggested that physicians who serve as arbiters and experts under Labor Code §408.0043(a)(6) should be required to have the same or similar specialty as the doctor under investigation.

Agency Response to Comment on §180.1.

DWC acknowledges the comment, but the suggestion is outside the scope of the statutory authority in Labor Code §408.0043(c). The amendment is limited to utilization reviews, independent reviews, or peer reviews by physicians of health care services requested or provided by physicians. The amendment does not alter the appropriate credentials for designated doctors, doctors performing required medical examinations, or doctors serving as members of the medical quality review panel.

Comment on §180.1.

One commenter requested that the rule define "similar specialty" to guide system participants on what credentials a reviewing physician must have to perform a review of health care services if the reviewing physician is not of the "same specialty." The commenter stated that a definition will help reduce potential compliance issues and uncertainty when the reviewing physician is not of the "same specialty" but may be of a "similar specialty."

Agency Response to Comment on §180.1.

DWC disagrees that the term "similar specialty" should be specifically defined in this rule. DWC's position is that the definition of "appropriate credentials" as amended provides sufficient guidance to the system participants. The definition of "appropriate credentials" includes "the certifications, education, training, and experience to provide health care that an injured employee is receiving or is requesting to receive."

The language from Labor Code §408.0043 requires that a reviewer possess the certifications, education, training, and experience to provide the health care being reviewed and the physician be of the "same or a similar specialty." These statutory requirements establish a two-pronged approach to enhance physician matching when physicians are reviewing health care services. The same or similar standard allows flexibility on a case-by-case basis in situations when the match of the same specialty would impede or unnecessarily complicate the health care review process. DWC will monitor complaints and insurance carrier and physician compliance on a case-by-case basis, consid-

ering the circumstances of the review and the availability of reviewing physicians.

Comment on §180.1.

One commenter stated that the amendment will result in increased costs, unnecessary treatment, and poor outcomes because requiring a reviewing physician to have the same or a similar specialty as the physician who requested the medical service under review will cause tunnel vision in health care. The commenter stated that delays will occur if requesting physicians are not immediately available to consult with the reviewing physicians. The commenter stated that there is no medical literature to support that the use of a clinical peer in the same or a similar specialty will lead to improved treatment outcomes. Instead, the commenter recommended an interdisciplinary approach to reviewing care to encourage consultation with other specialties.

Agency Response to Comment on §180.1.

DWC disagrees that the amendments to 28 TAC §180.1 will result in increased costs, unnecessary treatment, and poor outcomes. Aligning the rule with statutory language does not add any cost to the system or modify standards for medical necessity or reasonableness of the treatment proposed or provided to injured employees.

The commenter's concerns are outside the scope of the rule because the comment relates to the statutory changes the Legislature made to Labor Code §408.0043 under SB 1742 in 2019. The amendment to §180.1(4) aligns the definition of "appropriate credentials" with the statutory requirements in Labor Code §408.0043 for physicians who perform peer reviews, utilization reviews, or independent reviews of health care services in the Texas workers' compensation system.

STATUTORY AUTHORITY. The commissioner of workers' compensation adopts the amendment to 28 TAC §180.1 under Labor Code §§401.011, 402.00111, 402.00116, 402.061, 408.021, 408.027, 408.0043, and Texas Insurance Code §4201.054.

Labor Code §401.011 provides general definitions of the Texas Workers' Compensation Act.

Labor Code §402.00111 provides that the commissioner of workers' compensation will exercise all executive authority, including rulemaking authority under Title 5 of the Labor Code.

Labor Code §402.00116 provides that the commissioner will administer and enforce this title, other Texas workers' compensation laws, and other laws granting jurisdiction to or applicable to DWC or the commissioner.

Labor Code §402.061 provides that the commissioner of workers' compensation will adopt rules as necessary to implement and enforce the Texas Workers' Compensation Act.

Labor Code §408.021 provides that the injured employee is entitled to all health care reasonably required by the injury that cures or relieves the effects naturally resulting from the compensable injury, promotes recovery, or enhances the injured employee's ability to return to or retain employment.

Labor Code §408.027 provides how the health care provider must submit a claim for payment and how the carrier must pay, reduce, deny, or determine to audit the health care provider's requests for health care services.

Labor Code §408.0043 outlines the professional specialty certification requirements of doctors, other than chiropractors or

dentists, to perform health care services, including utilization reviews, independent reviews, or peer reviews.

Insurance Code §4201.054 provides that the commissioner of workers' compensation regulates all people who perform utilization review of medical benefits and has rulemaking authority to implement such regulation under Title 5 of the Labor Code.

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

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 2. TEXAS PARKS AND WILDLIFE DEPARTMENT

CHAPTER 51. EXECUTIVE

SUBCHAPTER D. EDUCATION

31 TAC §51.80

The Texas Parks and Wildlife Commission, in a duly noticed meeting on November 10, 2020, adopted an amendment to 31 TAC §51.80, concerning Mandatory Hunter Education Course and Instructors. The amendment was adopted without changes to the text as published in the September 25, 2020, issue of the *Texas Register* (45 TexReg 6704). The rule will not be republished.

The amendment retitles the section "Mandatory Hunter Education." The amendment alters subsection (a) to reflect that a person may obtain a duplicate certificate of completion of hunter education requirements online and replaces a list of classes of persons exempt from hunter education requirements by statute with a reference to the list of statutory exemptions; alters subsection (b) to allow a reproduction of a certificate of completion stored on a wireless communication device to be accepted as proof of completion of hunter education; and alters subsection (c) to change references to "deferred hunter education option" to refer instead to "hunter education deferral." All the changes are nonsubstantive.

The amendment is a result of the department's review of its regulations under the provisions of Government Code, §2001.039, which requires each state agency to review each of its regulations no less frequently than every four years and to re-adopt, adopt with changes, or repeal each rule as a result of the review.

The department received no comments concerning adoption of the rule as proposed.

The amendment is adopted under the authority of Parks and Wildlife Code, §62.014(h), which requires the commission to make rules governing the hunter education program.

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

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James Murphy

General Counsel

Texas Parks and Wildlife Department

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For further information, please call: (512) 389-4775



SUBCHAPTER E. SICK LEAVE POOL

31 TAC §51.141

The Texas Parks and Wildlife Commission in a duly noticed meeting on November 10, 2020, adopted an amendment to 31 TAC §51.141, concerning Sick Leave Pool, without changes to the proposed text as published in the September 25, 2020, issue of the *Texas Register* (45 TexReg 6705). The rule will not be republished.

The amendment eliminates the requirement that donations to the sick leave pool be made in writing. The department now utilizes CAPPs, an automated system used by all state agencies, and employees can now donate to the sick leave pool online.

The amendment is a result of the department's review of its regulations under the provisions of Government Code, §2001.039, which requires each state agency to review each of its regulations no less frequently than every four years and to re-adopt, adopt with changes, or repeal each rule as a result of the review.

The department received no comments concerning adoption of the rule as proposed.

The amendment is adopted under the authority of Government Code, §661.002, which requires the governing body of each state agency to adopt rules to prescribe procedures relating to the operation of the agency's sick leave pool.

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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James Murphy

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SUBCHAPTER O. ADVISORY COMMITTEES

31 TAC §51.642

The Texas Parks and Wildlife Commission in a duly noticed meeting on November 10, 2020, adopted the repeal of §51.642, concerning the San Jacinto Historical Advisory Board (SJHAB), without changes to the proposed text as published in the September 25, 2020, issue of the *Texas Register* (45 TexReg 6706).

House Bill 1422, enacted by the most recent session of the Texas Legislature, transferred the San Jacinto Battleground State Historic Site from the administrative jurisdiction of the department to the administrative jurisdiction of the Texas Historical Commission; therefore, the advisory board created by the department is no longer necessary in department rules.

The repeal is a result of the department's review of its regulations under the provisions of Government Code, §2001.039, which requires each state agency to review each of its regulations no less frequently than every four years and to re-adopt, adopt with changes, or repeal each rule as a result of the review.

The department received no comments concerning adoption of the repeal as proposed.

The repeal is adopted under the authority of Government Code, §2110.005 and §2110.008, which require state agencies to adopt rules applicable to advisory committees.

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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PART 10. TEXAS WATER DEVELOPMENT BOARD

CHAPTER 356. GROUNDWATER MANAGEMENT

The Texas Water Development Board ("TWDB" or "board") adopts an amendment to 31 Texas Administrative Code (TAC) §356.10, without changes, and adopts a new Subchapter G, 31 TAC 356, relating to brackish groundwater production zones requirements by statutory amendments to Chapter 36 of the Texas Water Code. The proposal is adopted with changes to the rules published in the August 21, 2020, issue of the *Texas Register* (45 TexReg 5842). These rules will be republished.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE ADOPTED AMENDMENT.

Through House Bill 722 of the 86th Texas Legislature, 2019, the Legislature created a framework for groundwater conserva-

tion districts to establish rules for a person interested in obtaining a permit from a groundwater conservation district to authorize producing brackish groundwater from a designated brackish groundwater production zone for (1) a municipal drinking water project and (2) an electric generation project. The Legislature directed the TWDB to conduct technical reviews of operating permit applications and, when requested by a groundwater conservation district, conduct technical reviews of annual reports and summarize findings in a report.

The TWDB is adopting rules to implement the technical reviews by adding two new definitions in Section 356.10 and creating a new subchapter in Chapter 356, relating to brackish groundwater production zones.

SECTION BY SECTION DISCUSSION OF ADOPTED AMENDMENTS.

31 TAC §356.10 contains definitions related to groundwater management. The adopted amendment to §356.10 adds definitions for the following two terms that will be used in the adopted new Subchapter G: "Brackish groundwater production zone operating permit" and "Designated brackish groundwater production zone."

Adopted Amendment to 31 TAC Chapter 356 by addition of a New Subchapter G (relating to brackish groundwater production zones)

31 TAC §356.70. Brackish Groundwater Production Zone Designation.

Section 356.70 is adopted to clarify how the agency identifies and designates local or regional brackish groundwater production zones in areas of the state that meet specific criteria and the information required to be provided for each zone. A designated brackish groundwater production zone may span multiple groundwater conservation districts and statute does not clarify how groundwater conservation districts should coordinate with each other related to production volumes and sharing information.

Section 356.70 also allows groundwater conservation districts to amend a brackish groundwater production zone by request. The TWDB will prepare guidance separately that will provide details and requirements of the amendment process and will provide opportunity for stakeholder input on this guidance.

31 TAC §356.71. Brackish Groundwater Production Zone Operating Permit Review.

Section 356.71 is adopted to outline how the agency will conduct an assessment and technical review of a brackish groundwater production zone operating permit applications. The section also discusses the information required to conduct the technical review and the report the agency will provide to the groundwater conservation district that submitted the application. The TWDB will prepare guidance separately that will list the type of site-specific data and other information needed and will provide opportunity for stakeholders input on this guidance.

31 TAC §356.72. Annual Report Review

Section 356.72 is adopted to outline how the agency will investigate and conduct a technical review of an annual report(s), upon request by a groundwater conservation district. The section also discusses the information required to conduct the technical review and the technical report the agency will issue to the groundwater conservation district that sends the request.

REGULATORY IMPACT ANALYSIS DETERMINATION

The board reviewed the adopted rulemaking in light of the regulatory analysis requirements of Texas Government Code §2001.0225, and determined that the rulemaking is not subject to Texas Government Code, §2001.0225, because it does not meet the definition of a "major environmental rule" as defined in the Administrative Procedure Act. A "major environmental rule" is defined as a rule with the specific intent to protect the environment or reduce risks to human health from environmental exposure, a rule that may adversely affect in a material way the economy or a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The intent of the rulemaking is to clarify the agency's role in technical reviews of brackish groundwater production zone operating permit applications and associated annual reports.

Even if the adopted rule were a major environmental rule, Texas Government Code, §2001.0225 still would not apply to this rulemaking because Texas Government Code, §2001.0225 only applies to a major environmental rule, the result of which is to: (1) exceed a standard set by federal law, unless the rule is specifically required by state law; (2) exceed an express requirement of state law, unless the rule is specifically required by federal law; (3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or (4) adopt a rule solely under the general powers of the agency instead of under a specific state law. This rulemaking does not meet any of these four applicability criteria because it: (1) does not exceed any standard set by any federal law; (2) does not exceed an express requirement of state law; (3) does not exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; and (4) is not adopted solely under the general powers of the agency, but rather is adopted under the authority of Texas Water Code §§16.060 and 36.1015. Therefore, this adopted rule does not fall under any of the applicability criteria in Texas Government Code, §2001.0225.

TAKINGS IMPACT ASSESSMENT

The board evaluated this adopted rule and performed an analysis of whether it constitutes a taking under Texas Government Code, Chapter 2007. The specific purpose of this rule is to implement legislation and clarify the agency's role in technical reviews of brackish groundwater production zone operating permit applications and associated annual reports. The adopted rule would substantially advance this stated purpose by adopting new rules for brackish groundwater production zone designation and guiding groundwater conservation districts in the technical review process of permit applications and annual reports.

The board's analysis indicates that Texas Government Code, Chapter 2007 does not apply to this adopted rule because this is an action that is reasonably taken to fulfill an obligation mandated by state law, which is exempt under Texas Government Code, §2007.003(b)(4). The board is the agency that identifies and designates brackish groundwater production zones.

Nevertheless, the board further evaluated this adopted rule and performed an assessment of whether it constitutes a taking under Texas Government Code, Chapter 2007. Promulgation and enforcement of this adopted rule would be neither a statutory nor a constitutional taking of private real property. Specifically, the

subject adopted regulation does not affect a landowner's rights in private real property because this rulemaking does not burden nor restrict or limit the owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulation. Therefore, the adopted rule does not constitute a taking under Texas Government Code, Chapter 2007.

PUBLIC COMMENTS

General Comments:

Various comments stressed the need for TWDB to add a process to amend designated brackish groundwater production zones. The comments suggested that the TWDB address when and how a groundwater conservation district or an individual can request an amendment, and what information is required for TWDB to consider amending designated brackish groundwater production zones.

(Commenters: Kenedy County Groundwater Conservation District, Prairielands Groundwater Conservation District, North Texas Groundwater Conservation District, Red River Groundwater Conservation District, Middle Pecos Groundwater Conservation District, Lone Star Groundwater Conservation District, and Texas Alliance of Groundwater Districts)

Response: The TWDB appreciates these comments. Pursuant to these comments, §356.70(d) was added to allow amending designated brackish groundwater production zones. The TWDB will also develop guidance separately that will address specific details and requirements on the amendment process and provide opportunity for stakeholder input on this guidance.

Texas Alliance of Groundwater Districts asked the agency to provide notice to groundwater conservation districts whose boundaries extend over an area being studied for possible brackish groundwater production zone designation, and prior to the consideration of zone designation.

Response: The TWDB appreciates this comment. No changes were made to the rules pursuant this comment. The TWDB will develop guidance separately that will also address specific requirements on notices.

Texas Alliance of Groundwater Districts suggested distributing brackish groundwater production volumes within a brackish groundwater production zone when the zone spans multiple jurisdictions. They believe it will be beneficial to delineate these production volumes in a manner consistent with the agency's regional water planning process.

Response: The TWDB appreciates this comment. No changes were made to the rules pursuant this comment. Rule changes are not necessary to consider this comment in the zone designation process. The TWDB may consider allocation of production volumes within GCD boundaries when considering zone designations, if appropriate.

Comments on 31 TAC §356.10

Kenedy County Groundwater Conservation District suggested updating the definition of "petition" to include submitting documents to request amending a brackish groundwater production zone.

Response: The TWDB appreciates these comments. No changes were made to the rules pursuant this comment. However, §356.70(d) was added to allow amending designated brackish groundwater production zones.

Comments on 31 TAC §356.70

North Texas, Red River, and Lone Star groundwater conservation districts suggested referencing Texas Water Code §16.060(d), relating to working together with groundwater conservation districts and stakeholders and considering the Brackish Groundwater Manual for Texas Regional Water Planning Groups, and any updates to the manual, and other relevant scientific data or findings when identifying and designating brackish groundwater conservations zones.

Response: The TWDB appreciates these comments. Pursuant to these comments, §356.70(b)(3) was added to reference Texas Water Code §16.060(d).

Comments on 31 TAC §356.71

North Texas and Red River groundwater conservation districts requested incorporating Texas Water Code §36.1015(l), relating to brackish groundwater production from a zone being in addition to or separate from the amount of modeled available groundwater developed under Texas Water Code §36.108.

Response: The TWDB appreciates these comments. Pursuant to these comments, §356.71(e)(1)(A) was modified to include that the report summarizing findings from TWDB's technical review will include whether the proposed production is in addition to the amount of modeled available groundwater provided under Texas Water Code §36.108. The TWDB would note that the district and permit holder are responsible for conducting or hiring a consultant to complete the modeling needed to meet requirements established under Texas Water Code §36.1015(l).

Lone Star Groundwater Conservation District requested including a deadline by which TWDB will conduct its technical review.

Response: The TWDB appreciates this comment. No changes were made to the rules pursuant this comment. The TWDB will conduct technical reviews as promptly as possible to avoid causing permitting delays. This topic may also be considered in guidance documents developed to direct this process.

Lone Star Groundwater Conservation District requested addressing monitoring regarding land elevations for subsidence.

Response: The TWDB appreciate this comment. Pursuant to these comments, §356.71(e)(3) was added to reference Texas Water Code §36.1015(e)(5).

North Texas, Red River, and Lone Star groundwater conservation districts suggested adding the type of site-specific information preferred by TWDB in §356.71(f).

Response: The TWDB appreciates these comments. No changes were made to the rules pursuant this comment. The TWDB will develop guidance separately that will also address specific requirements on recommended site-specific data.

Comments on 31 TAC §356.72

Lone Star Groundwater Conservation District commented that requiring the information on monitoring of land elevations in §36.1015(e)(5) with annual reports was not included in the statute.

Response: The TWDB appreciate this comment. Pursuant to these comments, §356.71(e)(3) was added to reference Texas Water Code §36.1015(e)(5). Without receiving that information from a district, the TWDB would not be able to meet its statutory requirement included in Texas Water Code §36.1015(j)(3) to investigate and issue a report regarding whether the brackish

groundwater production is projected to cause subsidence during the permit term.

Lone Star Groundwater Conservation District asked the TWDB address how a district is to remedy any negative effects identified in the agency's report that summarizes the review of annual reports.

Response: The TWDB appreciate this comment. No changes were made to the rules pursuant to the comment. The TWDB is required by statute to investigate significant aquifer level declines, negative effects on water quality, and subsidence in the Gulf Coast Aquifer. The TWDB would note that the district and permit holder are responsible for creating or hiring a consultant to develop the appropriate mitigation measures as established under Texas Water Code §36.1015(k).

SUBCHAPTER A. DEFINITIONS

31 TAC §356.10

STATUTORY AUTHORITY

This rulemaking is adopted under the authority of Texas Water Code §6.101, which authorizes the board to adopt rules necessary to carry out the powers and duties of the board; and Texas Water Code §§16.060 and 36.1015, which requires the board to designate brackish groundwater production zones and to conduct technical reviews of brackish groundwater production zone operating permit applications and annual reports.

Chapters 16 and 36 of the Texas Water Code are affected by this rulemaking.

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 G. BRACKISH GROUNDWATER PRODUCTION ZONES

31 TAC §§356.70 - 356.72

STATUTORY AUTHORITY

This rulemaking is adopted under the authority of Texas Water Code §6.101, which authorizes the board to adopt rules necessary to carry out the powers and duties of the board; and Texas Water Code §§16.060 and 36.1015, which requires the board to designate brackish groundwater production zones and to conduct technical reviews of brackish groundwater production zone operating permit applications and annual reports.

Chapters 16 and 36 of the Texas Water Code are affected by this rulemaking.

§356.70. *Brackish Groundwater Production Zone Designation.*

(a) The agency will identify and designate local or regional brackish groundwater production zones in areas of the state with moderate to high availability and productivity of brackish groundwater that can be used to reduce the use of fresh groundwater and that:

(1) are separated by hydrogeologic barriers sufficient to prevent significant impacts to water availability or water quality in any area of the same or other aquifers, subdivisions of aquifers, or geologic strata that have an average total dissolved solids level of 1,000 milligrams per liter or less at the time of designation of the zones; and

(2) are not located in:

(A) an area of the Edwards Aquifer subject to the jurisdiction of the Edwards Aquifer Authority;

(B) the boundaries of the:

(i) Barton Springs-Edwards Aquifer Conservation District;

(ii) Harris-Galveston Subsidence District; or

(iii) Fort Bend Subsidence District;

(C) an aquifer, subdivision of an aquifer, or geologic stratum that:

(i) has an average total dissolved solids level of more than 1,000 milligrams per liter; and

(ii) is serving as a significant source of water supply for municipal, domestic, or agricultural purposes at the time of designation of the zones; or

(D) an area of a geologic stratum that is designated or used for wastewater injection through the use of injection wells or disposal wells permitted under Texas Water Code Chapter 27.

(b) In designating a brackish groundwater production zone under this section, the agency shall:

(1) determine the amount of brackish groundwater that the zone is capable of producing over a 30-year period and a 50-year period without causing a significant impact to water availability or water quality as described by subsection (a)(1) of this section; and

(2) include in the designation description:

(A) the amounts of brackish groundwater that the zone is capable of producing during the periods described by paragraph (1) of this subsection; and

(B) recommendations regarding reasonable monitoring to observe the effects of brackish groundwater production within the zone; and

(3) work with groundwater conservation districts and stakeholders and consider the Brackish Groundwater Manual for Texas Regional Water Planning Groups, and any updates to the manual, and other relevant scientific data or findings.

(c) Areas of the state that are not designated as brackish groundwater production zones are not precluded from development of brackish groundwater or from future designation of zones.

(d) The Agency may amend a designated brackish groundwater production zone upon its own initiative or upon request by a groundwater conservation district and will publish guidance discussing the timing for considering amendments. The Agency will provide notice of the intent to amend brackish groundwater production zone with proposed changes to any groundwater conservation district within the applicable brackish groundwater production zone and to any entity that

requested the amendment. A request from a groundwater conservation district must be in a form and substance acceptable to the Executive Administrator and include a justification and documentation supporting the requested amendment.

§356.71. *Brackish Groundwater Production Zone Operating Permit Review.*

(a) This section does not apply to a district that overlies the Dockum Aquifer and includes wholly or partly 10 or more counties.

(b) When a district submits an application for a brackish groundwater production zone operating permit to the agency, the agency will conduct a technical review of the application, subject to subsections (c) and (d) of this section.

(c) Upon receipt of such an application, the agency will assess the application to determine whether a proposed production well is located within a designated brackish groundwater production zone. If a proposed production well is not located within a designated brackish groundwater production zone, the agency will not conduct the technical review of the application. If a proposed production well is located within a designated brackish groundwater production zone, the agency will conduct the technical review of the applicable permit application or applicable portions of a permit application in accordance with subsections (d) - (f) of this section.

(d) Upon receipt of an application for a brackish groundwater production zone operating permit for a proposed production well located within a designated brackish groundwater production zone and that includes all of the information required by Texas Water Code §36.1015(g), the agency will conduct a technical review of the application. If the agency does not receive all of the information required by Texas Water Code §36.1015(g), the agency will notify the district of the missing information. The agency will not conduct a technical review of an incomplete application until all required information is received.

(e) After conducting the application assessment and required technical review of a complete application, the agency shall provide a report of the technical review of the application to the district that submitted the application that includes:

(1) findings regarding the compatibility of the proposed well field design with the designated brackish groundwater production zone, including:

(A) whether the proposed production exceeds the amount of brackish groundwater that the zone is capable of producing over a 30-year period and a 50-year period, as determined pursuant to Texas Water Code §16.060(e) and is in addition to the amount of modeled available groundwater provided under Texas Water Code §36.108; and

(B) whether the parameters and assumptions used in the model described in Texas Water Code §36.1015(g)(4)(A) are compatible with the designated brackish groundwater production zone;

(2) recommendations for the monitoring system required by Texas Water Code §36.1015(e)(4) and (6), including whether the number of monitoring wells are adequate and in appropriate locations and aquifers, in accordance with recommendations established under Texas Water Code §16.060(e)(2)(B);

(3) verification the district required monitoring of land elevations for a project located in a designated brackish groundwater production zone in the Gulf Coast Aquifer as required by Texas Water Code §36.1015(e)(5).

(f) The findings and recommendations included in subsection (e) of this subsection will only be site-specific if the agency has received site-specific data and information from the district.

§356.72. *Annual Report Review.*

(a) If a district makes a request under Texas Water Code §36.1015(j), the agency will investigate and issue a technical report to the district that sent the request, subject to subsection (b) of this subsection.

(b) Upon receipt of a request, the agency will determine whether it has received the applicable annual report and all of the information required under Texas Water Code §36.1015(e)(6), and for a project located in a designated brackish groundwater production zone in the Gulf Coast Aquifer, the information required to be collected under Texas Water Code §36.1015(e)(5) related to subsidence. If the agency has not received all of the information required under Texas Water Code §36.1015(e)(6) or §36.1016(e)(5), as applicable, the agency will notify the district of the missing information and will not conduct a technical review of the reports until all required information is received.

(c) Not later than the 120th day after the date the agency receives all of the required information, the agency will investigate and issue a technical report on whether:

(1) brackish groundwater production under the project that is the subject of the report from the designated brackish groundwater production zone is projected to cause:

(A) significant aquifer level declines in the same or an adjacent aquifer, subdivision of an aquifer, or geologic stratum that were not anticipated by the agency in the designation of the zone;

(B) negative effects on quality of water in an aquifer, subdivision of an aquifer, or geologic stratum; or

(C) for a project located in a designated brackish groundwater production zone in the Gulf Coast Aquifer, subsidence during the permit term; or

(2) whether not enough information is available to determine whether brackish groundwater production under the project that is the subject of the report from the designated brackish groundwater production zone is projected to cause the conditions listed in subsection (c)(1) of this section.

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

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TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 3. TAX ADMINISTRATION SUBCHAPTER V. FRANCHISE TAX

34 TAC §3.586

The Comptroller of Public Accounts adopts amendments to §3.586, concerning margin: nexus, in response to the United States Supreme Court decision in *South Dakota v. Wayfair, Inc.*, 139 S. Ct. 2080 (2018), with a change to the proposed text as published in the December 4, 2020, issue of the *Texas Register* (45 TexReg 8757). The change adds reference to a Texas Administrative Code section. The rule will be republished.

The comptroller amends subsection (d)(12)(B) to improve readability and replace the phrase "is not doing business" with "does not have physical presence". The amendment is necessary because although we do not consider a limited partner to have physical presence in Texas when its limited partnership is doing business in Texas, the limited partner may be doing business in Texas under our economic nexus provision in subsection (f).

The comptroller amends subsection (e) to add guidance concerning the beginning date of a foreign taxable entity that overcomes the nexus presumption.

The comptroller reorganizes subsection (f) into two paragraphs. The comptroller moves the current language of subsection (f) to paragraph (1) and amends the reference to §3.591, concerning margin: apportionment, to more specifically reference the sourcing information provided in subsections (e) and (f) of that section. The comptroller adds paragraph (2) to include a definition of gross receipts, derived from Texas Tax Code §171.1121 (Gross Receipts For Margin).

The comptroller reorganizes and adds language to subsection (g) relating to the beginning date for nexus. Paragraph (1) adds language outlining the beginning date for nexus of a foreign taxable entity prior to January 1, 2019. The comptroller corrects the reference to the physical presence subsection from subsection (c) to (d). The comptroller amends paragraph (2) to provide more guidance relating to the beginning date of a foreign taxable entity on or after January 1, 2019. Paragraph (3) becomes the new subparagraph (C). In subparagraphs (A)-(C) a foreign taxable entity's beginning date is the earliest of: the date the foreign taxable entity has physical presence, the date when the foreign taxable entity obtains a Texas use tax permit, or the date the foreign taxable entity had gross receipts from business done in Texas of \$500,000 or more.

The comptroller did not receive any comments regarding adoption of the amendment.

This amendment is adopted under Tax Code, §111.002 (Comptroller's Rules; Compliance; Forfeiture), which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provision of Tax Code, Title 2.

This amendment implements the United States Supreme Court decision in *South Dakota v. Wayfair, Inc.*, 138 S.Ct. 2080 (2018).

§3.586. *Margin: Nexus.*

(a) Effective date. The provisions of this section apply to franchise tax reports originally due on or after January 1, 2008, unless otherwise noted.

(b) Foreign taxable entity. A taxable entity that is not chartered or organized in Texas.

(c) Nexus. A taxable entity is subject to Texas franchise tax when it has sufficient contact with this state to be taxed without violating the United States Constitution. Nexus is determined on an individual taxable entity level.

(d) Physical presence. Some specific activities that subject a taxable entity to Texas franchise tax include, but are not limited to, the following:

(1) advertising: entering Texas to purchase, place, or display advertising when the advertising is for the benefit of another and in the ordinary course of business (e.g., the foreign taxable entity makes signs and brings them into Texas, sets them up, and maintains them);

(2) consignments: having consigned goods in Texas;

(3) contracting: performance of a contract in Texas regardless of whether the taxable entity brings its own employees into the state, hires local labor, or subcontracts with another;

(4) delivering: delivering into Texas items it has sold;

(5) employees or representatives: having employees or representatives in Texas doing the business of the taxable entity;

(6) federal enclaves: doing business in any area within Texas, even if the area is leased by, owned by, ceded to, or under the control of the federal government;

(7) franchisors: entering into one or more contracts with persons, corporations, or other business entities located in Texas, by which:

(A) the franchisee is granted the right to engage in the business of offering, selling, or distributing goods or services under a marketing plan or system prescribed in substantial part by the franchisor; and

(B) the operation of a franchisee's business pursuant to such plan is substantially associated with the franchisor's trademark, service mark, trade name, logotype, advertising, or other commercial symbol designating the franchisor or its affiliate.

(8) holding companies: maintaining a place of business in Texas or managing, directing, and/or performing services in Texas for subsidiaries or investee entities;

(9) inventory: having an inventory in Texas or having spot inventory for the convenient delivery to customers, even if the bulk of orders are filled from out of state;

(10) leasing: leasing tangible personal property which is used in Texas;

(11) loan production activities: soliciting sales contracts or loans, gathering financial data, making credit checks, collecting accounts, repossessing property or performing other financial activities in Texas through employees, independent contractors, or agents, regardless of whether they reside in Texas;

(12) partners:

(A) acting as a general partner in a general partnership that is doing business in Texas;

(B) acting as a general partner in a limited partnership that is doing business in Texas (a foreign taxable entity that is a limited partner in a limited partnership does not have physical presence in Texas, if that is the limited partner's only connection with Texas);

(13) place of business: maintaining a place of business in Texas;

(14) processing: assembling, processing, manufacturing, or storing goods in Texas;

(15) real estate: holding, acquiring, leasing, or disposing of any property located in Texas;

(16) services, including, but not limited to the following:

(A) providing any service in Texas, regardless of whether the employees, independent contractors, agents, or other representatives performing the services reside in Texas;

(B) maintaining or repairing property located in Texas whether under warranty or by separate contract;

(C) installing, erecting, or modifying property in Texas;

(D) conducting training classes, seminars or lectures in Texas;

(E) providing any kind of technical assistance in Texas, including, but not limited to, engineering services; or

(F) investigating, handling or otherwise assisting in resolving customer complaints in Texas.

(17) shipment: sending materials to Texas to be stored awaiting orders for their shipment;

(18) shows and performances: the staging of or participating in shows, theatrical performances, sporting events, or other events within Texas;

(19) solicitation: having employees, independent contractors, agents, or other representatives in Texas, regardless of whether they reside in Texas, to promote or induce sales of the foreign taxable entity's goods or services;

(20) telephone listing: having a telephone number that is answered in Texas; or

(21) transportation:

(A) carrying passengers or freight (any personal property including oil and gas transmitted by pipeline) from one point in Texas to another point within the state, if pickup and delivery, regardless of origination or ultimate destination, occurs within Texas; or

(B) having facilities and/or employees, independent contractors, agents, or other representatives in Texas, regardless of whether they reside in Texas:

(i) for storage, delivery, or shipment of goods;

(ii) for servicing, maintaining, or repair of vehicles, trailers, containers, and other equipment;

(iii) for coordinating and directing the transportation of passengers or freight; or

(iv) for doing any other business of the taxable entity.

(e) Texas use tax permit. A foreign taxable entity with a Texas use tax permit is presumed to have nexus in Texas and is subject to Texas franchise tax. If the entity has overcome this presumption, the beginning date is determined under subsection (g)(2)(A) or (C) of this section.

(f) Economic nexus.

(1) For each federal income tax accounting period ending in 2019 or later, a foreign taxable entity has nexus in Texas and is subject to Texas franchise tax, even if it has no physical presence in Texas, if during that federal income tax accounting period, it had gross receipts

from business done in Texas of \$500,000 or more, as sourced under §3.591(e) and (f) of this title (relating to Margin: Apportionment).

(2) For purposes of this subsection, gross receipts means all revenue reportable by a taxable entity on its federal return, without deduction for the cost of property sold, materials used, labor performed, or other costs incurred.

(g) Beginning date.

(1) Prior to Jan. 1, 2019, a foreign taxable entity begins doing business in Texas on the date the entity has physical presence as described in subsection (d) of this section.

(2) On or after Jan. 1, 2019, a foreign taxable entity begins doing business in Texas on the earliest of:

(A) the date the entity has physical presence as described in subsection (d) of this section;

(B) the date the entity obtains a Texas use tax permit if obtained on or after Jan. 1, 2019 or Jan. 1, 2019, if the entity obtained a use tax permit prior to that date; or

(C) the first day of the federal income tax accounting period ending in 2019 or later in which the entity had gross receipts from business done in Texas of \$500,000 or more.

(h) Trade shows. See §3.583 of this title (relating to Margin: Exemptions) for information concerning exemption for certain trade show participants under Tax Code, §171.084.

(i) Public Law 86-272. Public Law 86-272 (15 United States Code §§381 - 384) does not apply to the Texas franchise tax.

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 January 21, 2021.

TRD-202100301

William Hamner

Special Counsel for Tax Administration

Comptroller of Public Accounts

Effective date: February 10, 2021

Proposal publication date: December 4, 2020

For further information, please call: (512) 475-2220



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 5. TEXAS BOARD OF PARDONS AND PAROLES

CHAPTER 148. SEX OFFENDER CONDITIONS OF PAROLE OR MANDATORY SUPERVISION

37 TAC §§148.45, 148.47, 148.48, 148.50, 148.52

The Texas Board of Pardons and Paroles adopts amendments to 37 TAC Chapter 148, §§148.45, 148.47, 148.48, 148.50, and 148.52, concerning sex offender conditions of parole or mandatory supervision. The rules are adopted without changes to the proposed text as published in the November 13, 2020, issue of

the *Texas Register* (45 TexReg 8116). The text of the rules will not be republished.

The amendments are adopted to provide edits for clarity, uniformity, and consistency throughout the rules and to correct grammatical errors. The amendment to §148.52 include changes related to responsibilities in the hearing process.

No public comments were received regarding adoption of these amendments.

The amended rules are adopted pursuant to §§508.036(b), 508.0441, 508.045, and 508.228, Government Code. Section 508.036(b) authorizes the Board to adopt rules relating to the decision-making processes used by the Board and parole panels. Section 508.0441 authorizes the board to adopt reasonable rules as proper or necessary relating to the eligibility of an offender for release to parole or mandatory supervision and to act on matters of release to parole or mandatory supervision. Section 508.045 authorizes a parole panel to grant or deny parole, revoke parole or mandatory supervision, and conduct revocation hearings. Section 508.228 authorizes a parole panel to impose sex offender conditions after a hearing for offenses where a sex offense occurred during the commission of the offense.

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 January 22, 2021.

TRD-202100313

Bettie Wells

General Counsel

Texas Board of Pardons and Paroles

Effective date: February 11, 2021

Proposal publication date: November 13, 2020

For further information, please call: (512) 406-5478



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 19. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES

CHAPTER 700. CHILD PROTECTIVE SERVICES

SUBCHAPTER P. SERVICES AND BENEFITS FOR TRANSITION PLANNING TO A SUCCESSFUL ADULTHOOD

DIVISION 2. EDUCATION AND TRAINING VOUCHER PROGRAM

The Department of Family and Protective Services (DFPS) adopts amendments to §§700.1613, 700.1615, 700.1617; repeals of §§700.1619, 700.1621, 700.1623; and new §700.1619 and §700.1621 in Subchapter P Services and Benefits for Transition Planning to a Successful Adulthood in Title 40, Texas Administrative Code (TAC), Chapter 700, relating to Child

Protective Services. The rules, except §700.1613, are adopted without changes to the proposed text published in the October 16, 2020, issue of the (45 TexReg 7400) and will not be republished. Section 700.1613 is adopted with a non-substantive change and will be republished.

BACKGROUND AND JUSTIFICATION

The Education and Training Voucher (ETV) is a federally funded program administered by DFPS. It provides up to \$5,000.00 for certain higher education or vocational training costs for eligible foster care youth and former foster care youth.

Under the Family First Services and Prevention Act, (FFSPA), federal language was eliminated that required a student to be participating in the ETV program by age 21 to continue to remain eligible. In addition, FFSPA mandates students cannot receive ETV funds for more than 5 years, regardless of whether those years are consecutive or not. These rule changes will update the Texas Administrative Code to reflect the federal changes made to 42 U.S.C. §677, John H. Chafee Foster Care Program for Successful Transition to Adulthood. In addition, the rules are being amended to clarify populations eligible for ETV, make general updates, simplify rules concerning what higher education institutions the student must attend and the category of ETV expenses. Lastly, specific provisions have been added to assist in preventing theft, fraud, and forgery of ETV funds.

COMMENTS

The 30-day comment period ended November 15, 2020. During this period, DFPS did not receive any comments regarding the proposed rules.

40 TAC §§700.1613, 700.1615, 700.1617

STATUTORY AUTHORITY

The amendments are adopted under Human Resources Code (HRC) §40.027, which provides that the DFPS commissioner shall adopt rules for the operation and provision of services by the Department.

No other statutes, articles, or codes are affected by the adopted rules as ETV is a federal benefit.

§700.1613. Who can be eligible for the ETV Program?

(a) Students in one of the following categories can be eligible to participate in the ETV Program, as long as they are under the age of 23:

- (1) at least 16 years of age and in DFPS's conservatorship;
- (2) in DFPS Extended Foster Care;
- (3) left DFPS foster care at age 18 or older, or were legally emancipated by a court while in DFPS foster care;
- (4) adopted from DFPS foster care after turning age 16;
- (5) exited to the Permanency Care Assistance Program from DFPS foster care after turning age 16; or
- (6) any other population group legally required under federal law.

(b) A student may remain eligible up to age 23, as long as the student is making satisfactory progress toward completion of postsecondary education or vocational training. In no event may a student

receive ETV funds for more than 5 years, regardless of if the years are consecutive or not.

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 January 22, 2021.

TRD-202100317

Tiffany Roper

General Counsel

Department of Family and Protective Services

Effective date: February 11, 2021

Proposal publication date: October 16, 2020

For further information, please call: (512) 438-3397



40 TAC §§700.1619, 700.1621, 700.1623

The repeals are adopted under Human Resources Code (HRC) §40.027, which provides that the DFPS commissioner shall adopt rules for the operation and provision of services by the Department.

No other statutes, articles, or codes are affected by the adopted rules as ETV is a federal benefit.

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 January 22, 2021.

TRD-202100318

Tiffany Roper

General Counsel

Department of Family and Protective Services

Effective date: February 11, 2021

Proposal publication date: October 16, 2020

For further information, please call: (512) 438-3397



40 TAC §700.1619, §700.1621

The new sections are adopted under Human Resources Code (HRC) §40.027, which provides that the DFPS commissioner shall adopt rules for the operation and provision of services by the Department.

No other statutes, articles, or codes are affected by the adopted rules as ETV is a federal benefit.

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 January 22, 2021.

TRD-202100319

Tiffany Roper
General Counsel
Department of Family and Protective Services
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CHAPTER 711. INVESTIGATIONS OF
INDIVIDUALS RECEIVING SERVICES FROM
CERTAIN PROVIDERS
SUBCHAPTER O. EMPLOYEE MISCONDUCT
REGISTRY

**40 TAC §§711.1401 - 711.1404, 711.1406 - 711.1408,
711.1413 - 711.1415, 711.1417, 711.1419, 711.1421, 711.1423,
711.1425 - 711.1427, 711.1429, 711.1431, 711.1432, 711.1434**

The Department of Family and Protective Services (DFPS) adopts the repeal of §§711.1401 - 711.1404, 711.1406 - 711.1408, 711.1413 - 711.1415, 711.1417, 711.1419, 711.1421, 711.1423, 711.1425 - 711.1427, 711.1429, 711.1431, 711.1432, and 711.1434 in 40 TAC Chapter 711, concerning Investigations of Individuals Receiving Services from Certain Providers. The proposed repeal of the rules was published in the December 11, 2020, issue of the *Texas Register* (45 TexReg 8843). These rules are repealed in their entirety and will not be republished.

BACKGROUND AND JUSTIFICATION

The rules in Title 40, Texas Administrative Code, Chapter 711, concerning Investigations of Individuals Receiving Services from Certain Providers contain many terms and provisions that pertain to both the Adult Protective Services (APS) program and the former APS Provider Investigations program. Senate Bill (SB) 200, 84th Legislature, R.S. (2015) resulted in the transfer of the former APS Provider Investigations program to the Health and Human Services Commission (HHSC). DFPS incorporated the

DFPS applicable rule content from 40 TAC Chapter 711 into proposed new rules in 40 TAC Chapter 705, concerning Adult Protective Services in the September 11, 2020, issue of the *Texas Register*, leaving Chapter 711 intact for HHSC's use. HHSC adopted new rules effective July 5, 2020, that incorporate the HHSC applicable content from 40 TAC Chapter 711 into its 26 TAC Chapter 711. DFPS is adopting the repeal of Title 40, Texas Administrative Code, Chapter 711 as it becomes obsolete to both DFPS and HHSC when new 40 TAC Chapter 705 becomes effective on February 1, 2021.

COMMENTS

The 30-day comment period ended January 10, 2021. During this period, we did not receive comments regarding the proposed repeal.

STATUTORY AUTHORITY

The repeals of these rule sections are adopted under Human Resources Code (HRC) §40.027, which provides that the Department of Family and Protective Services commissioner shall adopt rules for the operation and provision of services by the department.

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 January 22, 2021.

TRD-202100316

Tiffany Roper

General Counsel

Department of Family and Protective Services

Effective date: February 15, 2021

Proposal publication date: December 11, 2020

For further information, please call: (512) 438-3397





TRANSFERRED RULES

The Government Code, §2002.058, authorizes the Secretary of State to remove or transfer rules within the Texas Administrative Code when the agency that promulgated the rules is abolished. The Secretary of State will publish notice of rule transfer or removal in this section of the *Texas Register*. The effective date of a rule transfer is the date set by the legislature, not the date of publication of notice. Proposed or emergency rules are not subject to administrative transfer.

Department of Assistive and Rehabilitative Services

Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished, and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(a), specified the Department of Assistive and Rehabilitative Services (DARS) be abolished September 1, 2017, after all its functions were transferred to HHSC or the Department of Family and Protective Services in accordance with Texas Government Code, §531.0201. The former DARS rules in Texas Administrative Code (TAC), Title 40, Part 2, Chapter 108, Division for Early Childhood Intervention Services are being transferred to 26 TAC Part 1, Chapter 350, Division for Early Childhood Intervention Services.

The rules will be transferred in the Texas Administrative Code effective March 1, 2021.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 108

TRD-202100321



Health and Human Services Commission

Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished, and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(a), specified the Department of Assistive and Rehabilitative Services (DARS) be abolished September 1, 2017, after all its functions were transferred to HHSC or the Department of Family and Protective Services in accordance with Texas Government Code, §531.0201. The former DARS rules in Texas Administrative Code (TAC), Title 40, Part 2, Chapter 108, Division for Early Childhood Intervention Services are being transferred to 26 TAC Part 1, Chapter 350, Division for Early Childhood Intervention Services.

The rules will be transferred in the Texas Administrative Code effective March 1, 2021.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 108

TRD-202100323

Figure: 40 TAC Chapter 108

Current Rules	Move to
Title 40. Social Services and Assistance	Title 26. Health and Human Services
Part 2. Department of Assistive and Rehabilitative Services	Part 1. Texas Health and Human Services Commission
Chapter 108. Early Childhood Intervention Services	Chapter 350. Childhood Intervention Services
Subchapter A. General Rules	Subchapter A. General Rules
§108.101. Purpose.	§350.101. Purpose.
§108.103. Definitions.	§350.103. Definitions.
§108.105. Safety Regulations.	§350.105. Safety Regulations.
§108.107. Health Standards for Early Childhood Intervention Services.	§350.107. Health Standards for Early Childhood Intervention Services.
Subchapter B. Procedural Safeguards and Due Process Procedures	Subchapter B. Procedural Safeguards and Due Process Procedures
§108.201. Purpose.	§350.201. Purpose.
§108.202. Procedural Safeguards.	§350.202. Procedural Safeguards.
§108.203. Responsibilities.	§350.203. Responsibilities.
§108.204. Prior Written Notice.	§350.204. Prior Written Notice.
§108.207. Parental Consent.	§350.207. Parental Consent.
§108.209. Parent Rights in the IFSP Process.	§350.209. Parent Rights in the IFSP Process.
§108.211. Parent.	§350.211. Parent.
§108.213. Surrogate Parents.	§350.213. Surrogate Parents.
§108.215. Early Childhood Intervention Procedures for Filing Complaints.	§350.215. Early Childhood Intervention Procedures for Filing Complaints.
§108.217. Procedures for Investigation and Resolution of Complaints.	§350.217. Procedures for Investigation and Resolution of Complaints.
§108.218. Mediation.	§350.218. Mediation.
§108.219. Confidentiality Notice to Parents.	§350.219. Confidentiality Notice to Parents.
§108.221. Access Rights.	§350.221. Access Rights.
§108.223. Fees for Records.	§350.223. Fees for Records.
§108.225. Amendment of Records at Parent's Request.	§350.225. Amendment of Records at Parent's Request.
§108.227. Opportunity for a Hearing.	§350.227. Opportunity for a Hearing.
§108.229. Minimum Requirements for Conducting a Hearing.	§350.229. Minimum Requirements for Conducting a Hearing.
§108.231. Results of Hearing.	§350.231. Results of Hearing.
§108.233. Release of Personally Identifiable Information.	§350.233. Release of Personally Identifiable Information.
§108.235. Safeguards.	§350.235. Safeguards.
§108.237. Record Retention Period.	§350.237. Record Retention Period.
§108.239. Destruction of Information.	§350.239. Destruction of Information.
§108.241. Release of Records.	§350.241. Release of Records.
Subchapter C. Staff Qualifications	Subchapter C. Staff Qualifications

§108.301. Purpose.	§350.301. Purpose.
§108.303. Definitions.	§350.303. Definitions.
§108.305. Employment Records.	§350.305. Employment Records.
§108.307. Personnel Grievances.	§350.307. Personnel Grievances.
§108.309. Minimum Requirements for All Direct Service Staff.	§350.309. Minimum Requirements for All Direct Service Staff.
§108.310. Criminal Background Checks.	§350.310. Criminal Background Checks.
§108.311. Licensed Professionals.	§350.311. Licensed Professionals.
§108.312. Licensed Practitioner of the Healing Arts (LPHA).	§350.312. Licensed Practitioner of the Healing Arts (LPHA).
§108.313. Early Intervention Specialist (EIS).	§350.313. Early Intervention Specialist (EIS).
§108.314. EIS Code of Ethics.	§350.314. EIS Code of Ethics.
§108.315. Service Coordinator.	§350.315. Service Coordinator.
Subchapter D. Case Management for Infants and Toddlers with Developmental Disabilities	Subchapter D. Case Management for Infants and Toddlers with Developmental Disabilities
§108.403. Definitions.	§350.403. Definitions.
§108.404. Recipient Eligibility for Early Childhood Intervention (ECI) Case Management Services.	§350.404. Recipient Eligibility for Early Childhood Intervention (ECI) Case Management Services.
§108.405. Case Management Services.	§350.405. Case Management Services.
§108.406. Parent Refusal.	§350.406. Parent Refusal.
§108.407. Medicaid Service Limitations.	§350.407. Medicaid Service Limitations.
§108.409. Conditions for Case Management Provider Agency Participation.	§350.409. Conditions for Case Management Provider Agency Participation.
§108.411. Assignment of Service Coordinator.	§350.411. Assignment of Service Coordinator.
§108.415. Documentation.	§350.415. Documentation.
§108.417. Due Process.	§350.417. Due Process.
Subchapter E. Specialized Rehabilitative Services	Subchapter E. Specialized Rehabilitative Services
§108.501. Specialized Rehabilitative Services.	§350.501. Specialized Rehabilitative Services.
§108.503. Recipient Eligibility.	§350.503. Recipient Eligibility.
§108.505. Conditions for Provider Agency Participation.	§350.505. Conditions for Provider Agency Participation.
§108.507. Due Process.	§350.507. Due Process.
Subchapter F. Public Outreach	Subchapter F. Public Outreach
§108.601. Purpose.	§350.601. Purpose.
§108.605. Definitions.	§350.605. Definitions.
§108.607. Public Outreach.	§350.607. Public Outreach.
§108.609. Child Find.	§350.609. Child Find.
§108.611. Public Awareness.	§350.611. Public Awareness.
§108.613. Publications.	§350.613. Publications.
§108.615. Interagency Coordination.	§350.615. Interagency Coordination.

§108.617. Public Outreach Contact, Planning, and Evaluation.	§350.617. Public Outreach Contact, Planning, and Evaluation.
Subchapter G. Referral, Pre-Enrollment, and Developmental Screening	Subchapter G. Referral, Pre-Enrollment, and Developmental Screening
§108.701. Purpose.	§350.701. Purpose.
§108.704. Referral Requirements.	§350.704. Referral Requirements.
§108.705. Child Referred before Birth.	§350.705. Child Referred before Birth.
§108.706. Referrals Received While the Child is in the Hospital.	§350.706. Referrals Received While the Child is in the Hospital.
§108.707. Child Referred with an Out-of-State IFSP.	§350.707. Child Referred with an Out-of-State IFSP.
§108.708. Pre-Enrollment Activities.	§350.708. Pre-Enrollment Activities.
§108.709. Optional Developmental Screenings.	§350.709. Optional Developmental Screenings.
Subchapter H. Eligibility, Evaluation, and Assessment	Subchapter H. Eligibility, Evaluation, and Assessment
§108.801. Purpose.	§350.801. Purpose.
§108.805. Definitions.	§350.805. Definitions.
§108.807. Eligibility.	§350.807. Eligibility.
§108.809. Initial Eligibility Criteria.	§350.809. Initial Eligibility Criteria.
§108.811. Eligibility Determination Based on Medically Diagnosed Condition That Has a High Probability of Resulting in Developmental Delay.	§350.811. Eligibility Determination Based on Medically Diagnosed Condition That Has a High Probability of Resulting in Developmental Delay.
§108.813. Determination of Hearing and Auditory Status.	§350.813. Determination of Hearing and Auditory Status.
§108.815. Determination of Vision Status.	§350.815. Determination of Vision Status.
§108.817. Eligibility Determination Based on Developmental Delay.	§350.817. Eligibility Determination Based on Developmental Delay.
§108.819. Age Adjustment for Children Born Prematurely.	§350.819. Age Adjustment for Children Born Prematurely.
§108.821. Qualitative Determination of Developmental Delay.	§350.821. Qualitative Determination of Developmental Delay.
§108.823. Continuing Eligibility Criteria.	§350.823. Continuing Eligibility Criteria.
§108.825. Eligibility Statement.	§350.825. Eligibility Statement.
§108.828. Medical Review for ECI Services.	§350.828. Medical Review for ECI Services.
§108.829. Review of Nutrition Status.	§350.829. Review of Nutrition Status.
§108.831. Assistive Technology.	§350.831. Assistive Technology.
§108.833. Autism Screening.	§350.833. Autism Screening.
§108.835. Contractor Oversight.	§350.835. Contractor Oversight.
§108.837. Needs Assessment.	§350.837. Needs Assessment.
Subchapter J. Individualized Family Service Plan (IFSP)	Subchapter J. Individualized Family Service Plan (IFSP)
§108.1001. Purpose.	§350.1001. Purpose.
§108.1003. Definitions.	§350.1003. Definitions.

§108.1004. IFSP Development.	§350.1004. IFSP Development.
§108.1007. Interim IFSP.	§350.1007. Interim IFSP.
§108.1009. Participants in Initial and Annual IFSP Meetings.	§350.1009. Participants in Initial and Annual IFSP Meetings.
§108.1015. Content of the IFSP.	§350.1015. Content of the IFSP.
§108.1016. Planning for Services to be Delivered with the Routine Caregiver.	§350.1016. Planning for Services to be Delivered with the Routine Caregiver.
§108.1017. Periodic Reviews.	§350.1017. Periodic Reviews.
§108.1019. Annual Meeting to Evaluate the IFSP.	§350.1019. Annual Meeting to Evaluate the IFSP.
Subchapter K. Service Delivery	Subchapter K. Service Delivery
§108.1101. Purpose.	§350.1101. Purpose.
§108.1104. Early Childhood Intervention Services Delivery.	§350.1104. Early Childhood Intervention Services Delivery.
§108.1105. Capacity to Provide Early Childhood Intervention Services.	§350.1105. Capacity to Provide Early Childhood Intervention Services.
§108.1107. Group Services for Children.	§350.1107. Group Services for Children.
§108.1108. State Funded Respite Services.	§350.1108. State Funded Respite Services.
§108.1111. Service Delivery Documentation Requirements.	§350.1111. Service Delivery Documentation Requirements.
Subchapter L. Transition	Subchapter L. Transition
§108.1201. Purpose.	§350.1201. Purpose.
§108.1203. Definitions.	§350.1203. Definitions.
§108.1205. Transition Education and Information for the Family.	§350.1205. Transition Education and Information for the Family.
§108.1207. Transition Planning.	§350.1207. Transition Planning.
§108.1209. SEA Notification.	§350.1209. SEA Notification.
§108.1211. LEA Notification of Potentially Eligible for Special Education Services.	§350.1211. LEA Notification of Potentially Eligible for Special Education Services.
§108.1213. LEA Notification Opt Out.	§350.1213. LEA Notification Opt Out.
§108.1215. Reporting Late LEA Notifications.	§350.1215. Reporting Late LEA Notifications.
§108.1217. LEA Transition Conference.	§350.1217. LEA Transition Conference.
§108.1219. Transition to LEA Services.	§350.1219. Transition to LEA Services.
§108.1221. Transition Into the Community.	§350.1221. Transition Into the Community.
Subchapter M. Child and Family Outcomes	Subchapter M. Child and Family Outcomes
§108.1301. Purpose.	§350.1301. Purpose.
§108.1307. Child Outcomes.	§350.1307. Child Outcomes.
§108.1309. Family Outcomes.	§350.1309. Family Outcomes.
Subchapter N. Family Cost Share System	Subchapter N. Family Cost Share System
§108.1401. Purpose.	§350.1401. Purpose.
§108.1405. Definitions.	§350.1405. Definitions.
§108.1407. Family Cost Share System Administration.	§350.1407. Family Cost Share System Administration.

§108.1409. Parent Rights Related to the Family Cost Share System.	§350.1409. Parent Rights Related to the Family Cost Share System.
§108.1411. Early Childhood Intervention Services Provided with No Out-of-Pocket Payment from the Parent.	§350.1411. Early Childhood Intervention Services Provided with No Out-of-Pocket Payment from the Parent.
§108.1413. IFSP Services Subject to Out-of-Pocket Payment from the Family.	§350.1413. IFSP Services Subject to Out-of-Pocket Payment from the Family.
§108.1417. Family Cost Share Agreement.	§350.1417. Family Cost Share Agreement.
§108.1419. Private Insurance.	§350.1419. Private Insurance.
§108.1421. Insurance Premiums.	§350.1421. Insurance Premiums.
§108.1423. Co-pays, Co-Insurance, and Deductibles.	§350.1423. Co-pays, Co-Insurance, and Deductibles.
§108.1425. Public Benefits and Insurance.	§350.1425. Public Benefits and Insurance.
§108.1427. Maximum Charge.	§350.1427. Maximum Charge.
§108.1429. Family Size and Adjusted Income.	§350.1429. Family Size and Adjusted Income.
§108.1431. HHSC ECI Sliding Fee Scale.	§350.1431. HHSC ECI Sliding Fee Scale.
§108.1433. Billing Families for IFSP Services.	§350.1433. Billing Families for IFSP Services.
§108.1435. Suspension of Services for Nonpayment.	§350.1435. Suspension of Services for Nonpayment.
§108.1437. Extraordinary Circumstances.	§350.1437. Extraordinary Circumstances.
§108.1439. Program Fiscal and Recordkeeping Policies.	§350.1439. Program Fiscal and Recordkeeping Policies.

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Department of Assistive and Rehabilitative Services

Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished, and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(a), specified the Department of Assistive and Rehabilitative Services (DARS) be abolished September 1, 2017, after all its functions were transferred to HHSC or the Department of Family and Protective Services in accordance with Texas Government Code, §531.0201. The former DARS rules in Texas Administrative Code (TAC), Title 40, Part 2, Chapter 109, Office for Deaf and Hard of Hearing Services, Subchapters A, B, D, and E are being transferred to 26 TAC Part 1, Chapter 360, Office for Deaf and Hard of Hearing Services. Subchapter C in 40 TAC 109 is being repealed and proposed as new in 26 TAC Chapter 360, as published in the December 18, 2020, issue of the *Texas Register*.

The rules will be transferred in the Texas Administrative Code effective March 1, 2021.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 109

TRD-202100322

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Health and Human Services Commission

Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished, and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(a), specified the Department of Assistive and Rehabilitative Services (DARS) be abolished September 1, 2017, after all its functions were transferred to HHSC or the Department of Family and Protective Services in accordance with Texas Government Code, §531.0201. The former DARS rules in Texas Administrative Code (TAC), Title 40, Part 2, Chapter 109, Office for Deaf and Hard of Hearing Services, Subchapters A, B, D, and E are being transferred to 26 TAC Part 1, Chapter 360, Office for Deaf and Hard of Hearing Services. Subchapter C in 40 TAC 109 is being repealed and proposed as new in 26 TAC Chapter 360, as published in the December 18, 2020 issue of the *Texas Register*.

The rules will be transferred in the Texas Administrative Code effective March 1, 2021.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 109

TRD-202100324

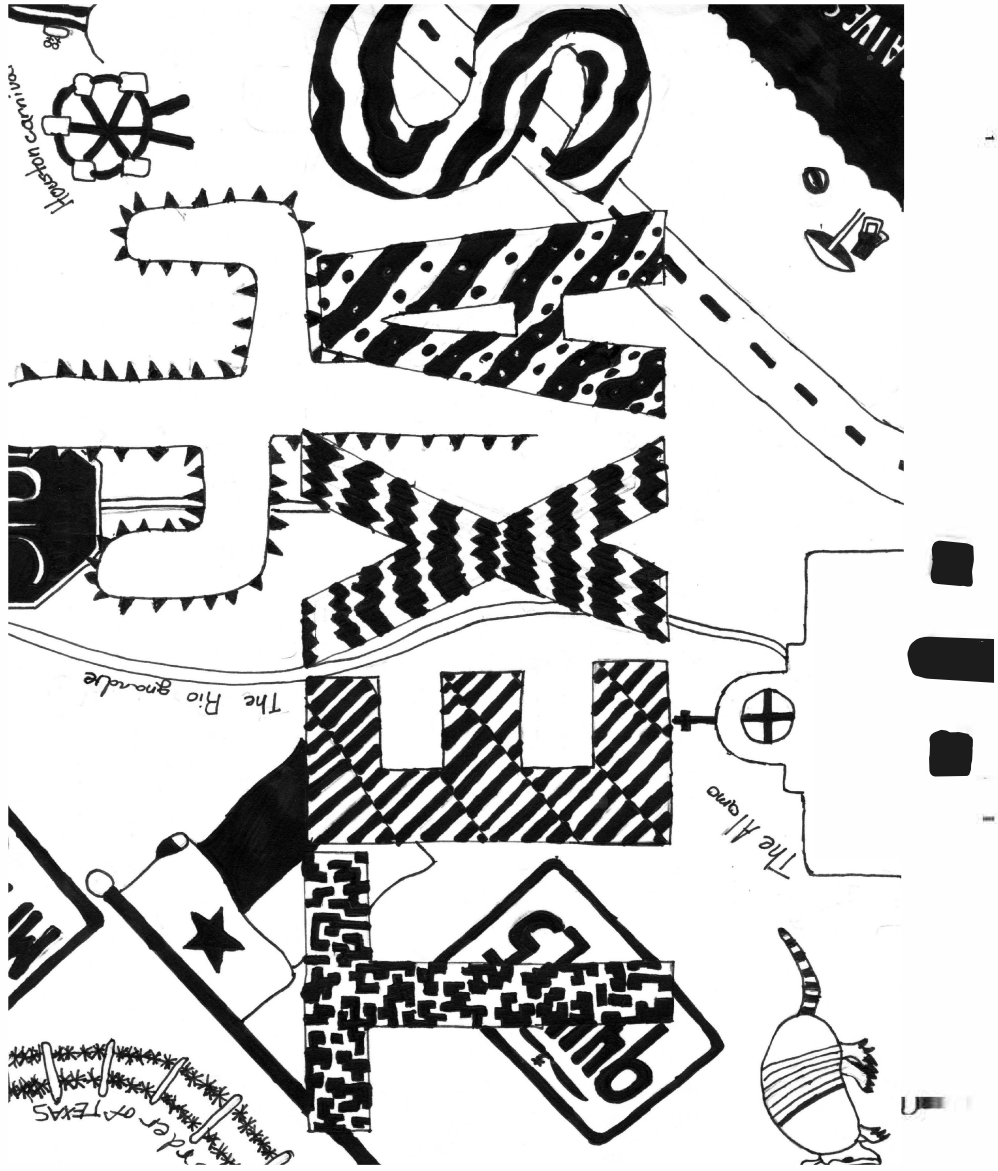
Figure: 40 TAC Chapter 109

Current Rules	Move to
Title 40. Social Services and Assistance	Title 26. Health and Human Services
Part 2. Department of Assistive and Rehabilitative Services	Part 1. Texas Health and Human Services Commission
Chapter 109. Office for Deaf and Hard of Hearing Services	Chapter 360. Office for Deaf and Hard of Hearing Services
Subchapter A. General Rules	Subchapter A. General Rules
§109.101. Purpose.	§360.101. Purpose.
§109.103. Legal Authority.	§360.103. Legal Authority.
§109.105. Definitions.	§360.105. Definitions.
§109.107. Registry of Qualified Interpreters.	§360.107. Registry of Qualified Interpreters.
§109.109. Guidelines Concerning Qualification of Interpreters.	§360.109. Guidelines Concerning Qualification of Interpreters.
Subchapter B. Board for Evaluation of Interpreters	Subchapter B. Board for Evaluation of Interpreters
Division 1. BEI Interpreter Certification	Division 1. BEI Interpreter Certification
§109.201. Purpose.	§360.201. Purpose.
§109.203. Legal Authority.	§360.203. Legal Authority.
§109.205. Definitions.	§360.205. Definitions.
§109.207. Board for Evaluation of Interpreters Board.	§360.207. Board for Evaluation of Interpreters Board.
§109.209. Fees, Prerequisites, and Qualifications for Certification.	§360.209. Fees, Prerequisites, and Qualifications for Certification.
§109.211. Provisional Certificate.	§360.211. Provisional Certificate.
§109.213. Compensation of Raters.	§360.213. Compensation of Raters.
§109.215. Certification.	§360.215. Certification.
§109.217. Qualifications and Requirements for a BEI Certificate.	§360.217. Qualifications and Requirements for a BEI Certificate.
§109.219. Administration of Examination for BEI Interpreter Certificate.	§360.219. Administration of Examination for BEI Interpreter Certificate.
§109.221. Validity of Certificates and Recertification.	§360.221. Validity of Certificates and Recertification.
§109.223. Certificate Renewal.	§360.223. Certificate Renewal.
§109.225. Continuing Education Programs.	§360.225. Continuing Education Programs.
§109.227. Disciplinary Actions.	§360.227. Disciplinary Actions.
§109.229. Examination Accommodations for Persons with Disabilities.	§360.229. Examination Accommodations for Persons with Disabilities.
§109.231. Schedule of Fees.	§360.231. Schedule of Fees.
Division 2. BEI Court Interpreter Certification	Division 2. BEI Court Interpreter Certification
§109.301. Purpose.	§360.301. Purpose.
§109.303. Legal Authority.	§360.303. Legal Authority.
§109.305. Definitions.	§360.305. Definitions.

§109.307. Administration of Examination for Court Interpreter Certificate.	§360.307. Administration of Examination for Court Interpreter Certificate.
§109.309. Requirements for Interpreting Court Proceedings in Texas Courts.	§360.309. Requirements for Interpreting Court Proceedings in Texas Courts.
§109.311. Responsibilities of Certified Court Interpreters.	§360.311. Responsibilities of Certified Court Interpreters.
§109.313. Qualifications of Certified Court Interpreters.	§360.313. Qualifications of Certified Court Interpreters.
§109.315. Qualifications and Requirements for Court Certificate.	§360.315. Qualifications and Requirements for Court Certificate.
§109.317. Training Programs for Certified Court Interpreters Managed by DARS or by Public or Private Educational Institutions.	§360.317. Training Programs for Certified Court Interpreters Managed by DARS or by Public or Private Educational Institutions.
§109.319. Instructions for the Compensation of a Certified Court Interpreter and Designation of the Party or Entity Responsible for Payment of Compensation.	§360.319. Instructions for the Compensation of a Certified Court Interpreter and Designation of the Party or Entity Responsible for Payment of Compensation.
§109.321. Administrative Sanctions Enforceable by DARS.	§360.321. Administrative Sanctions Enforceable by DARS.
§109.323. Prohibited Acts.	§360.323. Prohibited Acts.
§109.325. Enforcement.	§360.325. Enforcement.
§109.327. Criminal Offense.	§360.327. Criminal Offense.
§109.329. Actions against Persons Not Certified as Court Interpreters.	§360.329. Actions against Persons Not Certified as Court Interpreters.
§109.331. Court Interpreter Qualifications in Civil Cases or Depositions under the Civil Practice and Remedies Code.	§360.331. Court Interpreter Qualifications in Civil Cases or Depositions under the Civil Practice and Remedies Code.
Division 3. BEI Trilingual Certification	Division 3. BEI Trilingual Certification
§109.401. Purpose.	§360.401. Purpose.
§109.403. Legal Authority.	§360.403. Legal Authority.
§109.405. Qualifications and Requirements for a Trilingual Certificate.	§360.405. Qualifications and Requirements for a Trilingual Certificate.
Division 4. BEI Medical Interpreter Certification	Division 4. BEI Medical Interpreter Certification
§109.451. Purpose.	§360.451. Purpose.
§109.453. Legal Authority.	§360.453. Legal Authority.
§109.457. Qualifications and Requirements for Medical Certificate.	§360.457. Qualifications and Requirements for Medical Certificate.
Subchapter D. Deaf and Hard of Hearing Driver Identification Program	Subchapter D. Deaf and Hard of Hearing Driver Identification Program
§109.601. Purpose.	§360.601. Purpose.
§109.603. Legal Authority.	§360.603. Legal Authority.
§109.605. Definitions.	§360.605. Definitions.
§109.607. Eligibility.	§360.607. Eligibility.

§109.609. Deaf and Hard of Hearing Driver Visor Identification Card.	§360.609. Deaf and Hard of Hearing Driver Visor Identification Card.
Subchapter E. Certificate of Deafness for Tuition Waiver Program	Subchapter E. Certificate of Deafness for Tuition Waiver Program
§109.701. Purpose.	§360.701. Purpose.
§109.703. Legal Authority.	§360.703. Legal Authority.
§109.705. Definitions.	§360.705. Definitions.
§109.707. Eligibility.	§360.707. Eligibility.
§109.709. Certificate of Deafness for Tuition Waiver.	§360.709. Certificate of Deafness for Tuition Waiver.

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REVIEW OF AGENCY RULES

This section contains notices of state agency rule review as directed by the Texas Government Code, §2001.039.

Included here are proposed rule review notices, which invite public comment to specified rules under review; and adopted rule review notices, which summarize public comment received as part of the review. The complete text of an agency's rule being reviewed is available in the *Texas Administrative Code* on the Texas Secretary of State's website.

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the website and printed copies of these notices may be directed to the *Texas Register* office.

Adopted Rule Reviews

Texas Department of Insurance, Division of Workers' Compensation

Title 28, Part 2

28 Texas Administrative Code Chapters 129 - 137

The Texas Department of Insurance, Division of Workers' Compensation (DWC) has completed its rule review of 28 Texas Administrative Code Chapters 129 - 137 and has determined that the reasons for initially adopting the rules in these chapters continue to exist. Notice of the review was published in the *Texas Register* on October 2, 2020, (45 TexReg 7045).

DWC received comments in support of readoption from the Insurance Council of Texas and the Office of Injured Employee Counsel, and comments in support of the review from Concentra, Mitchell - Pharmacy Services, and jointly from the Texas Physical Therapy Association and Texas Occupational Therapy Association.

One comment recommended that DWC take the opportunity to modernize, update, and correct rule language throughout its rules. DWC appreciates the comment. As a practice, DWC works to modernize, update, and correct rule language in all of its rulemakings and will continue to do so in future rulemakings.

One comment asked that DWC harmonize DWC Form-073, *Work Status Report*, with §133.30(c)(1) (Billing for telemedicine and telehealth services according to Medicare payment policies). DWC appreciates this comment and may consider amending this rule in a separate project or consider if this may be addressed administratively.

One comment pointed out that in *Texas Department of Insurance, Division of Workers' Compensation v. Insurance Council of Texas*, 2008 WL 744681 (Tex. App. - Austin Mar. 21, 2008), a court of appeals upheld the invalidity of §133.309. DWC appreciates the comment and may consider amending or repealing this rule in a separate project.

One comment on Chapter 134, Subchapter F (concerning Pharmaceutical Benefits) asked that DWC consider future rulemaking to address difficulties in working with the pharmacy closed formulary for the U.S. Food & Drug Administration approved over-the-counter and prescription medications that are not listed in Appendix A of the Official Disability Guidelines Workers' Compensation Drug Formulary. DWC appreciates this comment, but we would need to learn more about the nature of any problems before considering any action.

Another comment on Chapter 134, Subchapter F asked that DWC consider future rulemaking to allow stakeholders to address challenges in prospective review. DWC appreciates this comment, but we would

need to learn more about the nature of any problems before considering any action.

One comment on §134.230 (concerning Return to Work Rehabilitation Programs) asked that DWC remove the fee differential between Commission on Accreditation of Rehabilitation Facilities accredited and nonaccredited programs. DWC appreciates this comment and may consider amending this rule in a separate project.

Another comment related to §134.230 asked that DWC align its rules for one-on-one service for work conditioning/work hardening with the definitions in the American Medical Association's Current Procedural Terminology (CPT) Codebook. DWC appreciates this comment, but this appears to be more of an issue with the CPT codebook. DWC will continue to monitor this issue.

This review was conducted under the authority of Texas Government Code §2001.039 and Texas Labor Code §402.061.

As a result of the rule review, DWC finds that the reasons for initially adopting the rules in 28 TAC Chapters 129 - 137 continue to exist and readopts these rules in accordance with the requirements of Government Code §2001.039.

TRD-202100291

Kara Mace

Deputy Commissioner of Legal Services

Texas Department of Insurance, Division of Workers' Compensation

Filed: January 20, 2021



Texas Board of Pardons and Paroles

Title 37, Part 5

The Texas Board of Pardons and Paroles (Board) files this notice of readoption of 37 TAC, Part 5, Chapter 148, Sex Offender Conditions of Parole or Mandatory Supervision. The review was conducted pursuant to Government Code, §2001.039. Notice of the Board's intention to review was published in the July 24, 2020, issue of the *Texas Register* (45 TexReg 5205).

As a result of the review, the Board has determined that the original justifications for these rules continue to exist. The Board readopts §§148.45, 148.47, 148.48, 148.50 and 148.52 with amendments as published in the Adopted Rules section of this issue of the *Texas Register*. The Board readopts the remainder of the sections in Chapter 148 without amendments.

No comments on the proposed review were received.

This concludes the review of 37 TAC Chapter 148, Sex Offender Conditions of Parole or Mandatory Supervision.

TRD-202100312
Bettie Wells
General Counsel
Texas Board of Pardons and Paroles
Filed: January 22, 2021



IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §303.003 and §303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 02/01/21 - 02/07/21 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 02/01/21 - 02/07/21 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-202100373

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: January 26, 2021



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 **March 9, 2021**. 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 commissions 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 commissions 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 **March 9, 2021**. 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: Angelina County; DOCKET NUMBER: 2020-1117-MLM-E; IDENTIFIER: RN101947323; LOCATION: Lufkin, Angelina County; TYPE OF FACILITY: municipal solid waste landfill; RULES VIOLATED: 30 TAC §§116.110(a), 116.604(2), 122.143(4), 330.985(b), 330.987(c), and 330.989(a)(5), Federal Operating Permit Number O2650/General Operating Permit Number 517, Site-wide Requirements (b)(1), (b)(2), and (b)(8)(A), and Texas Health and Safety Code, §382.0518(a) and §382.085(b), by failing to renew the registration to use a standard permit by the date the registration expires; PENALTY: \$14,250; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$11,400; ENFORCEMENT COORDINATOR: Margarita Dennis, (817) 588-5892; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(2) COMPANY: Blanchard Refining Company LLC; DOCKET NUMBER: 2020-0842-IHW-E; IDENTIFIER: RN102535077; LOCATION: Texas City, Galveston County; TYPE OF FACILITY: petroleum refinery; RULES VIOLATED: 30 TAC §335.2(b) and §335.4(3), by failing to not cause, suffer, allow, or permit the disposal of industrial and hazardous waste at an unauthorized facility; PENALTY: \$13,125; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$5,250; ENFORCEMENT COORDINATOR: Hailey Johnson, (512) 239-1756; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(3) COMPANY: Broadway Construction, LLC; DOCKET NUMBER: 2020-0892-WQ-E; IDENTIFIER: RN111008082; LOCATION: Prairie View, Waller County; TYPE OF FACILITY: large construction site; RULES VIOLATED: 30 TAC §281.25(a)(4), TWC, §26.121, and 40 Code of Federal Regulations §122.26(c), by failing to obtain authorization to discharge stormwater associated with construction activities; PENALTY: \$2,550; ENFORCEMENT COORDINATOR: Katelyn Tubbs, (512) 239-2512; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(4) COMPANY: Carl R. Bruce, Trustee of Joiner Liquidating Trust; DOCKET NUMBER: 2020-0287-IHW-E; IDENTIFIER: RN100880764; LOCATION: Houston, Harris County; TYPE OF FACILITY: former commercial landfill; RULES VIOLATED: 30 TAC §335.174(b)(1) and §350.2, by failing to maintain proper post-closure care of the facility including making repairs to the cap as necessary to correct the effects of settling, subsidence, erosion, or other events; PENALTY: \$1,250; ENFORCEMENT COORDINATOR: Carlos Molina, (512) 239-2557; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(5) COMPANY: Charles Machacek dba Machacek's Rockin' M RV & Campground; DOCKET NUMBER: 2020-1114-PWS-E; IDENTIFIER: RN109830893; LOCATION: Port Lavaca, Calhoun County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.46(n)(1) and TCEQ Agreed Order Docket Number 2017-1141-PWS-E, Ordering Provision Number 2.c, by failing to maintain accurate and up-to-date detailed as-built plans or record

drawings and specifications for each treatment plant, pump station, and storage tank at the facility; PENALTY: \$305; ENFORCEMENT COORDINATOR: Aaron Vincent, (512) 239-0855; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(6) COMPANY: City of Hamilton; DOCKET NUMBER: 2019-1589-MWD-E; IDENTIFIER: RN101918068; LOCATION: Hamilton, Hamilton County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: TWC, §26.121(a)(1), 30 TAC §305.125(1) and (5), and Texas Pollutant Discharge Elimination System Permit Number WQ0010492002, Permit Conditions Number 2.g, by failing to prevent an unauthorized discharge of wastewater into or adjacent to any water in the state; PENALTY: \$5,625; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$5,625; ENFORCEMENT COORDINATOR: Caleb Olson, (817) 588-5856; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(7) COMPANY: City of Lubbock; DOCKET NUMBER: 2020-0387-MWD-E; IDENTIFIER: RN101609949; LOCATION: Lubbock, Lubbock County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0010353002, Effluent Limitations and Monitoring Requirements Number 1, Outfall Numbers 001, 002, 003, and 007, by failing to comply with permitted effluent limitations; PENALTY: \$61,500; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$49,200; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: 5012 50th Street, Suite 100, Lubbock, Texas 79414-3426, (806) 796-7092.

(8) COMPANY: Coon Creek Club; DOCKET NUMBER: 2020-1098-PWS-E; IDENTIFIER: RN101250132; LOCATION: Athens, Henderson County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.46(j), by failing to complete a Customer Service Inspection certificate prior to providing continuous water service to new construction or any existing service when the water purveyor has reason to believe cross-connections or other potential hazards exist; PENALTY: \$787; ENFORCEMENT COORDINATOR: Ryan Byer, (512) 239-2571; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(9) COMPANY: Lee County Fresh Water Supply District Number 1; DOCKET NUMBER: 2020-1125-MWD-E; IDENTIFIER: RN101610780; LOCATION: Dime Box, Lee County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0012007001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: \$4,687; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 339-2929.

(10) COMPANY: Permian Basin Materials, LLC; DOCKET NUMBER: 2020-1127-AIR-E; IDENTIFIER: RN107377129; LOCATION: Wilson, Lynn County; TYPE OF FACILITY: rock crusher; 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: \$2,250; ENFORCEMENT COORDINATOR: Toni Red, (512) 239-1704; REGIONAL OFFICE: 5012 50th Street, Suite 100, Lubbock, Texas 79414-3426, (806) 796-7092.

(11) COMPANY: Permian Basin Materials, LLC; DOCKET NUMBER: 2020-1121-AIR-E; IDENTIFIER: RN106776420; LOCATION:

Tahoka, Lynn County; TYPE OF FACILITY: rock crusher; 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: \$938; ENFORCEMENT COORDINATOR: Toni Red, (512) 239-1704; REGIONAL OFFICE: 5012 50th Street, Suite 100, Lubbock, Texas 79414-3426, (806) 796-7092.

(12) COMPANY: SHKH LLC dba I K Food Mart; DOCKET NUMBER: 2020-1009-PST-E; IDENTIFIER: RN102718541; LOCATION: Longview, Gregg County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.49(a)(1) and (c)(2)(C) and TWC, §26.3475(d), by failing to provide corrosion protection for the underground storage tank system, and failing to inspect the impressed current corrosion protection system at least once every 60 days to ensure the rectifier and other system components are operating properly; PENALTY: \$4,976; ENFORCEMENT COORDINATOR: Karolyn Kent, (512) 239-2536; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(13) COMPANY: Sunoco Partners Marketing & Terminals L.P.; DOCKET NUMBER: 2020-0975-AIR-E; IDENTIFIER: RN100214626; LOCATION: Nederland, Jefferson County; TYPE OF FACILITY: petroleum products terminal; RULES VIOLATED: 30 TAC §§101.20(3), 116.115(b)(2)(F) and (c), and 122.143(4), New Source Review Permit Numbers 56508 and PSDTX1444, Special Conditions Number 1, Federal Operating Permit (FOP) Number O1573, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) Number 12, and Texas Health and Safety Code (THSC), §382.085(b), by failing to comply with the maximum allowable emissions rate; 30 TAC §122.143(4) and §122.145(2)(A), FOP Number O1573, GTC, and THSC, §382.085(b), by failing to report all instances of deviations; 30 TAC §122.143(4) and (15) and §122.165(a)(8), FOP Number O1573, GTC, and THSC, §382.085(b), by failing to include a signed certification of accuracy and completeness with the permit compliance certification (PCC); and 30 TAC §122.143(4) and §122.146(1) and (2), FOP Number O1573, GTC and STC Number 15, and THSC, §382.085(b), by failing to certify compliance with the terms and conditions of the permit for at least each 12-month period following initial permit issuance, and failing to submit a PCC within 30 days of any certification period; PENALTY: \$54,875; ENFORCEMENT COORDINATOR: Johnnie Wu, (512) 239-2524; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(14) COMPANY: Triangle Brick Company; DOCKET NUMBER: 2020-1115-PWS-E; IDENTIFIER: RN107199929; LOCATION: Henrietta, Clay County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.115(f)(1) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 0.080 milligrams per liter for total trihalomethanes based on the locational running annual average; PENALTY: \$862; ENFORCEMENT COORDINATOR: Ronica Rodriguez, (361) 825-3425; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(15) COMPANY: WHITE OAK RADIATOR SERVICE, INCORPORATED; DOCKET NUMBER: 2020-0891-WQ-E; IDENTIFIERS: RN110901485 and RN110901469; LOCATION: White Oak, Gregg County; TYPE OF FACILITY: metal products fabrication facilities; RULES VIOLATED: 30 TAC §281.25(a)(4), TWC, §26.121, and 40 Code of Federal Regulations §122.26(c), by failing to obtain authorization to discharge stormwater associated with industrial activities; PENALTY: \$6,850; ENFORCEMENT COORDINATOR: Steven Van

Landingham, (512) 239-5717; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

TRD-202100329

Charmaine Backens

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: January 26, 2021



Enforcement Orders

An agreed order was adopted regarding Suu Nguyen Easley dba Family Discount Store 2, Docket No. 2019-0279-PST-E on January 26, 2021 assessing \$3,724 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Roslyn Dubberstein, 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 UNIVERSAL ENTERPRISES, INC. dba HANDI PLUS 19, Docket No. 2019-1291-PST-E on January 26, 2021 assessing \$4,139 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Christopher Mullins, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202100380

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: January 27, 2021



Enforcement Orders

A default order was adopted regarding Donald S. Fletcher dba Equestrian Estates, Docket No. 2017-1574-PWS-E on January 27, 2021 assessing \$953 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jake Marx, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding CIRCLE "R" RANCHETTES RECREATION AND COMMUNITY CORPORATION Docket No. 2018-0709-PWS-E on January 27, 2021 assessing \$1,232 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jake Marx, 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 Liberty Tire Recycling, LLC, Docket No. 2019-0608-MSW-E on January 27, 2021 assessing \$11,805 in administrative penalties with \$2,361 deferred. Information concerning any aspect of this order may be obtained by contacting John Fennell, 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 Formosa Plastics Corporation, Texas, Docket No. 2019-0688-AIR-E on January 27, 2021 assessing \$333,638 in administrative penalties with \$66,727 deferred. 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 Chevron Phillips Chemical Company LP, Docket No. 2019-1198-AIR-E on January 27, 2021 assessing \$26,250 in administrative penalties with \$5,250 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 Motiva Enterprises LLC, Docket No. 2019-1618-AIR-E on January 27, 2021 assessing \$34,565 in administrative penalties. 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 SIMPLY AQUATICS, INC., Docket No. 2019-1684-PWS-E on January 27, 2021 assessing \$10,024 in administrative penalties. 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 Sequa Corporation, Docket No. 2019-1733-IWD-E on January 27, 2021 assessing \$37,116 in administrative penalties with \$7,423 deferred. Information concerning any aspect of this order may be obtained by contacting Alejandro Laje, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding Stewart McCrary dba Country Pines R V Park, Docket No. 2019-1751-PWS-E on January 27, 2021 assessing \$401 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Roslyn Dubberstein, 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 DEANVILLE WATER SUPPLY CORPORATION, Docket No. 2019-1789-PWS-E on January 27, 2021 assessing \$1,524 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.

An agreed order was adopted regarding T.O.F.S., LLC, Docket No. 2020-0106-SLG-E on January 27, 2021 assessing \$8,188 in administrative penalties with \$1,637 deferred. Information concerning any aspect of this order may be obtained by contacting Steven Van Landingham, 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 MONTEREY MUSHROOMS, INC., Docket No. 2020-0132-IWD-E on January 27, 2021 assessing \$26,562 in administrative penalties. 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 T.F. ENTERPRISES, INC., Docket No. 2020-0234-MLM-E on January 27, 2021 assessing \$11,688 in administrative penalties with \$2,337 deferred. Information concerning any aspect of this order may be obtained by contacting Berenice Munoz, 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. 2020-0385-AIR-E on January 27, 2021 assessing \$15,000 in administrative penalties with \$3,000 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 HT & T, LLC, Docket No. 2020-0389-AGR-E on January 27, 2021 assessing \$16,918 in administrative penalties with \$3,383 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 Targa Midstream Services LLC, Docket No. 2020-0401-AIR-E on January 27, 2021 assessing \$50,000 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Toni Red, 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 Montgomery County Municipal Utility District No. 112, Docket No. 2020-0563-MWD-E on January 27, 2021 assessing \$5,625 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Christopher Moreno, 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 QUICK TRACK INC., Docket No. 2020-0577-PST-E on January 27, 2021 assessing \$19,177 in administrative penalties with \$3,835 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 Targa Pipeline Mid-Continent WestTex LLC, Docket No. 2020-0747-AIR-E on January 27, 2021 assessing \$25,988 in administrative penalties with \$5,197 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 Enterprise Products Operating LLC, Docket No. 2020-0777-AIR-E on January 27, 2021 assessing \$8,000 in administrative penalties with \$1,600 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 the City of Friendswood, Docket No. 2020-0898-WQ-E on January 27, 2021 assessing \$4,875 in administrative penalties. 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 Blaine Larsen Farms, Inc., Docket No. 2020-0927-AIR-E on January 27, 2021 assessing \$9,188 in administrative penalties with \$1,837 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.

TRD-202100385

Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: January 27, 2021



Notice of Application and Public Hearing for an Air Quality Standard Permit for a Concrete Batch Plant with Enhanced Controls: Proposed Air Quality Registration Number 163402

APPLICATION. Martin Marietta Materials Southwest LLC, 1503 LBJ Freeway, Suite 400, Dallas, Texas 75234-6007 has applied to the Texas Commission on Environmental Quality (TCEQ) for an Air Quality Standard Permit for a Concrete Batch Plant with Enhanced Controls Registration Number 163402 to authorize the operation of a concrete batch plant. The facility is proposed to be located at 11481 County Road 53, Celina, Collin County, Texas 75009. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application. <http://www.tceq.texas.gov/assets/public/hb610/index.html?lat=33.29312&lng=-96.789455&zoom=13&type=r>. This application was submitted to the TCEQ on November 25, 2020. The primary function of this plant is to manufacture concrete by mixing materials including (but not limited to) sand, aggregate, cement and water. The executive director has determined the application was technically complete on December 15, 2020.

PUBLIC COMMENT / PUBLIC HEARING. Public written comments about this application may be submitted at any time during the public comment period. The public comment period begins on the first date notice is published and extends to the close of the public hearing. Public comments may be submitted either in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087, or electronically at www14.tceq.texas.gov/epic/eComment/. Please be aware that any contact information you provide, including your name, phone number, email address and physical address will become part of the agency's public record.

A public hearing has been scheduled, that will consist of two parts, an informal discussion period and a formal comment period. During the informal discussion period, the public is encouraged to ask questions of the applicant and TCEQ staff concerning the application, but comments made during the informal period will not be considered by the executive director before reaching a decision on the permit, and no formal response will be made to the informal comments. During the formal comment period, members of the public may state their comments into the official record. **Written comments about this application may also be submitted at any time during the hearing.** The purpose of a public hearing is to provide the opportunity to submit written comments or an oral statement about the application. **The public hearing is not an evidentiary proceeding.**

The Public Hearing is to be held:

Thursday, February 25, 2021, at 6:00 p.m.

Members of the public who would like to ask questions or provide comments during the meeting may access the meeting via webcast by following this link: <https://www.gotomeeting.com/webinar/join-webinar> and entering Webinar ID 757-736-035. It is recommended that you join the webinar and register for the public meeting at least 15 minutes before the meeting begins. You will be given the option to use your computer audio or to use your phone for participating in the webinar.

Those without internet access may call (512) 239-1201 at least one day prior to the meeting for assistance in accessing the meeting and

participating telephonically. Members of the public who wish to only listen to the meeting may call, toll free, (415) 930-5321 and enter access code 978-434-055. Additional information will be available on the agency calendar of events at the following link:

<https://www.tceq.texas.gov/agency/decisions/hearings/calendar.html>.

RESPONSE TO COMMENTS. A written response to all formal comments will be prepared by the executive director after the comment period closes. The response, along with the executive director's decision on the application, will be mailed to everyone who submitted public comments and the response to comments will be posted in the permit file for viewing.

The executive director shall approve or deny the application not later than 35 days after the date of the public hearing, considering all comments received within the comment period, and base this decision on whether the application meets the requirements of the standard permit.

CENTRAL/REGIONAL OFFICE. The application will be available for viewing and copying at the TCEQ Central Office and the TCEQ Dallas/Fort Worth Regional Office, located at 2309 Gravel Drive, Fort Worth, Texas 76118-6951, during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, beginning the first day of publication of this notice.

INFORMATION. If you need more information about this permit application or the permitting process, please call the Public Education Program toll free at (800) 687-4040. Si desea información en español, puede llamar al (800) 687-4040.

Further information may also be obtained from Martin Marietta Materials Southwest, LLC, 1503 LBJ Freeway, Suite 400, Dallas, Texas 75234-6007, or by calling Mr. Jesse Martindale, Environmental Engineer II at (972) 647-3742.

Notice Issuance Date: January 13, 2021

TRD-202100300

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: January 21, 2021



Notice of Public Meeting for TPDES Permit for Municipal Wastewater: New Permit No. WQ0015901001

APPLICATION. Astra Investments I, LLC, and Sandfield Limited Partnership, 3625 Hall Street, Suite 720, Dallas, Texas 75219, have applied to the Texas Commission on Environmental Quality (TCEQ) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0015901001 to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 800,000 gallons per day.

The facility will be located approximately 1,267 feet northwest of the intersection of Farm-to-Market Road 156 and T L Ranch Road, in Denton County, Texas 76259. The treated effluent will be discharged to Wolf Branch, thence to South Hickory Creek, thence to Hickory Creek, thence to Lewisville Lake in Segment No. 0823 of the Trinity River Basin. The unclassified receiving water uses are high aquatic life use for Wolf Branch and South Hickory Creek. The designated uses for Segment No. 0823 are primary contact recreation, public water supply, and high aquatic life use. In accordance with 30 Texas Administrative Code §307.5 and the TCEQ's *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010), an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will

not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in Wolf Branch and South Hickory Creek, which have been identified as having high aquatic life use. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received. This link to an electronic map of the site or facility's general location is provided as a public courtesy and is not part of the application or notice. For the exact location, refer to the application.

<https://tceq.maps.arcgis.com/apps/webappviewer/index.html?id=db5bac44afbc468bbddd360f8168250f&marker=-97.275%2C33.207222&level=12>

The TCEQ Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements.

PUBLIC COMMENT / PUBLIC MEETING. You may submit public comments about this application. The TCEQ will hold a public meeting on this application because of a legislator request and significant public interest.

The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. A public meeting will be held and will consist of two parts, an Informal Discussion Period and a Formal Comment Period. A public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public will be encouraged to ask questions of the applicant and TCEQ staff concerning the permit application. The comments and questions submitted orally during the Informal Discussion Period will not be considered before a decision is reached on the permit application and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period on the permit application, members of the public may state their formal comments orally into the official record. A written response to all timely, relevant and material, or significant comments will be prepared by the Executive Director. All formal comments will be considered before a decision is reached on the permit application. A copy of the written response will be sent to each person who submits a formal comment or who requested to be on the mailing list for this permit application and provides a mailing address. Only relevant and material issues raised during the Formal Comment Period can be considered if a contested case hearing is granted on this permit application.

The Public Meeting is to be held:

Tuesday, March 9, 2021 at 7:00 p.m.

Members of the public who would like to ask questions or provide comments during the meeting may access the meeting via webcast by following this link: <https://www.gotomeeting.com/webinar/join-webinar> and entering Webinar ID 918-770-059. It is recommended that you join the webinar and register for the public meeting at least 15 minutes before the meeting begins. You will be given the option to use your computer audio or to use your phone for participating in the webinar.

Those without internet access may call (512) 239-1201 at least one day prior to the meeting for assistance in accessing the meeting and participating telephonically. Members of the public who wish to only listen to the meeting may call, toll free, (631) 992-3221 and enter access code 927-135-523. Additional information will be available on the agency calendar of events at the following link:

<https://www.tceq.texas.gov/agency/decisions/hearings/calendar.html>.

INFORMATION. Citizens are encouraged to submit written comments anytime during the meeting or by mail before the close of the public comment period to the Office of the Chief Clerk, TCEQ, Mail Code MC-105, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/>. If you need more information about the permit application or the permitting process, please call the TCEQ Public Education Program, Toll Free, at (800) 687-4040. *Si desea información en Español, puede llamar (800) 687-4040.* General information about the TCEQ can be found at our web site at www.tceq.texas.gov.

The permit application, Executive Director's preliminary decision, and draft permit are available for viewing online at <https://kimley-horn.securevdr.com/d-s9a8595ef9d8425da>. Further information may also be obtained from Astra Investments I, LLC, and Sandfield Limited Partnership at the address stated above or by calling Mr. Justin Bono, Astra Investments I, LLC, at (214) 662-5530.

Persons with disabilities who need special accommodations at the meeting should call the Office of the Chief Clerk at (512) 239-3300 or (800) RELAY-TX (TDD) at least one week prior to the meeting.

Issuance Date: January 22, 2021

TRD-202100314

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: January 22, 2021



Update to the Water Quality Management Plan (WQMP)

The Texas Commission on Environmental Quality (TCEQ or commission) requests comments from the public on the draft January 2021 Update to the WQMP for the State of Texas.

Download the draft January 2021 WQMP Update at https://www.tceq.texas.gov/permitting/wqmp/WQmanagement_updates.html or view a printed copy at the TCEQ Library, Building A, 12100 Park 35 Circle, Austin, Texas. Please periodically check the following website for updates, in the event the TCEQ Library is closed due to COVID-19 restrictions: https://www.tceq.texas.gov/permitting/wqmp/WQmanagement_comment.html.

The WQMP is developed and promulgated in accordance with the requirements of Federal Clean Water Act, §208. The draft update includes projected effluent limits of specific domestic dischargers, which may be useful for planning in future permit actions. The draft update may also contain service area populations for listed wastewater treatment facilities, designated management agency information, and total maximum daily load (TMDL) revisions.

Once the commission certifies a WQMP update, it is submitted to the United States Environmental Protection Agency (EPA) for approval. For some Texas Pollutant Discharge Elimination System (TPDES) permits, the EPA's approval of a corresponding WQMP update is a necessary precondition to TPDES permit issuance by the commission.

Deadline

All comments must be received at the TCEQ no later than **5:00 p.m. March 9, 2021.**

How to Submit Comments

Comments must be submitted in writing to:

Nancy Vignali, Texas Commission on Environmental Quality Water Quality Division, MC 150 P.O. Box 13087, Austin, Texas 78711-3087.

Comments may also be faxed to (512) 239-4420 *or* emailed to Nancy Vignali at Nancy.Vignali@tceq.texas.gov, but must be followed up with written comments by mail within five working days of the fax or email date or by the comment deadline, whichever is sooner.

For further information, or questions, please contact Ms. Vignali at (512) 239-1303 or by email at Nancy.Vignali@tceq.texas.gov.

TRD-202100330

Robert Martinez

Deputy Director, Environmental Law

Texas Commission on Environmental Quality

Filed: January 26, 2021



General Land Office

Coastal Boundary Survey Approval Smith Point, Chambers County

Coastal Boundary Survey Approval

Surveying Division

Project: Smith Point, Edward T. Branch A-40, Chambers County

Project No: GLO # SL20190035

Project Manager: Amy Nunez, Coastal Resources (GLO)

Surveyor: Michael Hoover, Licensed State Land Surveyor

Description: Coastal Boundary Survey, dated May 5, 2020, delineating the line of Mean High Water along the southerly line of the Edward T. Branch Survey, Abstract number 40, Chambers County, Texas, and a northerly line of Galveston Bay/Galveston East Bay and State Submerged Tract numbers 138 and 197, Chambers County Texas in connection with planned Erosion Response Activity SL 20190035. Situated south of Smith Point along the south shore of Candy Abshier Wildlife Management Area. Centroid coordinates N 29°31'29", W 94°45'46", WGS84. A copy of the survey has been filed in Book 4, Page 205, County Surveyor Records, Chambers County, Texas.

A Coastal Boundary Survey for the above-referenced project has been reviewed and accepted; upon completion of public notice requirements, the survey will be filed in the Texas General Land Office, Archives and Records, in accordance with provisions of the *Texas Natural Resources Code*, Chapter 33.136.

For a copy of this survey or more information on this matter, contact David Klotz, LSLs, Senior Land Surveyor in the Survey Division, Texas General Land Office, by phone at (512) 463-5107 or email at david.klotz@glo.texas.gov.

Filed as: *Tex. Nat. Res. Code* Article 33.136 Chambers County, Sketch No. 12.

TRD-202100388

Mark Havens

Deputy Land Commissioner and Chief Clerk

General Land Office

Filed: January 27, 2021



Coastal Boundary Survey Notice Dagger Point, Aransas and Calhoun Counties

Coastal Boundary Survey Approval

Surveying Division

Project: Dagger Point - Aransas NWR - San Antonio Bay State Tracts 44-47, 56 & 57, Aransas & Calhoun Counties

Project No: Coastal Bend Bays and Estuaries (CBBEP) Project # 1931

Project Manager: Amy Nunez, Coastal Resources

Surveyor: James M. Naismith, Licensed State Land Surveyor

Description: Coastal Boundary Survey, dated September 4, 5 & 16, 209, delineating the Littoral Boundary along the Western Shoreline of San Antonio Bay; the Eastern Boundary of the Aransas National Wildlife Refuge; the Western Boundary of State Submerged Tracts 40, 44, 45, 47, 55, 56 & 57; Eastern Boundaries of Surveys for Aransas CSL, A-229, C B, Benoist, A-16, E. Titus, A-204, D. O'Boyle, A-169, H. Tract, A-209, S. Perry, A-176, B. Duval, A-59, J. Kroeger, A-337 and A. Wiggington, A-217, Aransas and Calhoun Counties, Texas in connection with planned Erosion Response Activity for Coastal Bend Bays and Estuaries Program (CBBEP) # 1931. Dagger Point Coastal and Marine Habitat Protection and Restoration. Centroid coordinates N 28° 16'34", W 96° 47'54", WGS84. A copy of the survey has been filed in Volume 7, Page 103, Plat Records of Aransas County, Texas.

A Coastal Boundary Survey for the above-referenced project has been reviewed and accepted; upon completion of public notice requirements, the survey will be filed in the Texas General Land Office, Archives and Records, in accordance with provisions of the *Texas Natural Resources Code*, Chapter 33.136.

For a copy of this survey or more information on this matter, contact David Klotz, LSLs, Senior Land Surveyor in the Survey Division, Texas General Land Office, by phone at (512) 463-5107 or email at david.klotz@glo.texas.gov.

Filed as: *Tex. Nat. Res. Code* Article 33.136, Aransas County, Sketch No. 17

TRD-202100390

Mark Havens

Chief Clerk, Deputy Land Commissioner

General Land Office

Filed: January 27, 2021



Coastal Boundary Survey Notice McFaddin National Wildlife Refuge

Coastal Boundary Survey Approval

Surveying Division

Project: McFaddin National Wildlife Refuge adjacent to Gulf of Mexico State Tracts 14, 48-51, 62-66, 80-82, & 98-101 from High Island to Sea Rim State Park, Galveston, Chambers, & Jefferson Counties, Tx

Project No: Coastal Erosion Planning and Response Act (CEPRA) No. 1658

Project Manager: Kelly Brooks, Coastal Resources (Texas General Land Office)

Surveyor: James M. Naismith, Licensed State Land Surveyor

Description: Coastal Boundary Survey, dated May 1-3 & 23-24, 2019, delineating the littoral boundary along the Gulf of Mexico shoreline of McFaddin National Wildlife Refuge adjacent to Gulf of Mexico & State Tracts 14, 48-51, 62-66, 80-82, & 98-101 in Galveston, Chambers, & Jefferson Counties, Texas in connection with planned Coastal Erosion Planning and Response Act (CEPRA) Project # 1658, Dune Restoration and Beach Nourishment. Centroid coordinates N 29°37'22", W 94°12'01", WGS84. A copy of the survey has been filed in Book 1,

Page 256, Surveyor's Records of Galveston County, Texas, Volume 4, Page 204, Surveyor's Records, File Number 154825, Official Public Records of Chambers County, and Instrument Number 2020020870, Official Public Records of Jefferson County, Texas.

A Coastal Boundary Survey for the above-referenced project has been reviewed and accepted; upon completion of public notice requirements, the survey will be filed in the Texas General Land Office, Archives and Records, in accordance with provisions of the *Texas Natural Resources Code*, Chapter 33.136.

For a copy of this survey or more information on this matter, contact David Klotz, LSLs, Senior Land Surveyor in the Survey Division, Texas General Land Office, by phone at (512) 463-5107 or email at david.klotz@glo.texas.gov.

Filed as: *Tex. Nat. Res. Code* Article 33.136 Jefferson County, Sketch No. 13.

TRD-202100389

Mark Havens

Deputy Land Commissioner and Chief Clerk

General Land Office

Filed: January 27, 2021



Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence Under the Texas Coastal Management Program

On January 10, 1997, the State of Texas received federal approval of the Coastal Management Program (CMP) (62 *Federal Register* pp. 1439 - 1440). Under federal law, federal agency activities and actions affecting the Texas coastal zone must be consistent with the CMP goals and policies identified in 31 TAC Chapter 501. Requests for federal consistency review were deemed administratively complete for the following project(s) during the period of January 11, 2021 to January 22, 2021. As required by federal law, the public is given an opportunity to comment on the consistency of proposed activities in the coastal zone undertaken or authorized by federal agencies. Pursuant to 31 TAC §§506.25, 506.32, and 506.41, the public comment period extends 30 days from the date published on the Texas General Land Office website. The notice was published on the website on Friday, January 29, 2021. The public comment period for this project will close at 5:00 p.m. on Sunday, February 28, 2021.

FEDERAL AGENCY ACTIONS:

Applicant: Total Petrochemicals & Refining USA, Inc.

Location: The project site is located in the Neches River, approximately 0.86 miles northwest of 6869 Rainbow Lane, in Port Arthur, Jefferson County, Texas.

Latitude & Longitude (NAD 83): 29.981261, -93.884558

Project Description: The applicant proposes new work as an addition to previously authorized permit (SWG-1995-02251). New work includes deepening the dredge depth to -48-feet M.L.L.W. (-48.93-feet MHW) with a 1.0-foot advanced maintenance and 1.0-foot allowable over depth for the planned deepening of the Federal Channel. The applicant is also requesting to extend the dredge pad out to the Federal Channel Centerline and to renew the maintenance dredging for an additional 10 years. Proposed dredge activities would utilize mechanical, hydraulic and/or silt blade methods and remove approximately 60,000 - 70,000 cubic yards of dredge material from approximately 15.85 acres annually. The applicant is requesting to place the dredge material in either Placement Area 13, 14 or 16.

Type of Application: U.S. Army Corps of Engineers permit application #SWG-1995-02251. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act.

CMP Project No: 21-1171-F1

Further information on the applications listed above, including a copy of the consistency certifications or consistency determinations for inspection, may be obtained from the Texas General Land Office Public Information Officer at 1700 N. Congress Avenue, Austin, Texas 78701, or via email at pialegal@glo.texas.gov. Comments should be sent to the Texas General Land Office Coastal Management Program Coordinator at the above address or via email at federal.consistency@glo.texas.gov.

TRD-202100386

Mark Havens

Chief Clerk, Deputy Land Commissioner

General Land Office

Filed: January 27, 2021



Notice of Deepwater Port License Application

Notice is hereby given that Blue Marlin Offshore Port LLC (BMOP) has submitted an application to the Maritime Administration (MARAD) and the U.S. Coast Guard for a license under the Deepwater Port Act of 1974 to own, construct, and operate a deepwater port in the Gulf of Mexico for the export of domestically produced oil. The proposed deepwater port would allow for the loading of Very Large Crude Carriers (VLCCs) via a catenary anchor leg mooring buoy system (CALM) located approximately 99 statute miles off the coast of Cameron Parish, Louisiana.

As described in the application, the overall proposed project would include the transport of oil from the existing Sunoco Partners Marketing and Terminals, L.P. storage facility and terminal in Nederland, Jefferson County, Texas through a new 42-inch pipeline to the existing Stingray Mainline at Station 501 in Cameron Parish, Louisiana, and from there through an existing pipeline to the Deepwater Port. These pipelines would cross state and federal waters in the Gulf, terminating at the CALM buoy system in a water depth of approximately 115 feet. The proposed CALM system would be located within Outer Continental Shelf lease block 509, approximately 99 statute miles off the coast of Cameron Parish, Louisiana.

The BMOP deepwater port license application may be viewed at <http://www.regulations.gov> under docket number MARAD-2020-0127. The docket will also be the repository for all associated Federal Register notices, communications, comments, and the Draft and Final Environmental Impact Statement. Pursuant to the criteria provided in the Deepwater Port Act of 1974 (33 U.S.C. §§1501-1524), Texas is the designated Adjacent Coastal State for this deepwater port license application. For additional information regarding deepwater ports and the statutes and regulations governing their licensing, including the application review process for the proposed BMOP deepwater port, please refer to the notice published by MARAD in the November 4, 2020 edition of the *Federal Register* (85 FR 70233).

TRD-202100320

Mark Havens

Deputy Land Commissioner and Chief Clerk

General Land Office

Filed: January 22, 2021



Request for Applications for the 2022-2023 Texas General Land Office Oil Spill Prevention and Response Program for Research, Testing, and Development of Oil Discharge Prevention and Response Technology, Training and Community Outreach

Filing Authority. The availability of funds under the Request for Applications described herein (the "RFA") is authorized by Tex. Nat. Res. Code §40.302, and will be contingent on state appropriations for fiscal years 2022-23, September 1, 2021, to August 31, 2023.

Eligible Applicants. The General Land Office (GLO) requests applications under the RFA from State of Texas Institutions of Higher Education.

Description. The purpose of this program is for the GLO to contract with state institutions of higher education to perform research, testing, and development of oil discharge prevention and response technology, oil discharge response training, wildlife and natural resources rescue and rehabilitation, development of computer models to predict the movements and impacts of unauthorized discharges of oil, and other purposes consistent with and in furtherance of the purposes of the **Oil Spill** Prevention and Response Act of 1991, Tex. Nat. Res. Code Chapter 40.

Dates of Project. The program will be implemented from September 1, 2021, through August 31, 2023. Applicants should plan for a starting date of no earlier than September 1, 2021, and an ending date of no later than August 31, 2023, contingent on the continued availability of funding.

Project Amount. Approximately \$1.25 million per year will be available for projects funded through the GLO **Oil Spill** R&D program. It is anticipated that most successful applications will be for two-year projects. There is no match requirement under this program, however, preferential consideration will be given to applicants offering matching funds, including in-kind match. This program is funded entirely with state funds and is contingent on the GLO receiving sufficient state appropriations to carry out the program.

Selection Criteria. Applications will be evaluated through an internal, and if applicable, an external peer review process. Several criteria will be used in the review. For example, applications will be evaluated on scientific merit and soundness as well as clear and useful milestones or deliverables.

The GLO will also consider the likelihood that the application will increase the capability, or improve the knowledge and technology, necessary to prevent, respond to, and clean-up spills of crude oil and petroleum products in coastal, offshore environments, marine shorelines, estuarine waters, and marshes. The clarity of the budget and capability or qualifications of the listed investigator(s) will be reviewed. This section represents a sample of criteria and not an exclusive or complete list.

The GLO is not obligated to approve an application, provide funds, or endorse any application submitted in response to this RFA. This RFA does not commit the GLO to pay any costs before an application is approved. The issuance of this RFA does not obligate the GLO to award a grant or pay any costs incurred in preparing a response.

Requesting the Application. The complete RFA will be posted on the GLO web page at <http://www.glo.texas.gov/coast/grant-projects/osr/index.html> for viewing and downloading.

Further Information. To ensure no prospective applicant obtains a competitive advantage because of acquisition of information unknown to other prospective applicants, all questions must be submitted in writing to the GLO contact persons identified in the program guidelines

of the RFA at <http://www.glo.texas.gov/coast/grant-projects/osr/index.html> no later than 30 days after publication in the *Texas Register*.

Deadline for Receipt of Applications. The GLO must receive applications by 5:00 p.m. (Central Time), 30 days after publication in the *Texas Register*, to be eligible for consideration.

TRD-202100381

Mark Havens

Deputy Land Commissioner and Chief Clerk

General Land Office

Filed: January 27, 2021



Texas Health and Human Services Commission

Public Notice - Long-Term Care Plan for Persons with an Intellectual Disability or Related Condition for State Fiscal Years 2020-2021

The Final Long-Term Care Plan for Persons with an Intellectual Disability or Related Condition for State Fiscal Years 2020-2021 is available on the HHSC Web site at: <https://hhs.texas.gov/laws-regulations/reports-presentations>. Alternatively, interested parties may request a free copy of the Final Long-Term Care Plan by contacting the HHSC Quality Reporting Unit by U.S. mail, telephone, or by email at the address below.

Health & Human Services Commission

Quality Reporting Unit

Office of the Quality Monitoring Program

Medicaid & CHIP Services

701 West 51st Street, Mail Code W510

Austin, TX 78751

LtcSearch@hhsc.state.tx.us

(512) 438-5150

TRD-202100383

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: January 27, 2021



Public Notice - Texas Managed Care Quality Strategy

The Texas Health and Human Services Commission (HHSC) announces its intent to submit to the Centers for Medicare & Medicaid Services (CMS) an updated *Texas Managed Care Quality Strategy* on or before March 31, 2021.

Proposed Update. In accordance with 42 Code of Federal Regulations (CFR) §438.340, each State contracting with a Managed Care Organization (MCO) must draft and implement a written quality strategy for assessing and improving the quality of health care and services furnished by the MCO. The state must review and update the quality strategy as needed, but no less than once every 3 years.

The revised Quality Strategy will describe new quality improvement programs and activities; update the status of initiatives labeled Future Programs in the previous version; reflect updated organizational descriptions; and remove outdated information, including references to completed initiatives. In addition, quality improvement priorities from the HHS Healthcare Quality Plan (published November 2017) have

been updated and incorporated into the Quality Strategy as managed care quality goals and mapped to quality activities.

Copy of Proposed Update. The proposed updated *Texas Managed Care Quality Strategy* is available on the HHSC website, which can be viewed at this link: <https://hhs.texas.gov/about-hhs/process-improvement/improving-services-texans/medicaid-chip-quality-efficiency-improvement/quality-strategy>. For reference, the current *Texas Managed Care Quality Strategy* (last edited and submitted to CMS in March 2018) is also available via that link. Interested parties may obtain additional information and/or a free copy of the proposed Quality Strategy update by contacting Amanda Sablan by mail at Texas Health and Human Services Commission, P.O. Box 13247, Mail Code H-600, Austin, Texas 78711-3247; by phone at (512) 487-3446; or by email at TX_Medicaid_Waivers@hhsc.state.tx.us.

Public Comment Period. The public will have an opportunity to comment on the proposed update from Friday, February 5, 2021, to Monday, March 8, 2021.

Comments about the proposed update may be made by U.S. mail, overnight mail, special delivery mail, telephone, fax or email:

U.S. Mail

Texas Health and Human Services Commission

Attention: Amanda Sablan, Waiver Coordinator, Policy Development Support

P.O. Box 13247

Mail Code H-600

Austin, Texas 78711-3247

Overnight mail or special delivery mail

Texas Health and Human Services Commission

Attention: Amanda Sablan, Mail Code H-600

Brown-Heatly Building

4900 North Lamar Blvd.

Austin, Texas 78751

Telephone

(512) 487-3446

Fax

Attention: Amanda Sablan at (512) 206-3975

Email

TX_Medicaid_Waivers@hhsc.state.tx.us

TRD-202100382

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: January 27, 2021



Texas Higher Education Coordinating Board

Notice of Public Hearing State of Texas College Student Loan Bonds and State of Texas College Student Loan Refunding Bonds

NOTICE IS HEREBY GIVEN of a public hearing to be held by the Texas Higher Education Coordinating Board (the "Issuer") on February 16, 2021, at 10:00 a.m., at the offices of the Issuer, 1200 East Anderson

Lane, Room 1.170/Board Room, Austin, Texas, 78752, with respect to the issuance by the Issuer of one or more series of State of Texas College Student Loan Bonds ("Loan Bonds") and State of Texas College Student Loan Refunding Bonds ("Refunding Bonds")(collectively, the "Bonds") in an aggregate amount of not more than (i) \$180,000,000 in Loan Bonds, the proceeds of which will be used by the Issuer to originate student loans to student borrowers at eligible institutions of higher education in the State of Texas under Chapter 52, Texas Education Code (the "Loan Program") and (ii) \$96,000,000 in Refunding Bonds, the proceeds of which will be used by the Issuer to refund certain student loan bonds that were previously issued by the Issuer for the Loan Program to achieve a debt service savings. Descriptions of the Loan Program, the Bonds and the particular bonds to be refunded have been and will be kept on file at the office of the Issuer at the address set forth above. The Bonds will be general obligations of the State of Texas.

All interested persons are invited to attend such public hearing to express their views with respect to the Loan Program and the proposed issuance of the Bonds. Questions or requests for additional information may be directed to Ken Martin, Assistant Commissioner - Financial Services/Chief Financial Officer, 1200 East Anderson Lane, Austin, Texas, 78752.

Persons who plan to attend are encouraged, in advance of the public hearing, to inform the Issuer either in writing or by telephone at (512) 427-6173. Any interested persons unable to attend the hearing may submit their views in writing to the Issuer prior to the date scheduled for the hearing.

This notice is published and the above described hearing is to be held in satisfaction of the requirements of section 147(f) of the Internal Revenue Code of 1986, as amended, regarding the public hearing prerequisite to the exclusion from gross income for federal income tax purposes of the interest on the Bonds.

TRD-202100327
Nichole Bunker-Henderson
General Counsel
Texas Higher Education Coordinating Board
Filed: January 25, 2021

◆ ◆ ◆
Texas Department of Insurance

Company Licensing

Application for incorporation in the state of Texas for Provider Partners Health Plan of Texas, Inc., a domestic Health Maintenance Organization (HMO). The home office is in Fort Worth, Texas.

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-202100384
James Person
General Counsel
Texas Department of Insurance
Filed: January 27, 2021

◆ ◆ ◆
Texas Lottery Commission

Scratch Ticket Game Number 2292 "WILD \$10"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2292 is "WILD \$10". The play style is "multiple games".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2292 shall be \$10.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2292.

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, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, WILD SYMBOL, SUN SYMBOL, PIGGY BANK SYMBOL, RING SYMBOL, WALLET SYMBOL, KEY SYMBOL, ANCHOR SYMBOL, COIN SYMBOL, STACK OF CASH SYMBOL, BOAT SYMBOL, CHERRY SYMBOL, GOLD BAR SYMBOL, BANANA SYMBOL, DIAMOND SYMBOL, SPADE SYMBOL, BELL SYMBOL, CROWN SYMBOL, PEAR SYMBOL, LEMON SYMBOL, LIGHTNING BOLT SYMBOL, HEART SYMBOL, CLOVER SYMBOL, DICE SYMBOL, STRAWBERRY SYMBOL, STAR SYMBOL, WISHBONE SYMBOL, HORSESHOE SYMBOL, MONEY BAG SYMBOL, \$10.00, \$20.00, \$30.00, \$50.00, \$100, \$200, \$500, \$1,000, \$10,000 and \$250,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2292 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
03	THR
04	FOR
05	FIV
06	SIX
07	SVN
08	EGT
09	NIN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWV
26	TWSX

27	TWSV
28	TWET
29	TWNI
30	TRTY
WILD SYMBOL	WINX10
SUN SYMBOL	SUN
PIGGY BANK SYMBOL	PIGBNK
RING SYMBOL	RING
WALLET SYMBOL	WALLET
KEY SYMBOL	KEY
ANCHOR SYMBOL	ANCHOR
COIN SYMBOL	COIN
STACK OF CASH SYMBOL	CASH
BOAT SYMBOL	BOAT
CHERRY SYMBOL	CHERRY
GOLD BAR SYMBOL	BAR
BANANA SYMBOL	BANANA
DIAMOND SYMBOL	DIAMOND
SPADE SYMBOL	SPADE
BELL SYMBOL	BELL
CROWN SYMBOL	CROWN
PEAR SYMBOL	PEAR
LEMON SYMBOL	LEMON
LIGHTNING BOLT SYMBOL	BOLT
HEART SYMBOL	HEART
CLOVER SYMBOL	CLOVER
DICE SYMBOL	DICE
STRAWBERRY SYMBOL	STRWBY

STAR SYMBOL	STAR
WISHBONE SYMBOL	WSHBN
HORSESHOE SYMBOL	HRSHOE
MONEY BAG SYMBOL	DBL
\$10.00	TEN\$
\$20.00	TWY\$
\$30.00	TRTY\$
\$50.00	FFTY\$
\$100	ONHN
\$200	TOHN
\$500	FVHN
\$1,000	ONTH
\$10,000	10TH
\$250,000	250TH

E. Serial Number - A unique thirteen (13) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Bar Code - A twenty-four (24) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Game-Pack-Ticket Number - A fourteen (14) digit number consisting of the four (4) digit game number (2292), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 050 within each Pack. The format will be: 2292-0000001-001.

H. Pack - A Pack of the "WILD \$10" Scratch Ticket Game contains 050 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The back of Ticket 001 will be shown on the front of the Pack; the back of Ticket 050 will be revealed on the back of the Pack. All Packs will be tightly shrink-wrapped. There will be no breaks between the Tickets in a Pack.

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 "WILD \$10" Scratch Ticket Game No. 2292.

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 "WILD \$10" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose forty-five (45) Play Symbols. GAME 1: A player will scratch the entire play area to reveal 4 LUCKY NUMBERS Play Symbols and 10 YOUR NUMBERS Play Symbols. If the player matches any of the YOUR NUMBERS Play Symbols to any of the LUCKY NUMBERS Play Symbols, the player wins the PRIZE for that number. If the player reveals a "WILD" Play Symbol, the player wins 10 TIMES the PRIZE for that symbol. GAME 2: If the player reveals 3 matching prize amounts, the player wins that amount. GAME 3: If the player matches the YOUR SYMBOL Play Symbol to the WINNING SYMBOL Play Symbol in the same PLAY, the player wins the PRIZE for that PLAY. GAME 4: If the player matches any of the YOUR SYMBOLS Play Symbols to the WINNING SYMBOL Play Symbol, the player wins the PRIZE for that symbol. If the player reveals a "MONEY BAG" 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 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. GENERAL: Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

B. GENERAL: A Ticket can win as indicated by the prize structure.

C. GENERAL: A Ticket can win up to seventeen (17) times.

D. GENERAL: The "WILD" (WINX10) Play Symbol will only appear in GAME 1 and will never appear in GAME 2, GAME 3 or GAME 4.

E. GENERAL: The "MONEY BAG" (DBL) Play Symbol will only appear in GAME 4 and will never appear in GAME 1, GAME 2 or GAME 3.

F. GENERAL: On winning and Non-Winning Tickets, the top cash prizes of \$1,000, \$10,000 and \$250,000 will appear at least once, except on Tickets winning fifteen (15) times or more and with respect to other parameters, play action or prize structure.

G. GAME 1: GAME 1 can win up to ten (10) times.

H. GAME 1: No matching non-winning YOUR NUMBERS Play Symbols will appear in GAME 1.

I. GAME 1: All YOUR NUMBERS Play Symbols will never equal the corresponding Prize Symbol (i.e., \$20 and 20 and \$30 and 30).

J. GAME 1: On all Tickets, a Prize Symbol will not appear more than one (1) time in GAME 1, except as required by the prize structure to create multiple wins.

K. GAME 1: On Non-Winning Tickets, the LUCKY NUMBERS Play Symbol will never match a YOUR NUMBERS Play Symbol.

L. GAME 1: All LUCKY NUMBERS Play Symbols will be different.

M. GAME 1: Tickets winning more than one (1) time in the GAME 1 play area will use as many LUCKY NUMBERS Play Symbols to create matches, unless restricted by other parameters, play action or prize structure.

N. GAME 1: The "WILD" (WINX10) Play Symbol will never appear more than once in GAME 1.

O. GAME 1: The "WILD" (WINX10) Play Symbol will win 10 TIMES the PRIZE for that Play Symbol and will win as per the prize structure.

P. GAME 1: The "WILD" (WINX10) Play Symbol will never appear on a Non-Winning Ticket.

Q. GAME 1: The "WILD" (WINX10) Play Symbol will never appear as a LUCKY NUMBERS Play Symbol.

R. GAME 2: GAME 2 can win up to one (1) time.

S. GAME 2: Winning games will contain three (3) matching Prize Symbols.

T. GAME 2: A Prize Symbol will not appear more than three (3) times in GAME 2.

U. GAME 2: There will never be more than one (1) set of three (3) matching Prize Symbols in GAME 2.

V. GAME 2: Non-winning games will never have more than two (2) matching Prize Symbols.

W. GAME 3: GAME 3 can win up to two (2) times.

X. GAME 3: Non-winning Prize Symbols will not match a winning Prize Symbol in GAME 3.

Y. GAME 3: A Prize Symbol will not appear more than one (1) time in GAME 3, except as required by the prize structure to create multiple wins.

Z. GAME 3: On Non-Winning Tickets, the WINNING SYMBOL Play Symbol will never match a YOUR SYMBOL Play Symbol.

AA. GAME 3: No Play Symbol in either PLAY will match a Play Symbol from the other PLAY on winning or non-winning PLAYS.

BB. GAME 4: GAME 4 can win up to four (4) times.

CC. GAME 4: Non-winning Prize Symbols will not match a winning Prize Symbol in GAME 4.

DD. GAME 4: No matching non-winning YOUR SYMBOLS Play Symbols will appear on a Ticket.

EE. GAME 4: A Prize Symbol will not appear more than one (1) time in GAME 4, except as required by the prize structure to create multiple wins.

FF. GAME 4: On Non-Winning Tickets, the WINNING SYMBOL Play Symbol will never match a YOUR SYMBOLS Play Symbol.

GG. GAME 4: The "MONEY BAG" (DBL) Play Symbol will never appear as the WINNING SYMBOL Play Symbol.

HH. GAME 4: The "MONEY BAG" (DBL) Play Symbol will never appear more than once in GAME 4.

II. GAME 4: The "MONEY BAG" (DBL) Play Symbol will never appear on a Non-Winning Ticket.

JJ. GAME 4: The "MONEY BAG" (DBL) Play Symbol will win DOUBLE the PRIZE for that Play Symbol and will win as per the prize structure.

2.3 Procedure for Claiming Prizes.

A. To claim a "WILD \$10" Scratch Ticket Game prize of \$10.00, \$20.00, \$30.00, \$50.00, \$100, \$200 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$30.00, \$50.00, \$100, \$200 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "WILD \$10" Scratch Ticket Game prize of \$1,000, \$10,000 or \$250,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "WILD \$10" Scratch Ticket Game prize the claimant may submit the signed winning Scratch Ticket and a thoroughly completed claim form via mail. If a prize value is \$1,000,000 or more, the claimant must also provide proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). Mail all to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;

2. in default on a loan made under Chapter 52, Education Code;

3. in default on a loan guaranteed under Chapter 57, Education Code; or

4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "WILD \$10" 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 "WILD \$10" 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 10,080,000 Scratch Tickets in Scratch Ticket Game No. 2292. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2292 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$10.00	1,243,200	8.11
\$20.00	840,000	12.00
\$30.00	268,800	37.50
\$50.00	198,240	50.85
\$100	143,220	70.38
\$200	33,600	300.00
\$500	1,596	6,315.79
\$1,000	250	40,320.00
\$10,000	25	403,200.00
\$250,000	4	2,520,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.69. 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. 2292 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. 2292, the State Lottery Act (Texas Government Code, Chap-

ter 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-202100328

Bob Biard

General Counsel

Texas Lottery Commission

Filed: January 25, 2021



Scratch Ticket Game Number 2338 "500X LOTERIA SPECTACULAR"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2338 is "500X LOTERIA SPECTACULAR". The play style is "row/column/diagonal".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2338 shall be \$50.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2338.

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: AIRPLANE SYMBOL, ARMORED CAR SYMBOL, ATM CARD SYMBOL, BANK SYMBOL, BIRD SYMBOL, COINS SYMBOL, FLAG SYMBOL, CROWN SYMBOL, RABBIT FOOT SYMBOL, GOLD BAR SYMBOL, HEART SYMBOL, KEY SYMBOL, LAMP SYMBOL, MOON SYMBOL, RAINBOW SYMBOL, RING

SYMBOL, SEVEN SYMBOL, SPADE SYMBOL, SUN SYMBOL, WISHBONE SYMBOL, THE ARMADILLO SYMBOL, THE BAT SYMBOL, THE BICYCLE SYMBOL, THE BLUEBONNET SYMBOL, THE BOAR SYMBOL, THE BUTTERFLY SYMBOL, THE CACTUS SYMBOL, THE CARDINAL SYMBOL, THE CHERRIES SYMBOL, THE CHILE PEPPER SYMBOL, THE CORN SYMBOL, THE COVERED WAGON SYMBOL, THE COW SYMBOL, THE COWBOY SYMBOL, THE COWBOY HAT SYMBOL, THE DESERT SYMBOL, THE FIRE SYMBOL, THE FOOTBALL SYMBOL, THE GEM SYMBOL, THE GUITAR SYMBOL, THE HEN SYMBOL, THE HORSE SYMBOL, THE HORSESHOE SYMBOL, THE JACKRABBIT SYMBOL, THE LIZARD SYMBOL, THE LONESTAR SYMBOL, THE MARACAS SYMBOL, THE MOCKINGBIRD SYMBOL, THE MOONRISE SYMBOL, THE MORTAR PESTLE SYMBOL, THE NEWSPAPER SYMBOL, THE OIL RIG SYMBOL, THE PECAN TREE SYMBOL, THE PIÑATA SYMBOL, THE RACE CAR SYMBOL, THE RATTLESNAKE SYMBOL, THE ROAD RUNNER SYMBOL, THE SADDLE SYMBOL, THE SHIP SYMBOL, THE SHOES SYMBOL, THE SOCCER BALL SYMBOL, THE SPEAR SYMBOL, THE SPUR SYMBOL, THE STRAWBERRY SYMBOL, THE SUNSET SYMBOL, THE WHEEL SYMBOL, THE WINDMILL SYMBOL, BAR SYMBOL, BELL SYMBOL, BILL SYMBOL, CAMERA SYMBOL, CANDY SYMBOL, CHERRY SYMBOL, CLOVER SYMBOL, DICE SYMBOL, DOLLAR SIGN SYMBOL, DRUM SYMBOL, GEM SYMBOL, GIFT SYMBOL, CHEST SYMBOL, MELON SYMBOL, NECKLACE SYMBOL, PEARL SYMBOL, SHELL SYMBOL, STAR SYMBOL, VAULT SYMBOL, WATER BOTTLE SYMBOL, \$50.00, \$75.00, \$100, \$150, \$200, \$250, \$500, \$1,000, \$5,000, \$25,000 and \$3,000,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2338 - 1.2D

PLAY SYMBOL	CAPTION
AIRPLANE SYMBOL	AIRPLANE
ARMORED CAR SYMBOL	ARMCAR
ATM CARD SYMBOL	CARD
BANK SYMBOL	BANK
BIRD SYMBOL	BIRD
COINS SYMBOL	COINS
FLAG SYMBOL	FLAG
CROWN SYMBOL	CROWN
RABBIT FOOT SYMBOL	FOOT
GOLD BAR SYMBOL	GOLDBAR
HEART SYMBOL	HEART
KEY SYMBOL	KEY
LAMP SYMBOL	LAMP
MOON SYMBOL	MOON
RAINBOW SYMBOL	RAINBOW
RING SYMBOL	RING
SEVEN SYMBOL	SEVEN
SPADE SYMBOL	SPADE
SUN SYMBOL	SUN
WISHBONE SYMBOL	WISHBONE
THE ARMADILLO SYMBOL	THEARMADILLO
THE BAT SYMBOL	THE BAT
THE BICYCLE SYMBOL	THE BICYCLE
THE BLUEBONNET SYMBOL	THEBLUEBONNET
THE BOAR SYMBOL	THE BOAR

THE BUTTERFLY SYMBOL	THEBUTTERFLY
THE CACTUS SYMBOL	THE CACTUS
THE CARDINAL SYMBOL	THECARDINAL
THE CHERRIES SYMBOL	THECHERRIES
THE CHILE PEPPER SYMBOL	THECHILEPEPPER
THE CORN SYMBOL	THE CORN
THE COVERED WAGON SYMBOL	THECOVEREDWAGON
THE COW SYMBOL	THE COW
THE COWBOY SYMBOL	THECOWBOY
THE COWBOY HAT SYMBOL	THECOWBOYHAT
THE DESERT SYMBOL	THE DESERT
THE FIRE SYMBOL	THE FIRE
THE FOOTBALL SYMBOL	THEFOOTBALL
THE GEM SYMBOL	THE GEM
THE GUITAR SYMBOL	THE GUITAR
THE HEN SYMBOL	THE HEN
THE HORSE SYMBOL	THE HORSE
THE HORSESHOE SYMBOL	THEHORSESHOE
THE JACKRABBIT SYMBOL	THEJACKRABBIT
THE LIZARD SYMBOL	THELIZARD
THE LONESTAR SYMBOL	THELONESTAR
THE MARACAS SYMBOL	THEMARACAS
THE MOCKINGBIRD SYMBOL	THEMOCKINGBIRD
THE MOONRISE SYMBOL	THEMOONRISE
THE MORTAR PESTLE SYMBOL	THEMORTARPESTLE
THE NEWSPAPER SYMBOL	THENEWSPAPER
THE OIL RIG SYMBOL	THEOILRIG
THE PECAN TREE SYMBOL	THEPECANTREE

THE PIÑATA SYMBOL	THE PIÑATA
THE RACE CAR SYMBOL	THERACECAR
THE RATTLESNAKE SYMBOL	THERATTLESNAKE
THE ROAD RUNNER SYMBOL	THEROADRUNNER
THE SADDLE SYMBOL	THESADDLE
THE SHIP SYMBOL	THE SHIP
THE SHOES SYMBOL	THE SHOES
THE SOCCER BALL SYMBOL	THESOCCERBALL
THE SPEAR SYMBOL	THE SPEAR
THE SPUR SYMBOL	THE SPUR
THE STRAWBERRY SYMBOL	THESTRAWBERRY
THE SUNSET SYMBOL	THE SUNSET
THE WHEEL SYMBOL	THE WHEEL
THE WINDMILL SYMBOL	THEWINDMILL
BAR SYMBOL	BAR
BELL SYMBOL	BELL
BILL SYMBOL	BILL
CAMERA SYMBOL	CAMERA
CANDY SYMBOL	CANDY
CHERRY SYMBOL	CHERRY
CLOVER SYMBOL	CLOVER
DICE SYMBOL	DICE
DOLLAR SIGN SYMBOL	DOLLAR
DRUM SYMBOL	DRUM
GEM SYMBOL	GEM
GIFT SYMBOL	GIFT
CHEST SYMBOL	CHEST
MELON SYMBOL	MELON

NECKLACE SYMBOL	NECKLACE
PEARL SYMBOL	PEARL
SHELL SYMBOL	SHELL
STAR SYMBOL	STAR
VAULT SYMBOL	VAULT
WATER BOTTLE SYMBOL	WATER
\$50.00	FFTY\$
\$75.00	SVFV\$
\$100	ONHN
\$150	ONFF
\$200	TOHN
\$250	TOFF
\$500	FVHN
\$1,000	ONTH
\$5,000	FVTH
\$25,000	25TH
\$3,000,000	TPPZ

E. Serial Number - A unique thirteen (13) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Bar Code - A twenty-four (24) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Game-Pack-Ticket Number - A fourteen (14) digit number consisting of the four (4) digit game number (2338), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 020 within each Pack. The format will be: 2338-0000001-001.

H. Pack - A Pack of the "500X LOTERIA SPECTACULAR" Scratch Ticket Game contains 020 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). Ticket back 001 and 020 will both be exposed.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does

not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "500X LOTERIA SPECTACULAR" Scratch Ticket Game No. 2338.

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 "500X LOTERIA SPECTACULAR" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose eighty-seven (87) Play Symbols. PLAY AREA 1 INSTRUCTIONS (BONUS): If the player reveals 2 matching symbols in the BONUS \$50, the player wins \$50. If the player reveals 2 matching symbols in the BONUS \$100, the player wins \$100. If the player reveals 2 matching symbols in the BONUS \$200, the player wins \$200. If the player reveals 2 matching symbols in the BONUS \$500, the player wins \$500. If the player reveals 2 matching symbols in the BONUS \$1,000, the player wins \$1,000. PLAY AREA 2 INSTRUCTIONS (PLAYBOARD): (1) The player

completely scratches the CALLER'S CARD to reveal 27 symbols. (2) The player scratches ONLY the symbols on the PLAYBOARD that exactly match the symbols revealed on the CALLER'S CARD. (3) If the player reveals a complete row, column or diagonal line, the player wins the prize for that line. PLAY AREA 3 INSTRUCTIONS (GAMES 1 - 8): The player scratches ONLY the symbols on GAMES 1 - 8 that exactly match the symbols revealed on the CALLER'S CARD. If the player reveals 2 symbols in the same GAME, the player wins the PRIZE for that GAME. PLAY AREA 4 INSTRUCTIONS (2X, 5X, 10X, 50X, 500X MULTIPLIER): The player scratches the 2X, 5X, 10X, 50X and 500X MULTIPLIER boxes to reveal 2 symbols in each box. If the player reveals 2 matching symbols in the same MULTIPLIER box, the player multiplies the total prize won on the ticket by that MULTIPLIER and wins that amount. For example, revealing 2 "STAR" Play Symbols in the 10X MULTIPLIER box will multiply the total prize won by 10 TIMES. INSTRUCCIONES PARA ÁREA DE JUEGO 1 (BONO): Si el jugador revela 2 símbolos iguales en el área de BONO \$50, el jugador gana \$50. Si el jugador revela 2 símbolos iguales en el área de BONO \$100, el jugador gana \$100. Si el jugador revela 2 símbolos iguales en el área de BONO \$200, el jugador gana \$200. Si el jugador revela 2 símbolos iguales en el área de BONO \$500, el jugador gana \$500. Si el jugador revela 2 símbolos iguales en el área de BONO \$1,000, el jugador gana \$1,000. INSTRUCCIONES PARA ÁREA DE JUEGO 2 (TABLA DE JUEGO): (1) El jugador raspa completamente la CARTA DEL GRITÓN para revelar 27 símbolos. (2) El jugador SOLAMENTE raspa los símbolos en la TABLA DE JUEGO que son exactamente iguales a los símbolos revelados en la CARTA DEL GRITÓN. (3) Si el jugador revela una línea completa, horizontal, vertical o diagonal, el jugador gana el premio para esa línea. INSTRUCCIONES PARA ÁREA DE JUEGO 3 (JUEGOS 1 - 8): El jugador SOLAMENTE raspa los símbolos en los JUEGOS 1 - 8 que son exactamente iguales a los símbolos revelados en la CARTA DEL GRITÓN. Si el jugador revela 2 símbolos en el mismo JUEGO, el jugador gana el PREMIO para ese JUEGO. INSTRUCCIONES PARA ÁREA DE JUEGO 4 (MULTIPLICADOR 2X, 5X, 10X, 50X, 500X): El jugador raspa las cajas de MULTIPLICADOR 2X, 5X, 10X, 50X y 500X para revelar 2 símbolos en cada caja. Si el jugador revela 2 símbolos iguales en la misma caja de MULTIPLICADOR, el jugador multiplica el premio total ganado en el boleto por ese MULTIPLICADOR y gana esa cantidad. Por ejemplo, revelando 2 Símbolos de Juego de "ESTRELLA" en la caja MULTIPLICADOR 10X multiplicará por 10 el premio total ganado. 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 eighty-seven (87) 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 eighty-seven (87) 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 eighty-seven (87) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the eighty-seven (87) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. GENERAL: A Ticket can win up to sixteen (16) times in accordance with the approved prize structure.

B. GENERAL: Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

C. PLAY AREA 1 (BONUS)/ÁREA DE JUEGO 1 (BONO): There will never be matching Play Symbols in the BONUS/BONO play areas, unless used as a winning play.

D. PLAY AREA 2 (PLAYBOARD)/ÁREA DE JUEGO 2 (TABLA DE JUEGO): No matching Play Symbols in the CALLER'S CARD/CARTA DEL GRITÓN play area.

E. PLAY AREA 2 (PLAYBOARD)/ÁREA DE JUEGO 2 (TABLA DE JUEGO): At least eight (8) but no more than twelve (12) CALLER'S CARD/CARTA DEL GRITÓN Play Symbols will match a Play Symbol on the PLAYBOARD/TABLA DE JUEGO play area.

F. PLAY AREA 2 (PLAYBOARD)/ÁREA DE JUEGO 2 (TABLA DE JUEGO): No matching Play Symbols are allowed on the same PLAYBOARD/TABLA DE JUEGO play area.

G. PLAY AREA 4 (2X, 5X, 10X, 50X, 500X MULTIPLIER)/ÁREA DE JUEGO 4 (MULTIPLICADOR 2X, 5X, 10X, 50X, 500X): There will never be matching Play Symbols in the MULTIPLIER/MULTIPLICADOR play areas, unless used as a winning play.

2.3 Procedure for Claiming Prizes.

A. To claim a "500X LOTERIA SPECTACULAR" Scratch Ticket Game prize of \$50.00, \$75.00, \$100, \$150, \$200, \$250, \$300 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$50.00, \$75.00, \$100, \$150, \$200, \$250, \$300 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "500X LOTERIA SPECTACULAR" Scratch Ticket Game prize of \$1,000, \$5,000, \$10,000 or \$25,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. To claim a "500X LOTERIA SPECTACULAR" Scratch Ticket Game top level prize of \$3,000,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers in Austin, Dallas, Fort Worth, Houston or San Antonio, Texas. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification and proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). The Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the

event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. As an alternative method of claiming a "500X LOTERIA SPECTACULAR" Scratch Ticket Game prize, including the top level prize of \$3,000,000, the claimant may submit the signed winning Scratch Ticket and a thoroughly completed claim form via mail. If a prize value is \$1,000,000 or more, the claimant must also provide proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). Mail all to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

E. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;

2. in default on a loan made under Chapter 52, Education Code;

3. in default on a loan guaranteed under Chapter 57, Education Code; or

4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.

F. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

- A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

- B. if there is any question regarding the identity of the claimant;

- C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or

- D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "500X LOTERIA SPECTACULAR" 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 "500X LOTERIA SPECTACULAR" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto.

Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Prizes. There will be approximately 5,040,000 Scratch Tickets in Scratch Ticket Game No. 2338. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2338 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$50.00	504,000	10.00
\$75.00	315,000	16.00
\$100	315,000	16.00
\$150	201,600	25.00
\$200	201,600	25.00
\$250	38,724	130.15
\$300	25,200	200.00
\$500	25,200	200.00
\$1,000	1,260	4,000.00
\$5,000	336	15,000.00
\$10,000	50	100,800.00
\$25,000	16	315,000.00
\$3,000,000	4	1,260,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.10. 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. 2338 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. 2338, 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-202100331
Bob Biard
General Counsel
Texas Lottery Commission
Filed: January 26, 2021

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North Central Texas Council of Governments

Industry Forum for DFW Freight Optimization Project

The North Central Texas Council of Governments (NCTCOG) will hold a vendor forum to discuss successful strategies for optimizing the flow of freight vehicle traffic between freight hubs and expressways in the North Texas region (DFW). The forum will have two purposes: (i) inform industry of NCTCOG's plans to improve the flow of freight vehicles between freight hubs and expressways in DFW using some form of connected vehicle (CV) technology or other technology solution, and (ii) seek industry input on several issues such as those described below. The forum will be web only; no in-person attendance will be required or accepted. **NCTCOG will not contract for goods or services through this industry forum.** If NCTCOG intends to do so in the future, the mechanism to do so will be through a formal procurement process.

At the industry forum NCTCOG will lay out its vision for the freight optimization project, but the bulk of the forum will be devoted to industry input and discussion. The industry forum will be open to all interested parties. While all parties are encouraged to participate, no one is required to participate. **There will be time for short (5 minutes or less) presentations on a first come first served basis.** NCTCOG reserves the right to limit the number of presentations. More information about the Industry Forum is available on our website at www.nctcog.org/rfp, including submittal of questions and agenda topics in advance. Please advise Emily Beckham (TransRFPs@nctcog.org) if you would like to make a presentation. Presentations should focus on the questions outlined above. You are strongly encouraged to submit your questions and ideas for the forum to Ms. Beckham. An agenda will be posted in advance of the industry forum. You may also submit written materials that you believe are

pertinent to the topics covered by the industry forum to Ms. Beckham before or up to 30 days after the industry forum.

Relevant Dates

February 26, 2021: Deadline for submitting questions, suggested forum topics, and requests to make a presentation at the forum.

March 4, 2021: Details about the industry forum will be available at www.nctcog.org/rfp, including the specific time and how to access the event. The forum will be scheduled to run for one hour but may run longer at NCTCOG's discretion if the discussion warrants such. In no event will the forum run for more than two hours. Please send your RSVP to Emily Beckham (TransRFPs@nctcog.org) by 6:00 p.m. Central Time on March 3, 2021. Include participant's name and organization in the email body.

NCTCOG encourages participation by disadvantaged business enterprises and does not discriminate on the basis of age, race, color, religion, sex, national origin, or disability.

TRD-202100387
R. Michael Eastland
Executive Director
North Central Texas Council of Governments
Filed: January 27, 2021

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Panhandle Regional Planning Commission

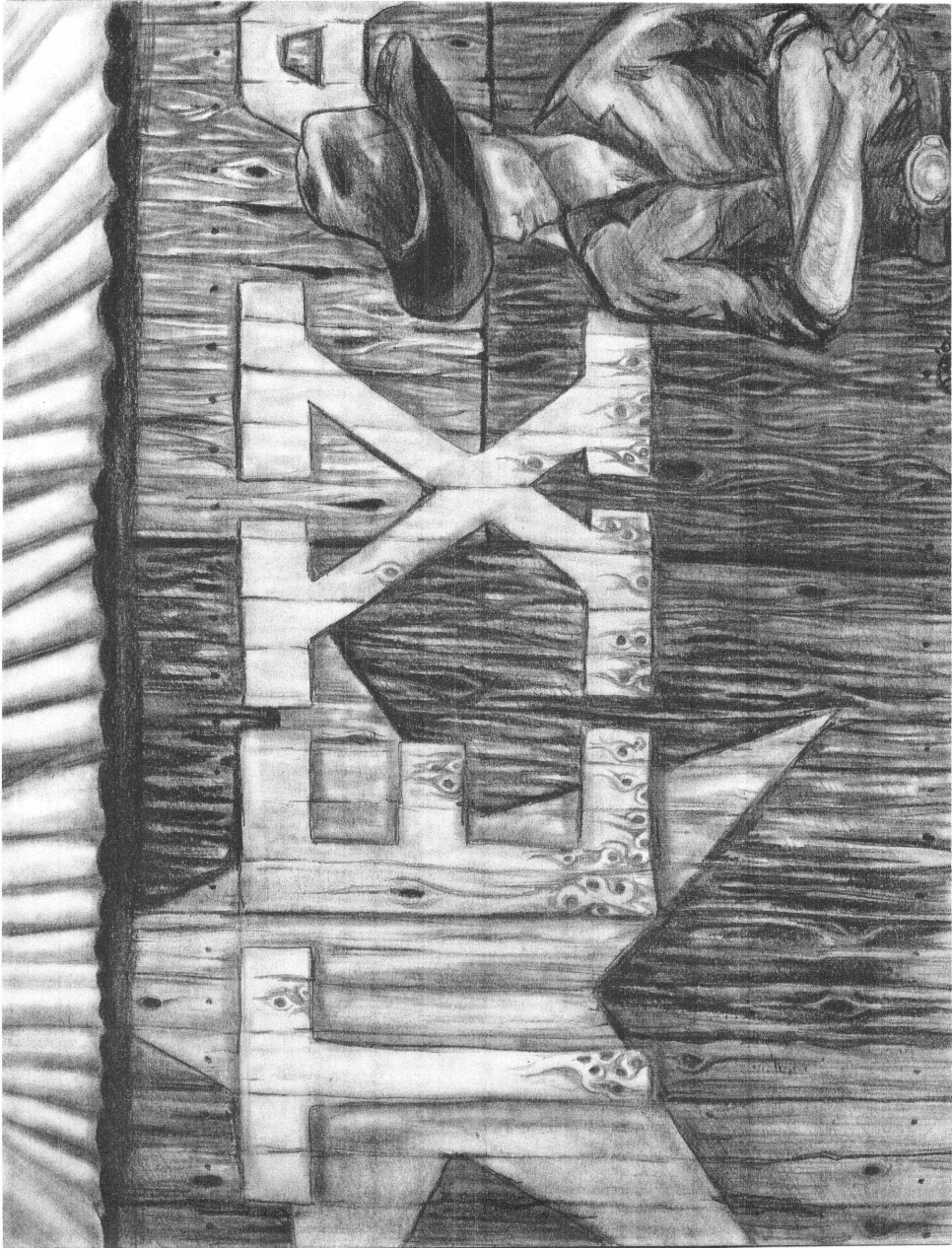
Legal Notice

The Panhandle Regional Planning Commission (PRPC) is requesting proposals for contracts to provide comprehensive general building maintenance services for the Workforce Solutions Panhandle offices located at 3120 Eddy Street in Amarillo, Texas and 1315 W. Wilson in the North Park Shopping Center in Borger, Texas.

A copy of the Request for Proposals (RFP) can be obtained Monday through Friday, 8:00 a.m. to 5:00 p.m., at 415 Southwest Eighth Ave., Amarillo, Texas 79101 or by contacting Leslie Hardin, PRPC's Workforce Development Facilities Coordinator at (806) 372-3381 or lhardin@theprpc.org. Proposals must be received at PRPC by 3:00 p.m. on Friday, February 19th, 2021.

TRD-202100374
Leslie Hardin
Workforce Development Contracts Coordinator
Panhandle Regional Planning Commission
Filed: January 26, 2021

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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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