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Secretary of State - John B. Scott

Director - Robert Summers

Editor-in-Chief - Jill S. Ledbetter

Editors

Leti Benavides

Eddie Feng

Brandy M. Hammack

Belinda Kirk

Joy L. Morgan

Breanna Mutschler

Barbara Strickland

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THE GOVERNOR

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

Appointments

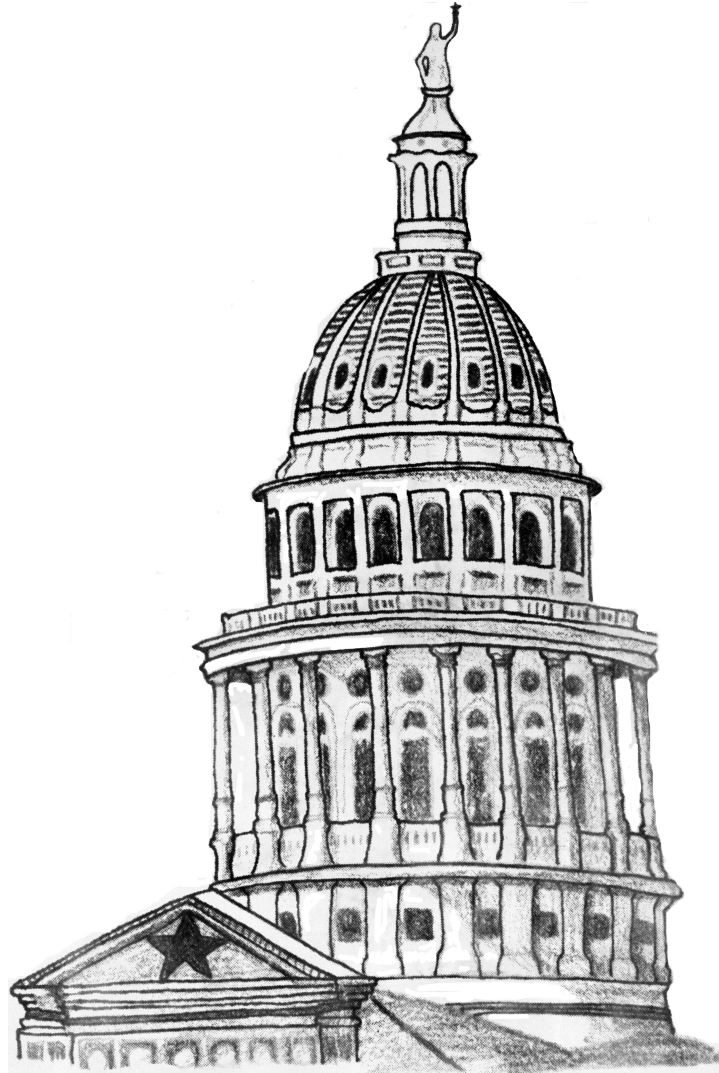
Greg Abbott, Governor

Appointments for December 21, 2021

TRD-202200013

Appointed to the Texas State Board of Public Accountancy, for a term to expire January 31, 2025, Himesh M. Gandhi of Sugar Land, Texas (replacing Kelly V. P. Aimone of Houston, who resigned).





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 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 553. LICENSING STANDARDS FOR ASSISTED LIVING FACILITIES

SUBCHAPTER K. COVID-19 RESPONSE

26 TAC §553.2004

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) adopts on an emergency basis in Title 26 Texas Administrative Code, Chapter 553, Licensing Standards for Assisted Living Facilities, new §553.2004, concerning an emergency rule to track vaccinations of staff and residents in long-term care facilities in Texas in response to COVID-19. As authorized by Texas Government Code §2001.034, HHSC may adopt an emergency rule without prior notice or hearing if it finds 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 emergency rule for Assisted Living Facility COVID-19 Vaccination Data Reporting and Emergency Communication System Enrollment.

To protect assisted living facility residents and the public health, safety, and welfare of the state during the COVID-19 pandemic, HHSC is adopting an emergency rule to require assisted living facilities to accurately report COVID-19 vaccination data for staff and residents to HHSC in the format established by HHSC within 24 hours of completing a round of vaccinations. This rule is necessary to accurately track vaccinations of staff and residents in long-term care facilities in Texas.

STATUTORY AUTHORITY

The emergency rulemaking is adopted under Texas Government Code §2001.034 and §531.0055, and Texas Health and Safety Code §247.025 and §247.026. 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 §247.026 requires the Executive Commissioner of HHSC to adopt rules prescribing minimum standards to protect the health and safety of assisted living residents. Texas Health and Safety Code §247.025 requires the Executive Commissioner of HHSC to adopt rules necessary to implement Texas Health and Safety Code Chapter 247 concerning assisted living facilities.

The new section implements Texas Government Code §531.0055 and Texas Health and Safety Code Chapter 247.

§553.2004. Assisted Living Facility COVID-19 Vaccination Data Reporting and Emergency Communication System Enrollment.

(a) An assisted living facility manager and one additional designee must enroll in an emergency communication system in accordance with instructions from the Texas Health and Human Services Commission (HHSC).

(b) An assisted living facility must respond to requests for information received through the emergency communication system in the format established by HHSC.

(c) Based on state law and federal guidance, HHSC finds COVID-19 to be a health and safety risk therefore requiring an assisted living facility to, within 24 hours of completing a round of vaccinations, accurately report COVID-19 vaccination data for staff and residents to HHSC in the format established by HHSC.

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 December 30, 2021.

TRD-202105272

Karen Ray
Chief Counsel

Health and Human Services Commission

Effective date: January 6, 2022

Expiration date: May 5, 2022

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

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CHAPTER 554. NURSING FACILITY
REQUIREMENTS FOR LICENSURE AND
MEDICAID CERTIFICATION

SUBCHAPTER CC. COVID-19 EMERGENCY RULE

26 TAC §554.2804

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) adopts on an emergency basis in Title 26, Texas Administrative Code, Chapter 554, Nursing Facility Requirements for Licensure and Medicaid Certification, new §554.2804, concerning an emergency rule in response to COVID-19 in order to track vaccinations of staff and residents in nursing facilities in Texas and require enrollment for the emergency communication system. As authorized by Texas Government Code, §2001.034, HHSC may adopt an emergency rule without prior notice or hearing if it finds 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. HHSC accordingly finds that an imminent peril to the public health, safety, and welfare of the state requires immediate adoption of this emergency rule for Nursing Facility COVID-19 Vaccination Data Reporting and Emergency Communication System Enrollment.

To protect nursing facility residents and the public health, safety, and welfare of the state during the COVID-19 pandemic, HHSC is adopting an emergency rule to require nursing facilities to accurately report COVID-19 vaccination data for staff and residents to HHSC in the format established by HHSC within 24 hours of becoming aware of a staff or resident's COVID-19 vaccination and to require the administrator and director of nurses to enroll in an emergency communication system. The rule is necessary to accurately track vaccinations of staff and residents in long-term care facilities in Texas and to facilitate timely emergency communications between HHSC and nursing facilities in Texas.

STATUTORY AUTHORITY

The emergency rulemaking is adopted under Texas Government Code §2001.034 and §531.0055, and Texas Health and Safety Code §242.001 and §242.037. 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 health and human services system. Texas Health and Safety Code §242.001 states the goal of Chapter 242 is to ensure that nursing facilities in Texas deliver the highest possible quality of care and establish the minimum acceptable levels of care for individuals who are living in a nursing facility. Texas Health and Safety Code §242.037 requires the Executive Commissioner of HHSC to make and enforce rules prescribing minimum standards quality of care and quality of life for nursing facility residents.

The new rule implements Texas Government Code §531.0055 and Texas Health and Safety Code Chapter 242.

§554.2804. Nursing Facility COVID-19 Vaccination Data Reporting and Emergency Communication System Enrollment.

(a) A nursing facility administrator and a director of nursing must enroll in an emergency communication system in accordance with instructions from the Texas Health and Human Services Commission (HHSC).

(b) A nursing facility must respond to requests for information received through the emergency communication system in the format established by HHSC.

(c) Within 24 hours of becoming aware of a staff or resident's COVID-19 vaccination, a nursing facility must accurately report COVID-19 vaccination data for staff and residents to HHSC in the format established by HHSC.

(d) A nursing facility reporting staff and resident COVID-19 vaccination data to the National Healthcare Safety Network, in accordance with 42 Code of Federal Regulations §483.80(g)(1)(viii), is not required to report COVID-19 vaccination data to HHSC.

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 December 30, 2021.

TRD-202105273

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: January 6, 2022

Expiration date: May 5, 2022

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 22. RESTRICTIONS ON CONTRIBUTIONS AND EXPENDITURES

1 TAC §22.37

The Texas Ethics Commission (the Commission) proposes a new Texas Ethics Commission rule in Chapter 22. Specifically, the Commission proposes new §22.37, concerning Virtual Currency Contributions.

The Commission seeks to address and clarify the reporting requirements of political contributions made with virtual currency, such as Bitcoin. The proposal largely mirrors the way the Federal Election Commission and several other states treat virtual currency contributions.

The new rule permits candidates, officeholders, and political committees to accept virtual currency. It does not distinguish between any types of cryptocurrencies, like Bitcoin. The rule would require filers to report virtual currency as in-kind contributions.

The new rule would also direct filers to report the value of any accepted virtual currency as the fair market value at the time of receipt. This requirement is designed to address the well-known volatility of virtual currency value and provide guidance on how to report the value of virtual currency contributions. The rule would not require filers to liquidate their virtual currency holdings within any particular timeframe.

Finally, the new rule would require filers to determine the legality of any accepted virtual currency contribution and obtain certain information from the contributor, including an affirmation that the contributor is not a foreign national. Filers would be required to obtain this information by the time the next report was owed.

The Commission first proposed this rule in September 2021, and received numerous public comments. Most of the commenters supported the majority of the initial proposal except for subsection (c), which would have required filers to sell the virtual currency before using the proceeds to make expenditures. Based on those comments, the Commission has deleted the previous subsection (c). The Commission also changed "cryptocurrency" to "virtual currency" throughout the proposed new rule to match the language used by the legislature in House Bill 4474 of the 87th regular session, effective on September 1, 2021.

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

The General Counsel has also determined that for each year of the first five years the proposed new rule is in effect, the public benefit will be consistency and clarity in the Commission's rules regarding acceptance of virtual currency. 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 new rule.

The General Counsel has determined that during the first five years that the proposed new rule is in effect, it will: not create or eliminate a government program; not 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; not increase or decrease the number of individuals subject to the rules' applicability; or not positively or adversely affect this state's economy.

The Commission invites comments on the proposed new 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 new rule may do so at any Commission meeting during the agenda item relating to the proposed new 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 new rule is proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code.

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

§22.37. Virtual Currency Contributions.

(a) Candidates, officeholders, political committees, and legislative caucuses may accept virtual currency contributions.

(b) Virtual currency contributions are considered "in-kind" contributions.

(c) A candidate, officeholder, or political committee must report a gain from the sale of virtual currency contributions on the appropriate schedule if the gain exceeds the reporting threshold set by Section 254.031(9) of the Election Code and amended by §18.31 of this title (relating to Adjustments to Reporting Thresholds).

(d) The value of a virtual currency contribution is the fair market value of the virtual currency upon receipt.

(e) A candidate, officeholder, political committee, or caucus who accepts virtual currency contributions has the obligation to determine the legality of the virtual currency contributions. For a virtual

currency contribution to be legal and eligible, a candidate, officeholder, political committee, or caucus must obtain the following information before accepting the contribution:

- (1) The contributor's full name;
- (2) The contributor's physical address;
- (3) The contributor's current employer;
- (4) An affirmation that the contributor is in-fact the owner of the virtual currency being donated;
- (5) An affirmation that the contributor is not a foreign national who has not been granted permanent residence in the United States; and
- (6) An affirmation that the contributor is not a corporation or labor organization.

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 3, 2022.

TRD-202200002

Anne Temple Peters

Executive Director

Texas Ethics Commission

Earliest possible date of adoption: February 13, 2022

For further information, please call: (512) 463-5800



PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 355. REIMBURSEMENT RATES

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) proposes the repeal of §355.8068, concerning Local Provider Participation Fund Reporting in Subchapter J, Division 4 and proposes new Subchapter L comprised of §355.8701, concerning Purpose; §355.8702, concerning Definitions; §355.8703, concerning Applicability; §355.8704, concerning Reporting and Monitoring; §355.8705, concerning Post-Determination Review; and §355.8706, concerning State and Federal Reporting.

BACKGROUND AND PURPOSE

The purpose of the proposal is to implement the requirements of the 2022-23 General Appropriations Act (GAA), Senate Bill (S.B.) 1, 87th Legislature, Regular Session (Article II, HHSC, Rider 15(b)), which requires HHSC to create an annual report to include: information on all mandatory payments to a Local Provider Participation Fund (LPPF) and all uses for such payments, including the amount of funds from an LPPF for each particular use; the total amount of intergovernmental transfers used to support Medicaid; the total amount of certified public expenditures used to support Medicaid; a summary of any survey data collected by HHSC to provide oversight and monitoring of the use of local funds in the Medicaid program; and all financial reports submitted to the Centers for Medicare and Medicaid Services (CMS).

The proposal is also necessary to comply with the requirements of 42 CFR §433.51, Public Funds as the State Share of Financial Participation, 42 CFR §433.68, Permissible Health Care-

Related Taxes, 42 CFR §433.74, Reporting Requirements, and §§1903(w)(1)(A)(i), 1903(w)(1)(A)(i)(I), and 1903(w)(1)(A)(ii) of the Social Security Act.

This rule will ensure that public funds considered as the state's share in claiming federal financial participation (FFP) will meet all state and federal statutes and regulations.

SECTION-BY-SECTION SUMMARY

Subchapter J, Division 4, Medicaid Hospital Services

The proposed repeal of §355.8068 deletes the rule as it is no longer necessary, because the content of the rule is encompassed within proposed new Subchapter L.

Subchapter L, Local Funds Monitoring

Proposed new §355.8701, Purpose, provides introductory language on the purpose of the rules in new Subchapter L.

Proposed new §355.8702, Definitions, provides definitions for terms referenced in new Subchapter L.

Proposed new §355.8703, Applicability, provides the timelines for the phases of implementation for each governmental entity based on the funds used (LPPF/other provider taxes, Non-LPPF/other provider taxes, or Certified Public Expenditures) and the type of providers it is supporting with local funds (Hospitals versus Non-Hospitals).

Proposed new §355.8704, Reporting and Monitoring, establishes the processes HHSC will use to collect information from governmental entities for use in an annual survey as required by Rider 15(b). It also describes the types of information and documentation HHSC will be collecting and how HHSC will use the information collected to determine compliance, assess risk, and conduct in-depth reviews.

Proposed new §355.8705, Post-Determination Review, provides how governmental entities may request a post-determination review if the entity disputes HHSC's actions or determinations regarding the permissibility of local funds for transfer to HHSC.

Proposed new §355.8706, State and Federal Reporting, provides that HHSC may adjust the frequency and content of the reports used to document local funds monitoring efforts to comply with state and federal reporting requirements.

FISCAL NOTE

Trey Wood, Chief Financial Officer, has determined that for each year of the first five years that the repeal and new rules will be in effect, there will be no anticipated impact to costs or revenues of state government. Senate Bill 2138, 86th Legislature, Regular Session, 2019 and 2022-23 GAA, S.B. 1, 87th Legislature, Regular Session (Article II, HHSC, Rider 15(d)), grants HHSC authority to expend interagency transfers (IGT) as Appropriated Receipts-Match for Medicaid No. 8062 for the purpose of matching Medicaid Federal Funds for payments to Medicaid providers and to offset administrative costs for Medicaid.

For each year of the first five years the rules will be in effect, there may be an anticipated cost for local governments due to the cost to comply with the required reporting prescribed by the rules. HHSC lacks sufficient information to determine the potential cost to comply.

GOVERNMENT GROWTH IMPACT STATEMENT

HHSC has determined that during the first five years that the rules will be in effect:

- (1) the proposed repeal and new rules will not create or eliminate a government program;
- (2) implementation of the proposed repeal and new rules will create new HHS system employee positions;
- (3) implementation of the proposed repeal and new rules will result in no assumed change in future legislative appropriations;
- (4) the proposed repeal and new rules will not affect fees paid to HHSC;
- (5) the proposed repeal and new rules will create a new rule;
- (6) the proposed repeal and new rules will repeal an existing rule;
- (7) the proposed repeal and new rules will increase the number of individuals subject to the rules; and
- (8) HHSC has insufficient information to determine the proposed repeal and new rules' effect on the state's economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Trey Wood, Chief Financial Officer, has also determined that there may be an adverse economic effect on small businesses, micro-businesses, or rural communities due to cost to comply.

HHSC lacks sufficient information to estimate the number of small businesses, micro-businesses, and/or rural communities that may be subject to the repeal and new rules; and lacks data to estimate the cost to comply.

The repeal and new rules are adopted to comply with statutory requirements that do not provide HHSC regulatory flexibility in implementing them.

LOCAL EMPLOYMENT IMPACT

The proposed repeal and new rules will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to these repeal and new rules because they are necessary to receive a source of federal funds or comply with federal law and are necessary to implement legislation that does not specifically state that §2001.0045 applies to the repeal and new rules.

PUBLIC BENEFIT AND COSTS

Victoria Grady, Director of Provider Finance, has determined that for each year of the first five years the repeal and new rules are in effect, the public will benefit by continuing to receive Medicaid payments supported by local funds, which helps ensure providers continue providing services to Medicaid beneficiaries.

Trey Wood, Chief Financial Officer, has also determined that for the first five years the repeal and new rules are in effect, persons who are required to comply with the proposed repeal and new rules may incur economic costs because of the additional reporting requirements.

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENT

Written comments on the proposal may be submitted to Frances Morgan, Director of PFD Local Funds Monitoring, 4601 Guadalupe Street, Mail Code H400, Austin, Texas, 78751 or by email to PFD_LFM@hhs.texas.gov.

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be post-marked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 22R041" in the subject line.

**SUBCHAPTER J. PURCHASED HEALTH SERVICES
DIVISION 4. MEDICAID HOSPITAL SERVICES**

1 TAC §355.8068

STATUTORY AUTHORITY

The repeal is proposed under Texas Government Code §531.033, which authorizes the Executive Commissioner of HHSC to adopt rules necessary to carry out HHSC's duties; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Health and Safety Code §300.0154 and 300A.0154, which require the Executive Commissioner of HHSC to adopt rules relating to LPPF reporting.

The repeal affects Texas Government Code Chapter 531, Texas Health and Safety Code Chapters 300 and 300A, and Texas Human Resources Code Chapter 32.

§355.8068. *Local Provider Participation Fund Reporting.*
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 3, 2022.

TRD-202200004

Karen Ray
Chief Counsel

Texas Health and Human Services Commission
Earliest possible date of adoption: February 13, 2022
For further information, please call: (737) 867-7877



SUBCHAPTER L. LOCAL FUNDS MONITORING

1 TAC §§355.8701 - 355.8706

STATUTORY AUTHORITY

The new rules are proposed under Texas Government Code §531.033, which authorizes the Executive Commissioner of HHSC to adopt rules necessary to carry out HHSC's duties; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to

administer the federal medical assistance (Medicaid) program in Texas; and Texas Health and Safety Code §§300.0154 and 300A.0154, which require the Executive Commissioner of HHSC to adopt rules relating to LPPF reporting.

The repeal and new rules affect Texas Government Code Chapter 531, Texas Health and Safety Code Chapters 300 and 300A, and Texas Human Resources Code Chapter 32.

§355.8701. Purpose.

(a) As part of the oversight required by federal and state law, the Texas Health and Human Services Commission (HHSC) requires all non-federal share funds that are provided by local governmental entities, including funds transferred or certified by governmental entities as the non-federal share of Medicaid supplemental and directed payments, to report the source of such funds.

(b) HHSC will use the information reported under this subchapter along with information already collected by HHSC to comply with state and federal reporting requirements. HHSC may publish the information on the HHSC website at HHSC's discretion.

§355.8702. Definitions.

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

(1) Centers for Medicare & Medicaid Services (CMS)--The federal agency within the United States Department of Health and Human Services responsible for overseeing and directing Medicare and Medicaid.

(2) Certified Public Expenditure (CPE)--An expenditure certified by a governmental entity to represent its contribution of public funds in providing services that are eligible for federal matching Medicaid funds.

(3) Federal Fiscal Year--A 12-month period beginning October 1 and ending September 30.

(4) Governmental Entity--A state agency or a political subdivision of the state, or a hospital authority, hospital district, health district, city, county, school district, or other unit of local government as established by Texas statute.

(5) Health care provider--The individual or entity that receives a Medicaid payment or payments for health care items or services provided or an entity related to such a health care provider.

(6) HHSC--The Texas Health and Human Services Commission.

(7) Interested party--A governmental entity that has non-federal share funds under review, as contemplated by this chapter.

(8) Intergovernmental Transfer (IGT)--A transfer of public funds from a governmental entity to HHSC.

(9) Non-federal share--The portion of Medicaid program expenditures that is not federal funds. The non-federal share is equal to 100 percent minus the federal medical assistance percentage (FMAP) for Texas for the state fiscal year corresponding to the program year and for the population served.

(10) Post-determination review--The informal re-examination of an action or determination by HHSC under this chapter requested by an interested party.

§355.8703. Applicability.

(a) This subchapter applies to the following categories of local funds:

(1) beginning April 1, 2022: intergovernmental transfer (IGT) of Local Provider Participation Funds (LPPFs) or other provider taxes;

(2) beginning October 1, 2022: in addition to paragraph (1) of this subsection, IGT of funds to support Medicaid payment programs for hospital services (other than funds from LPPFs or other provider taxes);

(3) beginning April 1, 2023: in addition to paragraphs (1) and (2) of this subsection, IGT of funds to support Medicaid payment programs for non-hospital services, including nursing facility services, intermediate care facility services, and other acute or long-term care services (other than funds from LPPFs or other provider taxes); and

(4) beginning October 1, 2023: in addition to paragraphs (1) - (3) of this subsection, certified public expenditures (CPEs).

(b) To the extent that an electronic annual survey, detailed in §355.8704 of this subchapter (relating to Reporting and Monitoring), is not yet open for reporting at the applicable start date for a given funding source, governmental entities will be contacted by HHSC and given 30 days from the date of the notice to provide any requested information or documentation in a format prescribed by HHSC.

§355.8704. Reporting and Monitoring.

(a) A governmental entity that provides funds for use as the non-federal share in the Medicaid program must report information to the Texas Health and Human Services Commission (HHSC) in a form and format to be determined by HHSC.

(b) The information must be reported at least annually, no later than October 31st, or upon request by HHSC.

(c) HHSC will open the information reporting system prior to the end of the federal fiscal year and will review reported information based on governmental entity funding sources, including:

(1) local provider participation funds (LPPFs) authorized by the Texas Health and Safety Code Chapter 288 et seq. or other provider tax structures;

(2) non-LPPF provider taxes;

(3) ad valorem tax revenue;

(4) patient revenue;

(5) other local funding sources; and

(6) donations.

(d) HHSC will use the information from the report to monitor each governmental entity fund source and determine the likelihood that the funds are permissible for use in the Medicaid program. The monitoring will include the following:

(1) Survey. An electronic annual survey that will request:

(A) a list of all health care providers for which the governmental entity transferred or certified funds as the non-federal share;

(B) the relationship between the governmental entity and the health care provider, including a copy of any formal or informal agreements between the entity and the provider;

(C) the type of health care provider (i.e. ambulance, dentist, hospital, intermediate care facilities for individuals with an intellectual disability, nursing facility, physician practice group) and ownership status;

(D) the source of the funds used as the non-federal share transferred by the governmental entity;

(E) information on any debt instruments (bonds, loans, etc.) that a governmental entity utilizes and the relationship of the instrument to any transferred funds;

(F) to the extent patient revenue is used, a description of payor mix during the federal fiscal year and any anticipated changes;

(G) any transfer of funds or provision of services from a health care provider or entity related to a health care provider to the governmental entity, including in-cash or in-kind donations, or any other transfer of value;

(H) records of budget revenue received from all sources;

(I) other information as determined necessary and appropriate to determine compliance with federal or state statutes and regulations, including attestations of compliance from the local government; and

(J) any publicly available information, such as:

(i) audio recordings of discussions or written minutes from public meetings to set assessment rates or gather feedback from providers or their representatives;

(ii) written correspondence describing the entity's funding dedicated to the Medicaid program;

(iii) URL links to websites that describe the funds transferred or certified as the non-federal share or any agreement between the governmental entity and a health care provider or entity related to a health care provider; and

(iv) copies of any public notices, local orders, announcements, or other related documentation.

(2) Risk Assessment.

(A) The risk assessment will include:

(i) a risk assessment score based on self-reported annual survey responses; and

(ii) any adjustments made at HHSC's discretion based on supplemental documentation and discussion with the impacted governmental entity and review of additional documentation requests as may be needed, in HHSC's sole discretion, to confirm, audit, or modify self-reported data and qualitative descriptions.

(B) Funding sources will be categorized as green, yellow, or red. HHSC will contact entities whose funding sources are categorized as yellow or red to obtain additional information. The entity must furnish the requested information to HHSC within ten (10) business days of the date of the request.

(i) Green--Arrangement appears to comply with federal and state statutes and regulations.

(ii) Yellow--Arrangement compliance with federal and state statutes and regulations is unclear.

(iii) Red--Arrangement does not appear to comply with federal or state regulations.

(3) In-depth Review. HHSC will select a sample of survey respondents for an in-depth review in which HHSC may examine supporting documentation, either on-site or electronically, at HHSC's discretion. HHSC will select a sample of survey respondents sufficient to result in a 95 percent confidence level with a 5 percent margin of error. HHSC will initially select entities that are in the Red and Yellow categories, and if additional entities are necessary to complete a sample size, they will be randomly selected from the green category. HHSC

will notify a governmental entity if an on-site review will occur at least ten (10) calendar days prior to the visit.

(4) Determination. Determination of completeness of reporting and HHSC's assigned risk assessment for each funding source.

(5) Post-Determination Review. Post-determination review will be conducted as outlined in this subchapter.

(6) Federal Reporting.

(e) If a governmental entity fails to submit the required information or supplemental documentation as requested by HHSC by the deadline specified in this section, HHSC will not accept further transfer of funds for any Medicaid program from the governmental entity until the reporting requirement is satisfied and may process recoupments for any payments resulting from funds transferred determined to be non-compliant.

(f) Prior to the applicable deadline, a governmental entity may request an extension of up to ten (10) business days for any deadline contained in this subchapter. HHSC may grant or reject such request at its sole discretion.

(g) HHSC will notify the governmental entity upon determination of:

(1) reporting compliance;

(2) permissibility of funds; and

(3) a risk assessment category for each funding source.

(h) After review of any additional information provided, HHSC may also seek input on the likely permissibility of the funds from the Centers for Medicare and Medicaid Services (CMS). In the event HHSC elects to request input from CMS regarding the compliance of a specific funding source as contemplated by this subchapter, HHSC will notify the governmental entity prior to requesting such review. HHSC may, at its discretion, accept or reject local funds from the governmental entity for such funding source while awaiting CMS input; however, HHSC will recoup all Medicaid payments generated from a funding source deemed impermissible by CMS at any time.

§355.8705. Post-Determination Review.

(a) An interested party who disputes a determination under §355.8704(g) of this chapter (relating to Reporting and Monitoring) may request post-determination review under this section.

(b) The purpose of a post-determination review is to provide for the informal and efficient resolution of the matter(s) in dispute. A post-determination review is not a formal administrative hearing and is conducted according to the following procedures:

(1) The Texas Health and Human Services Commission (HHSC) must receive a request for a post-determination review electronically to PFD_LFM@hhs.texas.gov no later than 30 calendar days from the date of a notification under §355.8704(g) of this chapter. If the 30th calendar day is a weekend day, national holiday, or state holiday, then the first business day following the 30th calendar day is the final day the receipt of the written request will be accepted. HHSC will extend this deadline for an additional 15 days if it receives a request for the extension prior to the initial 30-day deadline. A request for a post-determination review or extension that is not received by the stated deadline will not be accepted.

(2) An interested party must, with its request for a post-determination review, submit a concise statement of the specific determinations it disputes, its recommended resolution, and any supporting documentation the interested party deems relevant to the dispute. It is the responsibility of the interested party to render all pertinent informa-

tion at the time it submits its request for a post-determination review. A request for a post-determination review that does not meet the requirements of this subparagraph will not be accepted.

(3) The written request for the post-determination review or extension must be signed by a legally authorized representative for the interested party. A request for a post-determination review or extension that is not requested by a legally authorized representative of the interested party will not be accepted.

(4) On receipt of a request for post-determination review that meets the requirements of this section, HHSC will:

(A) acknowledge receipt of the request to the requestor;
and

(B) coordinate the review of the information submitted by the interested party and may request additional information from the interested party, which must be received no later than 14 calendar days from the date of the written request for additional information.

(i) If the 14th calendar day is a weekend day, national holiday, or state holiday, then the first business day following the 14th calendar day is the final day the receipt of the additional information will be accepted.

(ii) Information received after 14 calendar days may not be used in the post-determination review decision unless the interested party requests an extension and receives written approval from HHSC staff to submit the information after 14 calendar days. HHSC must receive a request for an extension to the 14-calendar-day due date prior to the 14th calendar day.

(iii) HHSC may make subsequent requests for additional information. If HHSC makes a subsequent request for additional information, the same timeframes for submission and receipt of the information apply as they did to the initial request for additional information.

(5) Upon review and receipt of all requested supplemental information, HHSC will provide a final decision no later than 180 days after the receipt of the request or receipt of supplemental information, whichever is later. An interested party may request an update on the status of the post-determination review at any time.

§855.8706. State and Federal Reporting.

The Texas Health and Human Services Commission (HHSC) may adjust the frequency and content of reports requested by HHSC related to local funds monitoring efforts in this subchapter as necessary to comply with any state or federal reporting requirements.

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 3, 2022.

TRD-202200005

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Earliest possible date of adoption: February 13, 2022

For further information, please call: (737) 867-7877



SUBCHAPTER J. PURCHASED HEALTH SERVICES

DIVISION 6. RURAL HEALTH CLINICS

1 TAC §355.8101

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) proposes an amendment to §355.8101, concerning Rural Health Clinics Reimbursement.

BACKGROUND AND PURPOSE

The purpose of the proposed amendment to §355.8101 is to comply with House Bill 4 (H.B. 4), 87th Legislature, Regular Session, 2021, and to make other amendments to enhance clarity, consistency, and specificity. HHSC is required by H.B. 4 to ensure a Rural Health Clinic (RHC) is reimbursed for a covered telemedicine medical service or telehealth service delivered by a health care provider to a Medicaid recipient at an RHC facility.

The proposed rule includes reformatted text for clarity and transparency in subsection (h) and subsection (l) with form updates in subsection (j). Additional clarifying updates are made to ensure consistency throughout the rule and that the rule appropriately describes current practices.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §355.8101(a) updates references that have been renumbered.

The proposed amendment to §355.8101(c), (d), and (e) hyphenates certain terms, clarifies certain terms, and provides other minor changes for clarity and better readability.

The proposed amendment to §355.8101(h) restructures the subsection to make the information easier to read. No substantive content changes.

The proposed amendment to §355.8101(j) updates the required CMS forms to the most current forms.

The proposed amendment to §355.8101(l) deletes the current subsection (l) and a new subsection (l) is proposed. The content from the current subsection (l) is restructured to make it easier to read. Minor content changes are made to text, including the cost report period used in the cost settlement and rate assignment for a new freestanding RHC location that is part of an existing freestanding RHC.

The proposed amendment to §355.8101 deletes subsection (m) to remove the state's quarterly supplemental payment established to offset the difference between Managed Care Organizations and the Prospective Payment System (PPS), as this adjustment has not occurred after 2008.

The proposed amendment to §355.8101 deletes subsection (n) to eliminate an inconsistency within the rule.

The proposed amendment to §355.8101 renumbers subsection (o) to subsection (m) and adds "telemedicine medical service" to the types of encounters included in the definition of a medical visit.

The proposed amendment to §355.8101 renumbers subsection (p) to subsection (n) and adds "telehealth service" to the types of encounters included in the definition of an "other" health visit.

FISCAL NOTE

Trey Wood, Chief Financial Officer, has determined that for each year of the first five years that the rule will be in effect, there will be no fiscal impact on state government or local governments as a result of enforcing and administering the amendment.

GOVERNMENT GROWTH IMPACT STATEMENT

HHSC has determined that during the first five years the rule will be in effect:

- (1) the proposed rule will not create or eliminate a government program;
- (2) implementation of the proposed rule will not affect the number of HHSC employee positions;
- (3) implementation of the proposed rule will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the proposed rule will not require an increase or decrease in fees paid to HHSC;
- (5) the proposed rule will not create a new rule;
- (6) the proposed rule will not expand an existing rule; and
- (7) the proposed rule will not change the number of individuals subject to the rule.
- (8) HHSC has insufficient information to determine the proposed rule's effects on the state's economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Trey Wood has also determined that there is no adverse economic impact on small businesses, micro-businesses, and rural communities required to comply with the rule as proposed because the rule does not require any change to current business practices and provision of services by telehealth or telemedicine is optional.

LOCAL EMPLOYMENT IMPACT

The proposed rule does not affect the local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to this rule because RHC reimbursement receives a source of federal funds. This rule allows for reimbursement of telemedicine and telehealth services by Medicaid. Therefore, allowing HHSC to receive federal funds for these services.

PUBLIC BENEFIT AND COSTS

Victoria Grady, Director of Provider Finance, has determined that for each year of the first five years the rule is in effect, the public benefit anticipated will be an enhanced ability of RHCs to provide healthcare to Medicaid recipients by ensuring that telemedicine and telehealth services are included in options for providing services.

Trey Wood has also determined that for the first five years the rule is in effect, there will not be an economic cost for persons required to comply with the rule as proposed. There is no requirement to alter current business practices and no additional cost or fees imposed on those required to comply.

TAKINGS IMPACT ASSESSMENT

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

PUBLIC HEARING

A public hearing to receive comments on the proposal will be held by HHSC through a webinar and live event. The meeting date and time will be posted on the HHSC Communications and

Events Website at <https://hhs.texas.gov/about-hhs/communications-events> and the HHSC Provider Finance Hospitals website at <https://rad.hhs.texas.gov/hospitals-clinic-services>. Please contact Valerie Lesak at PFD_Hospitals@hhsc.state.tx.us if you have questions.

PUBLIC COMMENT

Questions about the content of this proposal may be directed to Valerie Lesak in the HHSC Provider Finance for Hospitals Department at PFD_Hospitals@hhsc.state.tx.us.

Written comments on the proposal may be submitted to the HHSC Provider Finance Department, North Austin Complex, 4601 Guadalupe Street, Austin, Texas 78751 (Mail Code H-400); P.O. Box 149030, Austin, Texas 78714-9030 (Mail Code H-400); by fax to (512)-730-7475; or by email to PFD_Hospitals@hhsc.state.tx.us.

To be considered, comments must be submitted no later than 21 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) faxed or emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When faxing or emailing comments, please indicate "Comments on Proposed Rule 22R047" in the subject line.

STATUTORY AUTHORITY

The amendment is proposed under Texas Government Code §531.033, which authorizes the Executive Commissioner of HHSC to adopt rules necessary to carry out HHSC's duties; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; Texas Government Code §531.021(b-1), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for medical assistance payments under the Texas Human Resources Code Chapter 32.

The amendment affects Texas Government Code §531.0055, Chapter 531, and Texas Human Resources Code Chapter 32.

§355.8101. *Rural Health Clinics Reimbursement.*

(a) Prospective Payment System Methodology. Rural health clinics (RHCs) employing the Prospective Payment System (PPS) methodology, in accordance with section 1902(bb) of the Social Security Act as amended by the Benefits Improvement and Protection Act (BIPA) of 2000 (42 U.S.C. §1396a(bb)), will be reimbursed a prospective rate for Medicaid covered services. The Alternative Prospective Payment System (APPS) methodology is an option through August 31, 2010. Starting September 1, 2010, all RHCs will be reimbursed using the PPS methodology as described in this section. RHCs are reimbursed a prospective per visit encounter rate for a visit that meets the requirements of subsections (m) and (n) [(e) and (p)] of this section.

(b) The final base rate for both hospital-based and freestanding RHCs existing in 2000 was calculated based on one hundred percent (100%) of the average of the RHC's reasonable costs for providing Medicaid covered services as determined from audited cost reports for the RHC's 1999 and 2000 fiscal years. The final base rates were calculated by adding the total audited reimbursable costs as determined from the 1999 and 2000 cost reports and dividing by the total audited

visits for these same two periods. In the event an audited cost report was not received from the Medicare Intermediary, the final base rate for both hospital-based and freestanding RHCs was calculated based on one hundred percent (100%) of the average of the RHC's reasonable costs for providing Medicaid covered services as determined from audited or unaudited cost reports for the RHC's 1999 and 2000 fiscal years.

(c) For hospital-based RHCs existing in 2000, an interim base rate for each RHC was calculated from the latest finalized cost report settlement, adjusted as provided for in subsection (l) of this section. For freestanding RHCs existing in 2000, the interim base rate for each RHC was based upon the per-visit [per visit] rate in the Medicaid payment system as of December 31, 2000, adjusted as provided for in subsection (l) of this section. When the Texas Health and Human Services Commission (HHSC) determined a final base rate, interim payments were reconciled back to January 1, 2001. For RHCs that agreed to the APPS methodology prior to August 31, 2010, adjustments were made to the RHCs' interim rates only if the interim payments were less than what would have occurred under the final base rate. Subsection (k) of this section contains the interim and final base rate methodology for new RHCs.

(d) Reasonable costs, as used in setting the interim or final base rate, or any subsequent effective rate, are [is] defined as those costs that are allowable under Medicare Cost Principles as outlined in 42 CFR Part [part] 413. The cost limits that were in place on December 31, 2000, shall be maintained in determining reasonable costs. Reasonable costs do not include unallowable costs.

(e) Unallowable costs are expenses that are incurred by an RHC and that are not directly or indirectly related to the provision of covered services, according to applicable laws, rules, and standards. An RHC may expend funds on unallowable cost items, but those costs must not be included in the cost report/survey, and they are not used in calculating an interim or final base rate determination. Unallowable costs include, but are not necessarily limited to, the following:

(1) compensation in the form of salaries, benefits, or any form of compensation given to individuals who are not directly or indirectly related to the provision of covered services;

(2) personal expenses not directly related to the provision of covered services;

(3) management fees or indirect costs that are not derived from the actual cost of materials, supplies, or services necessary for the delivery of covered services, unless the operational need and cost-effectiveness [cost effectiveness] can be demonstrated;

(4) advertising expenses other than those for advertising in the telephone directory yellow pages, for employee or contract labor recruitment, and for meeting any statutory or regulatory requirement;

(5) business expenses not directly related to the provision of covered services. For example, expenses associated with the sale or purchase of a business or expenses associated with the sale or purchase of investments;

(6) political contributions;

(7) depreciation and amortization of unallowable costs, including amounts in excess of those resulting from the straight-line [straight line] depreciation method; capitalized lease expenses, less any maintenance expenses, in excess of the actual lease payment; and goodwill or any excess above the actual value of the physical assets at the time of purchase. Regarding the purchase of a business, the depreciable basis will be the lesser of the historical but not depreciated

cost to the previous owner or the purchase price of the assets. Any depreciation in excess of this amount is unallowable;

(8) trade discounts and allowances of all types, including returns, allowances, and refunds received on purchases of goods or services. These are reductions of costs to which they relate and thus, by reference, are unallowable;

(9) donated facilities, materials, supplies, and services including the values assigned to the services of unpaid workers and volunteers whether directly or indirectly related to covered services, except as permitted in 42 CFR Part 413;

(10) dues to all types of political and social organizations[;] and to professional associations whose functions and purpose are not reasonably related to the development and operation of patient care facilities and programs[;] or the rendering of patient care services;

(11) entertainment expenses except those incurred for entertainment provided to the staff of the RHC as an employee benefit. An example of entertainment expenses is lunch during the provision of continuing medical education on-site;

(12) board of directors' fees, including travel costs and meals, provided for these directors;

(13) fines and penalties for violations of statutes, regulations, and ordinances of all types;

(14) fund-raising [fund raising] and promotional expenses, except as noted in paragraph (4) of this subsection;

(15) interest expenses on loans pertaining to unallowable items, such as investments. Also, the interest expense on that portion of interest paid that is reduced or offset by interest income;

(16) insurance premiums pertaining to items of unallowable cost;

(17) any accrued expenses that are not a legal obligation of the provider or are not clearly enumerated as to dollar amount;

(18) mileage expense exceeding the current reimbursement rate set by the federal government for its employee travel;

(19) cost for goods or services that are purchased from a related party and which exceed the original cost to the related party;

(20) out-of-state travel expenses not related to the provision of covered services, except out-of-state travel expenses for training courses that increase the quality of medical care and/or the operating efficiency of the RHC; and

(21) over-funding contributions to self-insurance funds that do not represent payments based on current liabilities.

(f) Increases in an RHC's final base rate or the effective rate shall be the rate of change in the Medicare Economic Index (MEI) for Primary Care.

(g) The effective rate is the rate paid to the RHC for the RHC's fiscal year. The effective rate equals the final base rate plus the MEI for each of the RHC's fiscal years since the setting of its final base rate. The effective rate shall be calculated at the start of each RHC's fiscal year and shall be applied prospectively for that fiscal year.

(h) Final Base Rate Reimbursement and adjustments.

(1) Reimbursement. It is the intent of the state to ensure [that] each RHC is reimbursed at one hundred percent (100%) of its reasonable costs [or the Medicare maximum payment per visit (federal ceiling) as applicable].

(2) Adjustments.

(A) A rate [An] adjustment shall be made to the effective rate if the RHC can show that an increase is due to a change in scope as defined in subsection (i)(1) - (6) of this section.

(B) An RHC may request an adjustment of the effective rate equal to one hundred percent (100%) of reasonable costs by submitting a cost report to HHSC and including the necessary documentation to support a claim that the RHC has undergone a change in scope.

(i) A cost report[;] filed to request an adjustment in the effective rate[;] may be filed at any time during an RHC's fiscal year but no later than five (5) calendar months after the end of the RHC's fiscal year.

(ii) All requests for adjustment in the RHC's effective rate must include at least 6 months of financial data.

(iii) Any effective rate adjustment granted as a result of such a filing must be completed within sixty (60) days of receipt of a workable cost report and documentation supporting the RHC's claim that it has undergone a change in scope.

(iv) Within sixty (60) days of receiving a workable cost report, HHSC or its designee shall make a determination regarding a new effective rate.

(C) HHSC also may adjust the effective rate of an RHC on its own initiative if it is determined that a change in scope has occurred and an adjustment to the effective rate is warranted based on the audit of the cost report defined in subsection (I) of this section. The new effective rate shall become effective the first day of the month immediately following its determination and shall not be applied retroactively.

(3) Final base rate Reconciliation.

(A) When HHSC determines a final base rate, interim payments will be reconciled back to the beginning of the interim period.

(B) If the final base rate is greater than the interim base rate, HHSC will compute and pay the RHC a settlement payment that represents the difference in rates for the services provided during the interim period.

(C) ~~If the final base rate is less than the interim base rate, HHSC will compute and recover from the RHC a recoupment payment that represents the difference in rates for the services provided during the interim period. [HHSC also may adjust the effective rate of an RHC on its own initiative if it is determined that a change in scope has occurred and an adjustment to the effective rate is warranted based on the audit of the cost report defined in subsection (I) of this section. The new effective rate shall become effective the first day of the month immediately following its determination and shall not be applied retroactively]~~

(i) Any request to adjust an effective rate must be accompanied by documentation showing that the RHC has had a change in scope. A change in scope of services provided by an RHC includes the addition or deletion of a service or a change in the magnitude, intensity, or character of services currently offered by an RHC or one of the RHC's sites. A change in scope includes:

(1) an increase in service intensity attributable to changes in the types of patients served, including but not limited to, patients with HIV/AIDS, the homeless, the elderly, migrants, those with other chronic diseases or special populations;

(2) any changes in services or provider mix provided by an RHC or one of its sites;

(3) changes in operating costs that have occurred during the fiscal year and which are attributable to capital expenditures, including new service facilities or regulatory compliance;

(4) changes in operating costs attributable to changes in technology or medical practices at the RHC;

(5) indirect medical education adjustment and a direct graduate medical education payment that reflects the costs of providing teaching services to interns and residents; or

(6) any changes in scope approved by the Health Resources and Service Administration (HRSA).

(j) A complete and workable cost report includes the following:

(1) for a hospital-based RHC, complete [HCFA] Form CMS-2552-10 and include [2552 and HCFA Form 339 with certification by an officer or administrator certifying the accuracy of] the attached data [including]:

(A) M-1 (analysis of provider-based RHC costs);

(B) M-2 (allocation of overhead to RHC services);

(C) M-3 (calculation of reimbursement settlement for RHC services);

(D) M-5 (analysis of payments to hospital-based RHC services rendered to program beneficiaries);

(E) S-8 (statistical data/information purposes);

(F) RHC net expenses for allocation of costs for services rendered on or after January 1, 1998, reported on the hospital's worksheet A, column 7 traced properly to the RHC's total facility costs on line 32, column 7 on M-1 worksheet; and

(G) hospital's overhead worksheet expenses allocated to each of the hospital-based RHC cost centers on worksheet B, Part I (column 27 minus column 0) traced properly to line 15, column 5 on M-2 worksheet for each hospital-based RHC.

(2) for a freestanding RHC, a complete and accurate [HCFA 222] Form CMS-222-17 [and HCFA 339 Form with certification by an officer or administrator].

(k) Once the final base rate for an RHC has been calculated, the RHC will be paid its effective rate without the need to file a cost report unless requested by HHSC. A cost report will be required if the RHC is seeking to adjust its effective rate as an RHC or the state may request, on a periodic basis, that an RHC file a cost report for its most current fiscal year, within five (5) months of notification by HHSC or its designee. HHSC or its designee may delay or withhold vendor payment to a provider upon failure to submit a requested cost report until a complete and workable cost report has been received by HHSC or its designee.

(l) New hospital-based and new freestanding RHCs cost report requirements, rate calculations, and cost settlements.

(1) Projected Cost Report.

(A) Cost reports containing reasonable costs anticipated to be incurred during the RHC's initial fiscal year may be filed by new RHCs within 90 days of enrollment.

(B) New hospital-based RHCs interim base rate.

(i) RHCs associated with a hospital with 50 beds or less, the interim base rate will be set at eighty percent (80%) of the anticipated reasonable cost.

(ii) RHCs associated with a hospital with more than 50 beds, the interim base rate will be the lesser of the anticipated reasonable costs or the Medicare maximum payment rate (federal ceiling).

(C) New freestanding RHCs interim base rate will be set at the lesser of the anticipated reasonable costs or the Medicare maximum payment rate (federal ceiling).

(2) All RHCs opting not to file a projected cost report will have its interim base rate set at seventy-five percent (75%) of the federal ceiling.

(3) Cost settlement.

(A) The cost settlement must be completed within six (6) months of receipt of the first 12-month cost report.

(B) The rate established by the cost settlement process shall be the final base rate. When HHSC determines a final base rate, interim payments will be reconciled back to the beginning of the interim period.

(C) If the final base rate is greater than the interim base rate, HHSC will compute and pay the RHC a settlement payment that represents the difference in rates for the services provided during the interim period.

(D) If the final base rate is less than the interim base rate, HHSC will compute and recover from the RHC a recoupment payment that represents the difference in rates for the services provided during the interim period.

(E) Each RHC must file a cost report with HHSC or its designee within five (5) months of the end of the RHC's initial fiscal year.

(F) If a provider fails to submit a cost report, HHSC or its designee may delay or withhold vendor payment to the provider until a complete and workable cost report has been received by HHSC or its designee.

(4) A new Freestanding RHC location established by an existing Freestanding RHC participating in the Medicaid program will receive the same effective rate as the RHC establishing the new location.

(5) A Freestanding RHC establishing a new location may request an adjustment to its effective rate as provided herein if its costs have increased as a result of establishing a new location.

{(1) New RHCs will file a projected cost report within 90 days of their designation as an RHC to establish an interim base rate. The cost report will contain the RHC's reasonable costs anticipated to be incurred during the RHC's initial fiscal year. The interim base rate will be set at 80% of the anticipated reasonable costs for hospital-based RHCs with 50 beds or less. New freestanding RHCs and new hospital-based RHCs with more than 50 beds will have interim base rates set at the lesser of their anticipated reasonable costs or the Medicare maximum payment rate (federal ceiling). Any new RHC opting not to file a projected cost report will have its interim base rate set at 75% of the federal ceiling. Each RHC must file a cost report with HHSC or its designee within five (5) months of the end of the RHC's initial fiscal year. The cost settlement must be completed within six (6) months of receipt of a cost report. The rate established by the cost settlement process shall be the final base rate. When HHSC determines a final base rate, interim payments will be reconciled back to the beginning of the interim period. If the final base rate is greater than the interim base rate, HHSC will compute and pay the RHC a settlement payment that represents the dif-

ference in rates for the services provided during the interim period. If the final base rate is less than the interim base rate, HHSC will compute and recover from the RHC a recoupment payment that represents the difference in rates for the services provided during the interim period. Any subsequent increases or decreases will be calculated as provided herein. A new RHC location established by an existing RHC participating in the Medicaid program will receive the same effective rate as the RHC establishing the new location. An RHC establishing a new location may request an adjustment to its effective rate as provided herein if its costs have increased as a result of establishing a new location. If a provider fails to submit a cost report, HHSC or its designee may delay or withhold vendor payment to the provider until a complete and workable cost report has been received by HHSC or its designee.]

{(m) In the event that the total amount paid to an RHC by a managed care organization is less than the amount the RHC would receive under PPS, the state will reimburse the difference on a quarterly basis. The state's quarterly supplemental payment obligation will be determined by subtracting the baseline payment under the contract for services being provided from the effective rate without regard to the effects of financial incentives that are linked to utilization outcomes, reductions in patient cost, or bonuses.]

{(n) An RHC shall submit a copy of its audited Medicare cost report to HHSC within thirty (30) days of receipt of the report from Medicare. If a provider fails to submit its audited Medicare cost report, HHSC or its designee may delay or withhold vendor payment to the provider until a complete and workable cost report has been received by HHSC or its designee.]

(m) [(o)] A medical visit is a face-to-face or telemedicine medical service encounter between an RHC patient and a physician, physician assistant, advanced nurse practitioner, certified nurse-midwife, visiting nurse, or clinical nurse practitioner. Encounters with more than one health professional and multiple encounters with the same health professional that take place on the same day and at a single location constitute a single visit, except where one of the following conditions exists:

(1) after the first encounter, the patient suffers illness or injury requiring additional diagnosis or treatment; or

(2) the RHC patient has a medical visit and an "other" health visit as defined in subsection (n) [(p)] of this section.

(n) [(p)] An "other" health visit includes, but is not limited to, a face-to-face or telehealth service encounter between an RHC patient and a clinical social worker.

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 December 29, 2021.

TRD-202105252

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Earliest possible date of adoption: February 13, 2022

For further information, please call: (512) 730-7401



WITHDRAWN RULES

Withdrawn Rules include proposed rules and emergency rules. A state agency may specify that a rule is withdrawn immediately or on a later date after filing the notice with the Texas Register. A proposed rule is withdrawn six months after the date of publication of the proposed rule in the Texas Register if a state agency has failed by that time to adopt, adopt as amended, or withdraw the proposed rule. Adopted rules may not be withdrawn. (Government Code, §2001.027)

TITLE 1. ADMINISTRATION

PART 2. TEXAS ETHICS COMMISSION

CHAPTER 22. RESTRICTIONS ON CONTRIBUTIONS AND EXPENDITURES

1 TAC §22.37

The Texas Ethics Commission withdraws proposed new §22.37, which appeared in the October 22, 2021, issue of the *Texas Register* (46 TexReg 7123).

Filed with the Office of the Secretary of State on January 3, 2022.

TRD-202200001

Anne Temple Peters

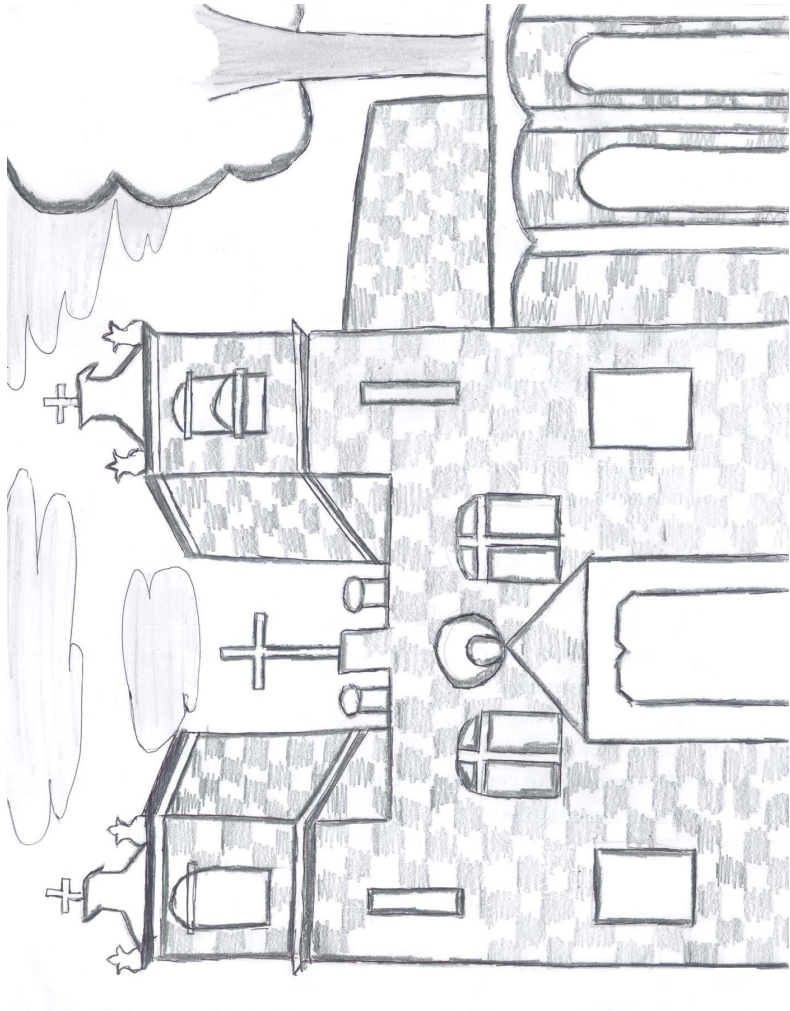
Executive Director

Texas Ethics Commission

Effective date: January 3, 2022

For further information, please call: (512) 463-5800





ADOPTED RULES

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

TITLE 1. ADMINISTRATION

PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 353. MEDICAID MANAGED CARE SUBCHAPTER O. DELIVERY SYSTEM AND PROVIDER PAYMENT INITIATIVES

1 TAC §353.1305

The Texas Health and Human Services Commission (HHSC) adopts an amendment to §353.1305, concerning the Uniform Hospital Rate Increase Program (UHRIP). Section 353.1305 is adopted without changes to the proposed text as published in the October 8, 2021, issue of the *Texas Register* (46 TexReg 6621). The rule will not be republished.

BACKGROUND AND JUSTIFICATION

The amendment to §353.1305 is adopted to extend the date for the UHRIP to apply to program periods before September 2, 2022, or as approved by the Centers for Medicare and Medicaid Services (CMS).

COMMENTS

During this period, HHSC did not receive any comments regarding the proposed rule.

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.033, which authorizes the Executive Commissioner of HHSC to adopt rules necessary to carry out HHSC's duties; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; Texas Government Code §531.021(b-1), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for medical assistance payments under the Texas Human Resources Code Chapter 32 and Texas Government Code §533.002, which authorizes HHSC to implement the Medicaid managed care 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.

Filed with the Office of the Secretary of State on December 28, 2021.

TRD-202105242

Karen Ray
Chief Counsel
Texas Health and Human Services Commission
Effective date: January 17, 2022
Proposal publication date: October 8, 2021
For further information, please call: (512) 839-9493

TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 97. COMMUNICABLE DISEASES SUBCHAPTER A. CONTROL OF COMMUNICABLE DISEASES

25 TAC §97.7

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DSHS), adopts an amendment to §97.7, concerning COVID-19 school exclusion criteria. The amendment to §97.7 is adopted without changes to the proposed text as published in the November 5, 2021, issue of the *Texas Register* (46 TexReg 7494) and will not be republished.

BACKGROUND AND JUSTIFICATION

The amendment describes the criteria for COVID-19 that require exclusion from schools and provides guidance on readmission criteria. To protect children returning to school and the public health, safety, and welfare of the state during the COVID-19 pandemic, HHSC, on behalf of DSHS, adopted an emergency rule amendment to §97.7 published in the August 13, 2021, issue of the *Texas Register* (46 TexReg 4922). To make this change permanent, DSHS and HHSC proposed an amendment to §97.7.

COMMENTS

The 31-day comment period ended on December 6, 2021.

During this period, DSHS received comments regarding the proposed rule from seven commenters, including the Prosper Independent School District, the Coppell Independent School District, Amarillo Public Health, Gregg County Health Department, Disability Rights Texas, a joint comment from the Texas Pediatric Society and the Texas Medical Association. A summary of comments relating to the rule and DSHS's responses follows.

Comment: One commenter expressed concerns related to steps for readmission to schools and potential financial strain on parents whose children were excluded.

Response: While DSHS understands the potential burden this may cause parents, DSHS declines to change the rule in response to this comment. The rule is in effect to protect public health and safety of children, teachers, staff, and families. The guidance provided by the rule aligns with guidance from the Centers for Disease Control and Prevention (CDC).

Comment: One commenter expressed support of adding COVID-19 to the list of diseases requiring exclusion from schools.

Response: DSHS appreciates the comment and makes no changes to the rule based on this comment.

Comment: One commenter expressed concern about timely notification about readmission criteria for returning to school. The commenter expressed concern that the readmission criteria is listed on another website and not in the TAC directly, and this may cause difficulty or delay in knowledge of the guidance.

Response: DSHS disagrees and declines to revise the rule in response to the comment. DSHS sets criteria according to the authority in Texas Health and Safety Code Chapter 81. The decision to put the readmission criteria on the website allows DSHS to be flexible and stay current with ongoing medical research, the understanding of COVID-19, and updated guidance from the CDC.

Comment: The same commenter indicated a need to define "any child suspected of having COVID-19."

Response: DSHS disagrees and declines to revise the rule in response to this comment. The rule language aligns with the statute, Texas Health and Safety Code, §81.042(c), which allows for exclusion based on suspicion of a reportable disease.

Comment: Lastly, the commenter expressed logistical concerns schools may have about how exposed children and adults in the school setting would be excluded and readmitted.

Response: While DSHS understands there is discretion afforded to school administrators in the execution of this rule, DSHS declines to revise the rule in response to this comment.

Comment: One commenter asked why there is exclusion criteria for the common cold and for fever, but not for COVID-19.

Response: This comment is outside the scope of this rule. DSHS disagrees with this recommendation and declines to revise the rule in response to the comment.

Comment: One commenter agreed with the inclusion of COVID-19 to the list of communicable diseases requiring exclusion from school. The commenter suggested adding language to §97.7(b), as the commenter does not think the current language provides the flexibility to quickly respond to a newly contagious disease.

Response: DSHS disagrees and declines to make the suggested change §97.7(b). If DSHS needs to respond quickly to a new disease, an emergency rule may be put in place in a timely manner.

Comment: Two commenters (in a joint comment) expressed support for the guidance provided by DSHS. However, the commenters recommended that the guidance be stated in the rule itself.

Response: DSHS disagrees and declines to revise the rule in response to the comment. The readmission standards are included and align with CDC recommendations. The decision to

put the readmission criteria on the website allows DSHS to be flexible and stay current with ongoing medical research and the understanding of COVID-19. This rule is being promulgated under proper Texas Administrative Procedure Act with an opportunity for public comment.

STATUTORY AUTHORITY

The amendment is authorized by Texas Government Code §531.0055, which authorizes 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. Texas Health and Safety Code §81.042 authorizes the Executive Commissioner to adopt rules governing school exclusion criteria regarding communicable disease. Texas Health and Safety Code §81.004 authorizes the Executive Commissioner to adopt rules governing the effective implementation of Chapter 81, Communicable Diseases.

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 December 28, 2021.

TRD-202105241
Cynthia Hernandez
General Counsel
Department of State Health Services
Effective date: January 26, 2022
Proposal publication date: November 5, 2021
For further information, please call: (512) 776-7676



CHAPTER 229. FOOD AND DRUG SUBCHAPTER A. PRESCRIPTION DRUG PRICE DISCLOSURE

25 TAC §§229.1 - 229.4

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DSHS), adopts new §§229.1 - 229.4, concerning Prescription Drug Price Disclosure. Sections 229.1 - 229.4 are adopted without changes to the proposed text as published in the October 22, 2021, issue of the *Texas Register* (46 TexReg 7189) and will not be republished.

BACKGROUND AND JUSTIFICATION

In 2019, House Bill (H.B.) 2536 created Texas Health and Safety Code Chapter 441 requiring drug manufacturers to report the wholesale acquisition cost of all United States Food and Drug Administration-approved drugs sold in or into Texas. Manufacturers were also required to report on price increases exceeding a certain threshold compared to prices at certain time frames, and manufacturers were required to provide reasons for the price increase on the HHSC website. No rules were developed.

The adopted new sections are necessary to comply with H.B. 1033, 87th Legislature, Regular Session, 2021, that amended Texas Health and Safety Code, Chapter 441. H.B. 1033 transferred the program from HHSC to DSHS and requires prescription drug manufacturers to report certain cost data and price in-

creases for prescription drugs. The promulgation of rules allows DSHS to administer fines for failure to disclose price increases. The new rules require a \$250 fee when drug manufacturers submit each report.

COMMENTS

The 31-day comment period ended November 22, 2021.

During this period, DSHS received comments regarding the proposed rules from two commenters, including the Texas Health-care and Bioscience Institute (THBI) and Pfizer Inc. A summary of comments relating to the rules and DSHS's responses follows.

Comment: Regarding §229.2(3), one commenter suggested changing the definition of "exclusivity" to "Statutory exclusivity - A statutory prohibition during a specified time period on the submission or approval of an application submitted under section 505 of the Federal Food, Drug, and Cosmetic Act or an application submitted under section 351 of the Public Health Service Act."

Response: DSHS disagrees and declines to revise the rule in response to this comment. "Exclusivity" is the accepted term of art used to describe certain delays and prohibitions on approval of competitor drugs available under statute that attach upon Federal Drug Administration (FDA) approval of a drug.

Comment: Regarding §229.2(4), one commenter suggested changing the definition of "patent" to "Utility patent - A property right issued by the United States Patent and Trademark Office that confers a right to exclude others from making, using, offering for sale, selling within the United States or importing into the United States an invention as claimed in the patent for a limited time."

Response: DSHS disagrees and declines to revise the rule in response to this comment. The rule as written is consistent with the legislative language and intent to affect all drug-related patents. The statute was not intended to be limited in scope to a single type of patent (utility); rather, the statute and the rule as drafted, are intended to apply to all drug related patents.

Comment: Regarding §229.2(5), one commenter suggested changing the definition of "patent exclusivity" to "Patent exclusivity - A right granted by the federal government during the statutory term of an unexpired utility patent, separate and distinct from statutory exclusivity."

Response: DSHS disagrees and declines to revise the rule in response to this comment. The rule as written is consistent with the legislative intent that the term "patent exclusivity" encompass both market exclusivity granted by the FDA and the property right protections under a patent. Information regarding the expiration of both is relevant to wholesale acquisition cost increases of prescription drugs and is a requirement under the statute.

Comment: One commenter suggested modifications to the DSHS website, including adjustments to the timing of availability of reports and processes for accessing reports and submitting data.

Response: DSHS declines to revise the rule in response to this comment as the rule does not address this subject. This subject is partially addressed in statute at Texas Health and Safety Code §441.0051, §441.0052, and §441.0053. DSHS will take these suggestions under consideration as they relate to website functionality and user preference.

STATUTORY AUTHORITY

The adopted new rules are authorized by Texas Health and Safety Code §441.0003, §441.0055, and §441.0102, which provide DSHS with authority to adopt rules for the implementation and enforcement of Texas Health and Safety Code, Chapter 441; and Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC adopt rules and policies for the operation and provision of health and human services by DSHS.

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 December 28, 2021.

TRD-202105243

Cynthia Hernandez

General Counsel

Department of State Health Services

Effective date: January 17, 2022

Proposal publication date: October 22, 2021

For further information, please call: (512) 834-6755



TITLE 28. INSURANCE

PART 1. TEXAS DEPARTMENT OF INSURANCE

CHAPTER 5. PROPERTY AND CASUALTY INSURANCE

SUBCHAPTER G. WORKERS' COMPENSATION INSURANCE

DIVISION 1. SALE OF SUBSTITUTES TO WORKERS' COMPENSATION INSURANCE

28 TAC §5.6302

The Commissioner of Insurance adopts the repeal of 28 TAC §5.6302, relating to the sale of substitutes to workers' compensation insurance. The repeal is adopted without changes to the proposed text published in the October 29, 2021, issue of the *Texas Register* (46 TexReg 7357) and will not be republished.

REASONED JUSTIFICATION. The repeal of 28 TAC §5.6302 is necessary because House Bill 3769, 87th Legislature, 2021, added Insurance Code Chapter 564, which requires disclosures similar to §5.6302, making the rule redundant and obsolete. Section 5.6302 is no longer needed because each provision in it is now superseded or addressed by statute. Insurance Code §541.051, which prohibits misrepresenting the terms, benefits, or advantages of a policy, already addresses the requirements in §5.6302(a). New Insurance Code §564.005 supersedes the disclosures required by §5.6302(b) and (d). In addition, the disclosure required by §5.6302(c) is redundant because Labor Code §406.005 requires a similar notice to employees.

SUMMARY OF COMMENTS AND AGENCY RESPONSE.

Commenter: TDI received one comment from the Texas Association of Health Plans.

Comment. The commenter supports the proposed repeal because it will reduce unnecessary consumer confusion and burdens on health care plan issuers.

Agency Response. No change is necessary.

STATUTORY AUTHORITY. The Commissioner adopts the repeal of §5.6302 under Insurance Code §564.006 and Insurance Code §36.001.

Insurance Code §564.006 provides that the Commissioner adopt rules necessary to implement Chapter 564.

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

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

Filed with the Office of the Secretary of State on December 29, 2021.

TRD-202105263

James Person

General Counsel

Texas Department of Insurance

Effective date: January 18, 2022

Proposal publication date: October 29, 2021

For further information, please call: (512) 599-2127



TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 2. TEXAS PARKS AND WILDLIFE DEPARTMENT

CHAPTER 53. FINANCE

The Texas Parks and Wildlife Commission in a duly noticed meeting on November 4, 2021, adopted amendments to 31 TAC §§53.2 - 53.4, concerning Fees, and §53.60, concerning Stamps. Sections 53.2, 53.4, and 53.60 are adopted with changes to the proposed text as published in the September 24, 2021, issue of the *Texas Register* (46 TexReg 6365), and will be republished. Section 53.3 is adopted without changes from the proposal as published and will not be republished.

The amendments will function in conjunction with adopted amendments to §§57.981, 65.7, 65.8, 65.10, 65.42, and 65.64, published elsewhere in this issue of the *Texas Register*, to implement digital versions of the super combination hunting and "all water" fishing license package, a virtual license that does not utilize physical tags, and provide for the digital issuance of tags to holders of a lifetime super combination hunting and "all water" fishing license package.

The 87th Texas Legislature enacted House Bill (H.B.) 3081, which authorized the commission to develop and implement a program for the issuance of digital tags for animals, including birds, to holders of hunting licenses authorizing the taking of those animals. In light of the passage of H.B. 3081, the department has determined that it is appropriate to initiate a pilot program to determine the public receptivity to and logistical

feasibility of the concept of digital licenses and tags for hunting and fishing. The department currently offers a wide variety of physical hunting and fishing licenses; however, those licenses are issued via a computerized point-of-sale system operated by an outside vendor and the majority of license sales are consummated at retail locations where licenses are sold. Thus, there are many factors for the department to consider and significant potential for unforeseen circumstances to present themselves. Therefore, rather than offering digital versions of every type of hunting and fishing license all at once, the department has determined that it is prudent to begin with a pilot program to provide a real-world test of the parameters and customer experiences to be considered in any enlargement of the program. The super combination hunting and "all water" fishing license package is a suitable candidate for the pilot program.

The amendment to §53.2, concerning License Issuance Procedures, Fees, Possession, and Exemption Rules, prescribes the requirements for providing proof of licensure for persons who purchase a digital license. Because a digital license does not physically exist, the department has determined that it is necessary to prescribe how a person who has purchased a digital license may prove to law enforcement personnel that the person is legally engaging in hunting or fishing activities authorized under a digital license. The amendment also makes clarifying changes to prevent conflicts between components of current rules applicable to physical licenses with provisions governing digital licenses and clarifies that license fees are not affected by the rulemaking. Finally, the amendment allows the holder of a lifetime resident super combination hunting and "all water" fishing package to select, beginning the year following the year of purchase and each year thereafter, whether to receive digital or physical tags. The provision provides that such a selection is final and may not be altered for the rest of the license year, which is necessary to prevent misunderstandings and confusion with respect to enforcement and compliance.

The amendment to §53.3, concerning Combination Hunting and Fishing License Packages, provides for the issuance of a digital version of the resident super combination hunting and "all water" fishing package, a digital version of the resident senior super combination hunting and "all water" fishing package, and digital tags for the lifetime resident super combination hunting and "all water" fishing package.

The amendment to §53.4, concerning Lifetime Licenses, alters that section to provide for the optional issuance of digital tags.

The amendment to §53.60, concerning Stamps, creates exceptions to current rules regarding possession of required stamps necessary to accommodate the creation of digital licenses.

The department received five comments opposing adoption of the rules as proposed. None of the commenters provided a reason or rationale for opposing adoption.

The department received two comments supporting adoption of the rules as proposed.

SUBCHAPTER A. FEES

DIVISION 1. LICENSE, PERMIT, AND BOAT AND MOTOR FEES

31 TAC §§53.2 - 53.4

The amendments are adopted under the authority of Parks and Wildlife Code, §42.010, which requires the commission to prescribe the form and issuance of hunting licenses authorized un-

der Parks and Wildlife Code, Chapter 42; §42.0101, which authorizes the commission to promulgate rules for the issuance of digital tags for animals, including birds, to holders of hunting licenses authorizing the taking of those animals, including rules allowing a person using a digital tag to create a digital record at the time of the taking of an animal that includes information required by the department as soon as possible after the taking of the animal and requiring a person using a digital tag to retain in the person's possession documentation of a required digital record at all times before the carcass is finally processed; §42.0177, which authorizes the commission to modify or eliminate the tagging, carcass, final destination, and final processing requirements of Chapter 42; §42.006, which authorizes the commission to prescribe requirements relating to possessing a license issued under Chapter 42 by rule; §46.0085, which authorizes the department to issue tags for finfish species allowed by law to be taken during each year or season from coastal waters of the state to holders of licenses authorizing the taking of finfish species; §46.0086, which authorizes the commission to prescribe tagging requirements for the take of finfish; §50.004, which requires the department to issue and prescribe the form and manner of issuance for combination hunting and fishing licenses, including identification and compliance requirements; and Chapter 61, which requires the commission to regulate the periods of time when it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the means, methods, and places in which it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the species, quantity, age or size, and, to the extent possible, the sex of the game animals, game birds, or aquatic animal life authorized to be hunted, taken, or possessed; and the region, county, area, body of water, or portion of a county where game animals, game birds, or aquatic animal life may be hunted, taken, or possessed.

§53.2. License Issuance Procedures, Fees, Possession, and Exemption Rules.

(a) Hunting license possession.

(1) Except as provided in this section, no person may hunt in this state without having a valid physical hunting license in immediate possession.

(2) A person may hunt in this state without having a valid physical hunting license in immediate possession if that person has acquired a license electronically and has either:

(A) a receipt, notification, or application data from the department on a smart phone, computer, tablet, or similar device indicating acquisition of a digital license described in §53.3(a)(12) of this title (relating to Combination Hunting and Fishing License Packages) or §53.4(a)(1) of this title (relating to Lifetime Licenses); or

(B) a valid confirmation number in possession while awaiting fulfillment of the physical license. Confirmation numbers shall only be valid for 20 days from date of purchase.

(3) Except as provided in this section, a person may hunt deer in this state without having a valid physical hunting license in immediate possession only if that person:

(A) has acquired a license electronically and has a valid confirmation number in possession while awaiting fulfillment of the physical license; and

(B) is lawfully hunting:

(i) under the provisions of §65.29 of this title (relating to Managed Lands Deer (MLD) Programs);

(ii) by special permit under the provisions of Chapter 65, Subchapter H of this title (relating to Public Lands Proclamation);

(iii) on department-leased lands under the provisions of Parks and Wildlife Code, §11.0271; or

(iv) by special antlerless permit issued by the U.S. Forest Service (USFS) for use on USFS lands that are part of the department's public hunting program.

(4) For the purposes of this chapter, any person under the age of 17 is a resident.

(b) Fishing license possession.

(1) A person may fish in this state without having a valid physical fishing license in immediate possession if that person:

(A) is exempt by rule or statute from holding a fishing license; or

(B) has acquired a license electronically and has either:

(i) a receipt, notification, or application data from the department on a smart phone, computer, tablet, or similar device indicating acquisition of a digital license described in §53.3(a)(12) of this title or §53.4(a)(1) of this title; or

(ii) a valid confirmation number in possession while awaiting fulfillment of the physical license. Confirmation numbers shall only be valid for 20 days from date of purchase.

(2) No person may catch and retain a red drum over 28 inches in length in the coastal waters of this state without having a valid fishing license, saltwater sportfishing stamp (unless exempt), and valid red drum tag in immediate possession, unless the person has purchased a valid digital license described in §53.3(a)(12) of this title or a valid license with digital tags under §53.4(a)(1) of this title.

(c) Issuance of licenses and stamp endorsements electronically (on-line or by telephone).

(1) A person may acquire recreational hunting and/or fishing licenses electronically from the department by agreeing to pay a convenience fee of up to \$5 per license in addition to the normal license fee.

(2) A person may acquire recreational hunting and/or fishing stamp endorsements electronically from the department by agreeing to pay a convenience fee of up to \$5 per stamp order in addition to the normal stamp endorsement fee(s). This fee shall not be charged if a license is acquired during the same transaction.

(3) The fees established by this subsection apply to the electronic acquisition of a digital license identified in §53.3(a)(12) of this title or §53.4(a)(1) of this title.

(d) The following categories of persons are exempt from fishing license requirements and fees:

(1) residents under 17 years of age;

(2) non-residents under 17 years of age;

(3) non-residents 65 years of age or older who are residents of Louisiana and who possess a Louisiana recreational fishing license;

(4) non-residents 65 years of age or older who are residents of Oklahoma;

(5) persons who hold valid Louisiana non-resident fishing licenses while fishing on all waters inland from a line across Sabine Pass between Texas Point and Louisiana Point that form a common

boundary between Texas and Louisiana if the State of Louisiana allows a reciprocal privilege to persons who hold valid Texas annual or temporary non-resident fishing licenses; and

(6) residents of Louisiana who meet the licensing requirements of their state while fishing on all waters inland from a line across Sabine Pass between Texas Point and Louisiana Point that form a common boundary between Texas and Louisiana if the State of Louisiana allows a reciprocal privilege to Texas residents who hold valid Texas fishing licenses.

(e) An administrative fee of \$3 shall be charged for replacement of lost or destroyed licenses, stamp endorsements, or permits. This fee shall not be charged for items which have a fee for duplicates otherwise prescribed by rule or statute.

(f) A license or permit issued under the Parks and Wildlife Code or this title that has been denied or revoked by the department may not be re-issued or reinstated unless the person applying for re-issuance or reinstatement applies to the department for re-issuance or reinstatement and pays to the department an application review fee of \$100, in addition to any other fees or penalties required by law.

(g) A person who has purchased a valid hunting, fishing, or combination hunting and fishing license but is not in physical possession of that license in any circumstance for which the license is required may use a wireless communications device (laptop, cellphone, smart phone, electronic tablet, phablet, or similar device) to satisfy applicable license possession requirements.

(1) Upon request for proof of licensure by a department employee in the performance of official duties, a person may display one of the following images via a wireless communications device:

(A) an image of information from the Internet website of the department or mobile application verifying issuance of the license valid for the activity or circumstance for which proof of licensure has been requested; or

(B) a display image of a digital photograph of the applicable license issued to the person.

(2) The requirements of paragraph (1)(B) of this subsection are satisfied by separate digital images of the entirety of the front and back of the license. The images must be of a resolution, contrast, and image size sufficient to allow definitive verification of the information on the license.

(3) This subsection applies only to proof of licensure and does not relieve any person from any legal requirement or obligation to be in physical possession of a stamp, stamp endorsement, tag, or permit.

§53.4. Lifetime Licenses.

(a) Fees.

(1) lifetime resident super combination hunting and "all water" fishing package--\$1,800;

(A) includes the digital tag option that does not require the license log or the physical license tags found on the physical license. The digital tag option is available beginning the year after the year of purchase of the license (and each year thereafter); and

(B) the provisions of §53.3(a)(12)(B) - (D) of this title (relating to Combination Hunting and Fishing License Packages) apply.

(2) lifetime resident hunting--\$1,000;

(3) lifetime resident fishing--\$1,000;

(4) upgrade of lifetime resident hunting/fishing license to resident lifetime super combination hunting and "all-water" fishing package--\$800; and

(5) replacement lifetime licenses--\$10.

(b) Special provision. A nonresident designated by proclamation of the governor to be an Honorary Citizen for the purpose of buying a lifetime license is a resident for the purpose of purchasing a lifetime license.

(c) Special resident lifetime super combination hunting and "all water" fishing license package with one-year subscription to Texas Parks and Wildlife Magazine. The non-refundable application fee for an individual applying for a computer-selected drawing for a special resident lifetime super combination hunting and "all water" fishing package with one-year subscription to Texas Parks and Wildlife Magazine is \$5 per entry in the drawing. Persons 16 years of age or younger are not eligible to purchase entries in the drawing created by this subsection. A person who wins a special resident lifetime super combination hunting and "all water" fishing package may transfer the license to another person within 30 days of being notified by the department of winning. A license under this subsection is transferable only to a Texas resident and such a transfer is permanent and final.

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 B. STAMPS

31 TAC §53.60

The amendment is adopted under the authority of Parks and Wildlife Code, §42.010, which requires the commission to prescribe the form and issuance of hunting licenses authorized under Parks and Wildlife Code, Chapter 42; §42.0101, which authorizes the commission to promulgate rules for the issuance of digital tags for animals, including birds, to holders of hunting licenses authorizing the taking of those animals, including rules allowing a person using a digital tag to create a digital record at the time of the taking of an animal that includes information required by the department as soon as possible after the taking of the animal and requiring a person using a digital tag to retain in the person's possession documentation of a required digital record at all times before the carcass is finally processed; §42.0177, which authorizes the commission to modify or eliminate the tagging, carcass, final destination, and final processing requirements of Chapter 42; §42.006, which authorizes the commission to prescribe requirements relating to possessing a license issued under Chapter 42 by rule; §46.0085, which authorizes the department to issue tags for finfish species allowed by law to be taken during each year or season from coastal waters of the state to holders of licenses authorizing the tak-

ing of finfish species; §46.0086, which authorizes the commission to prescribe tagging requirements for the take of finfish; §50.004, which requires the department to issue and prescribe the form and manner of issuance for combination hunting and fishing licenses, including identification and compliance requirements; and Chapter 61, which requires the commission to regulate the periods of time when it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the means, methods, and places in which it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the species, quantity, age or size, and, to the extent possible, the sex of the game animals, game birds, or aquatic animal life authorized to be hunted, taken, or possessed; and the region, county, area, body of water, or portion of a county where game animals, game birds, or aquatic animal life may be hunted, taken, or possessed.

§53.60. *Stamps.*

(a) Stamp Form, Design and Manner of Issuance.

(1) Except as provided in paragraph (2) of this subsection, a required stamp shall be issued as an endorsement noted on the license issued through the department's automated system.

(2) A digital license issued under the provisions of §53.3(a)(12) of this title (relating to Combination Hunting and Fishing License Packages) includes all required endorsements.

(b) Stamp Purchase Identification and Possession Requirements.

(1) A person may hunt without a required state hunting stamp in immediate possession if the person:

(A) possesses a valid digital license issued under the provisions of §53.3(a)(12) of this title or a valid license with digital tags under §53.4(a)(1) of this title (relating to Lifetime Licenses); or

(B) has acquired a stamp electronically and has a valid authorization number in possession while awaiting fulfillment of the physical tag. Authorization numbers shall only be valid for 20 days from purchase date.

(2) A person may fish without a required fishing stamp in immediate possession if the person:

(A) possesses a valid digital license issued under the provisions of §53.3(a)(12) of this title or a valid license with digital tags under §53.4(a)(1) of this title; or

(B) has acquired a stamp electronically and has a valid authorization number in possession while awaiting fulfillment of the physical tag. Authorization numbers shall only be valid for 20 days from purchase date.

(c) Stamp Exemptions.

(1) The commission grants the executive director authority to exempt persons participating in any event organized for the primary purpose of promoting participation in fishing or hunting activities from the requirement to purchase or possess the following stamps:

- (A) migratory game bird stamp;
- (B) archery hunting stamp;
- (C) upland game bird stamp;
- (D) saltwater sportfishing stamp; and
- (E) freshwater fishing stamp.

(2) Youth license holders and lifetime resident hunting license holders are exempt from requirements for acquisition and possession of the following stamps:

- (A) migratory game bird stamp;
- (B) upland game bird stamp; and
- (C) archery hunting stamp.

(3) All lifetime resident combination hunting and fishing license holders are exempt from requirements for acquisition and possession of the following stamps:

- (A) migratory game bird stamp;
- (B) upland game bird stamp;
- (C) archery hunting stamp;
- (D) saltwater sportfishing stamp; and
- (E) freshwater fishing stamp.

(4) All lifetime resident fishing license holders are exempt from requirements for acquisition and possession of the following stamps:

- (A) saltwater sportfishing stamp;
- (B) freshwater fishing stamp.

(5) All persons meeting the definition of a qualified disabled veteran under the provisions of Parks and Wildlife Code, §42.012(c), are exempt from the fees for the following stamps:

- (A) migratory game bird stamp;
- (B) upland game bird stamp;
- (C) archery;
- (D) saltwater sportfishing; and
- (E) freshwater fishing.

(6) All Texas residents on active duty in the armed forces of the United States (including members of the Reserves and National Guard on active duty) are exempt from the fees for the following stamps:

- (A) migratory game bird stamp;
- (B) upland game bird stamp;
- (C) archery;
- (D) saltwater sportfishing; and
- (E) freshwater fishing.

(7) Special fishing license holders are exempt from the requirements for acquisition and possession of the following stamps:

- (A) saltwater sportfishing stamp; and
- (B) freshwater fishing stamp.

(8) All one-day all-water fishing license holders are exempt from requirements for acquisition and possession of the following stamps:

- (A) saltwater sportfishing stamp; and
 - (B) freshwater fishing stamp.
- (d) Obsolete Stamps and Decals.

(1) An obsolete stamp is a stamp that is not valid.

(2) Obsolete stamps and decals shall be sold for informational purposes, at an established fee for collector's edition stamp package, plus a processing charge sufficient to recover shipment, postage, and sales tax.

(c) In addition to the freshwater fishing stamp, the department may make available a collectible freshwater habitat stamp for a fee of \$5.

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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CHAPTER 57. FISHERIES

SUBCHAPTER A. HARMFUL OR POTENTIALLY HARMFUL FISH, SHELLFISH, AND AQUATIC PLANTS

31 TAC §57.113, §57.116

The Texas Parks and Wildlife Commission in a duly noticed meeting on November 4, 2021, adopted amendments to 31 TAC §57.113 and §57.116, concerning Harmful or Potentially Harmful Fish, Shellfish and Aquatic Plants. Section 57.116 is adopted with changes to the proposed text as published in the September 24, 2021, issue of the *Texas Register* (46 TexReg 6368) and will be republished. Section 57.113 is adopted without changes and will not be republished.

The amendments clarify the period of validity for the permit for stocking of triploid grass carp in private or public waters, lawful transfer of these fish with any change in ownership of a property, and harvest of stocked triploid grass carp from public waters.

The change to §57.116, concerning Special Provisions - Triploid Grass Carp, implements a 36-month period of validity for permits authorizing the possession of triploid grass carp for vegetative management purposes.

The amendment to §57.113(b)(2), concerning General Provisions and Exceptions, alters subsection (b)(2) to clarify the process by which the department designates public water bodies where triploid grass carp have been stocked for aquatic vegetation management purposes and may not be taken. This language is more consistent with current procedure whereby the department designates these water bodies by listing on the department website.

The amendment to §57.116, concerning Special Provisions - Triploid Grass Carp, alters subsection (g)(3) to clarify that the stocking authority under a permit issued under the subsection is specific to the pond for which it issued (i.e., cannot be used on any other pond) and is valid for 36 months from the date of issuance. Current §57.116(g)(3) unintentionally mixes provi-

sions regarding the transfer of property with provisions regarding the applicability and period of validity of a permit. Therefore, provisions regarding transfer of property are relocated to new paragraph (8) and the remaining provisions reworded for the sake of clarity. Additionally, the department has determined there is a need for a defined permit expiration date to accommodate administrative document archiving schedules and prevent potential permit reuse. The proposed rule prescribed a period of 18 months; however, public comment has persuaded the department that a 36-month period provides additional flexibility for adaptive management practices. The amendment also relocates the provision pertaining to modification of ponds in such a way that could result in increased risk of escape, release, or discharge of controlled exotic species to new paragraph (10) as it relates to conditions for possession rather than permit period of validity.

The amendment also adds new paragraph (8) to relocate provisions governing the transfer of properties where triploid grass carp are present. New §57.116(g)(8) provides that documentation required to be retained by persons in possession of triploid grass carp (i.e., transport invoice and proof of triploid status certification) shall be transferred with the change of ownership of a property to the new property owner as proof of lawful possession of transferred triploid grass carp. This amendment clarifies that this documentation authorizes lawful possession by the new owner to facilitate such transfers.

The amendment relocates the provision from paragraph (3) pertaining to modification of ponds in such a way that could result in increased risk of escape, release, or discharge of controlled exotic species to new paragraph (10) as it relates to conditions for possession rather than permit period of validity.

The amendment to §57.116(g)(9), concerning transfer of triploid grass carp, clarifies that live triploid grass carp stocked in a pond may be transferred to the new owner of a property.

The department received 21 comments opposing adoption of the rules as proposed. Of the 21 comments, 20 offered a specific reason or rationale for opposing adoption. Those comments, accompanied by the department's response, follow.

Eighteen commenters specifically opposed adoption of the proposed 18-month period of permit validity, citing various concerns related to logistics, monitoring, and the timeframes of various types of management goals. As noted previously in this preamble, the department agrees with the comments and has made changes accordingly to implement a 36-month period of validity.

Two commenters opposed adoption and stated that existing permits should be exempt from the permit period of validity. The department agrees with the comments and responds that the rules as adopted apply only to permits issued after the effective date of the rules and not to existing permits. No changes were made as a result of the comments.

Two commenters opposed adoption and stated that the requirements regarding transfer of documentation following property sales could be problematic and were not necessary. The department disagrees with the comments and responds that it is unlawful to possess live triploid grass carp without a permit and the rule as adopted is intended to provide a method for a person who comes into possession of live triploid grass carp as a result of the transfer of real property to prove that the triploid grass carp were lawfully stocked by a previous owner. No changes were made as a result of the comments.

One commenter opposed adoption and stated that the department should refund fees for triploid grass carp purchased but not stocked. The department disagrees with the comment and responds that the comment is not germane to the actions contemplated by the rulemaking as permits issued prior to this rulemaking would not be affected, but in any case, the 36-month period of permit validity for new permits should, with proper planning, allow for more efficient fish utilization. No changes were made as a result of the comment.

The department received five comments supporting adoption of the rules as proposed.

The amendments are adopted under the authority of Parks and Wildlife Code, §66.007, which authorizes the department to make rules necessary to authorize the import, possession, sale, or introduction of harmful or potentially harmful exotic fish.

§57.116. *Special Provisions--Triploid Grass Carp.*

(a) The department may issue a permit for introduction of triploid grass carp into public water after finding that the introduction is not likely to affect threatened or endangered species or interfere with specific management objectives for other important species or habitats.

(b) The department may issue a permit for stocking of triploid grass carp in a private pond after finding that the triploid grass carp are not likely to escape from the pond into public waters in violation of Parks and Wildlife Code, §66.015, and that the stocking is not likely to affect threatened or endangered species or interfere with specific management objectives for other important species or habitats.

(c) An applicant for a triploid grass carp permit for private pond stocking shall, upon request, allow inspection of their ponds or lakes by an employee of the department during normal business hours for the purposes of evaluating whether the private pond meets the criteria for permit issuance.

(d) Except as otherwise approved by the department, the triploid grass carp stocking rate authorized by a permit shall be determined by consideration of the surface area of the water body to be stocked and the extent of the aquatic vegetation to be managed.

(e) Triploid grass carp may be purchased or obtained only from:

(1) the holder of a valid controlled exotic species permit that authorizes the sale of triploid grass carp; or

(2) directly from any lawful out-of-state source.

(f) The department is authorized to introduce triploid grass carp into public water in situations where the department has determined that there is a management need, and when stocking will not affect threatened or endangered species or other important species or habitats.

(g) Stocking in private ponds.

(1) Private ponds stocked with triploid grass carp shall be designed and maintained such that escape, release, or discharge of triploid grass carp from the private pond into public water is not likely to occur.

(2) Prior to stocking of triploid grass carp into a private pond, the landowner or their agent must obtain a permit for stocking of live triploid grass carp.

(3) A permit for stocking of triploid grass carp into private ponds is specific to the pond or ponds for which it is issued and shall

remain valid for a period of 36 months from the date of issuance. All stocking must take place within the period of permit validity established by this paragraph.

(4) No person holding triploid grass carp in a private pond may sell, offer for sale, or exchange triploid grass carp for money or anything of value.

(5) Upon reclassification of any county in the conservation zone to stocking zone, the stocking zone provisions shall apply to all future stockings in that county. Zones are as defined in §57.111 of this title (relating to Definitions).

(6) Within the stocking zone, permit applications requesting ten or fewer triploid grass carp require administrative review only. The application shall be submitted at least 14 days prior to the intended stocking.

(7) A person in possession of live triploid grass carp stocked in a private pond must possess and retain for a period of one year from the date the grass carp were obtained or as long as the grass carp are in the water, whichever is longer:

(A) an exotic species transport invoice as described in §57.121 of this title (relating to Transport of Live Controlled Exotic Species) or an aquatic product transport invoice from a lawful out-of-state source in compliance with Parks and Wildlife Code, §47.0181; and

(B) documentation that the grass carp have been certified as triploid by the Grass Carp Inspection and Certification Inspection Program operated by the U.S. Fish and Wildlife Service.

(8) A person in possession of live triploid grass carp shall provide the documentation required by paragraph (7) of this subsection to the new property owner upon change of ownership of the property as proof of lawful possession of triploid grass carp. Possession of the documentation described in paragraph (7) of this subsection shall be maintained so long as a person possesses any live triploid grass carp.

(9) Except as provided in paragraph (8) of this subsection, triploid grass carp stocked in a private pond must be killed in accordance with the provisions of §57.113 of this title (relating to General Provisions and Exceptions) prior to being transported or transferred to another person.

(10) A person in possession of live triploid grass carp may not modify the pond or ponds for which stocking was permitted in any way that could result in increased risk of escape, release, or discharge of controlled exotic species into public water.

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

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SUBCHAPTER N. STATEWIDE RECREATIONAL AND COMMERCIAL FISHING PROCLAMATION

DIVISION 1. GENERAL PROVISIONS

31 TAC §57.975

The Texas Parks and Wildlife Commission in a duly noticed meeting on November 4, 2021, adopted an amendment to 31 TAC §57.975, concerning Freeze Event Closures, without changes to the proposed text as published in the September 24, 2021, issue of the *Texas Register* (46 TexReg 6369). The rule will not be republished.

The amendment alters definitions and provides for the declaration of freeze closures in advance of expected severe cold weather.

The current rule was promulgated in 2005 to protect vulnerable fish populations during periods of intense cold weather. Department data indicate that extensive fish mortality can occur, and has, as a result of unseasonable cold weather and freeze events. During such events, prolonged periods of freezing or near-freezing air temperatures can cause water temperatures to exceed lethal thresholds for numerous marine fish species. As water temperatures fall, fish tend to congregate in areas of deeper water that serve as temporary thermal refuges because they don't cool as quickly as shallower waters. As fish become concentrated in the thermal refugia, they are vulnerable to overharvest, which could result in depletion of the resource. Following the severe freeze event of February 2021, the department assessed its ability to effectively respond to such events. Department social dimensions and outreach activities indicate not only support for freeze closures, but a desire for them to be declared pre-emptively and in areas where they currently are not declared. The amendment is intended to optimize the effectiveness of the current rule.

The definition of "affected area" in current rule is restricted to areas of coastal water "where fishing from the bank is possible." The department has determined that during freeze events, fish can congregate in thermal refugia at various distances from the bank or shore, including distances beyond which it is possible to fish from the bank or shore; therefore, the amendment removes that qualification from the definition, which allows freeze event closures to be declared in any coastal waters rather than restricting the closures to only those areas where bank fishing is possible. The amendment also makes nonsubstantive changes for clarity.

Under current rule, a freeze is defined as "a period of cold weather that begins when the air temperature drops below 32 degrees Fahrenheit." The department has determined that water temperature is a more important factor than air temperature in terms of direct environmental impact on fish. Species such as spotted seatrout and red drum begin to suffer cold-related mortality at 40° F; therefore, the amendment establishes a 40° F water temperature as the new threshold for environmental conditions necessary to trigger a potential freeze event closure. Current rules do not provide the criteria to be used by the department for determining when a freeze closure will be rescinded. The rule as amended authorizes the Executive Director to allow fishing in affected areas to resume when water temperatures, as measured by select National Oceanic and Atmospheric Administration (NOAA) tide stations, reach a minimum of 50° F and are expected to remain above 40° F for at

least 48 hours. The department has determined that fish begin to disperse from thermal refugia and become less vulnerable to overharvest when water temperatures reach 50° F and do not drop below 40° F for at least 48 hours. The amendment also makes nonsubstantive changes for clarity.

The current rule provides for the declaration of freeze event closures when a freeze "has occurred." The department has determined that because the purpose of the rule is to prevent overharvest of vulnerable fish populations, the optimal use of the closure mechanism is to allow areas to be closed in advance of expected unfavorable environmental conditions rather than after those conditions already exist. Therefore, the amendment allows the declaration of freeze event closures in anticipation of freeze events. The amendment also makes changes to subsection (d) to comport the contents of that section with alterations made elsewhere regarding the timeframes for freeze closure declarations.

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

The department received 15 comments supporting adoption of the rule as proposed.

The amendment is adopted under the authority of Parks and Wildlife Code, Chapter 61, which requires the commission to regulate the periods of time when it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the means, methods, and places in which it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the species, quantity, age or size, and, to the extent possible, the sex of the game animals, game birds, or aquatic animal life authorized to be hunted, taken, or possessed; and the region, county, area, body of water, or portion of a county where game animals, game birds, or aquatic animal life may be hunted, taken, or possessed.

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James Murphy

General Counsel

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DIVISION 2. STATEWIDE RECREATIONAL FISHING PROCLAMATION

31 TAC §57.981

The Texas Parks and Wildlife Commission in a duly noticed meeting on November 4, 2021, adopted an amendment to 31 TAC §57.981, concerning Bag, Possession, and Length Limits, without changes to the proposed text as published in the September 24, 2021, issue of the *Texas Register* (46 TexReg 6371). The rule will not be republished. The amendment will function, in conjunction with adopted amendments to §§53.2

- 53.4, 53.60, 65.7, 65.8. 65.10, 65.42, and 65.64 published elsewhere in this issue of the *Texas Register*, to implement a digital version of the super combination hunting and "all water" fishing license package, a virtual license that does not utilize physical tags, and provide for the digital issuance of tags to holders of a lifetime super combination hunting and "all water" fishing license package.

Under current rule, the super combination hunting and "all water" fishing license entitles a person to retain a red drum exceeding the maximum length limit only if the person has attached a properly executed red drum tag, exempt angler red drum tag, or bonus red drum tag to the harvested red drum. The 87th Texas Legislature enacted House Bill (H.B.) 3081, which authorized the commission to develop and implement a program for the issuance of digital tags for animals, including birds, to holders of hunting licenses authorizing the taking of those animals. In light of the passage of H.B. 3081, the department has determined that it is appropriate to initiate a pilot program to determine the public receptivity to and logistical feasibility of the concept of digital licenses for hunting and fishing. The department currently offers a wide variety of physical hunting and fishing licenses; however, those licenses are issued via a computerized point-of-sale system operated by an outside vendor and the majority of license sales are consummated at retail locations where licenses are sold. Thus, there are many factors for the department to consider and significant potential for unforeseen circumstances to present themselves. Therefore, rather than offering digital versions of every hunting and fishing license all at once, the department has determined that it is prudent to begin with a pilot program to provide a real-world test of the parameters and customer experiences to be considered in any enlargement of the program. The super combination hunting and fishing license is a suitable candidate for the pilot program.

The amendment prescribes tagging requirements for holders of digital licenses with respect to oversized red drum. As noted earlier, current rule requires a person who retains an oversized red drum to execute and attach a physical tag from the person's fishing license. A person who retains an oversized red drum under a license that does not contain tags cannot comply with current rule; therefore, the amendment creates an exception to the current requirements for physical licenses and prescribes digital tagging provisions. The amendment requires the holder of a digital license to immediately report the retention of an oversized red drum via an electronic application developed by the department for that purpose and receive a confirmation number. Additionally, the rule prescribes the requirements for situations in which data connectivity prevents the required harvest report from being uploaded (i.e., preventing a confirmation number from being obtained). Specifically, a person who retains an oversized red drum and reports via the electronic application as required but cannot receive a confirmation number because of data connectivity issue is required to upload the harvest report immediately upon reaching data connectivity. Finally, the amendment requires persons in possession of an oversized red drum under a digital license to be in possession of an appropriate electronic device. It is or should be intuitively obvious that compliance with the requirement for digital tagging immediately upon harvest cannot take place in the absence of a functioning smartphone, computer, or other device capable of reporting; thus, the rule requires that the capability for compliance be present at the time the report is required. The department acknowledges that situations may arise in which electronic devices are damaged, lost, or lose power and notes that Parks and Wildlife Code, §46.015,

provides for the dismissal of charges for persons charged with fishing license violations if the person is able to produce for the court or the prosecuting attorney the proper fishing license issued to the person and valid at the time of the offense. The department notes that persons who purchase a lifetime super combination hunting and "all water" fishing license and choose to have the department fulfil a physical red drum tag will be required to follow current rules regarding tagging.

The department received five comments opposing adoption of the rules as proposed. None of the commenters provided a reason or rationale for opposing adoption.

The department received two comments supporting adoption of the rules as proposed.

The amendment is adopted under the authority of Parks and Wildlife Code, §46.0085, which authorizes the department to issue tags for finfish species allowed by law to be taken during each year or season from coastal waters of the state to holders of licenses authorizing the taking of finfish species; §46.0086, which authorizes the commission to prescribe tagging requirements for the take of finfish; §50.004, which requires the department to issue and prescribe the form and manner of issuance for combination hunting and fishing licenses, including identification and compliance requirements; and Chapter 61, which requires the commission to regulate the periods of time when it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the means, methods, and places in which it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the species, quantity, age or size, and, to the extent possible, the sex of the game animals, game birds, or aquatic animal life authorized to be hunted, taken, or possessed; and the region, county, area, body of water, or portion of a county where game animals, game birds, or aquatic animal life may be hunted, taken, or possessed.

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James Murphy

General Counsel

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CHAPTER 65. WILDLIFE

SUBCHAPTER A. STATEWIDE HUNTING

PROCLAMATION

DIVISION 1. GENERAL PROVISIONS

31 TAC §65.4

The Texas Parks and Wildlife Commission in a duly noticed meeting on November 4, 2021, adopted new §65.4, concerning Proof of Sex for Deer, with changes to the proposed text as published in the October 1, 2021, issue of the *Texas Register* (46 TexReg 6506). The rule will be republished. The new

section temporarily replaces the provisions of current §65.10(e) with respect to deer for the upcoming hunting season because at the time the proposed rule was published, §65.10 was the subject of another rule amendment to implement digital hunting and fishing licenses. The department will comport the provisions of the two sections at a future date.

The change replaces a reference to subsection (e) with a reference to subsection (f), which is necessary because the prior rule action regarding digital licenses caused redesignations that must be accommodated for the rules to be applicable and enforceable.

The new section is in response to the threat to free-ranging deer populations posed by chronic wasting disease (CWD). CWD is a fatal neurodegenerative disorder that affects some cervid species, including white-tailed deer, mule deer, elk, red deer, sika, and their hybrids (referred to collectively as susceptible species). It is classified as a TSE (transmissible spongiform encephalopathy), a family of diseases that includes scrapie (found in sheep), bovine spongiform encephalopathy (BSE, found in cattle and commonly known as "Mad Cow Disease"), and variant Creutzfeldt-Jakob Disease (vCJD) in humans. CWD can be transmitted both directly (through animal-to-animal contact) and indirectly (through environmental contamination). CWD has been detected in multiple locations in Texas, primarily in deer breeding facilities but also in free-ranging populations in several counties. The department, along with the Texas Animal Health Commission, has been engaged in a long-term battle to detect and contain CWD. If CWD is not contained and controlled, the implications of the disease for Texas and its multi-billion-dollar ranching, hunting, wildlife management, and real estate economies could be significant.

The movement, and ultimately, the improper disposal of carcasses and carcass parts, particularly skulls, brains, and spinal cords, increases the risk of spreading CWD. Under current rule, proof-of-sex for deer is the head of the deer, which must accompany the carcass until a final destination is reached. The new rule provides an alternative to the current rules regarding proof of sex for female deer by allowing certain gender-related anatomical parts to accompany the carcass in lieu of the head. This will provide hunters with the option to leave the head of a female deer at the site of harvest to reduce risk for the potential spread of CWD from that site.

The department received six comments opposing adoption of the rule as proposed. One commenter provided a reason or rationale for opposing adoption. The commenter stated that the rule should require the vulva or mammary tissue to remain connected to a hindquarter to prevent unscrupulous persons from repeatedly utilizing the same body parts to conceal illegally taken deer. The department disagrees with the comment and responds that tissues from freshly or recently killed animals are distinctively different from tissues that have begun to decompose. No changes were made as a result of the comment.

The department received six comments supporting adoption of the rule as proposed.

The new section is adopted under the authority of Parks and Wildlife Code, Chapter 61, which requires the commission to regulate the periods of time when it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the means, methods, and places in which it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the species, quantity, age or size, and, to the extent

possible, the sex of the game animals, game birds, or aquatic animal life authorized to be hunted, taken, or possessed; and the region, county, area, body of water, or portion of a county where game animals, game birds, or aquatic animal life may be hunted, taken, or possessed.

§65.4. *Proof of Sex for Deer.*

(a) Until repealed, the provisions of this section replace the provisions of §65.10(f) of this title (relating to Possession of Wildlife Resources) that apply to deer.

(b) All other provisions of §65.10 continue in force and effect.

(c) Proof of sex for deer must remain with the carcass until tagging requirements cease.

(d) Proof of sex for deer consists of:

(1) buck: the head, with antlers still attached; and

(2) female antlerless ("doe"):

(A) the head; or

(B) the mammary organ (udder) or vulva, and tail; and

(3) male antlerless ("nubbin," "button," "shed-antlered" buck): the head.

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 A. STATEWIDE HUNTING PROCLAMATION

The Texas Parks and Wildlife Commission in a duly noticed meeting on November 4, 2021, adopted amendments to 31 TAC §§65.7, 65.8, 65.10, 65.42, and 65.64, concerning the Statewide Hunting Proclamation, with changes to the proposed text as published in the September 24, 2021, issue of the *Texas Register* (46 TexReg 6373). The amended rules will be republished. The amendments will function, in conjunction with adopted amendments to §§53.2 - 53.4, 53.60, and 57.981 published elsewhere in this issue of the *Texas Register*, to implement a digital version of the super combination hunting and "all water" fishing license package, a virtual license that does not utilize physical tags, and provide for the digital issuance of tags to holders of a lifetime super combination hunting and "all water" fishing license package.

Under Parks and Wildlife Code, Chapter 42, no person may possess a deer or turkey unless a properly executed tag from the person's hunting license has been attached to the deer or turkey, except as provided by commission rule. The 87th Texas Legislature enacted House Bill (H.B.) 3081, which authorized the commission to develop and implement a program for the issuance

of digital tags for animals, including birds, to holders of hunting licenses authorizing the taking of those animals. In light of the passage of H.B. 3081, the department has determined that it is appropriate to initiate a pilot program to determine the public receptivity to and logistical feasibility of the concept of digital licenses and tags for hunting and fishing. The department currently offers a wide variety of physical hunting and fishing licenses; however, those licenses are issued via a computerized point-of-sale system operated by an outside vendor and the majority of license sales are consummated at retail locations where licenses are sold. Thus, there are many factors for the department to consider and significant potential for unforeseen circumstances to present themselves. Therefore, rather than offering digital versions of every hunting and fishing license all at once, the department has determined that it is prudent to begin with a pilot program to provide a real-world test of the parameters and customer experiences to be considered in any enlargement of the program. The super combination hunting and "all water" fishing license package is a suitable candidate for the pilot program.

The amendment to §65.7, concerning Harvest Log, creates an exception for the holders of a digital license or lifetime license with digital tags to provisions requiring the completion of the license log that is contained on the physical hunting license. Because the digital license and digital tags do not physically exist and harvest reporting via an electronic application will be required, it is unnecessary for the department to require utilization of a license log to capture that information.

The amendment to §65.8, concerning Alternative Licensing System, creates an exception to the provisions of that section for holders of a digital license or lifetime license with digital tags. The section was adopted in 2007 to address the possibilities presented by the hypothetical unavailability or failure of the department's computerized point-of-sale system at critical seasonal times when almost all hunting and fishing licenses are sold. Under such a scenario, the department would issue licenses online, but without tags, and the various provisions governing tagging would be waived. Since digital licenses will be issued without tags and lifetime licensees will have the option of digital tags, the provisions of the section waiving requirements for tagless licenses would apply unless an exception is created.

The amendment to §65.10, concerning Possession of Wildlife Resources, prescribes tagging requirements for holders of digital licenses and lifetime licenses with digital tags. As noted earlier, current law requires a person who kills a deer or turkey to execute and attach a physical tag from the person's hunting license, unless the commission provides otherwise by rule. A person who kills a deer or turkey under a license that does not contain tags cannot comply with current rule; therefore, the amendment creates an exception to the current requirements for physical licenses and prescribes digital tagging provisions. The amendment requires the holder of a digital license or lifetime license with digital tags to immediately report the harvest of a deer or turkey via an electronic application developed by the department for that purpose and receive a confirmation number, which is then required to be reproduced on some sort of durable media and attached to the carcass of the deer or turkey, where it would be required to remain until reaching a final destination. The purpose of tagging is to allow department law enforcement personnel to quickly and easily determine that deer or turkey have been legally harvested. Unless there is some sort of physical documentation present on a carcass, particularly when the carcass is unattended or the person who harvested the deer or turkey is not

present, that process can become problematic, time consuming, and inconvenient. By requiring the confirmation number of the harvest report to be attached to a carcass, the rule allows game wardens to efficiently check harvested deer or turkey for tags. In instances in which a game warden encounters deer or turkey harvested under a digital license or tag, the warden will either check the hunter's smartphone, computer, tablet, or other device to verify that the required harvest report has been submitted, or query the license system to verify that the hunter, the deer or turkey, and the location of harvest have been reported. Additionally, the rule prescribes the requirements for situations in which data connectivity prevents the required harvest report from being uploaded (i.e., preventing a confirmation number from being obtained). Specifically, a person who harvests a deer or turkey and reports via the electronic application as required but cannot receive a confirmation number because of data connectivity issue is required to complete a hunter's document and attach it to the carcass of the deer or turkey until reaching data connectivity and obtaining a confirmation number. The hunter's document contains the same information required to be reported via the electronic application, and is replaced with documentation of the confirmation number once the confirmation number is received. Finally, the amendment requires persons hunting deer or turkey under a digital license or tag to be in possession of an appropriate electronic device while hunting. It is or should be intuitively obvious that compliance with the requirement for digital tagging immediately upon harvest cannot take place in the absence of a functioning smartphone, computer, or other device capable of being used to satisfy reporting requirements; thus, the rule requires that the capability for compliance be present. The department acknowledges that situations may arise in which electronic devices are damaged, lost, or lose power and notes that Parks and Wildlife Code, §42.004, provides for the dismissal of charges for persons charged with hunting license violations if the person is able to produce for the court or the prosecuting attorney the proper hunting license issued to the person and valid at the time of the offense. The department notes that persons who purchase a digital lifetime super combination hunting and "all water" fishing license and choose to have the department fulfil physical deer and turkey tags will be required to follow current rules regarding tagging.

The amendment to §65.42, concerning Deer, removes a potential conflict with current rule for persons who harvest antlerless deer under a digital license or tag in specific counties in the Oak Prairies region. Current rule requires antlerless harvest in those counties to be electronically reported to the department within 24 hours, which is necessary because of department research into antlerless deer harvest in those counties. The amendment will have the effect of requiring immediate harvest reporting of antlerless deer in the affected counties if the harvest is under a digital license or tag.

The amendment to §65.64, concerning Turkey, accomplishes the same objectives as the amendment to §65.42 and for the same reasons, only with respect to turkey rather than deer.

The department received five comments opposing adoption of the rules as proposed. None of the commenters provided a reason or rationale for opposing adoption.

The department received two comments supporting adoption of the rules as proposed.

DIVISION 1. GENERAL PROVISIONS

31 TAC §§65.7, 65.8, 65.10

The amendments are adopted under the authority of Parks and Wildlife Code, §42.010, which requires the commission to prescribe the form and issuance of hunting licenses authorized under Parks and Wildlife Code, Chapter 42; §42.0101, which authorizes the commission to promulgate rules for the issuance of digital tags for animals, including birds, to holders of hunting licenses authorizing the taking of those animals, including rules allowing a person using a digital tag to create a digital record at the time of the taking of an animal that includes information required by the department as soon as possible after the taking of the animal and requiring a person using a digital tag to retain in the person's possession documentation of a required digital record at all times before the carcass is finally processed; §42.0177, which authorizes the commission to modify or eliminate the tagging, carcass, final destination, and final processing requirements of Chapter 42; §42.006, which authorizes the commission to prescribe requirements relating to possessing a license issued under Chapter 42 by rule; §50.004, which requires the department to issue and prescribe the form and manner of issuance for combination hunting and fishing licenses, including identification and compliance requirements; and Chapter 61, which requires the commission to regulate the periods of time when it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the means, methods, and places in which it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the species, quantity, age or size, and, to the extent possible, the sex of the game animals, game birds, or aquatic animal life authorized to be hunted, taken, or possessed; and the region, county, area, body of water, or portion of a county where game animals, game birds, or aquatic animal life may be hunted, taken, or possessed.

§65.7. *Harvest Log.*

(a) The provisions of this subsection apply only to a person in possession of a license purchased through an automated point-of-sale system and do not apply to a digital license issued by the department pursuant to §53.3(a)(12) of this title (relating to Combination Hunting and Fishing License Packages) or §53.4(a)(1) of this title (relating to Lifetime Licenses).

(1) A person who kills a white-tailed deer shall complete, in ink, the harvest log on the back of the hunting license immediately upon kill.

(2) Completion of the harvest log is not required for deer taken:

(A) under the provisions of §65.29 of this title (relating to Managed Lands Deer Program (MLDP));

(B) by special permit under the provisions of Subchapter H of this chapter (relating to Public Hunting Proclamation) on department lands;

(C) on department-leased lands under the provisions of Parks and Wildlife Code, §11.0272; or

(D) by special antlerless permit issued by the U.S. Forest Service (USFS) for use on USFS lands that are part of the department's public hunting program.

(b) The provisions of this subsection apply to any person in possession of a license lawfully purchased by any means other than through an automated point-of-sale system.

(1) A person who takes a white-tailed deer, mule deer, Rio Grande turkey, or Eastern turkey shall complete, in ink, the harvest log on the back of the hunting or fishing license, as applicable, immediately upon kill.

(2) Completion of the harvest log is not required for deer taken under the provisions of subsection (a)(2) of this section.

§65.8. *Alternative Licensing System.*

(a) Except for lifetime hunting licenses and lifetime resident super combination hunting and "all water" fishing packages, the tagging requirements of Parks and Wildlife Code, §§42.018, 42.0185, 42.020, and 46.0086 do not apply to any person in lawful possession of a license that was sold by the department without tags for white-tailed deer, mule deer, or turkey.

(b) Except for lifetime hunting licenses and lifetime resident super combination hunting and "all water" fishing packages, the requirements of this subchapter that require the attachment of license tags to wildlife resources do not apply to any person in lawful possession of a license that was sold by the department without tags for white-tailed deer, mule deer, or turkey. A properly executed wildlife resource document must accompany any white-tailed deer, mule deer, or turkey until the provisions of this title and Parks and Wildlife Code governing the possession of the particular wildlife resource cease to apply.

(c) The provisions of this section do not exempt any person from any provision of this subchapter that requires or prescribes the use of a wildlife resource document.

(d) This section does not apply to the digital licenses identified in §53.3(a)(12) of this title (relating to Combination Hunting and Fishing License Packages) or §53.4(a)(1) of this title (relating to Lifetime Licenses).

§65.10. *Possession of Wildlife Resources.*

(a) For all wildlife resources taken for personal consumption and for which there is a possession limit, the possession limit shall not apply after the wildlife resource has reached the possessor's permanent residence and is finally processed.

(b) Under authority of Parks and Wildlife Code, §42.0177, the tagging requirements of Parks and Wildlife Code, §42.018, are modified as follows.

(1) At a final destination other than a cold storage or processing facility required to maintain a cold storage record book under the provisions of Parks and Wildlife Code, §62.029, tagging requirements for a carcass cease when the forequarters, hindquarters, and back straps have been completely severed from the carcass.

(2) At a cold storage or processing facility required to maintain a cold storage record book under the provisions of Parks and Wildlife Code, §62.029, tagging requirements for a carcass cease when:

(A) the forequarters, hindquarters, and back straps have been completely severed from the carcass; and

(B) the information required under Parks and Wildlife Code, §62.029, has been entered into the cold storage record book that the cold storage or processing facility is required to maintain.

(3) Except as provided in paragraph (4) of this subsection, the tagging requirements for deer and turkey taken under a digital license issued under the provisions of §53.3(a)(12) of this title (relating to Combination Hunting and Fishing License Packages) or under the digital tagging option of §53.4(a)(1) of this title (relating to Lifetime Licenses) are prescribed in subsection (e) of this section.

(4) A person who has purchased a digital license identified in §53.4(a)(1) of this title and selected the fulfillment of physical tags must comply with the tagging requirements of Parks and Wildlife Code, Chapter 42, and this chapter that are applicable to the tagging of deer and turkey under a license that is not a digital license.

(5) The provisions of this subsection do not modify or eliminate any requirement of this subchapter or the Parks and Wildlife Code applicable to a carcass before it is at a final destination.

(c) A person who lawfully takes a deer is exempt from the tagging requirements of Parks and Wildlife Code, §42.018 if the deer is taken:

(1) under the provisions of §65.29 of this title (relating to Managed Lands Deer Program (MLDP));

(2) under an antlerless mule deer permit issued under §65.32 of this title (relating to Antlerless Mule Deer Permit);

(3) by special permit under the provisions of Subchapter H of this chapter (relating to Public Hunting Proclamation);

(4) on department-leased lands under the provisions of Parks and Wildlife Code, §11.0271; or

(5) by special antlerless permit issued by the U.S. Forest Service (USFS) for use on USFS lands that are part of the department's public hunting program.

(d) A person who kills a bird or animal under circumstances that require the bird or animal to be tagged with a tag from the person's hunting license shall immediately attach a properly executed tag to the bird or animal.

(e) A person who lawfully kills a deer or turkey under a digital license issued under the provisions of §53.3(a)(12) of this title (relating to Combination Hunting and Fishing License Packages) or the digital tagging option under §53.4(a)(1) of this title (relating to Lifetime Licenses) is exempt from any requirement of Parks and Wildlife Code or this subchapter regarding the use or possession of license tags for those species; however, that person shall ensure that immediately upon take a harvest report is created and submitted via a mobile or web application provided by the department for that purpose.

(1) Upon receipt of a confirmation number sent by the department in response to the harvest report required by this subsection, the person who took the deer or turkey is responsible for ensuring that the confirmation number is legibly reproduced on a reasonably durable media, which shall immediately be attached to the carcass of the deer or turkey. The confirmation number shall remain attached to the carcass until the applicable requirements of subsection (b) of this section have been satisfied.

(2) If the absence of network data connectivity prevents the receipt of a confirmation number from the department following the report required by this subsection, the person who took the deer or turkey is responsible for the preparation of a hunter's document which shall immediately be attached to the carcass of the deer or turkey and remain attached to the carcass until the harvest report required by this subsection is uploaded to the department. The hunter's document shall be made of reasonably durable media and shall contain:

(A) the first and last name of the person who took the deer or turkey;

(B) the customer number of the license of the person who took the deer or turkey; and

(C) the date and time the deer or turkey was taken.

(D) A person who documents the take of a deer or turkey under the provisions of this paragraph shall ensure that the harvest report required by this subsection is uploaded to the department immediately upon the availability of network connectivity, at which time the hunter's document may be replaced with documentation meeting the requirements of paragraph (1) of this subsection, which

shall remain attached to the carcass of the deer or turkey until the applicable requirements of subsection (b) of this section have been satisfied.

(3) It is an offense for any person to hunt deer or turkey under a digital license or digital tagging option without being in immediate physical possession of an electronic device that is:

(A) loaded with the mobile or web application designated by the department for harvest reporting under this subsection; and

(B) capable of uploading the harvest report required by this subsection.

(f) Proof of sex for deer and antelope must remain with the carcass until tagging requirements cease.

(1) Proof of sex for deer consists of:

(A) buck: the head, with antlers still attached; and

(B) antlerless: the head.

(2) Proof of sex for antelope consists of the unskinned head.

(g) During a season in which the bag composition for turkey is restricted to gobblers only or gobblers and bearded hens, proof of sex must remain with a harvested turkey (attached or detached from the bird) until it reaches either the possessor's permanent residence or a cold storage/processing facility and is finally processed. Proof of sex for turkey is as follows:

(1) gobbler (male turkey):

(A) one leg, including the spur; or

(B) a patch of skin with breast feathers and beard attached.

(2) bearded hen (female turkey): a patch of skin with breast feathers and beard attached.

(h) Proof of sex for pheasant consists of: one leg, including the spur, attached to the bird or the entire plumage attached to the bird.

(i) No additional proof of sex is required for a deer that is lawfully tagged in accordance with:

(1) the provisions of §65.29 of this title;

(2) the provisions of §65.32 of this title; or

(3) on department-leased lands under the provisions of Parks and Wildlife Code, §11.0271.

(j) In lieu of proof of sex, the person who killed the wildlife resource may:

(1) obtain a receipt from a taxidermist or a signed statement from the landowner, containing the following information:

(A) the name of person who killed the wildlife resource;

(B) the date the wildlife resource was killed;

(C) one of the following, as applicable:

(i) whether the deer was antlered or antlerless;

(ii) the sex of the antelope;

(iii) the sex of the turkey and whether a beard was attached; or

(iv) the sex of the pheasant; or

(2) if the deer is to be tested by the department for chronic wasting disease, obtain a department-issued receipt (PWD 905).

(k) A person may give, leave, receive, or possess any species of legally taken wildlife resource, or a part of the resource, that is required to have a tag or permit attached or is protected by a bag or possession limit, if the wildlife resource is accompanied by a wildlife resource document from the person who killed or caught the wildlife resource. A wildlife resource may be possessed without a WRD by the person who took the wildlife resource, provided the person is in compliance with all other applicable provisions of this subchapter and the Parks and Wildlife Code.

(1) For deer and antelope, a properly executed wildlife resource document shall accompany the carcass or part of a carcass until tagging requirements cease.

(2) For turkey, a properly executed wildlife resource document shall accompany the wildlife resource until it reaches the possessor's permanent residence or a cold storage/processing facility and is finally processed.

(3) For all other wildlife resources, a properly executed wildlife resource document shall accompany the wildlife resource until it reaches the possessor's permanent residence and is finally processed.

(4) The wildlife resource document must contain the following information:

(A) the name, signature, address, and hunting license number, as required, of the person who killed or caught the wildlife resource;

(B) the name of the person receiving the wildlife resource;

(C) a description of the wildlife resource (number and type of species or parts);

(D) the date the wildlife resource was killed or caught; and

(E) the location where the wildlife resource was killed or caught (name of ranch; area; county).

(5) A taxidermist who accepts a deer or turkey shall retain the wildlife resource document or tag accompanying each deer or turkey for a period of two years following the return of the resource to the owner or the sale of the resource under the provisions of Parks and Wildlife Code, §62.023.

(l) It is a defense to prosecution if the person receiving the wildlife resource does not exceed any possession limit or possesses a wildlife resource or a part of a wildlife resource that is required to be tagged if the wildlife resource or part of the wildlife resource is tagged.

(m) The identification requirements for desert bighorn sheep skulls are as follows.

(1) No person may possess the skull of a desert bighorn ram in this state unless:

(A) one horn has been marked with a department identification plug by a department representative; or

(B) the person also possesses evidence of lawful take in the state or country where the ram was killed.

(2) A person may possess the skull and horns of a desert bighorn ram found dead in the wild, provided:

(A) the person did not cause or participate in the death of the ram; and

(B) the person notifies a department biologist or game warden within 48 hours of discovering the dead ram and arranges for marking with a department identification plug by a department representative.

(3) Individual horns may be possessed without any identification or documentation.

(4) This subsection does not apply to skulls possessed prior to July 11, 2004.

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



DIVISION 2. OPEN SEASONS AND BAG LIMITS

31 TAC §65.42, §65.64

The amendments are adopted under the authority of Parks and Wildlife Code, §42.010, which requires the commission to prescribe the form and issuance of hunting licenses authorized under Parks and Wildlife Code, Chapter 42; §42.0101, which authorizes the commission to promulgate rules for the issuance of digital tags for animals, including birds, to holders of hunting licenses authorizing the taking of those animals, including rules allowing a person using a digital tag to create a digital record at the time of the taking of an animal that includes information required by the department as soon as possible after the taking of the animal and requiring a person using a digital tag to retain in the person's possession documentation of a required digital record at all times before the carcass is finally processed; §42.0177, which authorizes the commission to modify or eliminate the tagging, carcass, final destination, and final processing requirements of Chapter 42; §42.006, which authorizes the commission to prescribe requirements relating to possessing a license issued under Chapter 42 by rule; §50.004, which requires the department to issue and prescribe the form and manner of issuance for combination hunting and fishing licenses, including identification and compliance requirements; and Chapter 61, which requires the commission to regulate the periods of time when it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the means, methods, and places in which it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the species, quantity, age or size, and, to the extent possible, the sex of the game animals, game birds, or aquatic animal life authorized to be hunted, taken, or possessed; and the region, county, area, body of water, or portion of a county where game animals, game birds, or aquatic animal life may be hunted, taken, or possessed.

§65.42. *Deer.*

(a) General.

(1) No person may exceed the applicable county bag limit or the annual bag limit of five white-tailed deer (no more than three bucks) and two mule deer (no more than one buck), except as provided by:

(A) §65.29 of this title (relating to Managed Lands Deer Programs (MLDP));

(B) use of an antlerless mule deer permit issued under §65.32 of this title (relating to Antlerless Mule Deer Permit);

(C) use of a special permit under the provisions of Subchapter H of this chapter (relating to Public Hunting Proclamation); or

(D) use of special antlerless permit issued by the U.S. Forest Service (USFS) for use on USFS lands that are part of the department's public hunting program.

(2) During an archery-only open season, deer may be taken only by the means described in §65.11(2) and (3) of this title (relating to Lawful Means).

(3) The issuance and use of MLDP tags is prescribed by §65.29 of this title.

(4) Except as provided in Subchapter H of this chapter and subsections (b)(2)(E) and (b)(4) - (6) of this section, the take of antlerless deer is prohibited on USFS lands.

(5) In the counties or portions of counties listed in subsection (b)(2)(H) of this section, antlerless deer harvested on properties not subject to the provisions of §65.29 of this title must be reported via the department's internet or mobile application within 24 hours of the time of kill, including antlerless deer harvested during the special seasons established by subsection (b)(5) - (7) of this section. This paragraph does not apply to antlerless deer harvested under a digital license issued by the department pursuant to §53.3(a)(12) of this title (relating to Combination Hunting and Fishing Packages) or a valid license with digital tags under §53.4(a)(12) of this title (relating to Lifetime Licenses) of this title, which must be reported as required under §65.10 of this title (relating to Possession of Wildlife Resources).

(b) White-tailed deer. The open seasons and bag limits for white-tailed deer shall be as follows.

(1) South Zone. The general open season for the counties listed in this subparagraph is from the first Saturday in November through the third Sunday in January.

(A) In Aransas, Bee, Brooks, Calhoun, Cameron, Dimmit, Duval, Frio, Hidalgo, Jim Hogg, Jim Wells, Kenedy, Kinney (south of U.S. Highway 90), Kleberg, LaSalle, Live Oak, Maverick, McMullen, Medina (south of U.S. Highway 90), Nueces, Refugio, San Patricio, Starr, Uvalde (south of U.S. Highway 90), Val Verde (south of a line beginning at the International Bridge and proceeding along Spur 239 to U.S. Hwy. 90 and thence to the Kinney County line), Webb, Willacy, Zapata, and Zavala counties, there is a general open season. The bag limit is five deer, no more than three bucks.

(B) In Atascosa County there is a general open season.

(i) The bag limit is five deer, no more than two bucks; and

(ii) the antler restrictions described in paragraph (3) of this subsection apply.

(2) The general open season for the counties listed in this subparagraph is from the first Saturday in November through the first Sunday in January.

(A) In Bandera, Baylor, Bexar, Blanco, Burnet, Callahan, Coke, Coleman, Comal (west of Interstate 35), Concho, Crockett, Edwards, Gillespie, Glasscock, Haskell, Hays (west of Interstate 35), Howard, Irion, Jones, Kendall, Kerr, Kimble, Kinney (north of U.S. Highway 90), Knox, Llano, Mason, McCulloch, Medina (north of U.S. Highway 90), Menard, Mitchell, Nolan, Pecos, Real, Reagan, Runnels, San Saba, Schleicher, Shackelford, Sterling, Sutton, Taylor, Terrell, Throckmorton, Tom Green, Travis (west of Interstate 35), Upton, Uvalde (north of U.S. Highway 90), Val Verde (north of a line beginning at the International Bridge and proceeding along Spur 239 to U.S. Hwy. 90 and thence to the Kinney County line), and Wilbarger counties, the bag limit is five deer, no more than two bucks.

(B) In Archer, Bell (west of IH 35), Bosque, Brown, Clay, Coryell, Hamilton, Hill, Jack, Lampasas, McLennan, Mills, Palo Pinto, Somervell, Stephens, Wichita, Williamson (west of IH 35) and Young counties:

(i) the bag limit is five deer, no more than two bucks; and

(ii) the antler restrictions described in paragraph (3) of this subsection apply.

(C) In Armstrong, Borden, Briscoe, Carson, Childress, Collingsworth, Cottle, Crosby, Dickens, Donley, Fisher, Floyd, Foard, Garza, Gray, Hall, Hardeman, Hemphill, Hutchinson, Kent, King, Lipscomb, Motley, Ochiltree, Roberts, Scurry, Stonewall, and Wheeler counties, the bag limit is five deer, no more than one buck.

(D) In Brewster, Culberson, Jeff Davis, Presidio, and Reeves counties, the bag limit is four deer, no more than two bucks.

(E) In Comanche, Cooke, Denton, Eastland, Erath, Hood, Johnson, Montague, Parker, Tarrant, and Wise counties:

(i) the bag limit is four deer, no more than two bucks and no more than two antlerless;

(ii) the antler restrictions described in paragraph (3) of this subsection apply; and

(iii) on USFS lands in Montague and Wise counties, antlerless deer may be taken only from Thanksgiving Day through the Sunday immediately following Thanksgiving Day.

(F) In Angelina, Brazoria, Chambers, Cherokee, Fort Bend, Galveston, Goliad (south of U.S. Highway 59), Hardin, Harris, Houston, Jackson (south of U.S. Highway 59), Jasper, Jefferson, Liberty, Matagorda, Montgomery, Newton, Orange, Polk, San Jacinto, Trinity, Tyler, Victoria (south of U.S. Highway 59), Walker, and Wharton (south of U.S. Highway 59) counties:

(i) the bag limit is four deer, no more than two bucks and no more than two antlerless;

(ii) the antler restrictions described in paragraph (3) of this subsection apply; and

(iii) antlerless deer may be taken from opening day through the Sunday immediately following Thanksgiving Day.

(G) In Anderson, Bell (East of IH 35), Bowie, Burleson, Brazos, Camp, Cass, Delta, Ellis, Falls, Fannin, Franklin, Freestone, Gregg, Grimes, Harrison, Henderson, Hopkins, Hunt, Kauffman, Lamar, Leon, Limestone, Madison, Marion, Milam, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Robertson, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt, Williamson (east of IH 35), and Wood counties:

(i) the bag limit is four deer, no more than two bucks and no more than two antlerless;

(ii) the antler restrictions described in paragraph (3) of this subsection apply; and

(iii) antlerless deer may be taken during the first 16 days of the season.

(H) In Austin, Bastrop, Caldwell, Colorado, Comal (east of IH 35), DeWitt, Fayette, Goliad (north of U.S. Highway 59), Gonzales, Guadalupe, Hays (east of IH 35), Jackson (north of U.S. Highway 59), Karnes, Lavaca, Lee, Travis (east of IH 35), Victoria (north of U.S. Highway 59), Waller, Washington, Wharton (north of U.S. Highway 59), and Wilson counties:

(i) the bag limit is four deer, no more than two bucks and no more than two antlerless;

(ii) the antler restrictions described in paragraph (3) of this subsection apply; and

(iii) antlerless deer may be taken from Thanksgiving Day through the Sunday immediately following Thanksgiving Day.

(I) In Collin, Dallas, Grayson, and Rockwall counties there is a general open season:

(i) the bag limit is four deer, no more than two bucks and no more than two antlerless;

(ii) the antler restrictions described in paragraph (3) of this subsection apply; and

(iii) lawful means are restricted to lawful archery equipment, including properties for which MLDP tags have been issued.

(J) In Andrews, Bailey Castro, Cochran, Dallam, Dawson, Deaf Smith, Gaines, Hale, Hansford, Hartley, Hockley, Lamb, Lubbock, Lynn, Martin, Moore, Oldham, Parmer, Potter, Randall, Sherman, Swisher, Terry, and Yoakum counties, the bag limit is three deer, no more than one buck and no more than two antlerless.

(K) In Crane, Ector, Loving, Midland, Ward, and Winkler counties:

(i) the bag limit is three deer, no more than one buck and no more than two antlerless; and

(ii) antlerless deer may be taken by MLDP tag only.

(L) In all other counties, there is no general open season.

(3) Antler Restrictions. In each county for which antler restrictions are imposed under the provisions of this subsection:

(A) a legal buck is a buck deer with:

(i) at least one unbranched antler; or

(ii) an inside spread of 13 inches or greater;

(B) no person may take more than one buck with an inside spread of 13 inches or greater; and

(C) a person who takes a buck deer in violation of subparagraph (A)(ii) of this paragraph is prohibited from subsequently harvesting any buck deer with branched antlers on both main beams in that county.

(4) Special Late General Seasons.

(A) There is a special late general season during which harvest is restricted to antlerless and unbranched antlered deer, as follows:

(i) in the counties listed in paragraph (1)(A) and (B) of this subsection: 14 consecutive days starting the first Monday following the third Sunday in January;

(ii) in the counties listed in paragraph (2)(A) - (C) and (E) of this subsection: 14 consecutive days starting the first Monday following the first Sunday in January.

(iii) In all other counties there is no special late general season.

(B) The bag limit during a special late general season is the bag limit established for the county for the general open season and is not in addition to any other bag limit.

(5) Archery-only open seasons.

(A) There shall be an archery-only open season in all counties in which there is an open general season.

(B) The open season is from the Saturday closest to September 30 for 35 consecutive days.

(C) The bag limit in any given county is as provided for that county during the general open season.

(D) No MLDP tag is required to hunt antlerless deer unless MLDP tags have been issued for the property.

(E) Antlerless deer may be taken on USFS lands during an archery-only season.

(6) Muzzleloader-only open seasons, and bag and possession limits shall be as follows. In Anderson, Angelina, Austin, Bastrop, Bell (East of IH 35), Bowie, Brazoria, Brazos, Brewster, Burleson, Caldwell, Camp, Cass, Chambers, Cherokee, Colorado, Comal (East of IH 35), Culberson, Delta, DeWitt, Ellis, Fannin, Falls, Fayette, Fort Bend, Franklin, Freestone, Galveston, Goliad, Gonzales, Gregg, Grimes, Guadalupe, Hardin, Harris, Harrison, Hays (East of IH 35), Henderson, Hopkins, Houston, Hunt, Jackson, Jasper, Jeff Davis, Jefferson, Karnes, Kaufman, Lamar, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Marion, Matagorda, Milam, Montgomery, Morris, Nacogdoches, Navarro, Newton, Orange, Panola, Polk, Presidio, Rains, Red River, Reeves, Robertson, Rusk, Sabine, San Augustine, San Jacinto, Shelby, Smith, Titus, Travis (East of IH 35), Trinity, Tyler, Upshur, Van Zandt, Victoria, Walker, Waller, Washington, Wharton, Williamson (East of IH 35), Wilson and Wood counties, there is an open season during which deer may be taken only with a muzzleloader.

(A) The open season is 14 consecutive days starting the first Monday following the first Sunday in January.

(B) The bag limit for buck and antlerless deer is as specified in this section for the general season in the county or portion of a county in which take occurs.

(C) Antlerless deer may be taken on USFS lands during a muzzleloader-only season.

(7) Special Youth-Only Seasons. There shall be special youth-only general hunting seasons in all counties where there is a general open season for white-tailed deer.

(A) The early open season is the Saturday and Sunday immediately before the first Saturday in November.

(B) The late open season is 14 consecutive days starting the first Monday following the first Sunday in January.

(C) Bag limits, provisions for the take of antlerless deer, and special requirements in the individual counties listed in paragraph (2)(A) - (H) of this subsection shall be as specified for the first two

days of the general open season in those counties, except as provided in subparagraph (D) of this paragraph.

(D) Provisions for the take of antlerless deer in the individual counties listed in paragraph (2)(H) of this subsection shall be as specified in those counties for the period of time from Thanksgiving Day through the Sunday immediately following Thanksgiving Day.

(E) Other than properties where MLDP tags have been issued under the provisions of §65.29(c)(2), only licensed hunters 16 years of age or younger may hunt deer during the seasons established by this paragraph, and any lawful means may be used.

(F) The stamp requirement of Parks and Wildlife Code, Chapter 43, Subchapter I, does not apply during the seasons established by this paragraph.

(G) Antlerless deer may be taken on USFS lands during special youth-only deer seasons.

(c) Mule deer. The open seasons and bag limits for mule deer shall be as follows:

(1) In Armstrong, Borden, Briscoe, Carson, Childress, Coke, Collingsworth, Cottle, Crosby, Dallam, Deaf Smith, Dickens, Donley, Fisher, Floyd, Foard, Garza, Gray, Hall, Hansford, Hardeman, Hartley, Hemphill, Hutchinson, Kent, King, Knox, Lipscomb, Moore, Motley, Ochiltree, Oldham, Potter, Randall, Roberts, Scurry, Sherman, Stonewall, Swisher, and Wheeler counties:

(A) the Saturday before Thanksgiving for 16 consecutive days;

(B) bag limit: one buck; and

(C) antlerless deer may be taken only by Antlerless Mule Deer permit or MLDP tag.

(D) In Briscoe, Childress, Cottle, Floyd, Hall, and Motley counties, no person may harvest a buck deer with an outside spread of the main beams of less than 20 inches.

(2) In Crane, Crockett, Culberson, Ector, El Paso, Hudspeth, Jeff Davis, Loving, Midland, Presidio, Reagan, Reeves, Upton, Val Verde, Ward, and Winkler counties:

(A) the Friday immediately following Thanksgiving for 17 consecutive days;

(B) bag limit: one buck; and

(C) antlerless deer may be taken only by antlerless mule deer permit or MLDP tag.

(3) In Brewster, Pecos, and Terrell counties:

(A) the Friday immediately following Thanksgiving for 17 consecutive days;

(B) bag limit: one buck; and

(C) antlerless deer may be taken by antlerless mule deer permit or MLDP tag only.

(4) In Andrews, Bailey, Castro, Cochran, Dawson, Gaines, Hale, Hockley, Lamb, Lubbock, Lynn, Martin, Parmer, Terry, and Yoakum counties:

(A) the Saturday before Thanksgiving for nine consecutive days;

(B) bag limit: one buck; and

(C) antlerless deer may be taken by antlerless mule deer permit or MLDP tag only.

(D) In Lynn County, no person may harvest a buck deer with an outside spread of the main beams of less than 20 inches.

(5) In all other counties, there is no general open season for mule deer.

(6) Archery-only open seasons and bag and possession limits shall be as follows.

(A) In Armstrong, Borden, Briscoe, Carson, Childress, Coke, Collingsworth, Cottle, Crane, Crockett, Crosby, Culberson, Dallam, Deaf Smith, Dickens, Donley, Ector, El Paso, Fisher, Floyd, Foard, Garza, Gray, Hall, Hansford, Hardeman, Hartley, Hemphill, Hudspeth, Hutchinson, Jeff Davis, Kent, King, Knox, Lipscomb, Loving, Midland, Moore, Motley, Ochiltree, Oldham, Potter, Presidio, Randall, Reagan, Reeves, Roberts, Scurry, Sherman, Stonewall, Swisher, Upton, Val Verde, Ward, Wheeler, and Winkler counties:

(i) from the Saturday closest to September 30 for 35 consecutive days; and

(ii) bag limit: one buck.

(B) In Brewster, Pecos, and Terrell counties:

(i) from the Saturday closest to September 30 for 35 consecutive days.

(ii) bag limit: two deer, no more than one buck. Antlerless deer may be harvested without a permit unless MLDP antlerless tags have been issued for the property.

(C) In all other counties, there is no archery-only open season for mule deer.

§65.64. Turkey.

(a) The annual bag limit for Rio Grande and Eastern turkey, in the aggregate, is four, no more than one of which may be an Eastern turkey.

(b) Rio Grande Turkey. The open seasons and bag limits for Rio Grande turkey shall be as follows.

(1) Fall seasons and bag limits:

(A) The counties listed in this subparagraph are in the Fall South Zone. In Aransas, Atascosa, Bee, Calhoun, Cameron, Dimmit, Duval, Frio, Goliad, Gonzales, Hidalgo, Jim Hogg, Jim Wells, Karnes, Kinney (south of U.S. Highway 90), LaSalle, Live Oak, Maverick, McMullen, Medina (south of U.S. Highway 90), Nueces, Refugio, San Patricio, Starr, Uvalde (south of U.S. Highway 90), Val Verde (south of a line beginning at the International Bridge and proceeding along Spur 239 to U.S. Hwy. 90 and thence to the Kinney County line), Webb, Wilson, Zapata, and Zavala counties, there is a fall general open season.

(i) Open season: first Saturday in November through the third Sunday in January.

(ii) Bag limit: four turkeys, gobblers or bearded hens.

(B) In Brooks, Kenedy, Kleberg, and Willacy counties, there is a fall general open season.

(i) Open season: first Saturday in November through the last Sunday in February.

(ii) Bag limit: four turkeys, either sex.

(C) The counties listed in this subparagraph are in the Fall North Zone. In Archer, Armstrong, Bandera, Baylor, Bell, Bexar, Blanco, Borden, Bosque, Briscoe, Brown, Burnet, Callahan, Carson, Childress, Clay, Coke, Coleman, Collingsworth, Comal, Comanche,

Concho, Cooke, Coryell, Cottle, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Donley, Eastland, Ector, Edwards, Erath, Fisher, Floyd, Foard, Garza, Gillespie, Glasscock, Gray, Hall, Hamilton, Hardeman, Hartley, Haskell, Hays, Hemphill, Hill, Hood, Howard, Hutchinson, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Kinney (north of U.S. Highway 90), Knox, Lipscomb, Lampasas, Llano, Lynn, Martin, Mason, McCulloch, McLennan, Medina (north of U.S. Highway 90), Menard, Midland, Mills, Mitchell, Montague, Moore, Motley, Nolan, Ochiltree, Oldham, Palo Pinto, Parker, Pecos, Potter, Randall, Reagan, Real, Roberts, Runnels, Sutton, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Swisher, Tarrant, Taylor, Terrell, Throckmorton, Tom Green, Travis, Upton, Uvalde (north of U.S. Highway 90), Ward, Wheeler, Wichita, Wilbarger, Williamson, Wise, Val Verde (north of a line beginning at the International Bridge and proceeding along Spur 239 to U.S. Hwy. 90 and thence to the Kinney County line), and Young counties, there is a fall general open season.

(i) Open season: first Saturday in November through the first Sunday in January.

(ii) Bag limit: four turkeys, either sex.

(2) Archery-only season and bag limits. In all counties where there is a general fall season for turkey there is an open season during which turkey may be taken only as provided for in §65.11(2) and (3) of this title (relating to Lawful Means).

(A) Open season: from the Saturday closest to September 30 for 35 consecutive days.

(B) Bag limit: in any given county, the annual bag limit is as provided by this section for the fall general season in that county.

(3) Spring season and bag limits.

(A) The counties listed in this subparagraph are in the Spring North Zone. In Archer, Armstrong, Bandera, Baylor, Bell, Bexar, Blanco, Borden, Bosque, Brewster, Briscoe, Brown, Burnet, Callahan, Carson, Childress, Clay, Coke, Coleman, Collingsworth, Comal, Comanche, Concho, Cooke, Coryell, Cottle, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Donley, Eastland, Ector, Edwards, Ellis, Erath, Fisher, Floyd, Foard, Garza, Gillespie, Glasscock, Gray, Guadalupe, Hall, Hamilton, Hardeman, Hartley, Haskell, Hays, Hemphill, Hill, Hood, Howard, Hutchinson, Irion, Jack, Jeff Davis, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Kinney (north of U.S. Hwy. 90), Knox, Lampasas, Lipscomb, Llano, Lynn, Martin, Mason, McCulloch, McLennan, Medina (north of U.S. Hwy. 90), Menard, Midland, Mills, Mitchell, Montague, Moore, Motley, Nolan, Ochiltree, Oldham, Palo Pinto, Parker, Pecos, Potter, Randall, Reagan, Real, Roberts, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terrell, Throckmorton, Tom Green, Travis, Upton, Uvalde (north of U.S. Hwy. 90), Val Verde (north of a line beginning at the International Bridge and proceeding along Spur 239 to U.S. Hwy. 90 and thence to the Kinney County line), Ward, Wheeler, Wichita, Wilbarger, Williamson, Wise, and Young counties, there is a spring general open season.

(i) Open season: Saturday closest to April 1 for 44 consecutive days.

(ii) Bag limit: four turkeys, gobblers or bearded hens.

(B) The counties listed in this subparagraph are in the Spring South Zone. In Aransas, Atascosa, Bee, Brooks, Calhoun, Cameron, DeWitt, Dimmit, Duval, Frio, Goliad, Gonzales, Hidalgo, Jim Hogg, Jim Wells, Karnes, Kenedy, Kinney (south of U.S. Hwy.

90), Kleberg, LaSalle, Live Oak, Maverick, McMullen, Medina (south of U.S. Hwy. 90), Nueces, Refugio, San Patricio, Starr, Uvalde (south of U.S. Hwy. 90), Val Verde (south of a line beginning at the International Bridge and proceeding along Spur 239 to U.S. Hwy. 90 and thence to the Kinney County line), Victoria, Webb, Willacy, Wilson, Zapata, and Zavala counties, there is a spring general open season.

(i) Open season: Saturday closest to March 18 for 44 consecutive days.

(ii) Bag limit: four turkeys, gobblers or bearded hens.

(C) In Bastrop, Caldwell, Colorado, Fayette, Jackson, Lavaca, Lee, Matagorda, Milam, and Wharton counties, there is a spring general open season.

(i) Open season: from April 1 through April 30.

(ii) Bag limit: one turkey, gobblers only.

(iii) Except as provided by §65.10 of this title (relating to Possession of Wildlife Resources) for turkeys harvested under a digital license issued by the department pursuant to §53.3(a)(12) of this title (relating to Combination Hunting and Fishing License Packages) or a valid license with digital tags under §53.4(a)(1) of this title (relating to Lifetime Licenses), all turkeys harvested during the open season established under this subparagraph must be reported within 24 hours of the time of kill via an internet or mobile application designated by the department for that purpose.

(4) Special Youth-Only Seasons. Only licensed hunters 16 years of age or younger may hunt during the seasons established by this subsection.

(A) There shall be a special youth-only fall general hunting season in all counties where there is a fall general open season.

(i) open season: the weekend (Saturday and Sunday) immediately preceding the first Saturday in November and from the Monday immediately following the close of the general open season for 14 consecutive days.

(ii) bag limit: as specified for individual counties in paragraph (1) of this subsection.

(B) There shall be special youth-only spring general open hunting seasons for Rio Grande turkey in the counties listed in paragraph (3)(A) and (B) of this subsection.

(i) open seasons:

(I) the weekend (Saturday and Sunday) immediately preceding the first day of the general open spring season; and

(II) the weekend (Saturday and Sunday) immediately following the last day of the general open spring season.

(ii) bag limit: as specified for individual counties in paragraph (3) of this subsection.

(c) Eastern turkey. The open seasons and bag limits for Eastern turkey shall be as follows. In Bowie, Cass, Fannin, Grayson, Jasper (other than the Angelina National Forest), Lamar, Marion, Nacogdoches, Newton, Polk, Red River, and Sabine counties, there is a spring season during which both Rio Grande and Eastern turkey may be lawfully hunted.

(1) Open season: from April 22 through May 14.

(2) Bag limit (both species combined): one turkey, gobbler only.

(3) In the counties listed in this subsection:

(A) it is unlawful to hunt turkey by any means other than a shotgun or lawful archery equipment;

(B) it is unlawful for any person to take or attempt to take turkeys by the aid of baiting, or on or over a baited area; and

(C) except as provided by §65.10 of this title for turkeys harvested under a digital license issued pursuant to §53.3 of this title or a valid license with digital tags under §53.4(a)(1) of this title, all turkeys harvested during the open season must be registered via the department's internet or mobile application within 24 hours of the time of kill. The department will publish the internet address and information on obtaining the mobile application in generally accessible locations, including the department internet web site (www.tpwd.texas.gov). Harvested turkeys may be field dressed but must otherwise remain intact.

(d) In all counties not listed in subsection (b) or (c) of this section, the season is closed for hunting turkey.

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 December 29, 2021.

TRD-202105269

James Murphy

General Counsel

Texas Parks and Wildlife Department

Effective date: January 18, 2022

Proposal publication date: September 24, 2021

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

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REVIEW OF AGENCY RULES

This section contains notices of state agency rule review as directed by the Texas Government Code, §2001.039. Included here are proposed rule review notices, which

invite public comment to specified rules under review; and adopted rule review notices, which summarize public comment received as part of the review. The complete text of an agency's rule being reviewed is available in the *Texas Administrative Code* on the Texas Secretary of State's website.

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the website and printed copies of these notices may be directed to the *Texas Register* office.

Proposed Rule Reviews

Texas Education Agency

Title 19, Part 2

The Texas Education Agency (TEA) proposes the review of 19 TAC Chapter 89, Adaptations for Special Populations, pursuant to the Texas Government Code, §2001.039. The rules being reviewed by TEA in 19 TAC Chapter 89 are organized under Subchapter AA, Commissioner's Rules Concerning Special Education Services; Subchapter BB, Commissioner's Rules Concerning State Plan for Educating English Learners; Subchapter DD, Commissioner's Rules Concerning High School Equivalency Programs; Subchapter EE, Commissioner's Rules Concerning the Communities In Schools Program; Subchapter FF, Commissioner's Rules Concerning Transition Assistance for Highly Mobile Students Who Are Homeless or in Substitute Care; Subchapter GG, Commissioner's Rules Concerning Dropout Prevention Strategies; and Subchapter HH, Commissioner's Rules Concerning Education in a Juvenile Residential Facility.

As required by the Texas Government Code, §2001.039, TEA will accept comments as to whether the reasons for adopting 19 TAC Chapter 89, Subchapters AA-CC, continue to exist.

The public comment period on the review of 19 TAC Chapter 105, Subchapters AA, BB, and DD-GG, begins January 14, 2022, and ends February 14, 2022. A form for submitting public comments on the proposed rule review is available on the TEA website at <https://tea.texas.gov/about-tea/laws-and-rules/commissioner-rules-tac/commissioner-of-education-rule-review>.

TRD-202200016
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Filed: January 5, 2022



The Texas Education Agency (TEA) proposes the review of 19 TAC Chapter 151, Commissioner's Rules Concerning Passing Standards for Educator Certification Examinations, pursuant to the Texas Government Code, §2001.039.

As required by the Texas Government Code, §2001.039, TEA will accept comments as to whether the reasons for adopting 19 TAC Chapter 151 continue to exist.

The public comment period on the review of 19 TAC Chapter 151 begins January 14, 2022, and ends February 14, 2022. A form for submitting public comments on the proposed rule review is available on the

TEA website at <https://tea.texas.gov/about-tea/laws-and-rules/commissioner-rules-tac/commissioner-of-education-rule-review>.

TRD-202200017
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Filed: January 5, 2022



The Texas Education Agency (TEA) proposes the review of 19 TAC Chapter 152, Commissioner's Rules Concerning Examination Requirements, pursuant to the Texas Government Code, §2001.039.

As required by the Texas Government Code, §2001.039, TEA will accept comments as to whether the reasons for adopting 19 TAC Chapter 152 continue to exist.

The public comment period on the review of 19 TAC Chapter 152 begins January 14, 2022, and ends February 14, 2022. A form for submitting public comments on the proposed rule review is available on the TEA website at <https://tea.texas.gov/about-tea/laws-and-rules/commissioner-rules-tac/commissioner-of-education-rule-review>.

TRD-202200018
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Filed: January 5, 2022



Adopted Rule Reviews

Texas Education Agency

Title 19, Part 2

The Texas Education Agency (TEA) adopts the review of 19 TAC Chapter 105, Foundation School Program, Subchapter AA, Commissioner's Rules Concerning Optional Extended Year Program, and Subchapter CC, Commissioner's Rules Concerning Severance Payments, pursuant to the Texas Government Code, §2001.039. The TEA proposed the review of 19 TAC Chapter 105, Subchapters AA and CC, in the December 29, 2017, issue of the *Texas Register* (42 TexReg 7733).

Relating to the review of 19 TAC Chapter 105, Subchapter AA, the TEA finds that the reasons for adopting Subchapter AA continue to exist and readopts the rule. The TEA received no comments related to the review of Subchapter AA. No changes are necessary as a result of the review.

Relating to the review of 19 TAC Chapter 105, Subchapter CC, the TEA finds that the reasons for adopting Subchapter CC continue to exist and readopts the rule. The TEA received no comments related to the review of Subchapter CC. No changes are necessary as a result of the review.

This concludes the review of 19 TAC Chapter 105.

TRD-202105271

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Filed: December 30, 2021



Texas Board of Nursing

Title 22, Part 11

In accordance with Government Code §2001.039, the Texas Board of Nursing (Board) filed a notice of intention to review and consider for re-adoption, re-adoption with amendments, or repeal, the following chapter contained in Title 22, Part 11, of the Texas Administrative Code, pursuant to the 2019 rule review plan adopted by the Board at its July 2018 meeting. The notice appeared in the November 26, 2021, edition of the *Texas Register* (46 TexReg 8079).

Chapter 225. RN Delegation to Unlicensed Personnel and Tasks Not Requiring Delegation in Independent Living Environments for Clients with Stable and Predictable Conditions, §§225.1 - 225.15.

The Board did not receive any public comments on the above rules. The Board has completed its review and has determined that the reasons for originally adopting the above rules continue to exist. The rules were also reviewed to determine whether they were obsolete, whether they reflected current legal and policy considerations and current procedures and practices of the Board, and whether they were in compliance with Texas Government Code Chapter 2001 (Texas Administrative Procedure Act). The Board finds that the rules are not obsolete, reflect current legal and policy considerations, current procedures and practices of the Board, and that the rules are in compliance with the Texas Administrative Procedure Act.

The Board readopts the rules in Chapter 225 without changes, pursuant to the Texas Government Code §2001.039 and Texas Occupations Code §301.151, which authorizes the Board to adopt, enforce, and repeal rules consistent with its legislative authority under the Nursing Practice Act. This concludes the rule review of Chapter 225 under the 2019 rule review plan adopted by the Board.

TRD-202200023

Jena Abel

Deputy General Counsel

Texas Board of Nursing

Filed: January 5, 2022



IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

Coastal Bend Workforce Development Board

Legal Notice

Workforce Solutions of the Coastal Bend (WFSCB) seeks a qualified and experienced General Contractor for a minimum two-phase (over two fiscal years) office space buildout of 24,973 square feet located in the Mission Plaza shopping center at 4981 & 4985 Ayers Road, Corpus Christi, Texas 78415.

The RFP will be available on Tuesday, January 18, 2022, at 2:00 p.m. Central Time and can be accessed on our website at: www.workforcesolutionscb.org or by contacting Esther Velazquez at (361) 885-3013 or esther.velazquez@workforcesolutionscb.org.

Interested parties are encouraged to attend a pre-proposal meeting at WFSCB's Administrative Offices located at 400 Mann Street, Suite 800, Corpus Christi, Texas 78401, Main Conference Room on **Friday, January 21, 2022, at 10:00 a.m. Central Time**. The purpose of the meeting is to review the project requirements and answer any questions related to the RFP. While this meeting is not mandatory, attendance is strongly recommended. Parties unable to attend in person may participate virtually from a computer, tablet, or smart phone via Zoom:

Join Zoom Meeting

<https://us02web.zoom.us/j/85368209893?pwd=SlJoc1pzaGY0TXVvV3RUeEFXUXRpUT09>

US Toll-Free Call In: 888 475 4499

Meeting ID: 853 6820 9893

Passcode: 077811

Proposals are due on Wednesday, February 2, 2022, at 4:00 p.m. Central Time. Responses should be submitted via email to esther.velazquez@workforcesolutionscb.org or may be hand delivered or mailed to: Workforce Solutions of the Coastal Bend, 400 Mann Street, Suite 800, Corpus Christi, Texas 78401.

Workforce Solutions of the Coastal Bend is an Equal Opportunity Employer/Program. Auxiliary aids and services are available upon request to individuals with disabilities. Relay Texas: (800) 735-2989 (TDD) and (800) 735-2988 or 711 (Voice). Historically Underutilized Businesses (HUBs) are encouraged to apply.

TRD-202200026

Esther Velazquez

Contracts & Procurement Specialist

Coastal Bend Workforce Development Board

Filed: January 5, 2022

Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §§303.003, 303.005, and 303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 01/10/22 - 01/16/22 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 01/10/22 - 01/16/22 is 18% for Commercial over \$250,000.

The monthly ceiling as prescribed by §303.005 and 303.009³ for the period of 01/01/22 - 01/31/22 is 18% for Consumer/Agricultural/Commercial credit through \$250,000.

The monthly ceiling as prescribed by §303.005 and 303.009 for the period of 01/01/22 - 01/31/22 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.

³ For variable rate commercial transactions only.

TRD-202200012

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: January 4, 2022

Texas Council for Developmental Disabilities

Request for Applications: TCDD New Initiatives

The Texas Council for Developmental Disabilities (TCDD) announces the availability of funds for up to five organizations to implement New Initiatives Projects.

The purpose of offering funding for the projects described in this Request for Proposals (RFP) is to implement field-initiated projects and innovative solutions to a statewide need, regional or local need, and/or the needs of people with developmental disabilities that are consistent with TCDD's mission to "create change so that all people with disabilities are fully included in their communities and exercise control over their own lives." Projects may develop a new model, demonstrate a creative approach to promoting community inclusion, and/or address public policy issues. Organizations that apply shall propose the goal of their projects and strategies they will use to meet their goal.

TCDD has approved funding for up to \$100,000 per organization, per year, for up to 4 years. Funds available for these projects are provided to TCDD by the U.S. Department of Health and Human Services, Administration on Intellectual and Developmental Disabilities, pursuant to the Developmental Disabilities Assistance and Bill of Rights Act. Funding for the project is dependent on the results of a review process established by TCDD and on the availability of funds. Non-federal matching funds of at least 10% of the total project costs are required for projects in federally designated poverty areas. Non-federal matching funds of at least 25% of total project costs are required for projects in other areas.

Additional information concerning this Request for Applications (RFA) and TCDD is available at <https://tcdd.texas.gov/grants-rfas/funding-available-for-grants/> All questions pertaining to this

RFA should be directed in writing to TCDD via email at apply@tcdd.texas.gov or via telephone at (512) 437-5432.

Deadline: Proposals must be submitted through <https://tcdd.smapply.org/prog/lst/>. Proposals are due by 11:59 p.m. on March 22, 2022. Proposals will not be accepted outside of these due dates.

TRD-202200024

Beth Stalvey

Executive Director

Texas Council for Developmental Disabilities

Filed: January 5, 2022



Request for Applications: TCDD Postsecondary Programs for Students with Disabilities

The Texas Council for Developmental Disabilities (TCDD) announces the availability of funds for one organization to conduct a Landscape Analysis and Review of 18+ Programs and Access to Postsecondary Programs for Students with Developmental Disabilities.

The purpose of offering funding for the projects described in this Request for Applications (RFA) is to increase access to services and improve the quality of supports in postsecondary education. Projects will review, study, and summarize a diverse array of 18+ programs across Texas and include the methods and outcomes related to postsecondary education access, preparation, and partnerships for students with IDD. The project should result in a list of promising and best practices that can be shared with those who support students with IDD and work in the field of secondary transition. Additionally, the results of this project should provide TCDD with background information that can inform future projects relating to increasing postsecondary attainment for students with IDD.

TCDD has approved funding for up to \$100,000 for one organization for up to one year. Funds available for these projects are provided to TCDD by the U.S. Department of Health and Human Services, Administration on Intellectual and Developmental Disabilities, pursuant to the Developmental Disabilities Assistance and Bill of Rights Act. Funding for the project is dependent on the results of a review process established by TCDD and on the availability of funds. Non-federal matching funds of at least 10% of the total project costs are required for projects in federally designated poverty areas. Non-federal matching funds of at least 25% of total project costs are required for projects in other areas.

Additional information concerning this Request for Applications (RFA) and TCDD is available at <https://tcdd.texas.gov/grants-rfas/funding-available-for-grants/>. All questions pertaining to this RFA should be directed in writing to TCDD via email at apply@tcdd.texas.gov or via telephone at (512) 437-5432.

Deadline: Proposals must be submitted through <https://tcdd.smapply.org/prog/lst/>. Proposals are due by 11:59 p.m. on March 22, 2022. Proposals will not be accepted outside of these due dates.

TRD-202200025

Beth Stalvey

Executive Director

Texas Council for Developmental Disabilities

Filed: January 5, 2022



Request for Applications: TCDD Public Policy Fellowship Training

The Texas Council for Developmental Disabilities (TCDD) announces the availability of funds for up to eight organizations to implement a Public Policy Fellowship Training Program.

The purpose of offering funding for the projects described in this Request for Applications (RFA) is to increase the number of policy professionals with the requisite skills, knowledge, and experience to engage in disability-related policy activities. By providing entities with the funds and support to increase the knowledge and availability of new leaders to take on challenging assignments in public policy, the State of Texas will improve its capacity to create systems change so that people with disabilities are fully included in their communities and exercise control over their own lives. Grantees will hire and mentor a Fellow and partner with TCDD to provide advanced guidance and technical assistance. Applicants must clearly demonstrate that the focus and goal of their project will be training and guiding the Fellow.

TCDD has approved funding for up to \$77,500 per organization, per year, for up to two years. Funds available for these projects are provided to TCDD by the U.S. Department of Health and Human Services, Administration on Intellectual and Developmental Disabilities, pursuant to the Developmental Disabilities Assistance and Bill of Rights Act. Funding for the project is dependent on the results of a review process established by TCDD and on the availability of funds. Non-federal matching funds of at least 10% of the total project costs are required for projects in federally designated poverty areas. Non-federal matching funds of at least 25% of total project costs are required for projects in other areas.

Additional information concerning this Request for Applications (RFA) and TCDD is available at <https://tcdd.texas.gov/grants-rfas/funding-available-for-grants/>. All questions pertaining to this RFA should be directed in writing to TCDD via email at apply@tcdd.texas.gov or via telephone at (512) 437-5432.

Deadline: Proposals must be submitted through <https://tcdd.smapply.org/prog/lst/>. Proposals are due by 11:59 p.m. on March 22, 2022. Proposals will not be accepted outside of these due dates.

TRD-202200022

Beth Stalvey

Executive Director

Texas Council for Developmental Disabilities

Filed: January 5, 2022



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 **February 15, 2022**. TWC, §7.075, also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes

to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-2545 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at P.O. Box 13087, Austin, Texas 78711-3087 and must be received by 5:00 p.m. on **February 15, 2022**. 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: American Acryl L.P.; DOCKET NUMBER: 2021-0344-AIR-E; IDENTIFIER: RN101379287; LOCATION: Pasadena, Harris County; TYPE OF FACILITY: chemical manufacturing plant; RULES VIOLATED: 30 TAC §116.115(b)(2)(F) and (c) and §122.143(4), New Source Review Permit Numbers 37979 and N009, Special Conditions Number 1, Federal Operating Permit Number O2655, General Terms and Conditions and Special Terms and Conditions Number 19, and Texas Health and Safety Code, §382.085(b), by failing to comply with the maximum allowable emissions rate; PENALTY: \$4,875; ENFORCEMENT COORDINATOR: Richard Garza, (512) 534-5859; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(2) COMPANY: CITGO Refining and Chemicals Company L.P.; DOCKET NUMBER: 2021-1085-AIR-E; IDENTIFIER: RN102555166; LOCATION: Corpus Christi, Nueces County; TYPE OF FACILITY: petroleum refinery; RULES VIOLATED: 30 TAC §§101.20(3), 116.115(c), and 122.143(4), New Source Review Permit Numbers 2699A, PSDTX36, PSDTX96, PSDTX653M1, and PSDTX831, Special Conditions Number 1, Federal Operating Permit Number O1423, General Terms and Conditions and Special Terms and Conditions Number 28, and Texas Health and Safety Code, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$21,150; ENFORCEMENT COORDINATOR: Kate Dacy, (512) 239-4593; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(3) COMPANY: City of Newcastle; DOCKET NUMBER: 2021-0522-MLM-E; IDENTIFIER: RN102691748; LOCATION: Newcastle, Young County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §288.20(a) and TWC, §11.1272(c), by failing to adopt a drought contingency plan which includes all elements for municipal use by a retail public water supplier; 30 TAC §290.45(f)(4) and Texas Health and Safety Code (THSC), §341.0315(c), by failing to provide a water purchase contract that authorizes a production capacity of 0.36 gallon per minute per connection; 30 TAC §290.46(e)(3)(B) and THSC, §341.033(a), by failing to use a water works operator who holds a Class C or higher groundwater license; 30 TAC §290.46(z), by failing to create a nitrification action plan for a system distributing chloraminated water; and 30 TAC §290.110(c)(5), by failing to conduct chloramine effectiveness sampling to ensure that monochloramine is the prevailing chloramine species and that nitrification is controlled; PENALTY: \$1,700; ENFORCEMENT COORDINATOR: Miles Wehner, (512) 239-2813; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(4) COMPANY: Forestar (USA) Real Estate Group Incorporated; DOCKET NUMBER: 2021-0552-AIR-E; IDENTIFIER: RN110914801; LOCATION: Montgomery, Montgomery County;

TYPE OF FACILITY: real estate development; RULES VIOLATED: 30 TAC §101.4 and Texas Health and Safety Code, §382.085(a) and (b), by failing to prevent nuisance dust conditions; PENALTY: \$13,125; ENFORCEMENT COORDINATOR: Johnnie Wu, (512) 239-2524; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(5) COMPANY: Gallagher Acquisitions, LLC; DOCKET NUMBER: 2021-0565-PWS-E; IDENTIFIER: RN110114097; LOCATION: Fort Worth, Tarrant County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.41(c)(3)(J), by failing to provide a concrete sealing block that extends at least three feet from the well casing in all directions, is at least six inches thick and is sloped to drain away at not less than 0.25 inches per foot; 30 TAC §290.41(c)(3)(K), by failing to provide a well casing vent for Well Numbers 1, 2, and 3 that is covered with 16-mesh or finer corrosion-resistant screen, facing downward, elevated and located so as to minimize the drawing of contaminants into the well; 30 TAC §290.42(m) and §290.43(e), by failing to provide an intruder-resistant fence or building around each treatment plant, potable water storage tank, pressure maintenance facility, and related appurtenances that remains locked during periods of darkness and when the facility is unattended; 30 TAC §290.45(c)(1)(B)(i) and Texas Health and Safety Code (THSC), §341.0315(c), by failing to provide a minimum well capacity of at least 0.6 gallons per minute (gpm) per unit; 30 TAC §290.45(c)(1)(B)(iii) and THSC, §341.0315(c), by failing to provide two or more service pumps having a total capacity of 1.0 gpm per unit; and 30 TAC §290.45(c)(1)(B)(iv) and THSC, §341.0315(c), by failing to provide a minimum pressure tank capacity of at least ten gallons per unit; PENALTY: \$8,350; ENFORCEMENT COORDINATOR: Julianne Matthews, (817) 588-5861; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(6) COMPANY: iHeartCommunications, Incorporated; DOCKET NUMBER: 2021-0636-EAQ-E; IDENTIFIER: RN102863727; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: above ground storage tank facility; RULE VIOLATED: 30 TAC §213.4(j)(6) and Edwards Aquifer Aboveground Storage Tank (AST) System Facility Plan Number 13-02013002, Standard Conditions Number 5, by failing to obtain approval of a modification of an approved Edwards Aquifer AST System Facility Plan prior to commencing a regulated activity over the Edwards Aquifer Recharge/Contributing Zone; PENALTY: \$5,000; ENFORCEMENT COORDINATOR: Alyssa Loveday, (512) 239-5504; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(7) COMPANY: Milos Bednar; DOCKET NUMBER: 2021-0531-WQ-E; IDENTIFIER: RN111178562; LOCATION: Conroe, Montgomery County; TYPE OF FACILITY: commercial 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: \$2,500; ENFORCEMENT COORDINATOR: Caleb Olson, (817) 588-5856; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(8) COMPANY: Owens-Brockway Glass Container Incorporated; DOCKET NUMBER: 2021-1045-AIR-E; IDENTIFIER: RN100216969; LOCATION: Waco, McLennan County; TYPE OF FACILITY: glass manufacturing plant; RULES VIOLATED: 30 TAC §116.115(c) and §122.143(4), New Source Review Permit Number 2718, Special Conditions Number 20.A, Federal Operating Permit Number O2716, General Terms and Conditions and Special Terms and Conditions Number 5, and Texas Health and Safety Code, §382.085(b), by failing to conduct audio, olfactory, and visual checks for ammonia leaks within the operating area once per day; PENALTY: \$6,973;

ENFORCEMENT COORDINATOR: Kate Dacy, (512) 239-4593; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(9) COMPANY: PARKS FUELS, LTD.; DOCKET NUMBER: 2021-1068-PST-E; IDENTIFIER: RN100532985; LOCATION: Big Spring, Howard County; TYPE OF FACILITY: common carrier; RULES VIOLATED: 30 TAC §334.5(b)(1)(A) and TWC, §26.3467(d), by failing to deposit a regulated substance into a regulated underground storage tank system that was not covered by a valid, current TCEQ delivery certificate; PENALTY: \$2,250; ENFORCEMENT COORDINATOR: Alain Elegbe, (512) 239-6924; REGIONAL OFFICE: 9900 West IH-20, Suite 100, Midland, Texas 79706, (432) 570-1359.

(10) COMPANY: Targa Downstream LLC; DOCKET NUMBER: 2021-0914-AIR-E; IDENTIFIER: RN100222900; LOCATION: Mont Belvieu, Chambers County; TYPE OF FACILITY: natural gas processing plant; RULES VIOLATED: 30 TAC §101.201(a)(1)(B) and §122.143(4), Federal Operating Permit (FOP) Number O615, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) Number 2.F, and Texas Health and Safety Code (THSC), §382.085(b), by failing to submit an initial notification for a reportable emissions event no later than 24 hours after the discovery of an emissions event; and 30 TAC §116.115(c) and §122.143(4), New Source Review Permit Number 22088, Special Conditions Number 1, FOP Number O615, GTC and STC Number 12, and THSC, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$13,563; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$5,425; ENFORCEMENT COORDINATOR: Michaelle Garza, (210) 403-4076; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

TRD-202200009

Charmaine Backens

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: January 4, 2022

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

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Order (AO) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AO, the commission shall allow the public an opportunity to submit written comments on the proposed AO. TWC, §7.075, requires that notice of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **February 15, 2022**. TWC, §7.075, also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of the proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the

AO should be sent to the attorney designated for the AO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on February 15, 2022**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The designated attorney is available to discuss the AO and/or the comment procedure at the listed phone number; however, TWC, §7.075, provides that comments on an AO shall be submitted to the commission in **writing**.

(1) COMPANY: Alfredo Galvan; DOCKET NUMBER: 2020-1407-AIR-E; TCEQ ID NUMBER: RN110854486; LOCATION: 7003 Walzem Road, San Antonio, Bexar County; TYPE OF FACILITY: auto body repair and refinishing facility; RULES VIOLATED: Texas Health and Safety Code, §382.0518(a) and §382.085(b) and 30 TAC §116.110(a), by failing to obtain authorization prior to constructing or modifying a source of air contaminants - specifically, respondent constructed and operated an auto body repair and refinishing facility prior to obtaining the proper authorization; PENALTY: \$1,250; STAFF ATTORNEY: Cynthia Sirois, Litigation, MC 175, (512) 239-3392; REGIONAL OFFICE: San Antonio Regional Office, 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

TRD-202200010

Charmaine Backens

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: January 4, 2022

Office of the Governor

Notice of Available Funding Opportunities

Office of the Governor, Public Safety Office (PSO)

The Public Safety Office is announcing the following funding opportunities for State Fiscal Year 2023. Details for these opportunities, including the open and close date for the solicitation, can be found on the eGrants Calendar (<https://eGrants.gov.texas.gov/fundopp.aspx>).

- Local Border Security Program (LBSP) - The purpose of this announcement is to solicit applications to support Operation Border Star.

- Nonprofit Security Grant Program (NSGP) - The purpose of this announcement is to solicit applications for projects that support physical security enhancements and other security activities to nonprofit organizations that are at high risk of a terrorist attack based on the nonprofit organization's ideology, beliefs or mission.

- Statewide Emergency Radio Infrastructure - The purpose of this announcement is to solicit applications for projects that support state and regional efforts to improve or sustain interoperable emergency radio infrastructure.

- Texas Anti-Gang Program - The purpose of this announcement is to solicit applications for preselected projects that support regional, multidisciplinary approaches to combat gang violence through the coordination of gang prevention, intervention, and suppression activities.

TRD-202200021

Andrew Friedrichs

Director/Programs Administrator

Office of the Governor

Filed: January 5, 2022

Health and Human Services Commission

Correction of Error

The Texas Health and Human Services Commission adopted new 26 TAC §902.1 in the December 31, 2021, issue of the *Texas Register* (46 TexReg 9400). Due to an error by the Texas Register, the chapter name was listed incorrectly. The correct chapter name is CONTINUITY OF SERVICES--TRANSFERRING INDIVIDUALS FROM STATE SUPPORTED LIVING CENTERS TO STATE HOSPITALS.

TRD-202200014

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Department of State Health Services
Licensing Actions for Radioactive Materials

During the first half of December 2021, the Department of State Health Services (Department) has taken actions regarding Licenses for the possession and use of radioactive materials as listed in the tables (in alphabetical order by location). The subheading "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout TX [Texas]" indicates that the radioactive material may be used on a temporary basis at locations throughout the state.

In issuing new licenses and amending and renewing existing licenses, the Department's Business Filing and Verification Section has determined that the applicant has complied with the licensing requirements in Title 25 Texas Administrative Code (TAC), Chapter 289, for the noted action. In granting termination of licenses, the Department has determined that the licensee has complied with the applicable decommissioning requirements of 25 TAC, Chapter 289. In granting exemptions to the licensing requirements of Chapter 289, the Department has determined that the exemption is not prohibited by law and will not result in a significant risk to public health and safety and the environment.

A person affected by the actions published in this notice may request a hearing within 30 days of the publication date. A "person affected" is defined as a person who demonstrates that the person has suffered or will suffer actual injury or economic damage and, if the person is not a local government, is (a) a resident of a county, or a county adjacent to the county, in which radioactive material is or will be located, or (b) doing business or has a legal interest in land in the county or adjacent county. 25 TAC §289.205(b)(15); Health and Safety Code §401.003(15). Requests must be made in writing and should contain the words "hearing request," the name and address of the person affected by the agency action, the name and license number of the entity that is the subject of the hearing request, a brief statement of how the person is affected by the action what the requestor seeks as the outcome of the hearing, and the name and address of the attorney if the requestor is represented by an attorney. Send hearing requests by mail to: Hearing Request, Radiation Material Licensing, MC 2835, PO Box 149347, Austin, Texas 78714-9347, or by fax to: 512-834-6690, or by e-mail to: RAMlicensing@dshs.texas.gov.

NEW LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
GRAPEVINE	MNX GLOBAL LOGISTICS CORP	L07144	GRAPEVINE	00	12/06/21

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
ADDISON	TEXAS CENTER FOR INTERVENTIONAL SURGERY LLC	L07062	ADDISON	02	12/03/21
ADDISON	TEXAS CENTER FOR INTERVENTIONAL SURGERY LLC	L07062	ADDISON	02	12/03/21
ALVIN	ASCEND PERFORMANCE MATERIALS TEXAS LLC	L06630	ALVIN	09	12/13/21
ALVIN	ASCEND PERFORMANCE MATERIALS TEXAS LLC	L06630	ALVIN	09	12/13/21
AUSTIN	CENTRAL TEXAS MEDICAL SPECIALISTS PLLC DBA AUSTIN CANCER CENTERS	L06618	AUSTIN	25	12/07/21
AUSTIN	CENTRAL TEXAS MEDICAL SPECIALISTS PLLC DBA AUSTIN CANCER CENTERS	L06618	AUSTIN	25	12/07/21
AUSTIN	ST DAVIDS HEALTHCARE PARTNERSHIP LP LLP	L06335	AUSTIN	39	12/06/21
AUSTIN	ST DAVIDS HEALTHCARE PARTNERSHIP LP LLP	L06335	AUSTIN	39	12/06/21

AMENDMENTS TO EXISTING LICENSES ISSUED: (Continued)

AUSTIN	ST DAVIDS HEALTHCARE PARTNERSHIP LP LLP	L03273	AUSTIN	123	12/01/21
AUSTIN	ST DAVIDS HEALTHCARE PARTNERSHIP LP LLP	L03273	AUSTIN	123	12/01/21
AUSTIN	ST DAVIDS HEALTHCARE PARTNERSHIP LP LLP	L00740	AUSTIN	176	12/14/21
AUSTIN	ST DAVIDS HEALTHCARE PARTNERSHIP LP LLP	L00740	AUSTIN	176	12/14/21
BEDFORD	TEXAS HEALTH PHYSICIANS GROUP	L06373	BEDFORD	09	12/01/21
BEDFORD	TEXAS HEALTH PHYSICIANS GROUP	L06373	BEDFORD	09	12/01/21
BEDFORD	TEXAS HEALTH PHYSICIANS GROUP DBA TEXAS HEALTH HEART AND VASCULAR SPECIALISTS	L06373	BEDFORD	10	12/14/21
BEDFORD	TEXAS HEALTH PHYSICIANS GROUP DBA TEXAS HEALTH HEART AND VASCULAR SPECIALISTS	L06373	BEDFORD	10	12/14/21
BORGER	WRB REFINING LP	L02480	BORGER	72	12/10/21
BORGER	WRB REFINING LP	L02480	BORGER	72	12/10/21

AMENDMENTS TO EXISTING LICENSES ISSUED: (Continued)

CORPUS CHRISTI	FLINT HILLS RESOURCES CORPUS CHRISTI LLC	L06360	CORPUS CHRISTI	11	12/03/21
CORPUS CHRISTI	FLINT HILLS RESOURCES CORPUS CHRISTI LLC	L06360	CORPUS CHRISTI	11	12/03/21
DALLAS	METHODIST HOSPITALS OF DALLAS	L00659	DALLAS	142	12/10/21
DALLAS	METHODIST HOSPITALS OF DALLAS	L00659	DALLAS	142	12/10/21
HOUSTON	CARDIONAVIX LLC	L06984	HOUSTON	01	12/10/21
HOUSTON	THE UNIVERSITY OF TEXAS MD ANDERSON CANCER CENTER	L06366	HOUSTON	22	12/06/21
HOUSTON	THE UNIVERSITY OF TEXAS MD ANDERSON CANCER CENTER	L06366	HOUSTON	22	12/06/21
HOUSTON	CHCA WEST HOUSTON LP DBA WEST HOUSTON MEDICAL CENTER	L06055	HOUSTON	29	12/14/21
HOUSTON	CHCA WEST HOUSTON LP DBA WEST HOUSTON MEDICAL CENTER	L06055	HOUSTON	29	12/14/21

AMENDMENTS TO EXISTING LICENSES ISSUED: (Continued)

HOUSTON	THE UNIVERSITY OF TEXAS MD ANDERSON CANCER CENTER	L06227	HOUSTON	56	12/13/21
HOUSTON	THE UNIVERSITY OF TEXAS MD ANDERSON CANCER CENTER	L06227	HOUSTON	56	12/13/21
HOUSTON	SHELL CHEMICAL LP	L02116	HOUSTON	62	12/10/21
HOUSTON	SHELL CHEMICAL LP	L02116	HOUSTON	62	12/10/21
KINGSVILLE	TEXAS A&M UNIVERSITY KINGSVILLE	L01821	KINGSVILLE	61	12/06/21
KINGSVILLE	TEXAS A&M UNIVERSITY KINGSVILLE	L01821	KINGSVILLE	61	12/06/21
LA PORTE	TOTALENERGIE S PETROCHEMICALS & REFINING USA INC	L00302	DEER PARK	69	12/06/21
LA PORTE	TOTALENERGIE S PETROCHEMICALS & REFINING USA INC	L00302	DEER PARK	69	12/06/21
PLANO	TEXAS ONCOLOGY PA DBA TEXAS ONCOLOGY	L06917	PLANO	07	12/07/21
PLANO	TEXAS ONCOLOGY PA DBA TEXAS ONCOLOGY	L06917	PLANO	07	12/07/21
SAN ANTONIO	UROLOGY SAN ANTONIO PA	L06047	SAN ANTONIO	05	12/06/21
SAN ANTONIO	UROLOGY SAN ANTONIO PA	L06047	SAN ANTONIO	05	12/06/21

AMENDMENTS TO EXISTING LICENSES ISSUED: (Continued)

TEXAS CITY	BLANCHARD REFINING COMPANY LLC	L06526	TEXAS CITY	25	12/09/21
TEXAS CITY	BLANCHARD REFINING COMPANY LLC	L06526	TEXAS CITY	25	12/09/21
THROUGH OUT TX	EST INC	L06986	MELISSA	01	12/06/21
THROUGH OUT TX	EST INC	L06986	MELISSA	01	12/06/21
THROUGHOUT TX	IIA FIELD SERVICES LLC	L06933	ABILENE	08	12/13/21
THROUGHOUT TX	IIA FIELD SERVICES LLC	L06933	ABILENE	08	12/13/21
THROUGHOUT TX	RWLS LLC	L06307	ANDREWS	42	12/03/21
THROUGHOUT TX	RWLS LLC	L06307	ANDREWS	42	12/03/21
THROUGHOUT TX	TEXAS DEPARTMENT OF STATE HEALTH SERVICES	L05865	AUSTIN	15	12/01/21
THROUGHOUT TX	TEXAS DEPARTMENT OF STATE HEALTH SERVICES	L05865	AUSTIN	15	12/01/21
THROUGHOUT TX	SOUTHWESTER N TESTING LABORATORIES LLC	L06100	DALLAS	16	12/09/21
THROUGHOUT TX	SOUTHWESTER N TESTING LABORATORIES LLC	L06100	DALLAS	16	12/09/21
THROUGHOUT TX	THE UNIVERSITY OF TEXAS AT EL PASO	L00159	EL PASO	77	12/08/21
THROUGHOUT TX	THE UNIVERSITY OF TEXAS AT EL PASO	L00159	EL PASO	77	12/08/21

AMENDMENTS TO EXISTING LICENSES ISSUED: (Continued)

THROUGHOUT TX	CITY OF FORT WORTH TRANSPORTATION AND PUBLIC WORKS SOIL LAB	L01928	FORT WORTH	26	12/13/21
THROUGHOUT TX	CITY OF FORT WORTH TRANSPORTATION AND PUBLIC WORKS SOIL LAB	L01928	FORT WORTH	26	12/13/21
THROUGHOUT TX	TERRACON CONSULTANTS INC	L05268	HOUSTON	68	12/09/21
THROUGHOUT TX	TERRACON CONSULTANTS INC	L05268	HOUSTON	68	12/09/21
THROUGHOUT TX	MISTRAS GROUP INC	L06369	LA PORTE	36	12/01/21
THROUGHOUT TX	MISTRAS GROUP INC	L06369	LA PORTE	36	12/01/21
THROUGHOUT TX	PROTECT LLC	L07110	MIDLAND	2	12/02/21
THROUGHOUT TX	PROTECT LLC	L07110	MIDLAND	2	12/02/21
TYLER	THE UNIVERSITY OF TEXAS HEALTH CENTER AT TYLER	L01796	TYLER	79	12/08/21
TYLER	THE UNIVERSITY OF TEXAS HEALTH CENTER AT TYLER	L01796	TYLER	79	12/08/21
WEATHERFORD	WEATHERFORD HEALTH SERVICES LLC	L06937	WEATHERFORD	01	12/13/21
WEATHERFORD	WEATHERFORD HEALTH SERVICES LLC	L06937	WEATHERFORD	01	12/13/21

RENEWAL OF LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
EL PASO	ISOMEDIX OPERATIONS INC	L04268	EL PASO	25	12/08/21
THROUGHOUT TX	RSI INSPECTION LLC	L05624	ABILENE	24	12/13/21

TERMINATIONS OF LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
CORSICANA	GUARDIAN INDUSTRIES LLC	L05213	CORSICANA	12	12/01/21
AUSTIN	VETERINARY DIAGNOSTIC IMAGING OF TX PA	L05917	AUSTIN	07	12/14/21

IMPOUND ORDERS ISSUED:

Name	Type of Order	License #	Address	Action	Date of Issuance
Taraba Equine Sports Medicine LLC	Impound Order	Revoked Registration (R36386)	209 Bernburg Court College Station, Texas	Mobile X-ray Unit	12/02/21

TRD-202105274
 Cynthia Hernandez
 General Counsel
 Department of State Health Services
 Filed: December 30, 2021

◆ ◆ ◆

Texas Department of Insurance
 Company Licensing

Application to do business in the state of Texas for Align Senior Care, Inc., a foreign Health Maintenance Organization (HMO). The home office is in Glen Allen, Virginia.

Any objections must be filed with the Texas Department of Insurance, within twenty (20) calendar days from the date of the *Texas Register* publication, addressed to the attention of John Carter, 333 Guadalupe Street, MC 103-CL, Austin, Texas 78701.

TRD-202200015

Justin Beam
Chief Clerk
Texas Department of Insurance
Filed: January 4, 2022

◆ ◆ ◆

Texas Lottery Commission

Scratch Ticket Game Number 2386 "BREAK THE BANK SUPER TICKET™"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2386 is "BREAK THE BANK SUPER TICKET™". The play style is "multiple games".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2386 shall be \$10.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2386.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, \$\$ SYMBOL, \$10.00, \$20.00, \$30.00, \$50.00, \$100, \$200, \$500, \$1,000, \$20,000 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. 2386 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
03	THR
04	FOR
05	FIV
06	SIX
07	SVN
08	EGT
09	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWV
26	TWSX
27	TWSV

28	TWET
29	TWNI
30	TRTY
31	TRON
32	TRTO
33	TRTH
34	TRFR
35	TRFV
36	TRSX
37	TRSV
38	TRET
39	TRNI
40	FRTY
41	FRON
42	FRTO
43	FRTH
44	FRFR
45	FRFV
46	FRSX
47	FRSV
48	FRET
49	FRNI
50	FFTY
51	FFON
52	FFTO
53	FFTH
54	FFFR
55	FFFV
56	FFSX

57	FFSV
58	FFET
59	FFNI
60	SXTY
61	SXON
62	SXTO
63	SXTH
64	SXFR
65	SXFV
66	SXSX
67	SXSV
68	SXET
69	SXNI
70	SVTY
71	SVON
72	SVTO
73	SVTH
74	SVFR
75	SVFV
76	SVSX
77	SVSV
78	SVET
79	SVNI
\$\$ SYMBOL	DBL
\$10.00	TEN\$
\$20.00	TWY\$
\$30.00	TRTY\$
\$50.00	FFTY\$
\$100	ONHN

\$200	TOHN
\$500	FVHN
\$1,000	ONTH
\$20,000	20TH
\$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 (2386), 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: 2386-0000001-001.

H. Pack - A Pack of the "BREAK THE BANK SUPER TICKET™" Scratch Ticket Game contains 050 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). Ticket back 001 and 050 will both be exposed.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "BREAK THE BANK SUPER TICKET™" Scratch Ticket Game No. 2386.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Scratch Ticket validation requirements set forth in Texas Lottery Rule 401.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "BREAK THE BANK SUPER TICKET™" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose one hundred (100) Play Symbols. GAME 1: If the player matches any of the YOUR NUMBERS Play Symbols to the WINNING NUMBER Play Symbol, the player wins the prize for that number. If the player reveals a "\$\$" Play Symbol, the player wins DOUBLE the prize for that symbol. GAME 2: If the player matches any of the YOUR NUMBERS Play Symbols to the WINNING NUMBER Play Symbol, the player wins the prize for that number. If the player reveals a "\$\$" Play Symbol, the player wins DOUBLE the prize for that symbol. GAME 3: If the player matches any of the YOUR NUMBERS Play Symbols to any of the WINNING NUMBERS Play Symbols, the player wins the prize for that number. If the player reveals a "\$\$" Play Symbol, the player wins DOUBLE the prize for that symbol. BONUS 1 - 4: If the player reveals 2 matching prize amounts in the same BONUS, the player wins that amount. 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 one hundred (100) 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 one hundred (100) 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 one hundred (100) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the one hundred (100) 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 forty-four (44) 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. GENERAL: The top Prize Symbol will appear on every Ticket, unless restricted by other parameters, play action or prize structure.

D. GENERAL: The twelve (12) WINNING NUMBER/WINNING NUMBERS Play Symbols in GAMES 1 - 3 will be different on the same Ticket.

E. GENERAL: The WINNING NUMBER/WINNING NUMBERS Play Symbol from one (1) GAME will never match the YOUR NUMBERS Play Symbols from another GAME on the same Ticket.

F. GAMES 1 & 2: Non-winning YOUR NUMBERS Play Symbols will all be different.

G. GAMES 1 & 2: Non-winning Prize Symbols will never appear more than two (2) times.

H. GAMES 1 & 2: The "\$\$" (DBL) Play Symbol will never appear in the WINNING NUMBER Play Symbol spot.

I. GAMES 1 & 2: The "\$\$" (DBL) Play Symbol will only appear as dictated by the prize structure.

J. GAMES 1 & 2: Non-winning Prize Symbol(s) will never be the same as the winning Prize Symbol(s).

K. GAMES 1 & 2: No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol(s) (i.e., 10 and \$10).

L. GAMES 1 & 2: GAME 1 and GAME 2 will not have matching Play Symbol and Prize Symbol patterns on a Ticket, unless restricted by other parameters, play action or prize structure. GAME 1 and GAME 2 have matching Play Symbol and Prize Symbol patterns if they have the same Play Symbols and/or Prize Symbols in the same respective spots.

M. GAME 3: Each GAME will contain ten (10) different WINNING NUMBERS Play Symbols.

N. GAME 3: The "\$\$" (DBL) Play Symbol will only appear as dictated by the prize structure and will win DOUBLE the prize amount.

O. GAME 3: The "\$\$" (DBL) Play Symbol will never appear in the WINNING NUMBERS Play Symbol spots.

P. GAME 3: Non-winning Prize Symbols will never appear more than four (4) times.

Q. GAME 3: Non-winning GAMES will contain thirty (30) different YOUR NUMBERS Play Symbols.

R. GAME 3: On winning GAMES, non-winning YOUR NUMBERS Play Symbols will all be different.

S. GAME 3: Non-winning Prize Symbol(s) will never be the same as the winning Prize Symbol(s).

T. GAME 3: No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., 10 and \$10).

U. BONUS 1 - 4: Across BONUS 1 - 4 play areas, non-winning Prize Symbols will be different.

V. BONUS 1 - 4: Across BONUS 1 - 4 play areas, non-winning Prize Symbols will not be the same as winning Prize Symbols.

2.3 Procedure for Claiming Prizes.

A. To claim a "BREAK THE BANK SUPER TICKET™" 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 "BREAK THE BANK SUPER TICKET™" Scratch Ticket Game prize of \$1,000, \$20,000 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 "BREAK THE BANK SUPER TICKET™" 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 "BREAK THE BANK SUPER TICKET™" Scratch Ticket Game, the Texas Lottery

shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "BREAK THE BANK SUPER TICKET™" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Prizes. There will be approximately 8,160,000 Scratch Tickets in Scratch Ticket Game No. 2386. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2386 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$10.00	979,200	8.33
\$20.00	612,000	13.33
\$30.00	122,400	66.67
\$50.00	326,400	25.00
\$100	81,600	100.00
\$200	25,160	324.32
\$500	1,156	7,058.82
\$1,000	164	49,756.10
\$20,000	8	1,020,000.00
\$250,000	4	2,040,000.00

*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 3.80. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of Scratch Tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

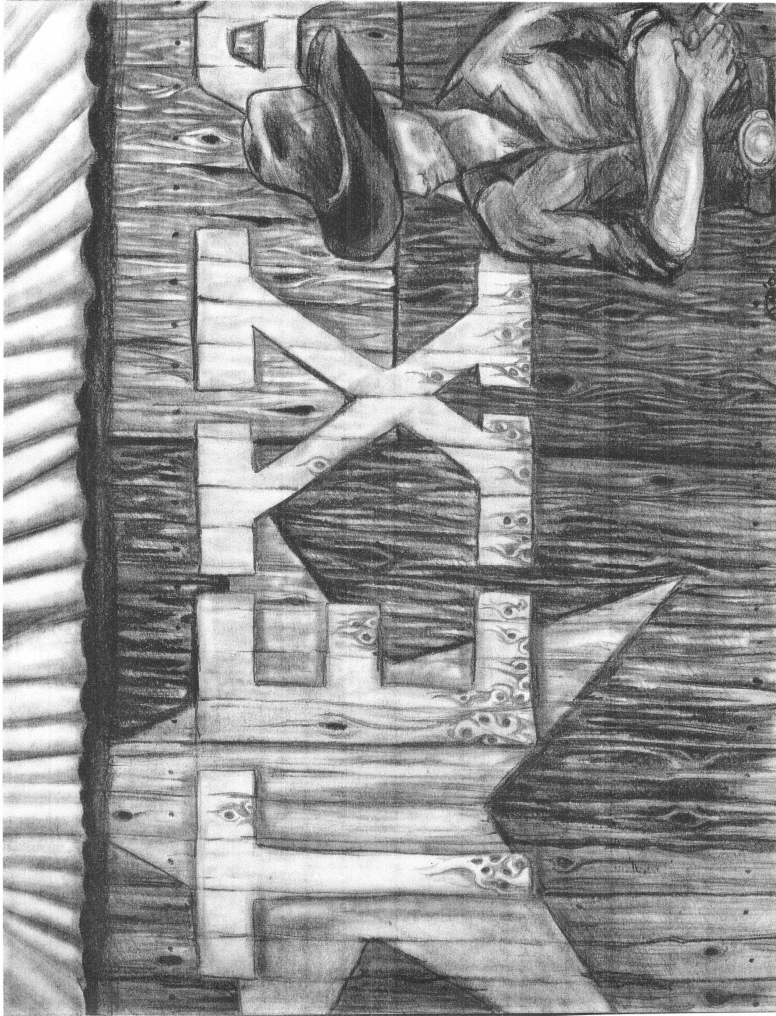
5.0 End of the Scratch Ticket Game. The Executive Director may, at any time, announce a closing date (end date) for the Scratch Ticket Game No. 2386 without advance notice, at which point no further Scratch Tickets in that game may be sold. The determination of the closing date and reasons for closing 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. 2386, 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-202200011
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: January 4, 2022





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 47 (2022) is cited as follows: 47 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 “47 TexReg 2 issue date,” while on the opposite page, page 3, in the lower right-hand corner, would be written “issue date 47 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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